IMPLEMENTING SPS MEASURES TO FACILITATE *SAFE* TRADE

The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) aims to facilitate *safe* trade in food and agricultural products. It allows governments to provide the level of health protection they deem appropriate, while it seeks to ensure that SPS measures are not misused for protectionist purposes and do not result in unnecessary barriers to trade. In practice, a variety of SPS procedural obstacles to trade appear to persist. Several countries are making efforts to address these obstacles in an effort to enable trade to flow more smoothly and quickly. This note highlights some of these experiences and opportunities. It draws on work by STDF partners, as well as the findings of STDF-funded research in Southeast Asia and Southern Africa to identify good practices to improve the implementation of SPS controls in a way that facilitates safe trade, while minimizing transaction costs, based on the SPS Agreement. It also reflects experiences of STDF-funded projects that are promoting the implementation of robust, science-based SPS controls to facilitate *safe* trade.

Ensuring health protection, while minimizing SPS transaction costs

Countries develop and implement SPS measures to protect human, animal and/or plant life or health. SPS measures should be based on science and they should not discriminate between domestically produced and imported products. The SPS Agreement encourages governments to apply national SPS measures that are consistent with international standards, guidelines and recommendations developed by three international bodies (Codex, IPPC and OIE).

While the implementation of robust and science-based SPS measures to ensure health protection inevitably results in some trade transaction costs, the SPS Agreement requires that any such costs should not be higher than necessary. Article 8 and Annex C of the SPS Agreement set out provisions on Control, Inspection and Approval procedures. They require that procedures to check and ensure the fulfilment of SPS measures are implemented without undue delay and in no less favourable manner for imported products than for like domestic products. For instance, information requirements should be limited to what is necessary for appropriate control, inspection and approval procedures, standard processing periods should be published, fees should be no higher than the actual cost of the service, etc.

Examples of SPS-procedural obstacles
- Complex and lengthy procedures
- Excessive document requirements
- Limited information on requirements, forms, fees
- Multiple inspections by different services
- Arbitrariness, unpredictability

Work by the World Bank, ITC and others indicates that sometimes SPS measures are implemented in a way that is more trade disruptive than necessary. At times, this may result in more controls than needed, longer than required waiting times, uncertainty, as well as increased costs for traders and sometimes also governments.

Trade transaction costs occur every time a party within the supply chain is required to submit information to government agencies, including authorities responsible for SPS controls. These costs might be direct (e.g. submission of documents, charges and fees, inspection costs, informal payments) or indirect (e.g. border delays, uncertainty about procedures). The OECD estimates that each 1% saving in trade-related transaction costs yields a worldwide benefit of US$43 billion (OECD, 2013).

Opportunities to facilitate *safe* trade

A number of good practices exist to improve the implementation of SPS measures in a way that facilitates safe trade. Several governments are already implementing a variety of these solutions with promising results.

Improve transparency on SPS requirements

Several countries have already taken steps to increase access to information about existing SPS measures, and the procedures associated with ensuring compliance, for instance by publishing SPS regulations, procedures, forms and fees online, and including SPS regulatory requirements in national single windows. In many cases, governments actively engage with the private sector on a regular basis to discuss any changes to SPS regulations or procedures. Such efforts facilitate trade by enabling importers and exporters to understand what SPS measures are in place and what is required of them. They also help to enhance good governance in SPS management.

Streamline documentary requirements and control procedures

It is good practice to regularly review, streamline and simplify documentary requirements and procedures involved in the implementation of SPS controls. There may be options, for instance, to cancel outdated regulations, remove duplication in documents required by SPS and other border agencies, and/or reduce the number of documents required for each consignment by enabling traders to provide some documents on an annual or periodic basis. Simplifying SPS procedures may also entice more small-scale traders to formal channels, which would have additional benefits.

Implement risk-based approaches

Adopting risk-based controls enables attention and resources to be targeted at traded commodities and products that present the greatest risk to food safety, animal or plant health. Focusing inspection on high- and medium-risk commodities and foods, with reduced controls on low-risk products, helps to avoid unnecessary delays and improve efficiency. A number of factors should be considered in determining risk categories including the type of commodity/food, its origin, the trader's record of compliance, etc. Using international standards that support the implementation of risk-based controls is an obvious starting point. National authorities are encouraged to use guidance developed by FAO, WHO and OIE to help implement robust, risk-based SPS controls for commodities and foods traded internationally.

Strengthen collaboration between SPS and other border management agencies, within and across borders

Encouraging strong dialogue and coordination between SPS authorities and with other border agencies (including customs) helps to ensure that all the agencies involved in facilitating trade, at or behind the border, understand the complementarities in their respective roles. Improving communication and trust is an important first step to identify collaborative opportunities to facilitate safe trade. For instance, there may be potential to harmonize information requirements, link SPS authorities into IT solutions to improve border management, implement joint inspections or, in cases where SPS authorities are unable to be physically present at all border points, enable other border agencies to check SPS documents and follow-up as appropriate with the relevant SPS authorities. Enhancing dialogue among SPS and border management agencies in neighbouring countries is also recommended to identify additional opportunities to share information, speed up trade and ultimately lower costs, without reducing health protection.

Promote greater use of equivalence and unilateral/ mutual recognition

Increased use of equivalence and unilateral/mutual recognition is encouraged to harmonize SPS measures, requirements and procedures with trading partners, and reduce duplicative SPS controls in exporting and importing countries, wherever possible. For instance, if the safety of imported food products is confirmed by test results issued by accredited foreign laboratories (public and/or private), the value added of requiring importers to have the same tests performed by a laboratory (accredited or not) in their own country is questionable.

Safe Trade Solutions, an STDF film, shows what Chile, Colombia and Peru are doing to ensure health protection, speed up trade and cut transaction costs. Their solutions include efforts to streamline SPS measures, improve coordination among SPS agencies and with customs, implement joint inspections, increase transparency (including integration of SPS controls in national single windows), etc. Public and private stakeholders have recognized the value of these reforms in cutting costs and reducing clearance times.

What next?

Enhancing capacities to effectively implement SPS controls and adopting the *safe* trade solutions outlined above provides an opportunity to reduce trade costs and, importantly, to improve health protection. Authorities responsible for food safety, phytosanitary and veterinary controls are encouraged to reflect further on how they could apply these practices in their own countries. Consulting traders, who need to comply with SPS measures, as well as other border agencies, is strongly recommended. The new WTO Trade Facilitation Agreement has raised awareness about the benefits of facilitating trade, and SPS authorities are encouraged to take advantage of this momentum to promote increased support for SPS capacity building and drive domestic reform efforts.

Implementing SPS measures and facilitating *safe* trade depends on adequate capacity and resources. Development partners and donors can provide support to enhance SPS capacity in developing countries. Opportunities also exist to leverage additional funds from larger programmes focused on trade facilitation. Many of the services delivered by SPS authorities are global public goods. So while it may be possible to recover some of the costs associated with the provision of SPS services from the private sector, it is essential to ensure sufficient public funding for SPS systems.

The Trade Facilitation Agreement (TFA) will affect all government agencies involved in border control procedures, including SPS authorities, when it comes into force. Some of the TFA's provisions (e.g. on pre-arrival processing, publication of average release times, review and publication of fees, publication of information on import/export requirements) add more specificity to provisions in the SPS Agreement, even if the TFA will not diminish the rights and obligations of WTO members under the SPS Agreement.

FURTHER INFORMATION

↗ To view "Safe Trade Solutions" and find out more, please visit:

www.standardsfacility.org/facilitating-safe-trade