

Implementing SPS measures to facilitate safe trade in Cambodia

Country study conducted for the
Standards and Trade Development Facility (STDF)*

by

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Acronyms and abbreviations

CCIC	China Certification and Inspection Group
CO	Certificate of origin
Codex	Codex Alimentarius Commission
DAHP	Department of Animal Health and Production
DTIS	Diagnostic Trade Integration Study
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FiA	Fisheries Administration
GDA	General Department of Agriculture
GDCE	General Department of Customs and Excise
GAP	Good agricultural practices
GHP	Good health practices
GMP	Good manufacturing practices
HACCP	Hazard Analysis and Critical Control Points
HQ	Head Quarters
ILCC	Industrial Laboratory Center of Cambodia
IPPC	International Plant Protection Convention
ISSB	International standard setting bodies
LC	Letter of credit
MAFF	Ministry of Agriculture Forestry and Fisheries
MEF	Ministry of Economy and Finance
MOC	Ministry of Commerce
MRL	Maximum residue level
NPPO	National Plant Protection Organization
NSW	National single window
OIE	World Organisation for Animal Health
PC	Phytosanitary certificate
RGC	Royal Government of Cambodia
SOP	Standard operating procedures
SPS	Sanitary and Phytosanitary
STDF	Standards and Trade Development Facility
TPR	Trade Policy Review
WHO	World Health Organization
WTO	World Trade Organization

I. Introduction

This document is one of four country studies conducted in Southeast Asia (Cambodia, Lao PDR, Philippines and Thailand) as part of STDF regional research on the implementation of SPS measures to facilitate safe trade.¹ Parallel regional research was carried out in Africa by the STDF, in collaboration with TradeMark Southern Africa, and in Latin America by the Inter-American Development Bank (IDB). The preliminary findings of the regional research were presented at an STDF thematic session in Geneva on 26 March 2014.

The inspiration for the STDF research is the increased interest in developing countries and the trade and development community in trade facilitation, which is also evidenced by the adoption of a new WTO Agreement on Trade Facilitation in December 2013.² It is based on the common understanding that trade can be an important tool for economic growth and the reduction of poverty. The objectives of the STDF regional research are: (i) to draw attention to the synergies between the implementation of SPS measures and trade facilitation; (ii) to identify key needs, opportunities and good practices to improve the implementation of SPS measures in a way that ensures an appropriate level of health protection while minimizing trade transaction costs; and (iii) to make recommendations to enhance future work and technical cooperation focused on SPS and trade facilitation.

Members of the WTO have the sovereign right to restrict trade for the protection of human, plant and animal life or health against trade-related risks, provided that they follow the relevant principles of the WTO and, in particular, the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).³ The main principles of the WTO framework are that SPS measures should be non-discriminatory, transparent, science-based and not more trade-restrictive than required to achieve the appropriate level of protection. SPS measures that meet these principles are considered as legitimate non-tariff measures.

The SPS Agreement requires WTO Members to accept measures of other Members that are equivalent in providing the appropriate level of protection. It also strongly encourages Members to harmonize their measures by adopting international standards, guidelines and recommendations developed by three international standard setting bodies (ISSBs), notably the Codex Alimentarius Commission (Codex), the International Plant Protection Convention (IPPC), and the World Organisation for Animal Health (OIE). However, countries are allowed to apply stricter requirements as long as these measures are based on scientific justification, which includes an assessment of risks. Countries may also apply fewer and less stringent standards, or opt not to apply international SPS standards, provided that this does not affect the rights of other countries under the multilateral trade rules.

¹ For more information, see: <http://www.standardsfacility.org/facilitating-safe-trade>

² WT/MIN(13)/36, WT/L/911, WTO, Ministerial Conference, Ninth Session, Bali, 3-6 December 2013. Annexes to the Agreement are being prepared, with full acceptance planned by 31 July 2015. Much work will be required on implementation of the TF Agreement and on alignment with the SPS Agreement. The STDF research focuses on the general broad concept of trade facilitation, and not on the new TF Agreement.

³ The text of the SPS Agreement is included in the Final Act of the Uruguay Round of Multilateral Trade Negotiations, signed in Marrakesh on 15 April 1994, and is available on the WTO website http://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm#fnt5

Trade facilitation refers to the simplification and harmonization of required processes, procedures and information flows for border clearance. Trade facilitation is optimal if transaction costs for legitimate trade are as low as possible.⁴ If SPS measures do not disrupt trade more than necessary to achieve the appropriate level of protection, then they are in harmony with trade facilitation. If the transaction costs of SPS measures to traders are higher than necessary to achieve the appropriate level of protection, they should be considered as trade-disruptive.

The SPS Agreement focuses mainly on principles to observe in protecting human, animal or plant life or health and less on practical implementation modalities. Nevertheless, the Agreement also provides guidance in several articles, and in particular in Annex C, on control, inspection and approval procedures, and on avoiding unnecessary trade disruption and transaction costs for traders. The ISSBs referenced in the SPS Agreement (i.e. Codex, IPPC and OIE) focus on the development of international standards for health protection, some of which provide guidance for good practice on topics referred to in Annex C and related to trade facilitation. However, a comprehensive compilation of good practice guidance for the implementation of SPS measures does not exist.

Most WTO Members are still in the process of incrementally applying WTO principles correctly. As a result, in many countries, SPS measures deliver less health protection than desirable and disrupt trade more than necessary. The reasons for non-compliance variously include lack of awareness, limited capacity in SPS management, weak governance, health protection measures that are unnecessarily costly, insufficient funding of SPS operational costs, and use of SPS measures for purposes other than health protection (e.g. protection of domestic production/industry or rent-seeking). Complexities and inefficiencies in SPS control processes may also cause extra administrative and internal business costs to traders.

The research in Cambodia collected and analyzed information on how selected SPS measures are implemented in practice for specific product groups based on the provisions of the SPS Agreement and selected texts of Codex, IPPC and OIE. It explored the transaction costs of SPS measures for selected product groups, and considered how improving compliance with WTO principles can facilitate trade and contribute to better health protection. This report presents the findings of this country-level research. It is structured as follows. Section II outlines the methodology for the research in Cambodia, which reflects the approach taken in all the countries included in the research in Southeast Asia. Section III presents the key findings, followed by an analysis in Section IV. The final section offers recommendations for improved implementation of SPS measures in Cambodia.

II. Methodology

The following paragraphs discuss key terms used during this research and delineate the parameters and scope of the data collection, analysis and findings.

⁴ From economic growth and poverty reduction points of view, unnecessary transaction costs on imports and exports are undesirable because they reduce purchasing power of consumers, waste public and private resources and undermine competitiveness.

Definition of cost The SPS Agreement does not define transaction costs. Since it refers in principle to all costs that may affect trade, this study recognizes the following four kinds of costs incurred by traders.

1. Official fees and charges for services based on regulation and imposed by SPS measures, including the cost of application forms, service charges, inspections, sampling, testing and diagnostics, treatment and quarantine costs, issuance of certificates, etc.
2. Informal payments, not based on regulation, under many different names, including tea money, under the table payment, payment for entertainment, meals, transport, speeding up service provision, overtime fees, special presents, gratitude, services for which no formal fees apply, etc.
3. Administrative costs for enterprises, including cost and staff time for preparation of documents, submission, consultation with officers, tracking the status of decision making, reminders by phone, actions to speed up the process, and contingency planning.
4. Internal business costs, including long lead-time from planning to sale, extra storage and interest cost, spoilage of goods, missed orders, uncertainty.

Product selection SPS measures can vary widely for products because of their risks as carriers of pests, diseases and food safety hazards, their physical characteristics, origin and intended use. For this reason, the research in Southeast Asia focused on four groups of products:

- 1) rice and other field crops
- 2) fruit and vegetables
- 3) shrimp and other fisheries products
- 4) chicken and other meat products

Obviously, not all of the four countries covered in the regional research have exports and imports of each of these product groups. However, in most cases, there are proxy products subject to similar SPS requirements. The study does not address products with special risks such as seed and propagation materials, and live animals.

Imports and exports This study focuses on exports and imports of the above-mentioned product groups. It is important to note that WTO SPS disciplines apply to imports, and therefore even exports of a country are largely regulated from the perspective of the SPS requirements of importing countries. The general thrust of the WTO disciplines is that if all Members comply with WTO principles, including the principle that SPS measures should be least restrictive to trade, then trade opportunities will be optimal from the WTO SPS perspective.⁵ The SPS Agreement does not impose similar disciplines on exports; however, it defines obligations of exporting countries to provide information about their pest and disease situation and food safety hazards at the request of importing countries. The ISSBs provide guidance on export- and import-related procedures such as inspections, conformity assessment and certification.

The SPS Agreement is not concerned directly with the possible unnecessary costs to exporting countries stemming from their own costly and unnecessary measures. By contrast, trade policy departments in most countries and the development community place much emphasis on

⁵ The SPS Agreement in a footnote to paragraph 6 of Article 5, states that a measure is not more trade-restrictive than required unless there is another measure, reasonably available taking into account technical and economic feasibility, that achieves the appropriate level of sanitary or phytosanitary protection and is significantly less restrictive to trade.

promoting exports through trade facilitation because of its impact on growth, employment and poverty reduction.

This research could not cover transit trade, despite its importance in Cambodia, since regional agreements for goods in transit are still deficient, only partly implemented and not fully clear on SPS requirements.⁶

Sources of information The Government and the private sector were both important sources of information in Cambodia. The research started by interviewing staff of competent authorities responsible for food safety, animal and plant health to collect information about the applicable legal framework, the mandates, procedures for application of export and import release, number of documents required, fees that apply, official waiting time, ICT application and sources of information for traders. This was followed by interviews with traders in order to collect information on how the procedures are actually implemented in practice.

Use of questionnaires Detailed questionnaires addressing many relevant items of transaction costs associated with SPS measures were designed and used as a general guide for interviews with government officials. Shorter questionnaires were used with the private sector based on the business processes for SPS clearance of goods. (See Box 1) Most private enterprises did not have more than an hour to be interviewed, which put limits on the details that could be collected. Sometimes, some issues that were not very relevant for the overall picture, had to be ignored. More importantly, some important country-specific issues, such as institutional and policy issues, had to be captured by expanding information gathering beyond the questionnaire.

Box 1 Questions for interviews with private traders

For imports, questions included:

- 1) Describe the steps required for SPS clearance for import of [product], agencies involved, pre-requirements of foreign producers/traders, foreign product safety assurances etc., requirements importer/buyer, warehouse/cold storage, licenses, import permits, traceability requirements, if any.
- 2) Document requirements at the border, fees, waiting times, standards to comply with, testing and quarantine requirements, etc.
- 3) Is information about SPS import requirements readily available? What are main sources of information? Websites, printed material, information from officers, legislation, trade associations, broker/trade forwarder? Is information fully available and reliable?
- 4) Availability of IT for submitting applications. Can applications be submitted online? Can forms be downloaded?
- 5) Closing questions: Describe any bottlenecks in the SPS release process from the perspective of the importer. Recommendations?

For exports, questions included

- 1) Describe the steps required for SPS clearance for export of [product], agencies involved, pre-requirements of foreign producers/traders, foreign product safety assurances etc., requirements of importer/buyer, warehouse/cold storage, licenses, export permits, foreign import permit, traceability requirements, if any.
- 2) Document requirements at the border, fees, waiting times, standards to comply with, testing requirements, etc.
- 3) Is information about SPS export requirements readily available? What are main sources of information? Websites, printed material, information from officers, legislation, trade associations, broker/trade forwarder? Is information fully available and reliable?
- 4) Availability of IT for submitting applications. Can applications be submitted online? Can forms be downloaded?

⁶ Inclusion of transit trade would have required significant additional data collection and travel.

5) Closing questions: Describe any bottlenecks in the SPS release process from the perspective of the exporter. Recommendations?

Source: the authors

Field work and confirmation workshops Field work in Cambodia was carried out from 23 September until 31 October 2013. It included interviews with competent authorities, a study of the legal and institutional framework, and interviews with about 20 specialists in exporting and importing private enterprises, freight forwarders, logistic companies and other private institutions. Private sector information is based on a number of confidential individual interviews and reported only if the answers were largely in agreement or could be verified in other ways.

Draft findings from the field work were presented at two confirmation workshops for stakeholders, on 14 November 2013 for private sector representatives and on 15 November 2013 for government officers. Government agencies were asked to comment on the draft country report in late December 2013 and March 2014 prior to its finalization. Discrepancies between original reporting from the private sector respondents, and later comments from government agencies, partly caused by ongoing reforms, are reflected in this report.

III. Findings

Description of Cambodia's SPS system

Cambodia became a member of the WTO in 2004. At the time of accession, Cambodia had a long list of commitments to comply with WTO principles. Although significant progress has been made, the 2011 WTO trade policy review (TPR) and the draft 2013 DTIS⁷ indicate that there are still several important pending commitments, which are included in a Government action plan⁸. The quality of legislation is still weak with remaining gaps, overlap, weak compliance with WTO principles and delays in implementation. The country still has no modern food law. A draft phytosanitary law is pending. A draft law on animal health and production is in the process of approval. There is a 2007 law on fisheries. Efforts have been made to streamline mandates in food safety management through the 2010 Joint Prakas 868 and risk-based border management through the 2006 sub-decree 21. However, in both cases, implementation is pending. Mandates for the management of plant and animal quarantine have not been streamlined. Cambodia has few national standards and MRLs adopted through national legislation.

The Ministry of Commerce (MOC) is the lead agency for SPS. It hosts the SPS Enquiry Point, the National Notification Authority, the Codex Contact Point and it has mandate for SPS coordination. Its General Department, Camcontrol, has the broad mandate for inspection in markets and on the border, including food safety. The Ministry of Agriculture, Forestry and Fisheries (MAFF) has the mandate for plant protection and plant quarantine through the General Department of Agriculture (GDA), animal health and quarantine through the Department of Animal Health and Production (DAHP), and safety of fisheries products through the Fisheries Administration (FiA). MAFF also has the mandate for the safety of food up to the primary processing stage. MAFF only has animal

⁷ MOC, *Cambodia Trade Integration Study 2014*.

⁸ Office of the Council of Ministers, *Work Program of the Royal Government of Cambodia on WTO Requirements and Related Issues, 2012-201*, Phnom Penh, CoM, 2012

health inspectors at some major border crossings and plant quarantine officers at the Phnom Penh National Airport. In all other cases, SPS controls on the border are assumed by the General Department of Customs and Excise (GDCE) and Camcontrol, or not implemented.⁹

The main analytic capacity for food safety control is with the Industrial Laboratory Centre of Cambodia (ILCC), the Camcontrol laboratory and the independent Pasteur Institute. In addition, there are small laboratories with very limited capacity in MOH and FiA. The ILCC laboratory has ISO 17021 accreditation for microbiology parameters. MAFF has basic capacity for identification of plant and animal pests and diseases. It also has analytical capacity for pesticides quality control. All laboratory control and other SPS functions are seriously constrained by funding.

Import and export control system

This section describes the roles of the competent authorities in more detail. It is mainly based on information they provided.

Camcontrol

The inspection work of Camcontrol is based on sub-decree 59. Camcontrol has the mandate to inspect any shipment it deems necessary. Camcontrol states that it assists GDCE and other agencies on imports with regard to lists of prohibited and restricted goods, and that this is based on a precise instruction from Government. However, other SPS agencies insist that they have not delegated responsibilities to Camcontrol. For imports, Camcontrol is committed to using a risk-based approach, but capacities are still insufficient. Its focus is on prohibited and restricted products and goods, for which there are international hazards and alerts. Camcontrol does document and visual checks, but rarely takes samples for testing. There is much paper and visual inspection but no scientific testing and no systematic record-keeping. Camcontrol has legal competence but lacks technical competence. There are no bonded warehouses that can be used by GDCE and Camcontrol.

For exports, Camcontrol checks all documents to verify whether they are complete and correct. Issuance of phytosanitary and sanitary certificates and certificates of fumigation and other treatment is the responsibility of MAFF. There are no binding legal and international agreements for mandatory checking the food safety status of exported goods. So Camcontrol's active role in export controls is limited.

Camcontrol makes commercial test reports at the request of traders, but these focus only on product quality. These reports are used, among others, for obtaining letters of credit (LC) from banks. It also records statistics on products and quantities for which traders have to complete a form and pay a fee. This form currently has no SPS contents.

GDA

GDA's main SPS task is the issuance of phytosanitary certificates. Application for phytosanitary certificate includes the following steps, based on Anakrat 15 (inspection procedure):

1. GDA reviews submitted application
2. sends inspector

⁹ Other agencies with food safety mandates are the Ministry of Industry, Mines and Energy (MIME), the Ministry of Health (MOH), and the Ministry of Tourism (MOT). However, since they have no mandates for border inspection, their roles are not discussed here.

3. inspector inspects, sends report and takes sample
4. possible requirement for cleaning, fumigation etc. before next step (sometimes client rejects fumigation)
5. the phytosanitary certificate is issued after fumigation, if required.

The total process takes 3-7 working days. Fumigation adds significantly to the time required.¹⁰

For first-time exporters of any plant product, GDA requires information about the company and its facilities and where their product comes from, however, according to GDA this is not a registration. GDA may refuse phytosanitary certificates if the company does not meet basic standards. There is a formal registration requirement for exporters of cassava to China, based on the bilateral protocol.

Most countries require fumigation for milled rice and some other products. The issuance of phytosanitary certificates is independent from certificates of origin (CO). But the issuance of certificates of origin may require a phytosanitary certificate even for products for which there is no requirement from the buyer. Also for the issuance of a letter of credit, banks may require an otherwise unnecessary phytosanitary certificate.

Cambodia has one fumigation plant for rice. A few applications for new enterprises are underway, which will create competition. There are two heat treatment facilities for ISPM 15 (Regulation of wood packaging material in international trade). An application for heat treatment for fruit is underway, apparently for intended mango export to Korea.

Phytosanitary certificates can only be requested at Phnom Penh and in Kampongcham. A facility in the west of the country is still waiting for government approval. The facility in Kampongcham can only issue phytosanitary certificates for Viet Nam. Phytosanitary certificates for rice now have to be requested at the MOC single window for phytosanitary certificates and certificates of origin.¹¹

Only since last year, six enterprises have asked for phytosanitary certificates for tropical vegetables and fruit for newly started exports to EU. Issuance of a phytosanitary certificate requires 3-4 days and, if information is readily available, 2-3 days. Inspectors may take some sample out of the shipment if it shows symptoms of disease. There is much export of fruit and vegetables to Thailand and Viet Nam through secondary or tertiary border posts, not international border posts, for which exporters do not ask for phytosanitary certificates.

There is no phytosanitary control on imports and no requirements have been formulated. Some companies inquire about import requirements for plant products, but most do not. Only Camcontrol is on the border and states that it controls on behalf of other agencies. It never sends information about phytosanitary certificates to GDA. GDA states that Camcontrol has no mandate to control phytosanitary and fumigation certificates.

GDA has no knowledge and experience with transit trade of agricultural commodities. It realizes that good transit agreements with Thailand and Viet Nam would potentially reduce the logistic costs for exports from Northwest and East Cambodia. GDA is aware that there is sometimes reloading of products at Singapore, but phytosanitary consequences are unknown. It believes ASEAN needs to address this for the ASEAN Economic Community.

¹⁰ According to NPPO staff in a recent IPPC meeting it was recommended that loading should be done 120 hours after the start of fumigation (instead of 72 hours), which will increase duration.

¹¹ Recently, MoC issued a declaration to abolish CO issuance to importing countries that do not require it.

DAHP

Sub-decree 16 is about inspection of animal health and production. It has one Prakas about the inspection procedure. A license is required for import and export. The import license specifies products, quantities and countries from where they can be imported. The Ministry takes the decision on each license after review by DAHP. The procedure for obtaining an export license is similar. It takes into consideration the locations and the number of animals in these locations available for slaughter and the slaughterhouses to be used. The license system serves as control on import and export volume. The number of import licenses and amounts imported are increasing. Thirteen companies have an import license for beef and lamb, five companies for pork. Only one company has a license to export beef to China and Viet Nam (since July 2013). One private company, CP, wants a license for the export of piglets.

The import procedure is as follows: The licensed importer submits a health certificate for each shipment and requests for a transport permit from the port to its warehouse. The transport permit needs the signature of DAHP and MAFF. After obtaining the transport permit an animal health inspector checks the cargo at the port and allows for release from the port. Then GDCE and Camcontrol process the release. After arrival in the warehouse, an animal health inspector will inspect the cargo again and sign for the release. DAHP does not carry out laboratory inspections; it trusts the health certificate of the country of origin. DAHP keeps a record of all shipments against the quantities defined in the license. The license holder cannot import more than allowed in the license and has to explain any shortfall in the actual imported quantity.

A transport permit does not take more than 3 days and a release permit from the warehouse of the importer 1-2 days.

FiA

The Department of Fisheries Post Harvest Technologies and Quality Control (DFPTQ) was established under the Fisheries Administration by the sub-decree No. 188 dated 14 November 2008 and is responsible for safety and quality control of fish and fisheries products. Every exporter and importer needs a license and permits for each shipment with specified quantities, for which Chapter 12 of the Fisheries Law is the base. Under the current export-import control, traders are additionally required to obtain the import-export permit license (import-export quota) from MAFF. The application has to be made at the Legal Department of MAFF. The fee for licenses is not known. The basic purpose of these licenses is quantity control for food security, not SPS. Generally, exporters want as much volume as they can get and tend to use it for exporting product from other companies. On the other hand, FiA is implementing the Law on Fisheries (Article 75-76) and the sub-decree No. 66 for controlling the transportation of fish and fishery products. Traders have to apply for the permit letter for transportation of fish and fisheries from FiA. FiA controls the transportation based on the permitted import-export quota issued by MAFF. Applicants need to be registered companies. If new processing plants are involved then they need to be registered as well and comply with FiA GHP requirements, for which in fact there is no legal base.

Although FiA has the mandate for health certificates since 2004, it may not meet OIE requirements for control of fish diseases. However, health certificates for export are given for consumption purposes and based on food safety parameters. For a health certificate, FiA uses the Pasteur laboratory for testing according to a standard protocol of food safety. Pasteur has no accreditation

but it is preferred by most buyers over ILCC which has accreditation for a series of microbiology parameters. Clients complain about the cost of the tests, for which they have to pay Pasteur directly. There is no capacity in Cambodia to test for many relevant chemical parameters, such as chloramphenicol and nitrofurantoin.¹² Cambodia has a ban on the use of a series of chemicals in aquaculture.

The procedure for requesting a health certificate is as follows: A request form is submitted with 5 attachments (an export permit, taxation registration, packing list and invoice and a template letter in which the company pledges that it will not include any other goods in the shipment than for which it has the license). The company has to pay:

- directly for the analysis to Pasteur; and
- a formal fee of US\$100 (approved by the Ministry of Economy and Finance (MEF) in 2013) for all services including sampling and transport, of which 51% goes to the national budget and 49% to the FiA budget.

Sampling and testing requires one week, sometimes 3 days and after receiving the test result, the health certificate is issued in one day.

According to FiA staff the regulatory framework for fisheries export and import is outdated, insufficient and not compliant with WTO and requirements of some importers like the EU. However, so far no external legal support for upgrading has become available.

Transparency

Traders generally have no knowledge about the legislation that applies. Verbal information from SPS officers is virtually the only source of information for traders about procedures, forms to be used, SPS requirements, waiting time, and fees. Ministries and agencies have websites, but maintenance is weak and information on SPS requirements limited. There is almost no written information, except for a pamphlet about requesting phytosanitary certificates. Legislation texts are not readily available. Criteria for granting import and export licenses for fisheries and animal products could not be obtained from the responsible service, since they were said to be confidential. There were, at the time of the field work, draft Joint Prakasses (Ministerial regulations) between MEF and other ministries about fees to be charged for SPS services. Although they are not yet approved and published, SPS agencies all stated that they are applying these draft regulations. Cambodia has so far not complied with the requirement in Annex B.1 of the SPS Agreement that all SPS legislation (including laws, decrees and ordinances) are to be published promptly. Nor has it submitted any SPS notifications to the SPS Committee.

Limitations in coverage

Because of the significant share of informal trade without SPS controls, there were limitations during this research to collect information on SPS transaction costs for release of products in several market segments. There is hardly any formal import of fruit, vegetables and rice, and hardly any formal export of meat. Only a small part of the export of fruit and vegetables is formal.

¹² In principle, use could be made of services of the NAFIQAD 4 laboratory in Ho Chi Minh City, which has accreditation for a broad range of testing parameters. However, there is no regular use of the NAFIQAD lab since an official letter is required for each border crossing of samples for testing.

There are also major gaps in the SPS control system. There are no phytosanitary controls on imports by the competent authority, i.e. the National Plant Protection Organization (NPPO). By contrast, there is overlap in mandate and actual SPS controls by Camcontrol and FiA and DAHP on import and export of animal and fisheries products.

Document requirements and controls

Tables 1-4 provide overviews of document requirements for SPS applications and controls conducted as reported by the competent authorities. For meat imports, enterprises first need to apply for an annual license (Table 1). For each import shipment they need to submit a request for a permit, which includes 8 documents as annexes. DAHP inspectors do document and visual checks at the border and at the warehouse of the importer. Camcontrol does document checks for each shipment at HQ and at the border of 10 documents. Customs checks for the same documents. DAHP has inspectors on a few border posts only.

Table 1 Document requirements and control on imports of meat products

Requirements	MAFF and DAHP import certificates	Camcontrol HQ and border (each shipment)
<i>Pre-requirements (annual license)</i>		
Copy of certificate of company registration MOC	x	-
Copy of certificate of taxation MEF	x	-
Certificate of import license with quota (1 year) (MAFF)	x	-
<i>Permit requirements (each shipment) and import control</i>		
Copy of certificate of import license with quota	x	x
Invoice	x	x
Packing list	x	x
List of goods specification	x	x
Certificate of actual import (DAHP)	x	x
Certificate of health (from country of origin)	x	x
Copy of certificate of warehouse, issued by local authority	x	-
Transportation permit to warehouse	x	-
Bill of lading	-	x
Visual checks at border and at warehouse	xx	-
Paper check	x	xx

Source: Competent authority and interviews

Note: xx means inspected twice

The document requirements for import of fisheries products are almost the same as for meat (Table 2). MAFF has to issue a license first and for each shipment FiA requires 7 documents for an import permit and Camcontrol checks for 7 documents at HQ and at the border. Customs will check for the same documents. FiA has no inspectors on the border and it only does paper checks.

Table 2 Document requirements and control on imports of fisheries products

Requirements	MAFF and FiA import certificates	Camcontrol HQ and border (each shipment)
<i>Pre-requirements (annual license)</i>		
Copy of certificate of company registration MOC	x	-
Copy of certificate of taxation MEF	x	-

Certificate of warehouse, issued by local authority	x	-
Certificate of import license with quota (1 year) (MAFF)	x	-
Permit requirements (each shipment) and import control		
Copy of certificate of import license with quota	x	x
Invoice	x	x
Packing list	x	x
List of goods specification	x	x
Certificate of actual import (FiA)	x	x
Copy of certificate of warehouse, issued by local authority	x	-
Certificate of health (from country of origin)	x	x
Bill of lading	-	x
Visual check	-	-
Paper check	-	xx

Source: Competent authority and interviews

Note: xx means inspected twice

For exports of plant products, GDA checks first time exporters for their company status and warehouse, but it does not require licensing (Table 3). For issuance of a phytosanitary certificate, it requires 3 documents (4 if fumigation is necessary). GDA will do a document and visual check. GDA has no inspectors on the border. For export of each shipment Camcontrol will conduct a check of 5 documents (7 in case of rice) at HQ and at the border. Customs checks the same documents.

Table 3 Document requirements and control on exports of plant products

Requirements	GDA: Request Phytosanitary Certificate (PC)	Camcontrol HQ and border (each shipment)
Pre-requirements (first time export only)		
Copy of certificate of company registration MOC	x	-
Copy of certificate of taxation MEF	x	-
Copy of certificate of warehouse, issued by local authority	x	-
Requirements for issuance of a phytosanitary certificate		
Invoice	x	x
Packing list	x	x
List of goods specification	x	x
Certificate of origin (MOC) (rice only)	-	x
Fumigation certificate (grains; not fruit and vegetables)	x	-
Phytosanitary certificate	-	x
Bill of lading	-	x
Certificate of quantity (Camcontrol) (rice only)	-	x
visual check	x	x*
paper check	x	xx

Source: Competent authority and interviews

Notes: xx means inspected twice; * random physical check based on risk assessment

For the export of fisheries products, a MAFF export license with quota is required (Table 4). For each shipment an export permit is required for which FiA requests 7 documents, including a testing certificate from Pasteur and it conducts a paper and visual check. Camcontrol checks for 8

documents at HQ (Camcontrol branches at the border need documents as reference for their inspection activities as guided by HQ). Customs checks for the same documents.

Table 4 Document requirements and controls on export of fisheries products

Requirements	MAFF and FiA export & health certificate	Camcontrol HQ and border
Pre-requirements (annual license)		
Copy of certificate of company registration MOC	X	-
Copy of certificate of taxation MEF	X	-
Copy of certificate of warehouse, issued by local authority	X	-
Certificate of export license with quota (1 year) (MAFF)	X	-
Requirements for each shipment		
Copy of certificate of export license with quota	X	X
Invoice	X	X
Packing list	X	X
List of goods specification	X	X
Certificate of actual export (FiA)	X	X
Provide certificate of testing (Pasteur)	X	-
Certificate of health (FiA)	X	X
Bill of lading	-	X
Certificate of quantity (Camcontrol)	-	X
Visual check	X	-
Paper check	X	XX

Source: Competent authority and interviews

Note: xx means inspected twice

Waiting time

Reported waiting times¹³ for specific SPS services are provided in Table 5. In most cases, the waiting times reported by private and public sector respondents are about the same. To obtain MAFF export and import licenses, traders report long waiting periods and the need for interactions with a range of government officers, which can require up to three months. For meat import licenses the process is similar and the waiting times will be at least three weeks and usually significantly more.

Table 5 Reported waiting time for selected SPS services

Obtaining document	Waiting time
Phytosanitary certificate ¹⁴	2-3 days (at Phnom Penh)
Fumigation certificate	2 days
Phytosanitary certificate + fumigation (cumulative)	3-5 days
MAFF export license fisheries products with one year quota	3 months + many interactions
Test report fish from Pasteur Institute	4-7 days

¹³ The collected information generally does not indicate the total export or import release time. For making such estimates, time taken by all border agencies and waiting time between actions of the border agencies should be estimated. This would require significantly more interviews and detailed time release studies on the border.

¹⁴ For rice exports, the Council of Development of Cambodia (CDC) recently introduced a single window for applications for certificates of origin and phytosanitary certificates. Handling costs for services provided through this single window are not covered in this report.

FiA health certificate	1 day
FiA export permit for one shipment	1-3 day
MAFF import license fisheries products with one year quota	3 months + many interactions
FiA import permit for shipment of fisheries products	1 day
Camcontrol HQ stamp for fisheries export shipment	1-2 days; not conducted anymore#
Camcontrol at border stamp for fisheries export shipment	30 minutes
Camcontrol certificate of quantity for rice export	2-3 days
Camcontrol HQ stamp import shipment fisheries products	4-5 days; 1 day*
Camcontrol border stamp import release fisheries products	2-3 hours; 30-60 minutes**
MAFF import permit (license) for meat products	minimum 3 weeks
DAHP transport permit for meat from border to warehouse	3 days
DAHP meat release from warehouse	1-2 days

Source: Competent authority and interviews

Notes: # Private traders reported this step during field work, whereas Camcontrol reported in March 2014 that this step is no longer applied; * Private traders reported 4-5 days during field work, whereas Camcontrol reported in March 2014 that this is currently a one-day service; ** Private traders reported 2-3 hours during field work, whereas Camcontrol reported in March 2014 that this is currently 30-60 minutes.

Reported costs

Information from Government staff about costs caused by SPS measures was generally incomplete. Most traders were forthcoming with information about payments made; a few were reluctant to speak. Some traders had insufficient information because they contract service providers (freight forwarders, brokers or logistic companies) to do all paperwork for border release, in which cases payments are usually absorbed in the total fee. Some of the service providers also provided information, but some declined to be interviewed. The use of experienced and well-connected service providers can have clear advantages for traders but it reduces transparency of the border release processes.

The different cost categories that make up transaction costs are discussed below. Table 6 presents payments reported by the private sector.

Formal fees and charges Traders mostly do not get receipts for the fees they pay, or only for part of the payments. SPS agencies say they use the pending Joint Prakasses of their ministry with MEF for fees, not the one that still applies.¹⁵ The proposed new rates are said to be much higher than the rates in the old regulations. Because of the lack of receipts for payments, it is not possible to say what formal rates are being charged.

Informal fees and charges All respondents report informal payments (tea money and payment under the table).¹⁶ In many cases, informal payments are said to be higher than formal fees, although lack of receipts for formal payments blurs the evidence.

Respondents dislike informal payments much more than formal payments. The main problems with informal payments and lack of receipts are that companies cannot control payments made by their

¹⁵ The team has only been able to obtain a copy of a draft between MEF and MOC of 62 pages, which has hundreds of line items, including laboratory fees. FiA reported in early 2014 that it is implementing its part of the Joint Prakas No.1013 between MEF and MAFF.

¹⁶ These payments can take many forms and can include money payment per transaction, extra payments to speed up services, payment for entertainment, for lunches, transport, special presents, gratitude, product samples to be provided which are not tested, services for which no formal fees apply, etc.

own staff, cannot prove that they paid taxes (applies to payments made to Customs), and cannot deduct costs for tax declaration. Related problems are unpredictability of release processes.

Most traders say that individually they cannot do much about informal payments because of the possible negative consequences of conflict. Given the commercial costs of possible delays (missing shipment dates, extra storage cost, not being able to serve customers on time) and the dependence on the agencies, maintaining good contacts and paying is often the only option.

Table 6 Selective list of reported payments by traders

Agency and certificate	Product and purpose	Without receipt	With receipt
GDA phytosanitary certificate	fruit & vegetables export	\$100-250	
GDA phytosanitary certificate <ul style="list-style-type: none"> • application • inspection • issuance certificate 	rice export	\$20 \$20 \$12	
Camcontrol certificate of quantity	rice export		KHR 25,000
Camcontrol HQ stamp#	fruit & vegetables export	\$50	
Camcontrol border stamp	fruit & vegetables export		KHR 50,000
Camcontrol border	vegetables import	\$60*	
MAFF Annual export license with quota	fisheries export	\$10,000	
FiA Export permit per shipment	fisheries export	NA	\$20
FiA health certificate (excl. testing)	fisheries export	\$100-200	
Testing at Pasteur Institute	fisheries export		\$140
MAFF Annual import license with quota	fisheries import	\$7,000-8,000	
FiA Import permit per shipment	fisheries import	NA	\$20
Camcontrol HQ stamp per shipment **	fisheries export	\$100	
Camcontrol border stamp per shipment	fisheries export		KHR 50,000

Source: Interviews with traders

Note: # reported by traders, whereas Camcontrol reported in March 2014 that this control is not applied anymore; * Reported by traders, whereas Camcontrol reported in March 2014 that the fee is US\$15 with receipt (based on MEF-MoC Prakas); ** Reported by traders, whereas Camcontrol reported in 2014 that there is no longer any requirement for this service; US\$1 is equivalent to 4,000 KHR.

Administrative and internal business costs Administrative costs include: cost and staff time for preparation of documents, submission, consulting with officers, tracking the status of decision making, reminders by phone, actions to speed up the process, and cost of contingency planning. Inefficiencies in the border release processes cause extra administrative and internal business costs to traders. Rent-seeking by agencies and officers contributes to inefficiencies and complexity in processes, because it results in extra steps and unproductive staff time. Internal business costs include: long lead-time from planning to sale, extra storage and interest cost, spoilage of goods, missed orders, and uncertainty.

General impression on costs Most traders see administrative and internal business costs in many cases as more of a burden than formal and informal payments.

Some differences in handling costs between market segments are important to highlight. Reported formal and informal fees for rice exports tend to be lower than those for other products, probably because payments and procedures have been rationalized based on the government's policy to promote rice exports. Rice exporters complain about the long waiting times and high non-

Government fees for export to China because of the alleged monopoly position of the China Certification and Inspection Group (CCIC) and a fumigation provider. By contrast, there is much competition among service providers for export to the EU.¹⁷

IV. Analysis

The interpretation and analysis of the findings in Cambodia focus on four aspects.

1. What are the consequences of the high cost of SPS measures?
2. What is the effectiveness of the controls in terms of health protection and trade promotion?
3. How efficient is the SPS system?
4. Points of weak compliance with the SPS Agreement

Cost and consequences

Cambodian exporters and importers face high logistic and regulatory costs. SPS costs are part of these, but not generally the highest part. Yet, total costs of SPS measures form relatively high burdens for traders. High costs of formal trade erode profitability and competitiveness and form an incentive for informal trade. The team came across a few cases where formal exporters gave up because of high costs. The large amount of informal trade in Cambodia is at least in part result of the high transaction cost of formal trade. The Government in its trade policy realizes that informal exports go generally to neighboring countries at low prices and without value added. Moreover, informal trade contributes little to tax revenue and escapes from health controls.

Effectiveness of controls

Border release processes appear in essence based on document controls, and not on substantive controls and hazard prevention. Traders report that generally no physical inspections are carried out.

Market access Issuance of phytosanitary certificates for plant products, and health certificates for fisheries products, is necessary for access to formal markets. Most other controls do not contribute to market access. Issuance of phytosanitary certificates is highly centralized in Cambodia and, hence, exporters in most regions have limited access to these services.

Substantive controls Often samples are taken but it is likely that in most cases no testing is being done. In several cases traders report that they have to take samples themselves and bring them to the inspectors. Laboratory capacity in Cambodia is limited; but more importantly, there are hardly budgets and skilled staff for testing.

Major gaps in controls Major parts of imports enter the country uncontrolled. This jeopardizes effectiveness of health protection of the whole SPS system. Large amounts of commodities are exported informally to low-price markets in neighboring countries. These informal exports are vulnerable to change in policies in the neighboring countries, because they may not meet formal requirements and Cambodia does not have capacity to expand formal controls at short notice over such large amounts of product.

¹⁷ Cost of certification, inspection and fumigation of CCIC is \$6/ton for exports to China, compared to \$3-3.5/ton for exports to the EU.

No risk-based management Fisheries and animal products are mainly imported from safe sources and, therefore, controls on these imports have limited impact on food safety. Controls do not cover the extensive informal imports that are likely to inhibit higher health risks for import of unsafe food and entering pests and diseases.

General status The SPS system functions too much as a source of fiscal revenue and additional income, and still insufficiently as a system to protect health and promote market access.

Efficiency of controls

The efficiency of SPS measures seems to be low. Cambodia gets limited health protection for high transaction costs. Waiting times are in several cases long and add unnecessarily to higher transaction costs.

Efficiency of SPS measures in terms of market access is mixed. Many of the controls do not add to market access and parts are too costly to the private sector and, hence, erode competitiveness of exporters.

Points of weak compliance with the SPS Agreement

Transparency and risk-based management The weakest general points in compliance are transparency and application of risk-based management. Transparency issues are directly related to the weaknesses in the legal system and the lack of written information for traders about sanitary and phytosanitary requirements, procedures to be followed, criteria for obtaining licenses, standard waiting times, and fees that apply. Both in import and export release procedures hardly any start has been made to adopt risk-based management.

Possible unjustifiable costs The following observations are made:

The requirement of licensing of traders for export and import of animal and fisheries products and the way it is implemented, is costly to traders and needs to be justified as necessary for achieving the appropriate level of protection. In particular in fisheries exports, the costs and difficulties involved in exports seem at odds with the RGC policy of promoting exports.

The requirement of import and export permits is also costly and trade disruptive and needs justification as necessary for achieving the appropriate level of protection. Publication of sanitary requirements for imports is a less costly alternative for traders to requiring permits and it can for most products provide the same level of protection.

The use of quotas does not contribute to protection of health and is therefore not justified under the principles of the SPS Agreement.

Multiple controls of documents by SPS agencies and Customs¹⁸ do not contribute to the protection of health and, therefore, form an unjustifiable cost of SPS measures.

No consideration is given in the import of fisheries and meat products to the safety of the source, and the reputation of traders. Under the SPS Agreement's equivalence principle, Cambodia should accept safety assurances from these foreign sources, since control capacity in these countries is generally much better than in Cambodia. Also unilateral recognition of controls abroad can be good

¹⁸ The economic police is regularly mentioned also.

practice. With the application of risk-based management there should be differentiation in inspection.

The fees required should not be higher than the actual cost of the controls, however, some are likely to be higher and represent a disguised taxation by SPS agencies.

Waiting times are relatively high for several services compared to other countries. Since waiting times are costly to traders, they should be reduced as much as possible to avoid unnecessary costs.

Informal payment requirements violate several principles of the SPS Agreement

Issuance of certificates of origin for exports to many countries has no function because there is no tax benefit. Unless required by trading partners it should be voluntary.

Unless there is tax benefit, requiring certificates of origin for import into Cambodia has no value. Moreover, a certificate of origin contains the same information as a phytosanitary certificate or health certificate.

V. Points for consideration

Based on the findings of this research, in order to improve the implementation of SPS measures and facilitate trade, the Royal Government of Cambodia (RGC) is recommended to consider:

- (i) SPS institutional improvements;
- (ii) improvements to increase effectiveness of SPS measures;
- (iii) improvements to increase efficiency of SPS measures by reducing costs; and
- (iv) building capacities to strengthen the performance of the SPS system.

Institutional issues

In order to comply with the requirement in the SPS Agreement that measures should not be more restrictive than required, SPS agencies should not raise costs to traders by duplicate controls among themselves and with Customs. Only GDCE has the mandate to perform fiscal duties. Fee lists for SPS services should be based on the principle that fees are not higher than the actual costs of controls. Fee levels should not provide an incentive to be on the border for fiscal purposes. General business controls and collection of statistics are not a primary task of SPS agencies. SPS agencies should engage in collection of such information only to the extent that it is necessary for risk management. With the adoption of automated border management through ASYCUDA, such information need not be collected separately by each agency but could be provided by Customs to SPS agencies based on standard operating procedures (SOP). With the development of the national single window (NSW), all unnecessary duplication can and should be removed.

Quota Licenses and permits are tools that, in general for common low and medium risk products, are difficult to justify as necessary for achieving the appropriate level of protection.

SPS licenses for import and export of fisheries and animal products contain quota. This is not good SPS practice and possibly even non-compliant with WTO principles. Abolition of quota deserves priority.

Alignment of institutional responsibilities The Joint Prakas 868 has aligned and clarified responsibilities of ministerial mandates in the area of food safety. Since there is not a similar

alignment and clarification of responsibilities for phytosanitary controls for plant products and sanitary controls for animal and fisheries products, the RGC may consider solving this through a similar prakas.

Improve transparency Four priorities are recommended for improving transparency:

1. There is a need to publish all SPS legislation on the trade portal, and add information for SPS release, including general sanitary and phytosanitary requirements, procedural steps to be followed, forms to be used, list of fees and charges, and time targets to be followed by officers.
2. It is recommended to publish official fee lists for SPS services at main offices and border offices.
3. Issuance of receipts for payments related to border release procedures should be enforced.
4. New or modified SPS measures need to be notified to the WTO.

Improve effectiveness of SPS measures

The present SPS control system is unbalanced. It imposes costly controls on some parts of trade, generally not the most risky part, and it leaves important parts of trade uncontrolled. It is recommended to rebalance the SPS control system with the following actions:

1. Decentralize the issuance of phytosanitary certificates to provinces, with priority for provinces with international border crossings – this will bring more exporters effectively within the range of service provision.
2. Bring informal trade gradually under control – for many products these controls can be light.
3. Focus human and budgetary resources more on facilitating exports and protecting health, and less on administration and document control – this will focus the SPS system more on outcomes.
4. Adopt risk-based controls – this means reduction of controls on low-risk products and freeing resources for high-risk products.
5. Make use of safety assurances (good manufacturing practices (GMP), HACCP, veterinary / sanitary certificates, phytosanitary certificates, etc.) from safe producers and countries with good systems – there is no need to duplicate controls on safe products.

Improve efficiency of SPS measures by reducing unnecessary costs

Improvements to consider are:

1. Decentralize issuance of phytosanitary certificates – this will reduce costs for exporters outside the Phnom Penh area.
2. Reduce the burden of regulatory controls on formal trade by simplifying procedures and requirements; targets are:
 - a) documentary requirements might be reduced;
 - b) abolish duplications in controls among SPS agencies and with Customs;
 - c) allow online downloading of application forms;
 - d) limit the use of import and export licenses for implementing SPS measures, focusing on high risk products, if deemed necessary;
 - e) publish general sanitary and phytosanitary criteria for release of imports and limit the use of import permits for implementing SPS measures, focusing on high risk products, if deemed necessary

- f) do not perform tasks that are not required by foreign countries, e.g. abolish mandatory certifications in cases where they are not required by the foreign buyer (this principle has been adopted recently by RGC);
 - g) reduce waiting times for release processes by setting sharp time targets for the issuance of documents – e.g. phytosanitary certificates should (as in many other countries) normally be issued in 1-2 days.
3. Certificates of quantity and quality (for export) should be voluntary.
 4. Do not require certificates of origin on imports if there is no tax benefit.
 5. Increase availability of fumigation services and promote competition.

Medium/long-term strategies for reducing transaction costs

For the medium to long-term, a number of directions are recommended for improving performance in border handling.

1. A general good practice recommendation for border handling by Customs and SPS agencies is to reduce personal contacts between traders and control officers since more personal contacts require more time and result in more opportunities for rent seeking. This can be pursued by designing efficient release processes and adopting one-stop service.
2. The adoption of automation provides a way to reduce personal contacts. Electronic issuance of phytosanitary certificates is a priority for Cambodia.
3. Most agricultural trade in Cambodia is with Thailand, Viet Nam and China. A good way to improve SPS management for this part of the trade is to engage in bilateral SPS agreements (protocols) with these countries. The aim should be to clarify and simplify requirements and to engage in mutual recognition agreements (MRA).
4. For several regions of Cambodia, transit trade through Thailand and Viet Nam offers potentially lower logistic costs than trade through Phnom Penh or Sihanoukville. However, without a transit agreement, which includes provisions on SPS measures, costs may be high because of unnecessary controls and waiting time. Therefore, it is recommended to explore possibilities of SPS bilateral transit agreements with Thailand and Viet Nam.
5. Given the inadequate funding for the SPS system, it is recommended to review funding for SPS management tasks and controls. Public goods need to have public funding and related services should preferably be funded through fees that are not higher than their actual cost (as is required by the SPS Agreement). Dysfunctional incentives for using SPS measures for fiscal purposes should be addressed.

Priorities for SPS capacity building in the context of trade facilitation

SPS capacity building should focus on capacity for substantive tasks.

1. Most urgent for export promotion are:
 - 1) conducting active and passive pest and disease surveillance of products for export, surveillance of use of agrochemicals, and promoting GMP, HACCP, and (selectively) GAP, prioritized for export products and markets;
 - 2) issuance of phytosanitary and health certificates, if demanded by importing countries.
2. Most urgent for enhanced protection of the health of crops, livestock and consumers are:
 - 1) conducting active and passive surveillance of pests and diseases, food products, agrochemicals, with prioritization based on health risks and cost-effectiveness;

- 2) selectively promoting GAP, GHP and GMP in production and trade.
3. While border controls are a necessary component of SPS management, they generally make a relatively small/modest contribution to health protection and export promotion. In particular, the effectiveness of border controls is often low in countries with porous borders. Therefore, capacity for border controls should be proportionate to the expected results and balanced with capacity for controls behind the border.