

The implementation of SPS Measures to facilitate safe trade

Selected Practices and Experiences in Malawi, South Africa and Zambia

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* The findings, interpretations and conclusions expressed in this paper are entirely those of the author. They do not necessarily represent the views of the STDF or any of its partner agencies or donors or of national authorities in the countries considered in this research.

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The author has sought to address, wherever possible, all the comments and suggestions received from STDF partners, as well as stakeholders in Malawi, South Africa and Zambia, in this final report. In some cases, there were some differences of opinion in the comments received about the importance and/or priority of addressing aspects related to trade facilitation in the implementation of SPS measures, which were difficult to reconcile. In a few other cases, some of the government officials who reviewed the draft report did not fully agree with some views provided by the private sector during the in-country interviews. This report represents the opinions and interpretations of the author, based on the findings of her research work and interviews. It does not necessarily reflect the views of individuals consulted during this research work, STDF partners or others. Any omissions or oversights are the responsibility of the author.

FOREWORD

Trade facilitation is about simplifying the procedures that are required to move goods across borders. Reducing red tape, and so reducing the costs to traders, should lead to more trade, contributing to the goals of food security and economic development. The importance of local, regional and international trade in achieving these goals was recently reiterated in the African Union's 2014 Malabo Declaration on accelerated agricultural growth and transformation.

Some trade requires the application of sanitary and phytosanitary (SPS) measures. SPS measures are necessary to reduce the risks to human, animal and plant health that cross-border movement of goods (especially food and agricultural products) can create - for example the risk of introducing foot and mouth disease from an infected country to a disease-free country.

But while SPS measures may be scientifically justified and in accordance with the World Trade Organisation's SPS Agreement, if they are implemented inefficiently, they can increase the cost of trade and even make it unprofitable, and studies elsewhere suggest that SPS authorities can be less efficient than some other border agencies

This report describes case studies undertaken in Southern Africa to identify specific areas and aspects of the application of SPS measures in which efficiency could be improved. These areas include clarifying roles, responsibilities and mandates of the different agencies; minimising delays and even the necessity for paperwork; and taking a risk based approach to the implementation of measures.

The contribution of all those who undertook the studies, as well as the Standards and Trade Development Facility (STDF) who funded the work, is acknowledged. I commend the findings to all SPS authorities and agencies in Member States as a step forward in our quest to increase and facilitate safe trade in our region. And I am happy to report that there are already initiatives under way in COMESA and the Tripartite that will be acting on the recommendations.

Sindiso Ndema Ngwenya

Secretary-General

Common Market for Eastern and Southern Africa (COMESA)

EXECUTIVE SUMMARY

In 2014 the Standards and Trade Development Facility (STDF) initiated thematic research, in collaboration with the Secretariat of the Common Market for Eastern and Southern Africa (COMESA) and Trade Mark Southern Africa (TMSA), focused on the implementation of sanitary and phytosanitary measures in practice. This work focused on selected countries in Southern Africa (Malawi, Zambia and South Africa) and trade in certain products, notably: (i) imports of fresh fruit and vegetables into Malawi and exports of groundnuts from Malawi; (ii) imports and exports of fresh meat (excluding live animals) into Zambia; and (iii) exports of maize from Zambia and imports of meat (excluding live animals) into Zambia. These countries and products were selected by the STDF together with COMESA and TMSA, based on desk research and discussions with experts in the region.

In many developing countries, sanitary and phytosanitary (SPS) measures represent a large share of the controls faced by formal traders both behind and at the border. Such SPS measures may for instance include numerous documentary requirements (e.g. import/export permits, phytosanitary certificates, fumigation certificates, quality standards certificates, non-GMO certificates, certificates of origin, etc.), as well as inspections and tests to ensure that goods conform to national regulations. While many of the aforementioned requirements may be justified as SPS measures to protect human, animal and/or plant life or health, others may not be.

The WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) seeks to facilitate safe trade in food and agricultural products. It provides a framework of rules that allows countries to take measures necessary to protect human, animal and/or plant life and health against trade-related risks, whilst seeking to ensure that such measures do not result in unnecessary barriers to trade. This research was limited to implementation of SPS measures, based on the SPS Agreement, and did not extend to the WTO Trade Facilitation Agreement, negotiated in 2013. It did not question the legitimate right of WTO Members to implement SPS measures necessary to protect human, animal or plant life or health, under the SPS Agreement. Rather it sought to assess whether these objectives could be achieved in a way that facilitates safe trade, and also reduces transaction costs.

The research work in Southern Africa is linked to similar STDF research in selected countries (Cambodia, Lao PDR, the Philippines and Thailand) in Southeast Asia on the implementation of SPS measures to facilitate safe trade. It followed the same approach and methodology, and used similar questionnaires. For the work in Southern Africa, desk research and in-country interviews were carried out in 2014. Efforts were made to have as many face-to-face interviews as possible with officials responsible for food safety, veterinary and/or phytosanitary controls, as relevant, as well as representatives of producers, traders and exporters to collect data and information on the procedures followed in the implementation of SPS measures. In all three countries, some 60% of those consulted were from the public sector including ministries of trade, ministries of agriculture, ministries of health, national plant protection organizations and national standards bodies. During interviews with the private sector, particular emphasis was placed on their experiences when importing or exporting the above-mentioned agricultural products. Transparency was a major focus of the study, including the availability of reliable information on SPS-related procedures, waiting times, documentary requirements and costs associated with the provision of SPS-related inspections and testing.

This report presents the findings and conclusions of the consultant who carried out the research work in 2014. It is targeted at policy-makers and practitioners involved in the development and implementation of SPS measures. Its objectives are to: (i) raise awareness about the synergies between the implementation of SPS measures and trade facilitation; (ii) identify key needs, opportunities and good practices to improve the implementation of SPS measures in a way that ensures the appropriate level of health and life protection while minimizing trade transaction costs; and (iii) develop recommendations to strengthen future work and technical cooperation focused on SPS and trade facilitation.

This research work was limited to only three countries, which makes it difficult to draw conclusions for Sub-Saharan Africa as a whole. Nevertheless, the work did identify a number of issues related to the implementation of SPS control, inspection and approval procedures which merit attention.

One of the main ways to facilitate trade is by encouraging the use of the international standards developed by Codex, the IPPC and OIE, the three international standard-setting bodies referenced

in the SPS Agreement. While some of the Regional Economic Communities in Africa – including SADC and EAC – have developed their own regional standards, it is important to ensure that any new regional standards do not become a barrier to trade, for instance by setting the bar higher than international standards.

The research identified some examples of good practice in the implementation of SPS measures to facilitate trade. For instance, South Africa publishes fees for all SPS-related services in a tariff book, which is publicly available online. Authorities in South Africa also consult industry associations on possible fee increases in the year prior to their consideration, approval and introduction. While the SPS Agreement does not require fees to be published online and/or industry to be consulted on costs, the practice of publishing fees – in addition to making comprehensive information on particular SPS requirements and procedures for imports and exports publicly available – enhances transparency and predictability, reduces uncertainty for business operators, and promotes consistency in the application of such controls. Publishing information on fees and charges related to SPS measures will become an obligation under the WTO Trade Facilitation, once it enters into force, and as such this practice should be encouraged.

The research also identified some challenges and areas for improvement in the three countries. For instance, it identified opportunities in all three countries to strengthen the implementation and effectiveness of SPS measures through greater use of risk-based approaches. This would minimize unjustified delays and costs for traders. It would also help government authorities to focus on products, and traders, which present the greater risks, and make better use of scarce public resources. For instance, South Africa is implementing a risk-based approach to food safety inspections, and there may be scope to further enhance and expand this approach (and make more effective use of limited public resources) through increased government recognition of business operators that effectively apply good practices and/or use third-party certification schemes.

SPS procedures are documented in government regulations, however, traders in all three countries reported that it was difficult to find information on SPS procedures, application forms, fees and waiting times. Invariably, traders are reliant on personal contacts with relevant industry associations and government officials to obtain such information. While government authorities in South Africa publish information on the Internet, some traders were not aware that this information is available. Improving transparency on SPS procedures and related fees offers one relatively simple way to enhance governance in the implementation of SPS measures.

In South Africa, traders have online access to application forms for SPS measures. The government in South Africa publishes detailed information on SPS regulations, fees and waiting times. This is a good practice (even if in some cases some potential traders have difficulties to find this information) which should be encouraged elsewhere. While officials in Zambia and Malawi reported that traders were aware of the time taken to process documents and clear goods, since this information has not been openly published, this cannot be assumed. The practice in South Africa of enabling payments to be made directly into a DAFF bank account – and issuing receipts – further supports good governance. Automation of systems of applying for permits, phytosanitary certificates and laboratory tests is an additional improvement that South Africa should consider in the short to medium term.

There is also scope to simplify the procedures to implement SPS measures and streamline documentary requirements. Simplification of procedures is likely to have the additional benefit of enticing a greater share of small-scale traders to formal borders posts, where their goods are submitted to regulatory oversight. This would be advantageous for health protection, as well as fiscal revenue.

The research identified some cases where the implementation of SPS measures is hindered by overlap and fragmentation of the SPS control system, as well as inadequate coordination between different SPS authorities and with other border authorities. This situation contributes to overlapping documentary requirements and causes delays, increased transaction costs and uncertainty for traders. It is linked to the reliance of some agencies, for part of their operating budget, on revenues from fees for SPS controls.

Additional efforts to encourage greater interagency collaboration and coordination at borders, both between national agencies and with authorities on the other side of the border, should be encouraged. For instance, in Zambia, customs officials already undertake document checks on

some low-risk products, on behalf of the National Plant Protection Organization, at some border posts, where plant health inspectors are not physically present. As part of this arrangement, the PQPS is involved in the orientation programme for new customs officials at the Customs School and provides information on the documents needed to import plants and plant products, and what to look for. This is an interesting practice which could be further explored.

Protecting countries against the entry of risks related to food safety, animal and plant health is a public good, which requires adequate resources (personnel, infrastructure, financial resources, scientific and technical expertise, etc.). SPS authorities in many developing countries are under-resourced and face huge challenges on an ongoing basis to effectively carry out their mandates. Ensuring adequate resources is essential to ensure that core activities are undertaken satisfactorily, without delay and without any perceived conflict of interest. Some of the key recommendations of this research focus on the following: (i) the need for governments to periodically take stock of their various SPS measures (as well as the procedures to implement them) to avoid unnecessarily trade-restrictive regulatory outcomes wherever possible; (ii) identifying concrete ways to reduce fragmentation and duplication in SPS controls and streamline procedures, which would also help to formalize informal trade; (iii) increasing transparency about existing SPS measures, and the relevant procedures to implement them; (iv) improving dialogue among SPS authorities, other border authorities and with the private sector; (v) making concerted efforts to implement risk-based controls and apply relevant international standards and guidelines.

Follow-up work to address the conclusions and recommendations of this research work should be based on a clear prioritization of needs and appropriate sequencing of reforms. Countries are encouraged to apply the capacity evaluation tools developed by FAO, OIE and the IPPC to evaluate their capacity needs in the area of food safety, animal and plant health. Given resource limitations, authorities are encouraged to identify and prioritize the more "simple" solutions ("quick wins") for immediate attention. They are also encouraged to actively consult and engage the private sector as part of the process of identifying possible solutions to facilitate safe trade. Governments need to improve the capacity and performance of their authorities responsible for food safety, animal and plant health, so that these authorities are able to effectively engage with other border agencies to facilitate safe trade.

In the short term, it may be advisable to focus efforts (e.g. to improve transparency or streamline SPS procedures) on particular value chains of importance to trade, or small and medium sized businesses. Both Malawi and Zambia have already used the STDF framework to prioritize SPS investments needed for market access based on a multi criteria decision analysis approach (SPS MAP), and this work could be used to help prioritize particular SPS investments that are a priority for trade.

For most countries in Southern Africa, trade facilitation can play an important role in helping them achieve their development objectives. This research is opportune given the opportunities to use the current momentum behind trade facilitation to obtain political support and raise additional funds to improve the implementation of SPS controls in a way that facilitates safe trade. Improving capacity in developing countries to implement SPS measures is one part of the overall process of facilitating trade. Attention is also needed to address numerous other logistical challenges (e.g. border congestion, inadequate infrastructure and customs procedures) that may exist, outside of the realm of control of SPS authorities.

ACRONYMS AND ABBREVIATIONS

AfDB	African Development Bank
Codex	Codex Alimentarius Commission
COMESA	Common Market for Eastern and Southern Africa
DARS	Department of Agricultural Research Services, Malawi
DTIS	Diagnostic Trade Integration Study
EAC	East African Community
EIF	Enhanced Integrated Framework
EU	European Union
FAO	Food and Agricultural Organization of the United Nations
GDP	Gross Domestic Product
GMO	Genetically Modified Organism
HACCP	Hazard Analysis and Critical Control Points
IDB	Inter-American Development Bank
ISSB	International Standard Setting Bodies
IPPC	International Plant Protection Convention
ISPM	International Standards for Phytosanitary Measures
ITC	International Trade Centre
LPI	Logistics performance index
MBS	Malawi Bureau of Standards
MIT	Ministry of Industry and Trade, Malawi
MoAIWD	Ministry of Agriculture, Irrigation and Water Development, Malawi
MRL	Maximum Residue Level
OIE	World Organisation for Animal Health
NEP	National Enquiry Point
NNA	National Notification Authority
NPPO	National Plant Protection Organization
NTB	Non tariff barrier
NTM	Non tariff measure
SADC	Southern African Development Community
STDF	Standards and Trade Development Facility
SPS	Sanitary and phytosanitary
STC	Specific Trade Concern
TBT	Technical Barriers to Trade
TCBP	Tripartite Capacity Building Programme (COMESA/EAC/SADC)
TF	Trade Facilitation
TMSA	TradeMark Southern Africa
TPR	Trade Policy Review
UN COMTRADE	United Nations Commodity Trade Statistics Database
UNIDO	United Nations Industrial Development Organization
WCO	World Customs Organization
WTO	World Trade Organization

1 INTRODUCTION

1.1 Background

In 2013, the Standards and Trade Development Facility (STDF) initiated thematic research work, in collaboration with international and regional organizations, on the interface and linkages between the implementation of Sanitary and Phytosanitary (SPS) measures and the facilitation of safe trade. The purpose of the research is to examine the implementation of existing SPS measures for selected products in selected countries and to identify key needs, opportunities and good practices that can improve the efficiency and effectiveness of the implementation of SPS measures.

Research for this study was carried out in collaboration with the Secretariat of the Common Market for Eastern and Southern Africa (COMESA) and Trade Mark Southern Africa (TMSA) in Malawi, South Africa and Zambia in order to review and analyse the implementation of SPS measures, procedures and processes for specific products in the context of Article 8 and Annex C of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) of the World Trade Organization and the relevant standards, guidelines and recommendations of the three international standard-setting bodies referenced in the SPS Agreement.

This consultant's report presents the findings of the in-country research work carried out in Malawi, South Africa and Zambia in 2014. It represents the opinions and interpretations of the consultant, based on the findings of interviews and research work. While the consultant appreciates all the information provided by public and private sector stakeholders in Malawi, South Africa and Zambia during the course of this research, as well as feedback from STDF partners, this report ultimately reflects the consultant's own views.

1.2 The Agreement on the Application of Sanitary and Phytosanitary Measures

With increased globalisation, food, animals and plants as well as animal and plant products for local use (or further processing) may be sourced from several different countries and from one continent to another. Trade in food, animals, plants and products of animal and plant origin has the potential to lead to much needed economic development and the reduction of poverty among the rural poor. However, if such trade is not subjected to the necessary SPS controls, it can result in the introduction of food-borne and animal diseases or the introduction and spread of plant pests and diseases. This could have negative consequences for human health, animal and/or plant health or life in the importing country and on its export potential in the long-term.

The SPS Agreement seeks to facilitate safe trade in food and agricultural products. It provides a framework of rules that authorizes measures¹ necessary to protect human, animal and/or plant life and health against trade-related risks, whilst seeking to ensure that such measures do not result in unnecessary trade barriers. SPS measures may be applied to:

- i. protect humans or animals from risks that may arise from additives, contaminants or disease-causing organism in their foods,
- ii. protect human life from diseases carried by plants or animals (often called zoonoses),
- iii. protect animals or plants from pests or diseases, as well as disease causing organisms,
- iv. to control the entry and establishment of pests.

The SPS Agreement states that WTO Members have the right to implement SPS measures necessary to protect health, provided that such measures are implemented in line with the following principles:

- Non-discrimination: SPS measures should be applied equally to imports and similar products produced locally. Members should not arbitrarily discriminate between trading partners where identical or similar conditions prevail;
- Scientific justification: The measures should be based on science and on an assessment of the risks involved.

¹ SPS measures can take many forms, such as requiring products to come from a disease-free area, inspection of products, specific treatment or processing of products, setting allowable maximum levels of pesticide residues or limiting the permitted use of additives in food.

- Harmonization: Members are encouraged to base their SPS measures on international standards set by the Codex Alimentarius Commission (food safety), the IPPC (plant health) and the OIE (animal health), which are regarded as science-based. SPS measures that conform to Codex, OIE and IPPC standards are presumed to be in compliance with the SPS Agreement.
- Equivalence: Members should recognize that different measures can achieve the same SPS objective or appropriate level of protection (ALOP);
- Least trade-restrictiveness: Measures should be no more trade restrictive than necessary to achieve the appropriate level of protection;
- Transparency: Reliable and accurate information on existing SPS measures should be made available. New or revised measures should be notified in accordance with procedures established in Annex B of the WTO SPS Agreement (notification of changes to other members, etc.);
- Regionalization: Members should take into account the fact that a plant or animal pest or plant or animal disease may be absent in certain parts of a country or region.

The provisions of the SPS Agreement seek to ensure that SPS measures imposed by Members achieve the legitimate regulatory objectives of protecting human, animal or plant health or life. Insofar as the protection of human, animal or plant life or health is concerned, the SPS Agreement lays down the principles that must be followed by governments to ensure that their SPS measures are recognized as regulations with legitimate public policy objectives and not as non-tariff barriers to trade (NTBs).

Annex C of the SPS Agreement sets out provisions for the implementation of Article 8 on Control, Inspection and Approval Procedures, which are closely related to the principle of least-trade restrictiveness. In particular, Annex C requires WTO Members to ensure that:

- i. Control, inspection and approval procedures are completed without undue delay and in no less favourable manner for imported products than for like domestic products.
- ii. Standard processing times are published or communicated with any delays being explained to the applicant.
- iii. Information requirements are limited to what is necessary for appropriate control, inspection and approval.
- iv. The confidentiality of information on imported products is respected to the same extent as for domestic products.
- v. Any requirements for control, inspection and approval of individual specimens of a product are limited to what is reasonable and necessary.
- vi. Any fees charged for control, inspection and approval procedures are equitable for domestic/imported products, and no higher than the actual cost of the service.
- vii. The same criteria should be used in the siting of facilities used in the procedures and the selection of samples of imported products as for domestic products so as to minimize the inconvenience to applicants, importers, exporters or their agents.
- viii. Samples taken of product are limited to what is reasonable and necessary, for both domestic and imported products.
- ix. If specifications of a product are changed subsequent to its control and inspection in light of the applicable regulations, the procedure for the modified product is limited to what is necessary to determine whether adequate confidence exists that the product still meets the regulations concerned.
- x. There is a review system in place to deal with complaints on control, inspection and approval procedures.

Over and above developing international standards, upon which WTO Members are encouraged to base their SPS measures, the international standard-setting bodies have developed guidance and tools to support countries to implement international standards, and to identify needs to strengthen their capacity in the area of food safety, animal and plant health. These include: (i) the OIE PVS (Performance of Veterinary Services) Pathway, which is "designed to assist veterinary services to assess their current level of performance, to identify gaps and weaknesses in their ability to comply with OIE international standards [...] and to establish priorities and carry out strategic initiatives" (OIE, 2014a); and (ii) the IPPC Phytosanitary Capacity Evaluation Tool, "a management tool designed to help a country to identify both strengths and gaps in its existing and

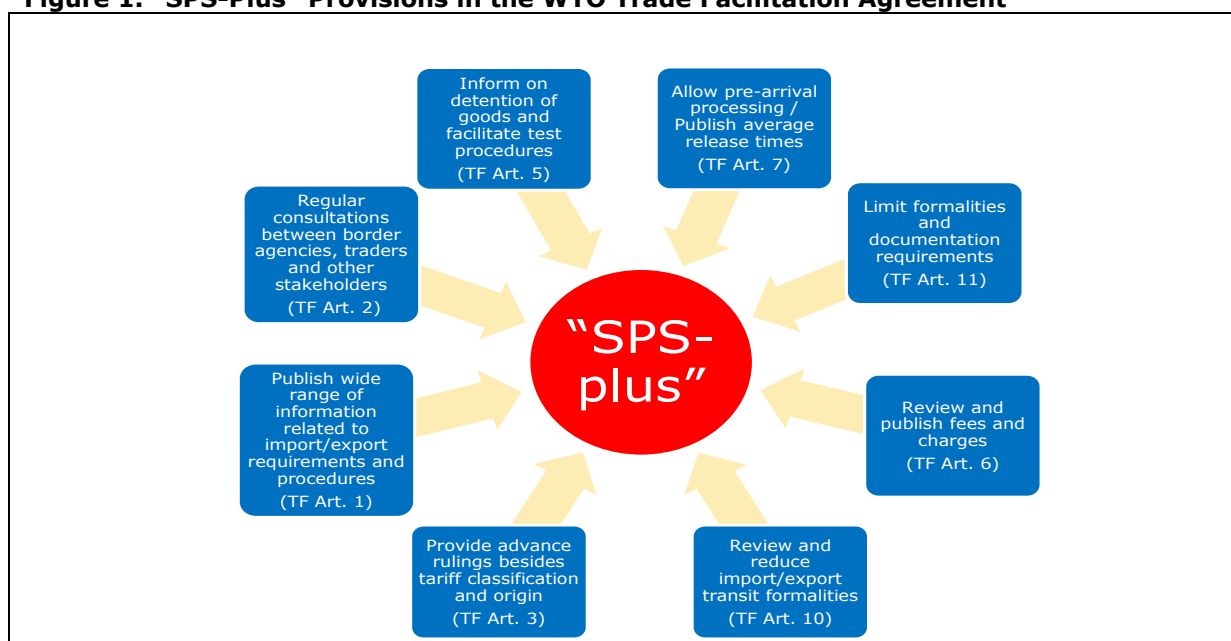
planned phytosanitary systems" in order to prioritize activities and allocate resources towards their enhancement (IPPC, 2014a).²

1.3 Objectives of this research

This STDF thematic research investigates how SPS measures are implemented in practice in selected countries for certain products. It does not focus on the selection of an SPS measure, or the extent to which it is the least trade-restrictive measure, but rather how that measure is implemented in practice (including whether it is implemented in a way that limits trade transaction costs). The research does not question the legitimate objectives of food safety, plant or animal health protection, but looks at whether these objectives could be achieved in a more efficient and effective way. The research is most relevant to Article 8 of the SPS Agreement and Annex C on Control, Inspection and Approval procedures, which govern the practical arrangements put in place by governments to assess the extent to which traded goods meet SPS requirements.

This research is limited to the implementation of the SPS Agreement, and does not extend to the WTO Trade Facilitation Agreement negotiated in 2013. The Trade Facilitation Agreement will affect all government agencies involved in border control procedures and several of its provisions are therefore relevant to the implementation of SPS measures (see Figure 1 below). However, the Trade Facilitation Agreement does not diminish Members rights and obligations under the SPS Agreement, including the right to take science-based measures to protect human, animal or plant life or health within their territories (WTO, 2014)³.

Figure 1. "SPS-Plus" Provisions in the WTO Trade Facilitation Agreement⁴



This research is targeted at policy-makers and practitioners involved in the development and implementation of SPS measures. Its objectives are:

- i. to raise awareness about the synergies between the implementation of SPS measures and trade facilitation;

² For more information, see STDF. May 2011. SPS related capacity evaluation tools. Available at: http://www.standardsfacility.org/sites/default/files/STDF_Capacity_Evaluation_Tools_Eng_1.pdf

³ See the WTO Secretariat's Background Note on "The relationship between the Trade Facilitation Agreement and the Agreement on the Application of Sanitary and Phytosanitary Measures". Available at: http://www.wto.org/english/tratop_e/sps_e/tf_sps_e.pdf

⁴ Source: WTO. March 2014. The relationship between the Trade Facilitation Agreement and the Agreement on the Application of Sanitary and Phytosanitary Measures. Available at: http://www.wto.org/english/tratop_e/sps_e/tf_sps_e.pdf

- ii. to identify key needs, opportunities and good practices to improve the implementation of SPS measures in a way that ensures the appropriate level of health and life protection while minimizing trade transaction costs; and
- iii. to develop recommendations to strengthen future work and technical cooperation focused on SPS and trade facilitation.

This research does not question the legitimate right of WTO Members to develop and implement SPS measures necessary to protect human, animal or plant life or health. Rather, with Article 8 and Annex C on Control, Inspection and Approval procedures in mind, it looks at whether these measures could be implemented in a more efficient and effective way, while at the same time providing the necessary protection to human, animal or plant life or health, as well as much needed access to regional and international markets. This research is opportune in the sense that countries and other interested parties could use the current momentum behind trade facilitation to garner political support and raise additional funds to improve SPS border management.

1.4 Trade Facilitation

Trade facilitation is defined by Grainger (2011) as an improvement of "procedures and controls governing the movement of goods across national borders [so as] to reduce associated cost burdens and maximize efficiency while safeguarding legitimate regulatory objectives". From a supply chain perspective, trade facilitation seeks to reduce final prices for consumers in the importing country and to increase the total profit flowing upstream to value chain participants in the exporting country, through the minimization of transaction costs incurred at international borders. More efficient border procedures can thus be considered to improve the welfare of trading partners' populations, thereby contributing to poverty reduction in developing countries.

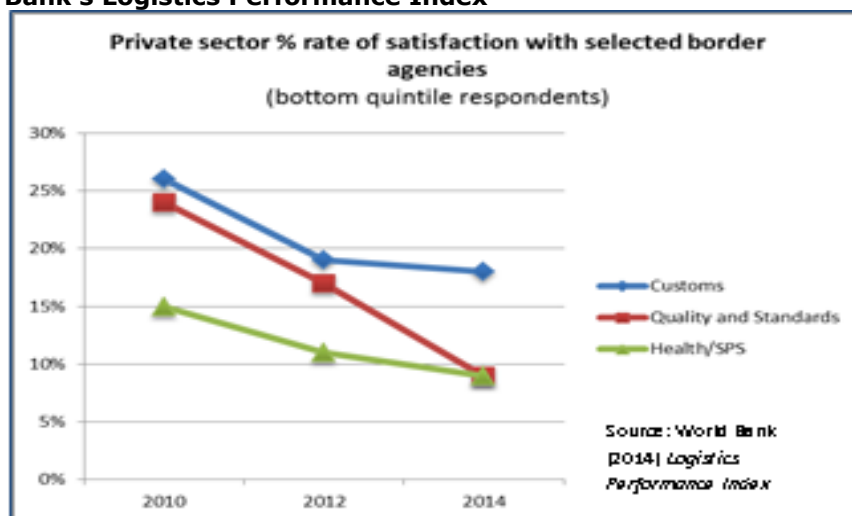
Attempts have been made to estimate the gains to the global economy that would result from concerted trade facilitation efforts. The OECD (2013), for example, estimates that "reducing global trade costs by 1% would increase worldwide income by more than US\$40 billion". Others have calculated that the new WTO Trade Facilitation Agreement could lead to gains of up to US\$1 trillion (Hufbauer and Schott, 2013). Recent econometric analysis by Moïse and Sorescu (2013) also suggests that trade facilitation has a positive impact on trade flows, and highlights trade facilitation measures with the highest impact on trade volumes. These comprise:

- (a) information availability;
- (b) harmonisation and simplification of documents;
- (c) automated processes and risk management;
- (d) streamlining of border procedures; and
- (e) good governance and impartiality.

In the past, trade facilitation focused predominantly on "the removal of barriers to the international movement of goods and in particular, on the procedures at and around borders (e.g. simplification of customs procedures)" (Rippel, 2011). Less attention was paid to issues 'behind the border'. Trade facilitation has since moved beyond 'fixing borders' and it is now accepted that concentrating on challenges met by traders at borders does not reflect the totality of constraints that exporters face and that there may be more important barriers to trade further back in the value chain. Nevertheless, private sector satisfaction surveys on selected border agencies suggest that there is still work to be done to improve procedures at border posts.

The World Bank's *Logistics Performance Index* (2014) suggests that SPS agencies are the "weakest links" in global supply chains and constitute a bottleneck to further progress in low income countries. This conclusion is drawn from work done tracking private-sector satisfaction with SPS agencies' performance at the border over time (as compared with other border agencies) and using the results as a proxy for the efficiency of procedures. As the chart below indicates (Figure 2), bottom quintile respondents (the worst performers in the LPI ranking) have registered declining satisfaction with the performance of SPS agencies over a period of six years. While the same is true for other border agencies, the latest LPI figures give Customs a 10% better approval rating than SPS agencies.

Figure 2. Satisfaction of private sector with selected border agencies based on the World Bank's Logistics Performance Index



In general, sub-Saharan Africa consistently underperforms in the LPI in terms of the average cost and time required to import / export goods by land, although there are exceptions. This is consistent with one of the key findings of all LPI reports since 2010, that there is a persistent logistics performance gap between low income and high income countries, with the latter achieving consistently higher rankings than the former. While South Africa (considered an "upper middle income" country for the purposes of the LPI) is a relatively good performer in the LPI rankings (and the best in Sub-Saharan Africa), Malawi and Zambia perform less well.⁵

In addition to measuring performance, the LPI also identifies a number of factors that help to explain the underperformance of the countries concerned, including longer clearance times, a much higher prevalence of pre-shipment inspections and the solicitation of informal payments. With regard to inspection, the LPI shows that clearance times, when accompanied by physical inspections, are much shorter in high-performing countries. The LPI also indicates that the prevalence of (multiple) physical inspections is much higher in sub-Saharan African and low income countries than in high-performing countries, which adds to trade transaction costs. These transaction costs may include: (i) direct costs (i.e. charges such as customs fees, port handling fees and any informal payments) directly imposed on each transaction; and (ii) indirect costs or 'iceberg effect' which include the time taken to complete all pre-shipment procedures and the time taken to take possession of the goods, once a shipment arrives at a port of entry (Minor and Tsigas, 2007). A comprehensive approach to trade facilitation should therefore take into account the direct and indirect costs incurred by traders and producers from the point of production up to the point when the goods are delivered to the buyer.

For most countries in Southern Africa, trade facilitation can play an important role in helping countries achieve their developmental objectives. In developing countries trade facilitation should be aimed at expanding trade in a manner that leads to economic growth, the creation of more jobs and the reduction of poverty with a specific focus on establishing an environment that facilitates the participation of small and medium enterprises in the whole trade value chain. Small, medium and micro enterprises are likely to be more dependent on the sort of reliable trading environment that a comprehensive trade facilitation programme can provide than the multinational companies. It follows therefore that priority should be given to trade facilitation programmes that target SMEs.

In some cases, the difficulties faced by small traders in complying with requirements at formal border posts, including SPS inspection and control procedures, may lead to the diversion of trade into informal channels, which can undermine the protection of human, animal or plant life or health. The phenomenon of informal cross-border trade (ICBT) may be attributed in part to the avoidance by small-scale traders of what are perceived as repeated inspections, burdensome documentary requirements, excessive fees and other procedural obstacles. The Diagnostic Trade

⁵ In 2014, South Africa ranked 34 in the global LPI scorecard. Malawi ranked 73 and Zambia ranked 123. See: <http://lpi.worldbank.org/international/scorecard>

Integration Study (DTIS) for Zambia provides some interesting examples about how SPS requirements and other trade costs affect traders of different sizes. For instance, at the Mwami/Mchinji border post dividing Zambia and Malawi, small traders pay on average 62 percent more than large traders to informally move one ton of a commodity across the border. If they were to go through the formal border post, this amount would increase threefold.⁶

Not subjecting small-scale trade to SPS controls at the border may, of course, lead to reduced health protection and losses in consumer welfare. However, eliminating ICBT in developing countries with scarce resources has often proved difficult, especially in landlocked African countries with long, contiguous and porous borders, where hundreds of thousands of households rely on informal trade for a living. The Charter for Cross-Border Traders, initiated by the World Bank as a pilot at selected borders in Malawi and Zambia, introduces a framework of rights and obligations for traders and border officials in an effort to address the key challenges faced by small traders.⁷ By gradually formalizing informal cross-border trade, it aims to create a win-win situation with benefits for small traders (e.g. from more stable employment, opportunities to scale-up their businesses) and government authorities (e.g. through increased tax and customs collection, enhanced respect of rules, greater compliance with SPS requirements).

2 METHODOLOGY

This research work in Malawi, South Africa and Zambia is linked to STDF research work on the implementation of SPS measures to facilitate safe trade in four countries in Southeast Asia.⁸ It follows the same methodology and approach, including use of similar questionnaires to the one developed and used in Southeast Asia. Overall guidance and supervision of the present research was provided by the STDF Secretariat, in close collaboration with the designated focal point in COMESA.

The particular focus of this study is on:

- Imports of fresh fruit and vegetables into Malawi and exports of groundnuts from Malawi.
- Imports and exports of fresh fruit and vegetables from South Africa.
- Exports of maize from Zambia and imports of meat (excluding live animals) into Zambia.

Desk research and interviews were undertaken to identify authorities involved in the implementation of SPS measures and development of SPS policies, and to unpack the institutional framework around SPS management in each of the three countries. Transparency was a major focus of the study, including the availability of reliable information on processes, procedures and fees, waiting times, document requirements and costs associated with the provision of SPS-related inspections and testing. An attempt was made to assess to what extent SPS requirements and procedures used in the clearance of the above-mentioned products are limited to what is necessary to ensure an appropriate level of protection.

In-country research was carried out in Malawi, South Africa and Zambia in September and October 2014. National focal points in Malawi, South Africa and Zambia provided guidance and assistance for this work. In the three countries, efforts were made to have as many as possible face-to-face interviews with officials responsible for food safety, veterinary and/or phytosanitary controls, as relevant, as well as representatives of producers, traders and exporters to collect data and information on the procedures followed in the implementation of SPS measures. During interviews with the private sector, particular emphasis was placed on their experiences when importing or exporting the above-mentioned agricultural products.

In Malawi, interviews were conducted with officials from the Ministry of Industry and Trade, the Ministry of Agriculture and Food Security (including the National Plant Protection Organization) and

⁶ Soprano, Carmine. 08/19/2014. A Step Toward Formalization: The Charter for Cross-Border Traders. The Trade Post, World Bank. See: <http://blogs.worldbank.org/trade/step-toward-formalization-charter-cross-border-traders> (accessed 14-07-15).

⁷ See: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2014/07/30/000333037_20140730143706/Rendered/PDF/894730BRI0Char0Box0385291B00PUBLIC0.pdf

⁸ Kees van der Meer. 2014. Implementing SPS Measures to Facilitate Safe Trade: Principles and Practice in Cambodia, Lao PDR, Philippines and Thailand. Report for the STDF. Available at: http://www.standardsfacility.org/sites/default/files/Implementing_SPS_Measures_to_Facilitate_Safe_Trade_SE_Asia_Aug-2014.pdf

the Malawi Bureau of Standards, as well as representatives of the private sector involved in the trade of legumes. In total, 15 public/private sector individuals were consulted in Malawi. In South Africa, interviews were held with officials from the Department of Agriculture Forestry and Fisheries, the Department of Health and the Perishable Products Export Control Board, as well as representatives of industry associations and private companies involved in the import and export of fresh fruit and vegetables. In South Africa, 12 persons representing the public and private sector were consulted. In Zambia, interviews were conducted with officials from the Ministry of Agriculture and Livestock, the Zambia Agriculture Research institute (Plant Quarantine and Phytosanitary Service) and the Food Reserve Agency, as well as representatives of the private sector involved in maize exports and meat imports. In Zambia, 15 individuals from the public and private sector were consulted. In all three countries, some 60% of the respondents to the questionnaire were from the public sector.

The questionnaires used in the three countries addressed the following main areas:

- i. Transparency/the availability of information on SPS requirements for the selected product(s), including:
 - a. Procedural requirements,
 - b. Forms to be used,
 - c. Waiting times, and
 - d. Costs/fees involved.
- ii. Institutional responsibilities for SPS controls on the selected product(s).
- iii. General information on trade in the selected product.
- iv. Basic information on SPS requirements to import / export for the selected product.
- v. Pre-requirements by SPS agencies for import / export of the selected product.

Some challenges were encountered during the research. In some cases, it was difficult to schedule interviews with both the public and private sector. In a few instances where it was not possible to meet with representatives of the private sector in person, interviews were conducted via Skype. In some countries (notably Malawi), a challenge was related to the location of government officials in two different (and distant) towns. In Zambia, attempts to get appointments with some of the officials proved very difficult, in spite of the good efforts of the contact person for the study in that country. Some members of the private sector in South Africa indicated that it was a busy time of the year for fruit and vegetable producers. It also proved difficult to substantiate some of the information gleaned from draft DTIS reports for Malawi and Zambia, and to get clarity on progress made in implementing some of the proposed policy changes, such as the changes to institutional arrangements at the Zambia Bureau of Standards.

The following chapters document the consultant's findings of research carried out in Malawi, South Africa and Zambia on SPS control, inspection and approval procedures and processes for the selected food and agricultural products. They are supplemented with information obtained from desk research and some preliminary interviews in the Southern Africa region in early 2014. The final chapter presents conclusions and recommendations. As explained in the Acknowledgements, the consultant's draft report was shared with national focal points in Malawi, South Africa and Zambia, other key stakeholders in the three countries, and STDF partners for review and comments prior to its finalization.

3 MALAWI

This chapter documents and analyses the findings of the research work in Malawi, which focused on the implementation of SPS measures for imports of fresh fruit and vegetables, as well as exports of groundnuts.

3.1 Background

Malawi like Zambia is a landlocked country. Malawi has a population of 16.3 million, more than 80% of which is said to be living in poverty. Malawi remains a low-income developing country, with a Gross National Income per capita (Atlas Method) of US\$320 in 2012, and is ranked 170 out of 186 countries surveyed in the United Nations Human Development Index of 2012. The government is committed to reducing poverty through job-creation based on agricultural development, export growth and diversification. This commitment has been articulated in the Malawi Growth and Development Strategy (MGDS) II and the National Export Strategy (NES).

Since Malawi became a member of the World Trade Organization (WTO) in 1995, a review of some of its SPS legislation has been carried out. The Plant Protection Act has been reviewed and is awaiting approval by Parliament. Although Malawi has not recently been able to participate in regular meetings of the WTO SPS Committee, between March 2007 and October 2010, Malawi was able to attend WTO SPS Committee meetings regularly under the auspices of the Southern Africa Confederation of Agricultural Union's Standards programme and the country continues to follow up on issues.

Malawi is also a member of both the Southern African Development Community (SADC) and the Common Market for East and Southern African States (COMESA).

Malawi's regional trade is conducted under the framework of bilateral and regional trading arrangements. In addition to the SPS Agreement, regional trade in groundnuts, maize, fruits and vegetables is governed by the COMESA treaty, SADC trade protocol and bilateral agreements signed with major trading partners. The main instruments used for trade in these products are the bilateral trade agreements between Malawi and South Africa, Mozambique, and Zimbabwe respectively.

Despite attempts at diversifying exports from Malawi, agriculture continues to play a central role in the economy of the country. In 2011, agriculture contributed 30% of GDP and 75% of total export earnings. Major exports from Malawi in 2011 included tobacco, sugar, tea, maize, cotton and groundnuts whilst wheat, manufactured tobacco and soybean oil were the top imports⁹.

The majority of farmers in Malawi have access to very little land, and with profits from tobacco per hectare being among the very best, most of the small scale producers have opted to continue producing tobacco, rather than diversify to other crops.

The Diagnostic Trade Integration Study (DTIS) for Malawi,¹⁰ updated in 2014, attributes this lack of diversification and Malawi's inability to join global or regional supply chains to the fact that smaller producers and farmers often need to overcome very high trade costs. It is also stated in the DTIS that exporters in Malawi are dominated by a small number of long-established large traders exporting a narrow range of products. New entrants moving into new markets with new products are conspicuously absent or frequently do not manage to sustain exports for more than one year and generate sustainable new job opportunities.

With over 85% of the population living in the rural areas, the vast majority of the Malawian population has a direct stake in the country's agricultural trade. Trade policies for crop inputs (seed, fertilizer, chemicals, farm machinery, etc.) and outputs (tobacco, groundnuts, maize, cotton, sugar, pulses, etc.) should therefore take into account the interests of the rural population.

Apart from tobacco, Malawi is a major producer of groundnuts in the region. The bulk of this produce is exported to major regional markets as well as international markets. In the region Malawi exports groundnuts to the Democratic Republic of Congo, (DRC) Kenya, Burundi, South Africa, Tanzania, Zambia and Zimbabwe. Before the 1970s, Malawi exported huge volumes of groundnuts to the United Kingdom for use in the confectionary industry, with one of the major exporters, the Agricultural Development and Marketing Corporation (ADMARC), exporting as much as 5000 metric tons of Chalimbala nuts per year. The country lost this market because of the high levels of aflatoxin which do not comply with the limits set by the European Union of a total aflatoxin level of 4ppb for peanuts/groundnuts for direct human consumption.¹¹ Much work has been done by the National Smallholder Farmers' Association of Malawi (NASFAM) and the International Crop Research Institute for the Semi-Arid Tropics (ICRISAT) to set up more affordable tests.

The 2003 Diagnostic Trade Integration Study (DTIS) identified a number of SPS issues to be addressed in order to reduce the costs of producing and exporting key agricultural products from

⁹ FAOSTAT, 2011

¹⁰ Malawi Diagnostic Trade Integration Study (DTIS) Update. Reducing trade costs to promote competitiveness and inclusive growth. 25 March 2014. Available at: http://enhancedif.org/en/system/files/uploads/malawi_dtis_update_2014.pdf

¹¹ The EU has set a higher maximum level (15 ppb) for peanuts/groundnuts intended for further processing, in line with the Codex General Standard for Contaminants and Toxins in Food and Feed (CODEX STAN 193-1995). There is no Codex maximum level for peanuts for direct consumption.

Malawi. Key activities necessary to improve groundnut production and exports were identified. These included the implementation of international standards, the establishment of quality control systems for the production and export of groundnuts, and the development of an industry code of practice based on Codex standards. The subsequent DTIS update of 2014 indicates that Malawi has generally made limited progress to address the SPS challenges identified in 2003, one of these being the accreditation of laboratories to international standards.

The 2014 DTIS update attributes the limited progress made in addressing the SPS-related recommendations of the 2003 DTIS to various factors including the failure by authorities to appreciate the role of standards as a tool for trade facilitation.

3.2 Trade in Fresh Fruits and Vegetables and Groundnuts

Major retail shops like Shoprite import significant volumes of citrus, fruit and vegetables mainly from South Africa and Zimbabwe. According to the ITC trade data, 93% of Malawi's imports of citrus fruit come from South Africa and 7% from Zimbabwe. 17.3% of imports of fresh fruit and vegetables came from South Africa in 2011 and 2012, compared to 1.8% from other regional suppliers (Tanzania and Mozambique). There is room for new entrants in the Fresh Fruit and Vegetables (FFV) market for local traders.

Malawi exported shelled and in-shell groundnuts (see Table 1) to regional markets and two selected world destinations in the period 2011-2012.¹² Statistics from ITC reveal that Malawi exports of groundnuts increased from 33, 6 million tonnes (2.05% of total exports to the world) in 2011 to 42, 1 million tonnes (3.2%) in 2012.

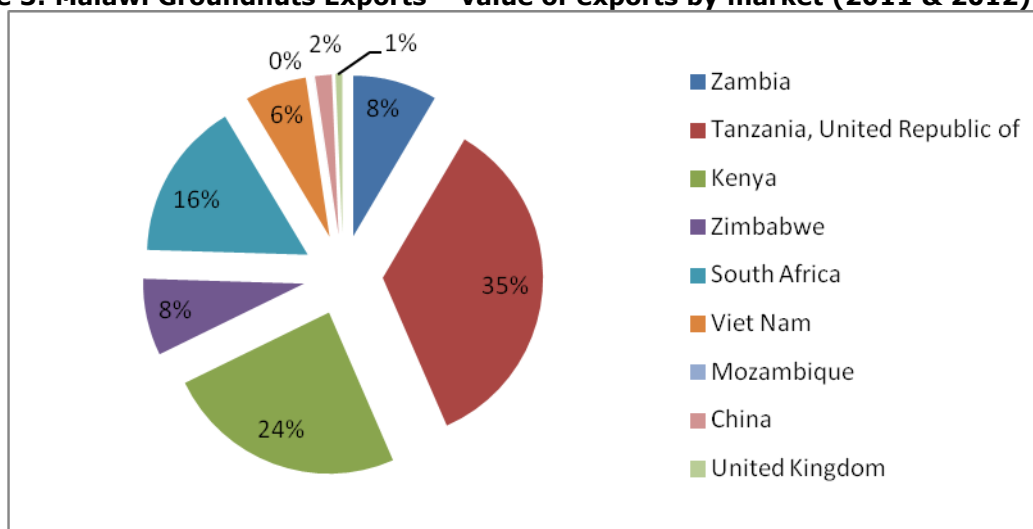
Table 1: Export growth of groundnuts (shelled and in shell) 2011 & 2012

Importing country	2011	2012
	Exported quantity, Tonnes	Exported quantity, Tonnes
World	33,607	42,134
Tanzania, United Republic of	15,902	11,504
Kenya	9,097	10,532
Zambia	1,294	7,761
Zimbabwe	857	4,361
South Africa	5,951	3,151
Viet Nam	0	4,603
Mozambique	0	22
United Kingdom	22	49

The major markets outside the COMESA and SADC regions during this period were China, Vietnam and United Kingdom (Figure 3). The key export markets in the region were Kenya, Tanzania, Zambia and South Africa. Exports to the once lucrative EU market have drastically reduced because of the high levels of aflatoxin in groundnuts. Major exporters reported that the aflatoxin level in groundnuts intended for human consumption in the UK market should not exceed 4 ppb (4 µg/ kg). This is a more stringent requirement than the international standard set by the Codex Alimentarius Commission. Informal exports of groundnuts were reported to be destined for the DRC, Kenya, Zambia, and Zimbabwe.

¹²HS code 120220: Ground-nuts shelled, whether or not broken, not roasted or otherwise cooked
HS code 120210: Ground-nuts in shell not roasted or otherwise cooked

Figure 3: Malawi Groundnuts Exports – value of exports by market (2011 & 2012)



Source: ITC calculations based on [National Statistical Office \(NSO\) of Malawi](#) statistics since January, 2012. ITC calculations based on [UN COMTRADE](#) statistics until January, 2012.

In addition to the above, it was also reported that there is a significant amount of informal cross border trade of groundnuts to Mozambique. While the Famine Early Warning Systems Network (FEWS NET) contains data on informal trade flows for maize dating back to 2005, unfortunately it does not include information on informal trade in groundnuts.

3.3 Institutional Framework

Based on its transparency obligations under the SPS Agreement, Malawi has established a National Notification Authority (located in the Ministry of Industry and Trade), as well as three separate SPS Enquiry Points for food safety in the Malawi Bureau of Standards, animal health in the Department of Animal Health and Livestock Development, and plant health in the Chitedze Agricultural Research Station. Malawi has submitted one notification to the WTO SPS Committee.¹³

The following agencies in Malawi are involved in implementation of food safety and phytosanitary controls on imports and exports of fresh fruit and vegetables and groundnuts.

Ministry of Health

Role / Mandate: The Ministry of Health is responsible for delivering health services and disseminating health information to the general public of Malawi. It seeks to develop a sound delivery system capable of promoting health, preventing, reducing and curing disease, protecting life and fostering general well-being and increased productivity.

Border Procedures: The Ministry of Health monitors the import of fortified foods – including salt, cooking oil, wheat/maize flour and medicines – and controls the movement of medicines. The agency checks for printed expiry dates on the relevant products and verifies whether the importer is registered and is in possession of the relevant certificates. In the case of food products, samples are taken and sent inland for testing. If three consecutive negative results are recorded for a foodstuff, the importer is informed and the consignment is refused entry.

Malawi Bureau of Standards (MBS)

Role / Mandate: The Malawi Bureau of Standards (MBS) is a statutory organization established in 1972 by an Act of Parliament (Cap 51:02) of the Laws of Malawi. The MBS is also the Codex contact point. The mandate of the MBS is "to promote standardization of commodities and of their manufacture, production, processing or treatment; and further to provide for matters incidental to, or connected with standardization" (www.mbsmw.org). The MBS has a double role as (i) the regulatory body that develops Technical Regulations, otherwise known as mandatory standards,

¹³ G/SPS/N/MWI/1. 8 January 2001. Available at: <http://spsims.wto.org/>

through its Standards Development Department; and (ii) as the agency responsible for conformity assessments (inspection and certification) through its Quality Assurance Services Department. According to the MBS, implementation of the National Quality Policy, which provides for the separation of the Standards Development department and the Quality Assurance department, will take some time as it requires substantial amount of resources. The MBS also provides services to businesses seeking quality certification on a voluntary basis.

Border Procedures: The MBS is responsible for implementing the Import Quality Monitoring Scheme, which is designed to protect domestic consumers by monitoring the quality of imported goods, to ensure that they do not cause safety or health hazards to humans, animals or damage the environment. The MBS also seeks to "prevent Malawi from becoming a dumping ground for substandard products" (www.mbsmw.org). All food products and most agricultural goods are subject to border controls by the MBS, including inspection (checking for labels and expiry dates) and the collection of samples for laboratory testing. Laboratories are not available at the borders (samples have to be sent inland for testing) so goods for import are generally cleared by the MBS once the samples have been taken, and before the test results have been obtained. Fees have to be paid up-front, so there is often a MBS officer stationed at ports of entry, whose responsibility it is to check for proof of payment before allowing the cargo to clear the border. MBS controls are not risk-based and test results provided by accredited laboratories outside Malawi are not recognised because a mechanism to use such test results is not yet in place.

Ministry of Agriculture, Irrigation and Water Development, Department of Agricultural Research Services (DARS)

Role / Mandate: DARS is a technical department in the Ministry of Agriculture, Irrigation and Development responsible for conducting research on problems and constraints that beset the country's agricultural sector. Its objective is "to generate and disseminate applied or product-oriented agricultural technologies and to offer technical support and advisory services to farmers on agricultural imports and exports". DARS serves as the National Plant Protection Organization (NPPO) in Malawi and is the SPS Enquiry Point responsible for plant health.

Border Procedures: The DARS office is responsible for the inspection of agricultural import / export goods to ensure that they are free from plant pests and diseases. Officers check to ensure that goods are accompanied by the relevant documents (phytosanitary certificates, fumigation certificates and import / export permits) and collect samples to be sent inland for testing. All agricultural products must first be cleared at the DARS office before going through the customs clearance process. Although officers generally depend on clearing agents to bring documents and samples to their office for verification, they can carry out their own surveillance of trucks at the border parking spaces / gates.

Ministry of Agriculture, Irrigation and Water Development, Plant Health Inspection Office

Role / Mandate: Plant Health Inspectors (PHI) from DARS are stationed at all major borders and research stations in Malawi. Their role is to check phytosanitary requirements for all consignments.

Border Procedures: Plant Health Inspectors check if the consignments have the correct documentation and issue phytosanitary certificates particularly for individual consignments of no commercial value to individual travellers.

3.4 Document requirements for trade in fresh fruit and vegetables and groundnuts

This research found that documentary requirements were considered to be the biggest challenge faced by both importers and exporters of the selected products. Documents required to export and/or import groundnuts, maize, citrus, fruits and vegetables are listed below (Table 2 and 3).

Table 2: Documents required for export of groundnuts, fresh fruit and vegetables

Document	Requesting Organization
Letter of no objection to export groundnuts/maize	Ministry of Agriculture Irrigation and Water Development
Export Permit	Ministry of Trade & Industry
Fumigation certificate	Trained private sector fumigating companies

Phytosanitary certificate	NPPO-regional and border post offices
Certificate of compliance (aflatoxin certificate for groundnuts) if required by the importing country.	Malawi Bureau of Standards
Customs documentation	Malawi Revenue Authority
Certificate of origin	Ministry of Trade and Industry

Table 3: Documents required for importation of groundnuts, citrus, fruit & vegetables

Document	Requesting organization
Fumigation certificate	Authorized agency in exporting country
Phytosanitary certificate	SPS agency in exporting country
Import permits for fresh fruit and vegetables	Regional NPPO offices
Non-GMO certificate (depending on the market)	Ministry of Agriculture, Irrigation and Environment
Certificate of origin	Ministry of Trade and Industry Malawi Chamber of Commerce & Industry
Customs documentation	Malawi Revenue Authority
Commercial invoice	Exporter
Certificate of compliance from a standards body	Standards Body in exporting country
Letter of Credit	Commercial bank in exporting country

The following sections include more detailed description of the procedures involved in obtaining documents for compliance with SPS measures.

Phytosanitary Certificate

Imports: All imports of plant products into Malawi have to be accompanied by a phytosanitary certificate. If a consignment arrives at the border without a phytosanitary certificate it is considered non-conforming to SPS requirements and either returned or destroyed, depending on the nature of the product. An exception is made for consignments up to 50kg (especially those carried by individuals) which can be issued with a phytosanitary certificate by the plant health inspector at the border (see Box 1).

Phytosanitary certificates for imports are checked and physical inspections are carried out, where necessary. According to the authorities in Malawi, these inspections are based on risk.

Box 1: Procedure for obtaining phytosanitary certificates for small consignments

When a trader gets to the border post with a small consignment, they can approach the Plant Health Inspector with information regarding their product (groundnuts, maize or fruits & vegetables). After inspecting the goods, the plant health inspector fills out an application form for a phytosanitary certificate and may then issue the document on the spot. All goods obtained from commercial outlets are issued with a phytosanitary certificate without questions. However, other goods are subject to verification and are tested, where necessary, to establish their conformity to SPS requirements. It was established that most of the time travellers carry goods obtained from shops, which are deemed low risk.

Exports: According to exporters interviewed by the consultant all exports must be accompanied by a phytosanitary certificate regardless of whether the importing country demands it or not. This may be due to a misunderstanding on the part of exporters because the officials indicated that a phytosanitary certificate is only issued if it is an export requirement imposed by the importing country.

The NPPO reported that for local traders and foreign individuals carrying small quantities of goods a phytosanitary certificate can be issued at the border on the same day, if there is no need for

inspection and if the exporter sends a request in advance. However, the private sector reported that for larger consignments subject to mandatory inspections, the time taken to issue a phytosanitary certificate depends on the availability of an official to collect a sample from the exporter's premises when transport is available. Some traders reported that they are expected to provide transportation to enable the NPPO to carry out inspections. Some traders also reported that they are sometimes expected to take samples themselves to the plant health inspection offices.

Every application for a phytosanitary certificate must be accompanied by an export permit and a fumigation certificate where necessary. The private sector reported that an application for export permits can take weeks because issuance depends on the availability of signatories in the Ministry of Trade and Industry. The time taken for the issuance of the letter of no objection to export also depends on the availability of signatories.

Phytosanitary certificates are issued by designated Plant Health Inspection offices in regional offices of the NPPO and major border posts in Malawi. Designated NPPO offices issuing phytosanitary certificates are:

1. Central Region:

- a. Chitedze agricultural research station
- b. Kanengo Auction Floors
- c. Dedza border post
- d. Mchinji border post
- e. Kamuzu International Airport

2. Southern region:

- a. Bvumbwe agricultural research stations
- b. Mloza border post
- c. Mwanza border post
- d. Chileka Airport and Zomba (forestry products only)

3. Northern region

- a. Lunyangwa research station.
- b. Songwe/Karonga border post.
- c. Baka research station.

The research station are 10km from cities such as Blantyre, Lilongwe and Mzuzu, however, traders far from the research stations may be required to travel long distances to access this service.

Import / Export Permits (also known as licences)

Exports: With a view to enhancing and promoting exports as outlined in the National Export Strategy, the Ministry of Industry and Trade (MIT) reduced the total number of products requiring an export licence from 25 to 10. According to an official press release (dated 20 June 2013), this measure was taken to "make it cheaper, easier and faster to trade across the borders".¹⁴ The website of the MIT indicates that an export licence is no longer required for cotton, groundnuts, soya or sunflower or their products.¹⁵ According to the press release, export permits are still required for maize including dried maize on or off the cob, crushed maize, samp and maize meal (including maize grits, cones, hominy chop, maize offal or processed maize meal with or without additives).

Export permits are valid for three months from date of issue. Applications for export permits have to be made in person at the government offices in Lilongwe and Blantyre. To obtain a permit, traders must write a letter to the Ministry of Agriculture, Irrigation and Water Development (MoAIWD) providing details (product, quantity, value, origin) of the proposed transaction. The Permanent Secretary reviews the application and, in the case of approval, signs a Letter of No Objection which must be physically carried to the MIT for issuance of permit. The MIT approves the application, and issues a permit, provided all the supporting documentation has been provided. Authorities in Malawi indicate that it usually takes between two days and a week for a permit to be approved. However, feedback during interviews for this research indicated that in some cases, it

¹⁴ See: <http://moit.gov.mw/downloads/Press%20release%20Export%20Licenses.pdf> (accessed 28 July 2015).

¹⁵ See: <http://www.moit.gov.mw/index.php/export-oil-seed-crops-and-products/49-exporting-oil-seed-crops-and-products> (accessed 28 July 2015).

can take longer depending on the availability of signatories. Over and above the time taken to obtain export permits, some stakeholders have underlined that the uncertainty in this process makes it difficult for the private sector to plan or negotiate forward export deals.

Imports: According to government authorities, import permits are required on 8 categories of imported agricultural products. Application forms for import permits for all agricultural products (including fruits and vegetables) are available from NPPO offices, located in regional research stations in the south, centre and north. In cases where traders are located far from these research stations, they reportedly have to travel long distances, which has time and financial costs. Import permits are issued by the (MIT) in most cases for a period of validity extending six months from the date of issue. Consideration may be given for the extension of a permit provided an acceptable explanation is given.

Fumigation Certificates

Fumigation for exports is carried out by trained and registered fumigators whilst for imports into Malawi is done by fumigators in the exporting country if fumigation is a requirement included in the import conditions.

Non-GMO Certificates

Import: All agriculture commodities imported into Malawi must be accompanied by a non-GMO certificate.

Export: A non-GMO certificate is also required for exports. This is essentially a letter stating that since Malawi does not allow GMO seeds or grain into the country, agricultural and food products produced in Malawi – and exports – are therefore GMO-free¹⁶. While non-GMO-certificates are issued free-of-charge, this requirement nevertheless adds to the cost of doing business.

Aflatoxin Test Report / Certificate

Export: The main document required by countries importing groundnuts, in addition to the Phytosanitary Certificate, is the aflatoxin test report/certificate which Malawi exporters obtain from laboratories outside the country. Malawi exporters send their samples to be tested for conformity to the required aflatoxin levels in the export markets. This was said to be a very costly procedure: officials from the National Association of Smallholder Farmers (NASFAM), Agricultural Development and Marketing Corporation (ADMARC) and the Legumes Association estimated the cost to be not less than US\$400 per test done outside the country. Costs include the transportation of samples by courier, testing fees and other hidden costs. The actual costs of the analysis could not be obtained.

Table 4: Procedures and fees for obtaining documentation (including SPS documents) required for trade

Document	Issuing authority	Fee	Procedure
Letter of no objection	MoAIWD	Free	Exporter fills in form and ministry issues letter
GMO certificate	MoAIWD	Free	Exporter fills in form and ministry issues letter
Export/Import Permit	MIT	Free	Exporter or importer completes application forms at the Ministry of Industry and Trade with all relevant documentations and license is issued or denied

¹⁶ Malawi Diagnostic Trade Integration Study (DTIS) Update. Reducing trade costs to promote competitiveness and inclusive growth. 25 March 2014. Available at: http://enhancedif.org/en/system/files/uploads/malawi_dtis_update_2014.pdf

Document	Issuing authority	Fee	Procedure
Fumigation Certificate	Trained and approved private companies	Applicable Commercial rates depending on process	Exporter secures services of private fumigating companies trained by Chitedze Agricultural Research Station at commercial rates and obtains fumigation certificate that accompanies application for a phytosanitary certificate
Phytosanitary Certificate(PC)	NPPO regional centres, research stations and major border posts	\$10 for commercial and \$2 for home use, research work applications	Exporter obtains a letter of no objection for MoAIWD, export licence from Ministry of Trade and presents this to the NPPO and completes an application form available at NPPO offices in 5 regional offices together with accompanying documents including fumigation certificate and export permit. The NPPO validates the documentation and arranges for inspection at the exporters premises, collects a sample for testing and issues a phytosanitary certificate. Phytosanitary certificates for agricultural produce intended for personal use is issued at the port of exit by the plant health inspector upon production of a valid proof of approved supplier. The phytosanitary certificate is valid for 14 days.
Aflatoxin certificate	External	Fees determined by external agencies offering testing for aflatoxin	Exporters procure this service from foreign accredited laboratories. MBS is not yet accredited to carry out these tests, however, MBS may carry out aflatoxin tests on an export consignment at the request of the exporter.

3.5 Transparency

Major exporters of groundnuts (ADMARC and NASFAM), and scientists from the Chitedze and Bvumbe research stations, confirmed that the majority of growers and producers of groundnuts in Malawi are smallholders, some of whom produce for export. The exporters /traders seeking information on SPS requirements for exports and imports can therefore be classified into two categories: established exporters who have been in the business for a long time and new entrants, who need information on importers' requirements. Such information includes:

- What must be tested for which products into which markets?
- Test requirements including how much they cost and which laboratories can perform these tests.
- How to book a test; and
- Accompanying documentation and/or fees for the various SPS processes.

During research, representatives of the public and private sector in Malawi were asked to rate the availability of SPS-related information in general, and to indicate whether they were aware of what documentation is required to export or import groundnuts, maize, citrus, fruits and vegetables. Both exporters and importers indicated that they have to physically travel to regional NPPO offices and selected border posts to obtain information on food safety and/or plant health procedures required for trade.¹⁷

It is worth noting that the private sector gave low ratings for the availability of information whereas public officials rated both the availability and the reliability of information very highly.

¹⁷ Chitedze, Bvumbe, Lunyangwa, Baka and research stations and Mwanza, Mchinji, Dedza, Muloza and Songwe border posts

Traders, producers of groundnuts as well as importers of fruit and vegetables require critical information on SPS requirements in Malawi and in key export markets. Interviewees confirmed that information on SPS requirements for the selected products is available at the research stations in the central, northern and southern regions, at the offices of the Malawi Bureau of Standards (MBS) and at major border posts, as well as the two international airports in Malawi. It was reported that the NPPO did not have a functioning website. The Ministry of Trade reported that the website would be resuscitated once new funding was secured.

In some cases, new exporters have to visit several different offices before they obtain the desired information on SPS requirements. This is a costly exercise. In any case, small-scale farmers do not have access to the internet. Malawi does not have a deliberate policy of educating traders on SPS requirements. Secondary sources of information include the Malawi Chamber of Commerce and Industry (MCCI), the Ministry of Industry & Trade (MIT), the Ministry of Agriculture, Irrigation and Development (MoAIWD), and other sources. However, none of these sources publicise this information.

The perception was also different with regards to the reliability of the information. Officials in the public sector were of the opinion that available information was reliable. The private sector felt that information from unofficial sources (including personal contacts and third party sources) could not always be relied on.

Challenges were identified regarding the availability of application forms. Exporters have to request forms for phytosanitary tests from the NPPO and forms for aflatoxin tests from the MBS. The phytosanitary test forms are available from NPPO regional offices at Chitedze, Bvumbe, Lunyangwa, Baka and research stations and Mwanza, Mchinji, Dedza, Muloza and Songwe border posts, Chileka Airport, Kamuzu International Airport, Kanengo Auction Floors. Although these forms must be collected in person, unlike the aflatoxin test forms, which are only available from MBS regional offices, the phytosanitary test forms are available in most districts. Information on the costs and fees for applications for import permits and phytosanitary certificates is available to traders on request.

A reduction in export and import trade costs is important to enable Malawian enterprises to obtain imports at more competitive prices and increase the competitiveness of Malawian exports in both neighbouring and international markets, opening up opportunities for Malawi to participate in both regional and global supply chains

3.6 Waiting Times

Waiting times for SPS procedures are not published so the element of predictability is missing in the Malawian SPS control system. Government officials indicated that, if staff is available and the applicant is in possession of all the relevant documents, waiting times for the completion of various processes are, on average, as indicated in Table 5. However, some other sources indicated that the amount of time required in practice can be much longer with considerable uncertainty.

Table 5: Waiting times for processing SPS documentation

Document	Issuing agency	Waiting time
Letter of no objection to export	Ministry of Agriculture	1-2 days
Export permit	Ministry of Trade and industry	2-3 days if minister is available. Permit is signed by Minister or principal secretary therefore waiting time depends on their availability. Also, signature is obtained through an internal memo to minister. Ministry officials reported that the process could take up to 48 hours. Private sector says that waiting times depend on the availability of the Minister.
Import Permit	NPPO	Same day for permits for both commercial and domestic consumption
	Ministry of Trade and industry	2-3 days if minister is available. Permit is signed by Minister or principal secretary therefore waiting

		time depends on availability of minister, Also, signature is obtained through an internal memo to minister. Ministry officials reported that the process could take up to 48 hours. Private sector says that waiting times depend on the availability of the Minister.
Fumigation certificate	Fumigators	Based on fumigation process
Aflatoxin certificate	MBS External certification	MBS does not have accreditation to issue. No information could be gathered regarding the time it takes to obtain Aflatoxin certificate from external source.
Phytosanitary certificate	Research station	Phytosanitary certificates for commercial consignments are issued on the same day once testing is done. The whole process including testing usually takes 3 days. Phytosanitary certificates for products destined for domestic consumption (home use) and research work are issued in a matter of hours at the border posts /airports.

Source: Compiled from interview responses

3.7 Dedza Border Post

The field research included a visit to Dedza border post, between Malawi and Mozambique, which is staffed by several border agencies including the Malawi Revenue Authority (MRA), Plant Health Office, Ministry of Health staff, the Malawi Bureau of Standards, as well as various clearing agents. The plant health inspector at Dedza border post reported that, in his opinion, there was a high level of collaboration between border agencies. In particular, it was pointed out that officials of the MRA had the authority to assess conformity to the requirements of the NPPO and MBS requirements as they had been given training to perform these functions. This practice, confirmed by private sector interviewees, points to some existing collaboration across agencies involved in border controls which is encouraging. The Malawi Revenue Authority oversees all border procedures and refers specialist services SPS checks to the relevant authorities.

At the border, the consultant met with the Plant Health Inspector and another official from the NPPO. They confirmed that their responsibility was to verify documentation for all consignments and to issue Phytosanitary certificates to individual traders and travellers. They work closely with the MRA and clearing agents. The Plant Health Inspector outlined a number of challenges resulting from a lack of visibility at the border, as they shared their office with the Ministry of Health and were therefore unable to effectively publicise their services. Although truck drivers are required to go to the NPPO office at the border, officials interviewed indicated that this does not always happen. All the border agencies (MBS, MRA, NPPOI, and Health) attended to clients in their respective offices. The Plant Health Inspector reported that collaboration among the border agencies was good.

Box 2: SPS-related Procedural obstacles identified in the ITC Study on Non-Tariff Measures in Malawi

Import / export permit requirements and an insistence that conformity assessment procedures must be carried out by the Malawi Bureau of Standards (MBS) were identified by the private sector as the two most cumbersome procedural obstacles to trade in a study on NTMs in Malawi (ITC, 2013). There is ample evidence, moreover, that neither measure achieves its stated objectives. Trade permits, for example, are supposed to limit the quantities being traded, but officials have noted that the current process of signing and stamping original documentation is not an effective way of monitoring the quantities that have already been, or are still to be, moved across the border. The same study, moreover, was able to find only one example of a withdrawn licence, suggesting that the restriction of imports/exports, which is the stated purpose of trade permits, was not being effectively pursued. The conclusion drawn by the study was that the measure "almost exclusively causes delays". The effectiveness of the Import Quality Monitoring Scheme has also been questioned.

Statistics gathered by the MBS, for example, show that more than half of the 597 products which were inspected in 2013 were found to be non-compliant (327 or 55%), and yet some (239 or 49%) were allowed into the country anyway (Malawi DTIS Update 2014). This begs the question of whether the goods that fail the conformity assessments are sub-standard, in which case they should not be allowed into the country, or whether the standards themselves are too stringent, meaning that some of the controls that are performed at the border may be unnecessary. In either case, measures implemented at the border are evidently disrupting trade without achieving their original purpose, which is to prevent the entry of sub-standard goods into the country.

Apart from being ineffective, procedures implemented by the MBS have been criticised by the private sector as being redundant, duplicated by several agencies, inconsistent, unpredictable and costly. The failure of the MBS to recognise foreign certification, from accredited laboratories, means that importers who have already submitted their goods for inspection, testing and certification at accredited foreign laboratories are obliged to do so again. Furthermore, the MBS is not accredited by the SADC Accreditation Agency or by any other international body recognised by ILAC or the IAF. Mandatory conformity assessment by the MBS has been interpreted by the private sector as an "implicit tax that serves to increase costs and contributes to border delays" (ITC, 2012). Lastly, it seems that there is a lack of transparency regarding the cost and the amount of time needed to assess compliance with Malawi standards. Complaints include: unpredictable behaviour by MBS officers, delay or failure in providing test results, lack of clarity regarding border procedures and arbitrary setting of fees.

Source: Compiled by the author based on the ITC survey of company perspectives on non-tariff measures in Malawi. Available at: <http://www.intracen.org/layouts/three-column.aspx?Pageid=45836&id=66173>

3.8 Observations

Availability of information: Information on SPS requirements is provided by the government authorities, if requested. For those in the private sector with access to the internet, the websites of the key ministries and departments of agriculture are not functional.

Agencies responsible for SPS Controls: The number of agencies and the number of documents and procedures involved in enforcing SPS compliance can result in duplicated, overlapping or redundant controls and overlapping mandates among the different authorities. Border Operations Assessments by the Southern Africa Trade Hub (a USAID initiative) report that sometimes up to fourteen different government agencies are present at border posts in Malawi, such as Mchinji, Dedza and Mwanza. Many of the procedures carried out by agencies at and/or behind the border are functionally similar, including document checks and sampling.

There is very little sharing of information between the Malawi Revenue Authority, the MBS, the Health Department and the Department of Agriculture, all of whom depend on the manual intervention of clearing agents to bring them physical copies of the relevant documents. Individual

agencies in Malawi generally station their own officers at exit and entry points to check documents and clear consignments.

3.9 Recommendations

Based on the findings of this research work, the following recommendations are put forward for consideration by authorities in Malawi. Given resource limitations, national authorities are encouraged to identify and prioritize the more "simple" solutions among the recommendations below for immediate attention. It may also be advisable in the short term to focus efforts (e.g. to improve transparency or streamline SPS procedures) on particular value chains of importance to trade or small and medium sized businesses.

1. **Improve transparency on SPS requirements:** There is a need to improve the dissemination of information on SPS legislation and regulations, processes and procedures, particularly for small-scale traders and producers. In this context, the SPS Notification Authority and Enquiry Points should be strengthened. The emphasis should be on ensuring that the competent authorities understand that while they have the important role of ensuring compliance with the SPS measures of trading partners, it is the private sector that needs the information, if the country is to achieve the objective of safe trade.

SPS authorities are recommended to update and maintain their websites and make information on SPS regulations available online in the medium term. In view of the limited financial resources available for these tasks at present, the short-term priorities are to:

- Empower the SPS Notification Authority to print hard copies of existing and new SPS requirements, costs related to each application and the expected time to complete applications for export and import permits. This information should be made freely available at a Trade Information Desk located at each of the regional offices of the Ministry of Agriculture and Food Security.
 - The competent authorities should provide training on SPS requirements for extension officers based in the rural areas and ensure that capacity-building among the local farmers becomes part of the responsibilities of extension officers. Such capacity-building can be conducted in consultation with the producer association and farmers' union and should include training on SPS procedures at the ports of entry.
 - Re-activate the national SPS Committee and ensure that it includes a cross-section of representatives from key sectors, both public and private. The SPS Committee should be used as a forum to bring new or revised SPS requirements of trading partners to the attention of the private sector. It could also be used to discuss the reasons why SPS measures are imposed by national authorities on exports.
2. **Review and clarify roles in the implementation of SPS controls at the border:** The roles and responsibilities of the various SPS agencies at the border should be clarified. In the short term, and in the absence of overarching legislation, there is a need for SPS agencies to be brought together under the guidance of an impartial party in order to: (i) discuss and agree on each agencies' objectives at the ports of entry, (ii) delineate their tasks and responsibilities; and (iii) identify areas of overlap and how to address them. SPS authorities should further consider using customs officials to conduct basic inspections using a simple checklist prepared by the competent authorities.
 3. **Streamline and document SPS procedures:** Procedures, fees and waiting times related to implementation of SPS regulations should be clearly documented and communicated to all SPS authorities working at the border, other border agencies such as customs and revenue authority, and traders. Wherever possible, efforts should be made to identify and remove overlapping SPS procedures and requirements required by different authorities in Malawi, and to consider relaxing certain SPS requirements on exports, unless specifically required by trading partners.
 4. **Develop and implement a risk-based system for all SPS inspections:** High risk products should be subjected to more frequent and stringent inspections than low-risk products. This system could be further enhanced by categorizing traders on the basis of their history of compliance with SPS requirements or third-party certification.

5. **Promote greater use of equivalence and accept test results performed by accredited laboratories (both public and private) outside Malawi:** It is essential to ensure that conformity assessment tests are carried out according to international best practice in order to build trust. The Malawi Bureau of Standards should be encouraged, with the assistance of the Southern African Community Development Accreditation Service (SADCAS), to prepare its laboratories for accreditation. In the interim, the MBS should be encouraged to accept the test results of accredited facilities outside Malawi. In order to facilitate this process, MBS should produce a list of preferred accredited (public and private) laboratories in the region and beyond. Strengthening diagnostic capacity and obtaining international accreditation is a medium to long-term goal. In the short-term, authorities should identify and focus on particular products/tests which are of greatest importance to trade. The STDF framework to prioritize SPS investments needed for market access, based on a multi criteria decision analysis approach, could be used to help prioritize investment options linked to diagnostic analysis and laboratory capacity, and inform resource allocation decisions.

4 SOUTH AFRICA

This chapter analyses the findings of the research work in South Africa, which focused on the implementation of SPS measures for trade in fresh fruit and vegetables.

4.1 Background

Together with Botswana, Lesotho, Namibia and Swaziland, South Africa is both a member of the Southern African Customs Union (SACU) and the Southern African Development Community (SADC), which officially became a Free Trade Area in 2008. South Africa is also actively involved in discussions for the integration into a Tripartite trading block of the SADC, the Common Market for East and Southern Africa (COMESA) and the East African Community (EAC).

South Africa became a member of the WTO in 1995 and since its accession has participated actively in the work of the WTO. However, there have been some challenges in its management of SPS matters in the past that have had dire economic consequences. One example is the closure of the Thailand market for fresh grapes, apples, pears and stone fruit in 2008 because of failure by the South African NPPO to submit a letter of request for an exemption from changing market access requirements notified by Ministry of Agriculture in Thailand for fresh produce by the due date. This technical error is said to have cost the South African industry an estimated US\$3.74 billion.

A review of several pieces of legislation is underway in the Department of Agriculture Forestry and Fisheries (DAFF) to align them with relevant international prescripts, the constitution of the Republic of South Africa. The Plant Health (phytosanitary) policy has been approved and gazetted for implementation while the draft Food Safety policy, the draft Sanitary and Phytosanitary strategy and the draft National Veterinary strategy are still under discussion. Currently, South Africa does not have an overarching food law.

The country has established both an SPS National Notification Authority (NNA) and National Enquiry Point (NEP) in line with the transparency obligations of the WTO SPS Agreement. As of 14 July 2015, 43 notifications had been submitted to the WTO SPS Secretariat.¹⁸ The function of both NNA and NEP is the responsibility of the Directorate: Food Import and Export Standards within DAFF.

Agriculture in South Africa is responsible for around 10% of formal employment, occupying a large section of the unskilled workforce. This is relatively low compared to other parts of Africa. However, it remains an important sector in terms of employment. While agriculture only contributes around 2.6% of GDP for the nation, it is an important source of foreign exchange. Traditionally, agriculture provided a means of livelihood for the rural poor when other sources of income fell away. Between 2002 and 2008 agricultural exports from South Africa recorded a gradual decline from 19.5% to 9.5% of total exports while imports remained stable, accounting for 6.1% in 2008 (WTO, TPR-2009)

¹⁸ The WTO SPS Information Management System (IMS) allows users to track, inter alia, information on SPS measures that WTO Members have notified to the WTO, specific trade concerns raised at the WTO, etc. See: <http://spsims.wto.org/web/pages/search/notification/Search.aspx>

A small share of arable land is dedicated to horticultural production which consists of all the major fruit groups (deciduous, citrus, and subtropical), vegetables, and flowers. The major categories of fruit produced are citrus fruits (mainly oranges), apples, pears, peaches, table grapes, and avocados. Between 2002 and 2008, fruit production was the most dynamic sub-sector with a large share of total output, exported mainly to Europe. During the same period some 83% of table grapes production was exported, while 61% of citrus production and 44% of apples were exported.

Although agriculture did not always play a predominant role in the economy prior to 1994, it has diminished further due to increases in social grants and employment opportunities in other sectors of the economy. However, agriculture has the potential to expand and provide opportunities for the creation of much needed jobs, given the necessary environment (Chp.6-National Development Plan (NDP), 2030).

The NDP 2030 suggests that the vegetable industry could be one of the largest contributors to job creation and the improvement of livelihoods if the potential for growth in demand in South Africa and the southern African region is fulfilled. The demand for vegetables has grown consistently (about 30% over the past decade) and, as per capita income rises, this trend is expected to continue.

One of the stated objectives of the NDP 2030 is to support small businesses by coordinating the relevant agencies, strengthening regional economic integration and increasing intra-regional trade in southern Africa, from a mere 7% of trade to 25% by 2030, by addressing non-tariff barriers and other constraints which add to the cost of doing business in the region and continent (e.g. inefficient border posts).

The NDP 2030 also recognises that the single greatest challenge in penetrating new markets remains market access through trade negotiations and sanitary and phytosanitary agreements. As with the citrus industry, South Africa needs to remain internationally competitive to create and maintain its market share.

The manner in which South Africa and its trading partners in the region implement various instruments, including the WTO SPS Agreement, will determine whether South Africa can achieve its objectives.

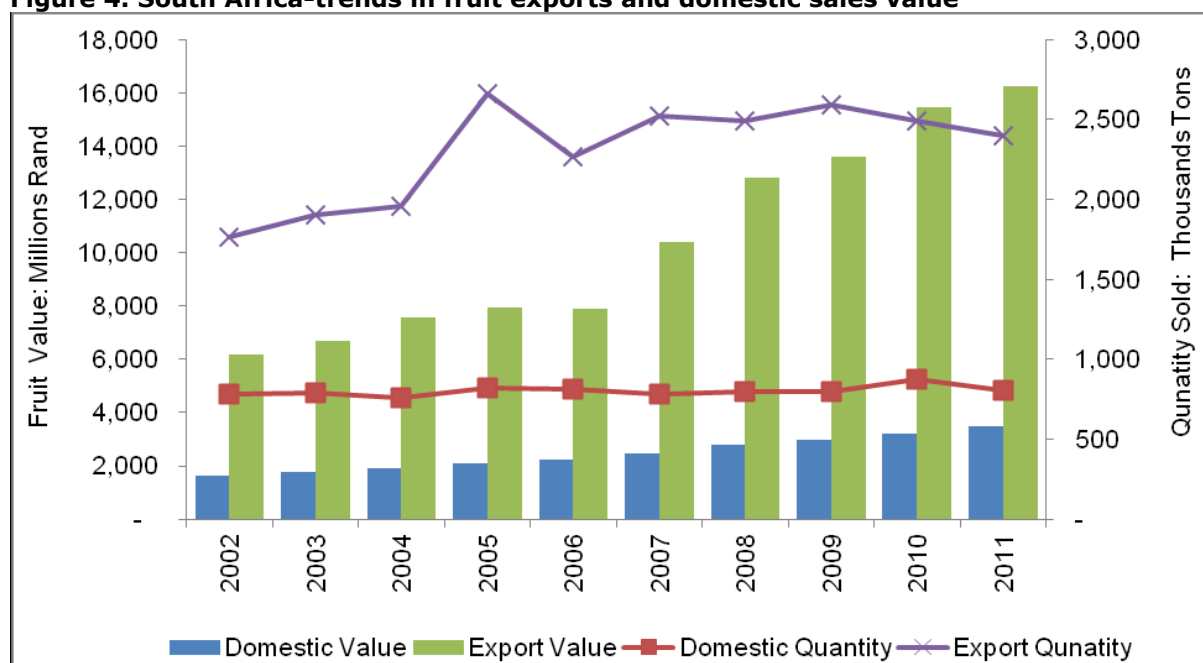
4.2 Trade in Fresh Fruit and Vegetables

In 2012 the National Agricultural Marketing Council (NAMC) carried out a review of the trends in the production, exports and domestic sales of fruit and vegetables over a 20 year period-from 1991 to 2011. Fruits and vegetables are the most important commodities in the agro-processing sector, are high-value crops and have large labour multipliers and they also constitute a significant percentage of South African agricultural exports. South Africa produces mainly grapes, oranges, lemons, apples, avocados and mangoes. South Africa is also a major producer of vegetables such as potatoes, tomatoes, onions and cabbages.

According to the NAMC review, fruit production increased from 2.7 million tons in 1981 to 3.5 million tons in 1991, and 5.5 million tons in 2011 but only increased marginally between 1981 and 1996. Following deregulation of the sector in 1997 there was a significant growth, largely due to (i) growing export opportunities in traditional export markets with stringent SPS requirements (e.g. the EU), as well as emerging markets (e.g. the Middle East and Far East) generally with less rigorous SPS requirements; (ii) better fruit production practices; (iii) improving export cold chain and efficient transporting systems. Vegetable production also experienced significant growth in the period under review largely as result of a growing domestic demand driven by an increase in the middle-class.

The figure below shows the trends in fruit exports and fruit domestic sales measured in value and quantity sold. The bulk of fruit production is exported, mainly to European markets. However, in the years between 2005 and 2011, exports to emerging markets (e.g. the Far East and Africa) have started to grow. Between 2002 and 2011, the value of fruit exports increased by an average rate of 12%, while domestic value grew by 9% rate year-on-year. The quantity of fruit sold in the domestic market over the reviewed period remained relatively constant at 803 248 tons per year.

Figure 4. South Africa-trends in fruit exports and domestic sales value



Source: DAFF agricultural statistics and WTA, 2012

Given the importance of the fresh fruit and vegetable sector to the South African economy, as well as opportunities to transform this sector to increase the participation of formerly disadvantaged populations and expand small-holder production and trade, it is important that small traders be included in SPS capacity building activities and that the enabling environment is created for them to access the relevant information on SPS measures and procedures.

4.3 Institutional Framework

South Africa recognizes Codex, OIE and IPPC guidelines and standards as the basis for the development and implementation of food safety and phytosanitary measures. Several agencies are responsible for SPS controls on exports and imports in South Africa. Efforts have been made to implement risk-based approaches in some areas, as described below.

Government departments

Department of Health (DoH)

The Directorate: Food Control ensures an optimal non-personal preventative primary health care service in respect of the safety of food for the South African community, based on basic needs and the right to make informed choices without being misled, by means of scientifically founded legislation, auditing and information actions. The main functions of the Directorate: Food Control include, inter alia:

- Administer, compile and publish legislation relating to food safety, food labelling and related matters.
- Initiate, coordinate and evaluate general as well as more specific food monitoring programmes.
- Audit and support provinces and local authorities with food law enforcement.
- Inform, educate and communicate (IEC) food safety and related matters to stakeholders such as industry, consumers and other departments.
- Act as the national contact point for the joint FAO/WHO Codex Alimentarius Commission.
- Evaluate agricultural remedies and chemicals and food produced by means of biotechnology.

The Directorate: Food Control also administers those parts of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No 54 of 1972) that relate to food. The Act addresses the manufacture, sale and importation of foodstuffs. Local authorities are authorised in their areas of jurisdiction to enforce it. Food import control is conducted by the Port Health Services of the Provincial Health Departments on behalf of the national Department of Health (DoH). The Act does

not require the issuing of food import permits by South Africa or of certification by exporting countries.

All imported food and agricultural products are required to comply with South Africa's food health and phytosanitary laws. In general, products are not allowed to enter South Africa if they are deemed to be a danger to human life or well-being, either directly or indirectly. South African food regulations are patterned after Codex Alimentarius Commission guidelines. Prior to being cleared by the department of Customs and Excise, imported food products may be inspected and sampled by port health authorities and samples collected for analysis. In cases where non-compliance is found, the goods may require treatment prior to entering South Africa or they may be rejected and ordered destroyed or disposed of outside South Africa. Regulations related to the hygienic handling of food and the inspection of food premises are also enforced by local authorities in their areas of jurisdiction.

The DOH approves the Maximum Residue Limits (MRLs) for pesticides, other chemicals and metals that may be present in foodstuffs for both exports and imports but the Perishable Exports Control Board handles food safety of minimally processed agricultural commodities destined for the export market.

The Department of Agriculture Forestry and Fisheries (DAFF)

The DAFF is the NNA and the NEP under the WTO SPS Agreement. Together with the Department of Health and the National Regulator for Compulsory Specifications it is responsible for the management of SPS issues in South Africa. DAFF is made up of several branches/ programmes, one of which is the Agriculture Production, Health and Food Safety (APHFS) branch (the organisational structure of APHFS is presented in Annex 1). This branch is responsible for administering SPS legislation and the management of risks associated with animal diseases, plant pests, ensuring compliance with the relevant regulatory frameworks and creating an environment for sustainable agricultural production. Within DAFF direct control of SPS issues reside in three chief directorates: Plant Production and Health, Animal Production and Health, Inspection and Quarantine Services.

Plant Production and Health

The National Plant Protection Organisation of South Africa (NPPOZA) comprises the Directorate: Plant Health (DPH) which serves as the policy unit, the Directorate: Inspection Services (DIS) which serves as the inspection and/or operational unit, and the Directorate: Food Import and Export Standards (DFIES) which serves as the SPS promotion unit as well as the national SPS notification authority and enquiry point. The NPPOZA administers the Agricultural Pests Act, 1983 (Act No 36 of 1983) which serves to provide for measures by which agricultural pests may be prevented and combated, and for matters connected therewith.

- **The Directorate: Plant Health (DPH)** -The DPH serves as the National Plant Protection Contact Point in line with the IPPC, conducts pest risk analysis to manage risks associated with plant pests and diseases and provides technical negotiations for new markets (imports and exports). It is also responsible for policy development within the NPPO and ensures compliance with international plant health obligations and responsibilities. Sub-directorates of the DPH are also responsible for the development of phytosanitary import and export protocols, the provision of an early warning systems and the development of plant health national policies, norms and standards. The directorate administers Agricultural Pests Act, 1983 (Act No 36 of 1983) and Plant Health (Phytosanitary) Policy.

Inspection and Quarantine

- **The Directorate: Inspection Services (DIS)** is responsible for phytosanitary certification at points of entry/exit, local trade control, export inspections and both plant and animal health quarantine related functions. DIS inspectors may also carry out on-farm and pack house inspections in cases where there have been reports of non-compliance. The DIS is also responsible for providing Quarantine and Diagnostic services.
- **The Directorate: Agriculture Inputs Control** is responsible for the registration of fertilisers, farm feeds, agricultural remedies, stock remedies, sterilising plants and pest control operators; the regulation or prohibition of the importation, sale, acquisition,

disposal or use of fertilisers, farm feeds, agricultural remedies and stock remedies. The registration of these agricultural inputs requires that scientific data is provided with each agricultural input submitted for registration complies with specified requirements. In the case of fertilisers, the heavy metal content must be included in the scientific data pack submitted to DAFF. The planning and implementation of controls on pesticide residues in plant products intended for export is carried out by the Directorate: Food Safety and the Perishable Products Export Control Board (PPECB).

- **The Directorate: Food Safety and Quality Assurance** is responsible for the development of the norms, standards and or requirements for food safety and quality of regulated products. The Agricultural Product Standards, 1990 (Act No.119 of 1990) and its regulations are administered by this Directorate.
- **The Directorate: Food Import and Export Standards (DFIES)** performs the key functions of Biosecurity Promotion and Awareness, SPS Coordination and the Regulatory Service Desk. The sub directorates for DFIES are responsible for undertaking promotions and awareness of cross-cutting biosecurity risk issues affecting trade in agricultural products; facilitating the strengthening of SPS capacity and coordination to improve compliance under the WTO-SPS Agreement; and facilitating the issuing of permits in terms of various legislative mandates regulating food safety, plant health and animal health.

Animal Production and Health:

- **The Directorate: Animal Health** is responsible for the implementation of the effective national regulatory services and risk management systems and also for the establishment and maintenance of the effective early-warning and mitigation systems. This Directorate administers the Animal Diseases Act No 35, 1984 (Act No 35 of 1984). The Import Export Policy Unit of the Directorate is responsible for administering the sections of the Meat Safety Act, 2000 (Act No 40 of 2000) and regulations that apply to the importation of meat.
- **The Directorate: Veterinary Public Health** is responsible for the establishment of measures to promote meat safety and the establishment and maintenance of essential national standards in respect of abattoirs. The directorate also regulates the importation and exportation of meat and establishes meat safety schemes.

Agencies assigned by the South African government to carry out certain functions related to food safety and quality

The Perishable Products Export Control Board

The Perishable Products Export Control Board (PPECB) is the official quality inspection and certification agency of the DAFF. It was established by the Perishable Products Export Control Board Act No 9 of 1983 to provide for the control and management of export processes associated with perishable products exported from South Africa. The PPECB is a statutory organisation, which conducts its business in terms of the Perishable Products Export Control Act of 1983. In its early years, export products under its control were comprised mainly of deciduous and citrus fruit. However, the product range soon extended to include fish, meat, flora and other perishable products. There are now more than 200 product types under the board's control. The PPECB also operates as an assignee for DAFF under the requirements of the Agricultural Product Standards Act of 1990. It controls all perishable exports from South Africa, the value of which is in excess of R9 billion a year. The PPECB has been appointed as the DAFF'S assignee in terms of the Agricultural Products Standards Act No 119 of 1990 to provide export certification services and to ensure compliance with export food safety and quality standards of regulated agricultural products. Thus the PPECB controls all perishable exports from South Africa and has been approved by the European Union to provide third party certification in terms of the EU 1580/2001 Standard.

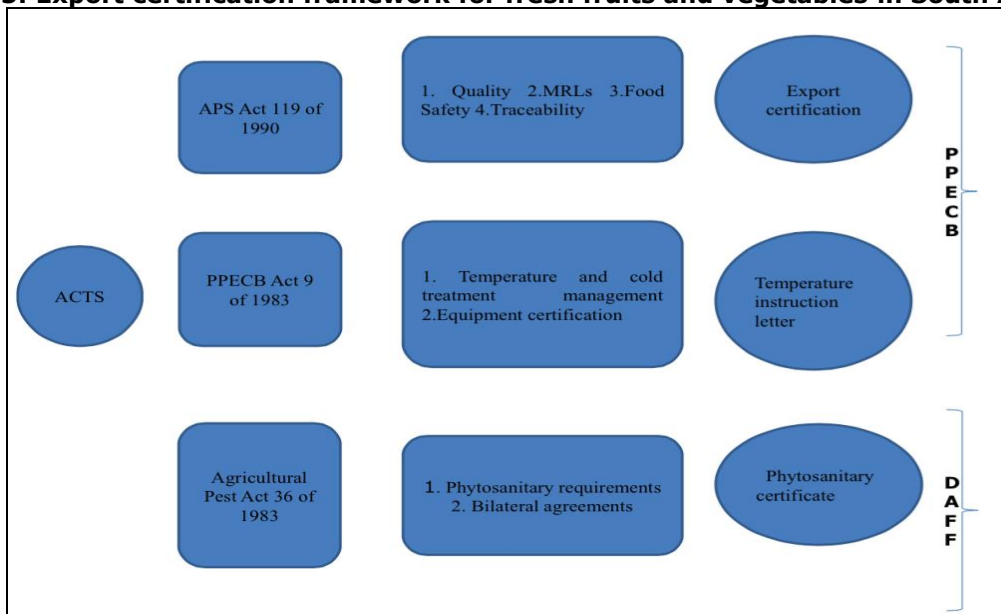
The assignee responsibilities of the PPECB require that it provides the following services:

- **Product certification through End Point Inspection.** The PPECB carries out quality assurance inspections at the pack-houses and on all fresh produce exported from South Africa.

- **Food Safety Certification.** Food safety audits are carried out on all Food Business Operators. Such audits include the monitoring of pesticide MRLS for fresh fruit and vegetables, laboratory analysis for Aflatoxin levels in groundnuts destined for the export market, compliance with traceability requirements and cold chain certification in line with the PPECB Act (to ensure that fresh fruit and vegetables and other perishable products are handled stored and transported at the specified temperatures).

In 2008, following consultations with industry it was agreed that Food Business Operators with a commercial certificate such as GlobalGAP, TESCO’s Nature’s Choice, HACCP, British Retail Consortium, ISO 22000 would be treated as low risk and therefore not subjected to official audits by the PPECB. PPECB now only audits facilities if there is no recognized food safety certification scheme in place.

Figure 5: Export certification framework for fresh fruits and vegetables in South Africa



Source: PPECB

The PPECB Board annually reviews and imposes the levies and tariffs for each of the services it provides by virtue of its appointment as the assignee in terms of the Regulation 1978 of the Agricultural Products Standards Act for DAFF in respect of each product exported from South Africa. A schedule of the tariffs is published and made available on the PPECB website.

South African Bureau of Standards

The South African Bureau of Standards (SABS) was established in terms of the Standards Act, 2008 (Act No. 5 of 2008), as amended. The mandate of the SABS in terms of the Act is to be the national institution for the development, promotion and maintenance of standardisation and quality related to commodities and the rendering of related conformity assessment services.

National Regulator for Compulsory Specifications

The National Regulator for Compulsory Specifications (NRCS) was established by the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008). The NRCS is responsible for the administration and maintenance of compulsory specifications and the implementation of a regulatory and compliance system for compulsory specifications. NRCS is a public entity responsible to the Minister of Trade and Industries for administration of technical regulations including compulsory specifications based on standards that protect human health and safety, and the environment. NRCS approves products that meet the requirements of applicable compulsory specifications. Letters of Authority are issued to manufacturers and importers as soon as the requirements have been met, before the products can be imported or offered for sale.

SPS export controls: The Food and Allied Industries Department (FAI) of the NRCS has been appointed as the responsible certification body for export of frozen marine products to the EU. FAI is audited regularly by EU authorities and fully meets EU requirements. The FAI issues health guarantees for canned fishery products, frozen fishery products, chilled fish or live fish (excluding marine molluscs) exported to the EU or China and for live marine molluscs (including abalone). Requests for health guarantees for exporting packed fishery products must be from approved and competent South African operators.

4.4 Training and capacity building

In South Africa the DAFF, centres of learning, research institutions and the agricultural industry play a major role in ensuring training and capacity building. During this work, it was recommended that training and capacity building among smallholder farmers should be intensified to close any gaps in the knowledge and understanding of the need to implement SPS measures.

4.5 Transparency

In order to participate effectively in regional and global markets for agricultural products, the availability of accurate and credible information is important, as it will ensure that producers and traders are able to operate in an environment that is predictable, non-discriminatory and transparent.

According to Article 7 and Annex B of the SPS Agreement, Members of the WTO must notify changes in their SPS measures and provide information on their SPS measures to the WTO. In particular, Members are required to publish such regulations "promptly to enable interested members to become acquainted with them". South Africa has complied with the provisions of the SPS Agreement in terms of its basic reporting requirements by establishing a National Notification Point and a National Enquiry Point. A search of the WTO SPS Information Management System (IMS) further shows that South Africa has made the largest number of notifications among SADC and COMESA countries.¹⁹

South African agriculture is dualistic: there is a developed commercial sector, occupying 86% of the agricultural land, which co-exists with a large number of subsistence (communal) farms. The commercial sector is capital-intensive (using hired labour when necessary) and strongly linked to global markets, while the small scale farmers still have limited access to markets as they do not possess their own means of transport or storage facilities (TPR, 2011). This dualistic nature of the sector was particularly evident during interviews with small scale traders on the availability of information on SPS legislation and measures.

Small scale producers and new entrants into the Fresh Fruit and Vegetable export market were of the view that one of the most troublesome issues they face is access to information on SPS regulations for trade. They felt that they have little or no support and, as one apple producer put it, 'there is no-one available to hold our hand'. Although there are government extension officers in the provinces, the extension officers have to get in touch with DAFF in Pretoria whenever the producers and exporters need SPS-related information. Those producers who are members of well-organised and well-resourced associations – such as the Fresh Produce Exporters' Forum (FPEF), HORTGRO and the South African Table Grapes Industry (SATI) – are able to get some but not all of their information via these associations. All of these associations have transformation programmes from which small scale producers can benefit. Much of the information, including detailed information on pesticide MRLs, is available on their websites, although membership of the association may be required to access some of the information.

The apple producer mentioned previously indicated that, due to the small size of their operation/orchards and a limited understanding and capacity to implement Good Agricultural Practices, they have opted to supply the pack house of a more established and better resourced producer and to market their produce under the label of this established producer.

¹⁹ As of 27 July 2015, South Africa had submitted a total of 43 notifications to the WTO. See <http://spsims.wto.org/web/pages/search/notification/Search.aspx>

The producers and exporters who are members of the various industry associations indicated that they are able to access most of the information on SPS requirements from several websites, namely those of the DAFF, the PPECB, HORTGRO, FPEF or SATI.

DAFF holds quarterly workshops, at which the industry is informed of any changes to SPS requirements and changes in procedures, with particular focus on traders exporting to special markets. At these quarterly workshops, service level standards are discussed and agreed. Those producers with access to the internet are able to easily download application forms and submit applications online. In general, traders held the view that there was good communication between themselves and the SPS agencies but that there is a need for more manpower from the PPECB to carry out inspections at the pack house level.

Importers of fresh fruit indicated that Customs requirements could be found easily but they felt that transparency with regard to SPS requirements remains a challenge. For example, although food safety requirements for imports are available on the DAFF website, they are not cross-referenced in other documentation. DAFF officials responsible for plant health are the main source of information regarding phytosanitary requirements for imports of fresh fruit and vegetables but importers stated that the required information is not always readily available, especially with regard to the timeframes for conducting and concluding Pest Risk Analyses. This was said to lead to unnecessary and costly delays. For importers, trade associations are said to be the most reliable source of SPS information.

Waiting times have been documented in service level standards agreed between industry representatives and the DAFF Directorates: Plant Health and Inspection Services, and are available on the DAFF website for the following procedures:

- issuance of permits authorizing the importation of plants, plant products and other regulated articles;
- conducting Pest Risk Analysis (PRA) for potential imports;
- conducting pest risk assessment for imports;
- responses to pest risk incursions;
- pest incursion notifications;
- the Phytosanitary registration of approved production units, pack houses and inspection points for export of fresh fruit;

Similarly, accurate information on the costs and fees incurred when applying for import permits and phytosanitary certificates are documented in the tariff book and posted on the DAFF website. Payments may only be made directly in to a specified DAFF bank account, from most parts of the country. Cash payments may only be made to cashiers in the Directorate: Finance based at the DAFF offices in Pretoria or Stellenbosch.

4.6 Document Requirements and the Costs of Trading

All exporters and importers are required to register with the South African Revenue Service (SARS).

Imports of Fresh Fruits and Vegetables:

Prior to importing fresh fruit and vegetables into South Africa, the importer must find out the phytosanitary import conditions that apply to the commodity to be imported by consulting the Agricultural Pests Act, 1983 (Act No. 36 of 1983) or the NPPO of South Africa within DAFF. An application for an import permit must be lodged with DAFF 30 days prior to the expected date of arrival of the consignment at a prescribed port of entry. The application form for an import permit may be downloaded from the DAFF website and must be submitted together with proof of payment (currently US\$8.20). This import permit from DAFF is valid for a year. If the commodity to be imported is exempted from an import permit, in terms of Regulation R1013, the importer should nevertheless ensure that the commodity meets the relevant phytosanitary requirements.

The two most important documents required for imports of fresh fruit and vegetables into South Africa are: (i) an import permit from DAFF; and (ii) a phytosanitary certificate from the NPPO of the exporting country.

Imported products must also meet the phytosanitary import requirements of the NPPO of South Africa. A copy of the import permit must be sent to the exporter/supplier to enable the NPPO of the exporting country to establish all phytosanitary measures requested and certify accordingly to ensure that the consignment meets the phytosanitary import requirements of South Africa.

If phytosanitary import requirements of South Africa are met, the NPPO of the exporting country will issue a phytosanitary certificate, valid for a period of time from the date of issue until the product leaves the borders of the exporting country. This is in accordance with the IPPC, which recommends that the validity of the certificate should not be indefinite and should be limited in duration prior to export to the extent the NPPO deems appropriate to ensure phytosanitary and physical integrity of the consignment. The phytosanitary certificate must accompany the consignment to South Africa.

When the commodities (plant, plant products and other regulated articles) arrive at a designated port of entry, the South African Revenue Services (SARS) holds the consignment for inspection by inspectors from the NPPO of South Africa, who also verify the pertinent documentation. The NPPO may release the goods if they meet the phytosanitary import requirements after verification. Importers noted that the lack of adequate diagnostic capacity sometimes leads to delays which can entail port fees as high as \$910 (Nine hundred and ten Dollars) per day. If the commodities do not meet the requirements, risk management measures will be recommended and the consignment may: (i) subsequently be treated and released; (ii) sent back to the country of origin; or (iii) be destroyed.

SARS is responsible for the final release once the DAFF is satisfied that the imports meet all phytosanitary import requirements.

Exports of Fresh Fruits and Vegetables

Once a producer or exporter is registered with the SARS, they require the following documents to export fruit and vegetables:

- **Registration as Food Business Operator²⁰**

A Food Business Operator (FBO) application form, which is available on the DAFF (Directorate: Food Safety and Quality Assurance) website. Every operator in the value chain, including production units, pack houses, transporters, processing plants, and container depots, must be allocated a Production Unit Code (PUC) (a mandatory requirement designed to facilitate traceability).

- **Exports into the rest of the continent**

Most markets in Africa are permit markets, meaning that exports to those markets must be accompanied by an import permit. Depending on the import requirements of Malawi, Zambia, Zimbabwe, Mozambique and Botswana, the Directorate: Inspection Service may conduct phytosanitary inspection at a cost of \$15 during office hours (\$23 after hours and \$31 on Sundays and public holidays) and issue a phytosanitary certificate, which is valid for 14 days. The amount payable is subject to annual review. Application for a phytosanitary certificate must reach DAFF 48 hours prior to the required inspection. The PPECB is responsible for all quality inspections.

- **Registration of Production Units**

An application form for phytosanitary registration of Production Units (PUC) is required for PUCs wishing to export to special markets (EU), at a cost of \$8 per market per FBO annually. This registration is required only for special markets. Exports to these markets, however, are only authorized if the producer meets the phytosanitary import requirements. Permission to export may be contingent on an inspection by Inspection Services of DAFF. Only fruit produced in registered orchards may be sourced for the applicable export programme(s). The consignment(s) must be free of any of the regulated pests listed by the importing country. Furthermore, only DAFF and PPECB approved packing houses and cold chambers/containers can be used for handling, storing and cold treatment of the fruit.

²⁰ The FBO may be a production unit, a pack house or an inspection point.

- **Registration of a Phytosanitary Inspection Point**

An application form for registration of a Phytosanitary Inspection Point (costing \$7.50 per market, per inspection point) must be submitted following approval of the production unit or pack house by the Directorate: Inspection Services of DAFF. The pack house or production unit must have suitable specified facilities to be approved as an inspection point and such application will not be processed without proof of payment.

The NPPO of South Africa has established bilateral protocols for exports of different products with the NPPOs of several importing countries, including the EU and the USA (often called "special markets"). South Africa has not established any such bilateral protocols or agreements with trading partners in Africa. Where there are no bilateral protocols in place, it is the responsibility of the exporter to identify and implement any relevant phytosanitary import requirements in the importing country.

Treatment of exports to the EU

Before fresh fruit is allowed into the EU it must be checked for conformity with the relevant food safety and quality standards. The PPECB is, in terms of EC Regulation 1148, authorised to inspect and certify fruit for export to the EU markets on behalf of the EU inspectorate. This means that fruit destined for the EU is not subjected to any further food safety/quality inspection on arrival in the EU market. However, fruit exports from South Africa to the EU may be required to undergo phytosanitary inspection and residue testing. PPECB is required to draw random samples of fruit to send to the DAFF's Analytical Services for pesticide residue testing. Should the results of the test show residues above the Maximum Residue Level (MRL) that consignment of fruit will not be approved for export.

The on-farm role of the PPECB

The PPECB has been mandated by the DAFF to conduct, among others on-site Food Safety audits of Food Business Organizations (FBO's) (e.g. farms, pack houses, cold rooms), to ensure that FBO's have systems and procedures in place that are sufficient to produce safe food. The typical farm audit will look at aspects such as pesticide spray records, general hygiene of the facilities and equipment used in handling fruit. The associated cost is about \$300 per audit which is subject to annual increase. The food safety requirements are prescribed in the document "South African Food Safety Standard for On-Farm Pack House Facilities" also known as SA GAP. This is a statutory requirement. There are also commercial standards, such as GlobalGAP, British Retail Consortium (BRC), Nature's choice, Hazard Analysis and Critical Control Points (HACCP) and ISO 22000 to which farmers can subscribe on a voluntary basis. Facilities that have been certified by these commercial certification systems are treated by DAFF as low risk and are not subjected to the SAGAP audits. However, such facilities may be subjected to an ad-hoc audit that costs \$91. Currently, the PPECB is required to inspect (to the minimum standard) 2% of all consignments leaving the country. Using the applicable checklist, sanitary certificates are issued per FBO type by the PPECB (and not per consignment) and are valid for 12 months. Based on the PPECB visual inspection, fumigation may be required and re-inspection carried out.

Treatment of exports from local and national produce markets

With effect from August 2014, exports into the region from the Production Units of producers of regulated agricultural products, exceeding 20kg and originating from the national fresh produce markets, must be audited by the PPECB for compliance with the Standards for Hygiene and Food Safety of Regulated Agricultural Products of Plant Origin intended for Export (Government Notice No.R707 of 13 May 2002). It has been a source of concern to consumers that fresh produce intended for the local and regional markets were not subjected to the same level of control. The conditions do not, however, apply to the SACU (Botswana, Lesotho, Swaziland and Namibia) countries.

4.7 Agency Cooperation and Collaboration

In addition to Customs officials, personnel from the Directorate: Inspection Services are present at all inland border posts. Inspectors from the aforementioned directorate are deployed to the small border posts, which are open for a limited number of hours only, as necessary during the normal opening times of these small borders. The inspectors are responsible for carrying out

documentation checks as well as carrying out Phytosanitary inspections and issuing Phytosanitary certificates at land border posts on request. The PPECB is available at all sea ports of entry to carry out quality inspections and issue export certificates. For exports of fruit and vegetables exported through land borders PPECB inspections are carried out inland at the pack house or farm.

There is much overlap and fragmentation of the SPS control system in South Africa. In addition, several agencies, including Customs and Immigration, have a presence at borders. In order to rationalise and streamline border control activities, in 2007, the South African Revenue Service (SARS) established the Border Control Operational Coordinating Committee (BCOCC). The BCOCC was given the mandate by SARS to oversee and coordinate the functions of all state agencies operating at the country's borders. The BCOCC is the custodian for strategic management of the South African border environment. It carries out its responsibilities without changing the existing accountabilities of the different border management agencies. There is, therefore, a clear division of tasks between the BCOCC and other state departments involved in border management affairs. The mandate and functions of the BCOCC are not derived from a specific statute. Its mission is to facilitate inter-agency cooperation and coordination. The BCOCC therefore serves to coordinate the operational approaches of all border management agencies, allowing mutual recognition of compliance with each other's requirements, wherever possible. Although at senior level, there appears to be collaboration through BCOCC at very senior levels in South Africa, at the operational level this does not appear to be the case.

In August 2014, in line with the objectives of the National Development Plan 2030, the Minister of Home Affairs announced that a Project Management office had been established at the Department of Home Affairs and that, through this office, an inter-governmental consultative process will be initiated. The intention is to establish a Border Management Agency by 2016. All of the Departments responsible for SPS controls will be part of this agency. South Africa has several pieces of legislation that support SPS management in animal health, plant health and food safety supported by subordinate regulations, norms and standards and policies. Work is underway to review existing out-dated legislation and to develop policy frameworks for food safety, animal health and plant health to bring them in line with international best practice and to address the challenges associated with having to deal with a fragmented SPS legislative framework.

4.8 Observations

Accurate information on the legislation and the processes and procedures for the export and imports of Fresh Fruit and vegetables is readily available on the websites of the national Departments responsible for SPS controls. Information on waiting times and the associated fees for the various services provided by the SPS agencies is also available on these websites. Industry associations also contain important information on MRLs. This information is however, not readily available to small scale producers, particularly those that lack access to internet facilities and are not members of industry associations.

The fact that the extension workers in the provinces do not readily have access to SPS related information and have to revert to Pretoria each time a client needs such information is both inefficient and a cause for concern, as they are the producers' first point of contact.

An attempt has been made to simplify the documentation required and to ensure that the necessary application forms are available online and from the inspection personnel in the main production areas; however, most procedures are manual.

While there is room for improvement in making information more easily accessible to new entrants into the market and small scale producers and traders, some good practices are currently being implemented. These include regular dialogue through the market access forum, an active and well-functioning National Notification Authority and Enquiry Point, and a semi-automated system for processing applications for registration of Food business operators and applications for phytosanitary certificates.

DAFF has entered into service level agreements with industry and the time frames for processing documents, conducting Pest Risk Analyses and conducting the various laboratory tests have been agreed with industry, published and are available on the DAFF website. Industry association (such as Hortgro) also have these documents on their websites. In the absence of up-to-date websites, providing SPS officials in the districts with harmonized printed documentation (which is updated at

regular intervals by Head offices) and the district offices could function as official trade information desks.

4.9 Recommendations

Based on the research work, the following recommendations are proposed for consideration in South Africa:

1. There is a great deal of information on SPS requirements and controls available on the websites of DAFF, the Department of Trade and Industry, the Department of Health and the PPECB, as well as on the websites of the producer/exporter/importer associations. In the short-term, it is recommended that discussions between government and the private sector should take place and all of this information should be brought together into a single agricultural trade information portal. This would reduce the time (cost) of sourcing SPS information from several different websites and make available reliable current information from one source which the extension workers can download and print for producers in the provinces as and when it is needed.
2. Long-term consideration should be given to providing public internet terminals (PIT) in rural post offices or the local provincial agriculture offices to provide these stakeholders with access to all government information, including information on SPS procedures, which may be of interest. In addition, for those producers and traders who do not have access to the internet, but have mobile phones, it is recommended to create a toll-free call centre serviced by DAFF officials who have good knowledge of the various SPS units.
3. Consider options to involve representatives of small, less experienced traders in SPS coordination mechanisms, as well as commercial traders. While existing public-private mechanisms and committees to discuss SPS regulations, controls, fees, etc. play a useful role, the involvement of smaller, less experienced traders (as well as commercial traders) would increase the quality of discussions and enhance the outcomes.
4. Explore options to further enhance the existing risk-based SPS inspection system through the development of an authorized trader scheme. For instance, there is potential to enable traders that are certified to voluntary standards (such GlobalGAP and BRC) to be subjected to fewer inspections by the PPECB, compared to traders without third-party certification.
5. Give consideration to creation of an electronic single window through which traders can submit all of their documentation. This would require some collaboration among the food safety, animal health and plant health units within DAFF and Food safety agencies at the PPECB, the Department of Health's Port Health Authorities and the National Regulator for Compulsory specification which falls under the Department of Trade and Industry.
6. In order to transform the sector, develop and implement a targeted SPS capacity building programme among members of the farmer unions which include most small-scale producers. The programme should focus on creating a basic understanding of the SPS Agreement and the relationship between it and Good Agricultural Practices, which many producers adhere to anyway. Such a programme could also include agents based at fresh produce markets from which fruit and vegetables are exported into the region, as well as individuals involved in informal cross border trade.

5 ZAMBIA

This chapter documents and analyses the findings of the research work in Zambia, which focused on the trade transaction costs associated with the implementation of SPS measures for maize exports and imports of meat products.

5.1 Background

Zambia is a landlocked country covering an area of 752,614 sq km of which 11,890 sq km is covered by water. The country is bordered by 8 countries – Tanzania (in the north), Malawi (in the east), Mozambique (in the south-east), Zimbabwe (in the south), Botswana and Namibia (in the South West), Angola (in the west) and the Democratic Republic of Congo (DRC) in the north-west

– a situation which brings with it challenges of managing the different relationships with its neighbours.

Zambia's economy has historically been based on the Copper Mining Industry; however, the Zambian Government has begun a process of diversifying the economy, aimed at reducing the country's reliance on the copper industry. The intention is to exploit other components of Zambia's rich resource base by promoting agriculture, tourism, gemstone mining and hydro power generation. According to the DTIS for Zambia (2014), during the last decade, Zambia has attracted considerable foreign direct investment, which has been an important driver of job creation in the economy. While investments in the copper industry have been dominant, the study suggests that there has also been a diversification into tourism, construction and agriculture. The DTIS suggests, however, that the diversification of exports from Zambia has been hampered by high trade costs generated by the costs of complying with non-tariff regulatory measures such as documentation requirements and lengthy procedures at some border posts, as well as SPS measures imposed by importing countries.

Agriculture has long been recognised as the economic sector with the best growth potential in Zambia. In 2012, the Zambian economy registered a real Gross Domestic Product (GDP) growth rate of 7.3%, as compared to the previous year's figure of 6.8% with agriculture being one of the main sectors which has contributed the most to this growth. The actual contribution from agriculture to the GDP is estimated at 12.2%. (Zambia Development Agency, 2014). Agriculture exports have grown at an average of 27% per annum since 2000 whilst the rate of growth in agriculture imports has been slower at 18% during the same period (Zambia Trade Brief, World Bank Group, 2014). Zambia is a major exporter of sugar and tobacco, but maize, maize flour and maize bran accounted for 19% of total agriculture exports between 2007 and 2011, with maize and maize products accounting for 28% of all agriculture exports (worth \$208 million) in 2011 alone.

5.2 Exports of Maize

A major player in the maize sector is the Food Reserve Agency (FRA). The FRA was set up by the Food Reserve Act to ensure national food security by managing reserves of designated staples such as maize and to provide market opportunities for small holder farmers in Zambia. The FRA buys maize from small-holder farmers for export or sale domestically at the market price. From time to time, the government restricts maize exports, however, the basis for decisions to ban maize exports are not always clear or transparently communicated, which creates uncertainty for business and deters much needed private investment (e.g. storage, input supply, private marketing). Increased clarity, predictability and transparency on quantitative restrictions to regulate maize exports (including on the use of export licensing) is needed. From September 2012 to May 2014 the FRA was the only entity that could legally export maize from Zambia, exclusively through government-to-government arrangements.

There is substantial informal cross-border trade. Work carried out by the COMESA Secretariat shows that some 20 to 30 thousand small traders (most of whom are women) cross the border at Mwami/Mchinji (Malawi), 15 to 20 thousand small traders cross the border at Chirundu and 12 to 13 thousand small traders cross at Livingstone/Victoria Falls (Zimbabwe) every month (Njiwa et al. 2011²¹, Njiwa 2012)²². According to information gathered by the Famine Early Warning Systems Network (FEWSNET), an analysis based on recorded informal trade flows for Zambia shows that informal exports and imports of beans and rice are considerable. However, formal exports of maize are greater than informal exports, even when there are export restrictions. Informal exports of beans, maize and rice from Zambia to neighbouring countries add up to thousands tons every year. Between April and September 2011, recorded informal trade in maize, rice and beans amounted to some 18,277 MT, 385 MT and 1302 MT respectively and the direction of informal maize trade remained unchanged with the main exporters in the region being Malawi, Mozambique and Zambia. The DRC is the main destination for informal food exports from Zambia, followed by Zimbabwe and Malawi²³.

²¹ Njiwa, D., Nthambi, T., and J. Chirwa (2011). Reconnaissance Survey Report of Informal Cross-Border Trade at STR implementing Borders of Zambia, Malawi and Zimbabwe. Unpublished report prepared by the CBT/REFORM project team. Lusaka: COMESA Secretariat

²² Njiwa, D. (2012). Informal Cross Border Trade: Challenges and Opportunities-A Case of COMESA and its STR Implementing Borders. Lusaka: COMESA Secretariat.

²³ Informal Cross Border Trade September 2011, FEWSNET Bulletin 32.

5.3 Imports of Meat Products

Zambia imports Mechanically Deboned Meat (mainly pork and chicken) for use as a raw material in the manufacture of sausages, as well as beef offals (beef livers and kidneys) to supplement local production. Imports are sourced from a number of countries in the region, notably Botswana, Namibia and South Africa (Table 6). According to a Zambeef representative, cattle carcasses and/or hindquarters are imported from time to time. Processed meat products are imported mainly by the large retailers such as Pick N Pay, Spar and Shoprite. Over the last three years, by far the largest meat imports were sourced from South Africa.

Table 6: Value of Zambia's meat imports from selected countries in the region (US\$)

	Botswana	Namibia	South Africa
2011	-	10,549	2,043,152
2012	63,886	-	1,683,569
2013	51,303	123,361	1,258,326
2014	8,733	77,818	3,223,005

Source: UN Comtrade database

5.4 SPS Institutional Framework

Zambia has established a National Notification Authority (located in the Ministry of Commerce, Trade and Industry), as well as three separate SPS Enquiry Points for food safety (in the Ministry of Health), while animal health and plant health are under different departments of the Ministry of Agriculture and Livestock. As of 14 July 2015, Zambia had submitted four notifications to the WTO SPS Committee; the last notification was submitted in 2000.²⁴

The following agencies are responsible for SPS controls on imports / exports in Zambia:

Zambia Ministry of Health

The Ministry of Health is responsible for human health and disease control through surveillance, as prescribed in the Health Information Regulations, as well as the control of food coming into Zambia as per the Food and Drugs Act 303 and Public Health Act Cap 295. At the border, a health inspector issues and collects completed forms from travellers as part of the Ministry's surveillance activities.

For imports, the health inspector checks whether the consignment is accompanied by a Health Clearance certificate. Section 20(1) of the Food and Drugs Act, Cap 303 prohibits the importation of any product which does not comply with the provisions of this Act. As custodians of the Food and Drugs Act, the Ministry of Health issues health clearance certificates. To ensure compliance with the Food and Drugs regulations, any food article imported into Zambia must have a health clearance certificate before an importation permit can be issued by the Ministry of Agricultural and Livestock. The process of obtaining a Health Clearance certificate, which is valid for six months, takes a minimum of 3 days and a maximum of 5 days from the day the application is lodged. This may take longer if for example the application is not accompanied by the recommended documentation or if the applicants contact details are not up to date. There is no charge for health certificates for exports and imports; however, a proposal has been made to charge for this service. Approval is awaited for the introduction of the proposed fee.

Port health officials are required to take samples of imports of foodstuffs at all ports of entry and submit these to the Food and Drug Laboratory for chemical analysis including heavy metals and microbiological testing. The consignment may be permitted to proceed to Lusaka. Once results are released the consignment may be destroyed or sent back to the country of origin if it does not comply with Zambian requirements. Because they are highly perishable, meat and fish products are sampled, issued with conditional certificates and withheld pending the release of the results.

²⁴ See: <http://spsims.wto.org/>

Health inspectors may also carry out physical inspections on food imports, check that the consignment is accompanied by the appropriate import permits, take samples for testing of certain types of product (salt and sugar) and verify labelling standards. Fresh fruit and vegetables are also issued with conditional permits and sampled for residues of pesticides, also by the Food and Drug Laboratory in Lusaka.

For transit goods, the health inspector checks the fumigation certificate and health declarations. If satisfied, the health inspector signs and stamps to indicate clearance status. The health declaration must be signed and stamped before the consignment can undergo customs clearance.

The Ministry of Health is responsible for export clearance, particularly for pre-packed foods. Exporters are required to have their products undergo a microbiological and chemical analysis.

Zambia Bureau of Standards (ZABS)

The Zambia Bureau of Standards is the national Standards Body established by an Act of Parliament (Cap 416 of the Laws of Zambia) to formulate national standards. ZABS standards cover a wide variety of products, processes and services including, for instance, food hygiene, as well as specifications for bottled drinking water, animal feed, vehicle number plates, etc. ZABS develops standards for meat products in collaboration with the Zambian Department of Veterinary Services. ZABS also conducts quality control and calibrates measuring instruments (metrology). Inspection of imports by ZABS is limited to products that are covered by compulsory standards. Not all imports are subject to inspection. Locally manufactured products that fall under compulsory standards that may affect public health, public safety and the environment are inspected under the Domestic Quality Monitoring Scheme. Under this scheme establishments and factories are inspected quarterly and samples drawn for testing to ensure fair and equal treatment for both local and imported goods. Compulsory standards are enforced through the inspection of imported goods, within the framework of the Import Quality Monitoring Scheme. This scheme was introduced in April 2003 under Statutory Instrument No. 41/2003; due to limitations with regard to testing capacity it is used mainly to inspect selected imports (e.g. bottled water, fertilizers, fruit-flavoured drinks, hair oils, pure glycerines, cattle, pig and poultry feeds).

The scheme's effectiveness in controlling the quality and safety of imports depends on good coordination and communication among all concerned government / regulatory agencies. For imports, Zambia requires proof of compliance with compulsory standards for 50 different categories of product, including animal feeds, maize meal, wheat flour, vegetable oil and all varieties of fertilizer. Importers are advised to send a pre-shipment sample for testing at least two weeks before the expected arrival at the Zambian border. The ZABS border office processes documents at the border and may carry out physical inspections prior to clearance. According to an official of ZABS, the introduction of the new clearance system on ASYCUDA will not take away the need for the presence of ZABS officers at the borders but will only provide for flagging of specific entries that require ZABS immediate attention or at a later stage. Zambia has not entered into any mutual recognition agreements with any other countries. Exports do not have to be accompanied by quality certificates and are not subject to inspections.

Zambia Ministry of Agriculture and Livestock:

The Ministry of Agriculture and Livestock (MAL) is organised into a number of departments, which are responsible for issuing trade permits.

The Department of Agri-Business and Marketing (ABM)

The Department of ABM is responsible for issuing import/export permits for plants and plant products. These documents stipulate what other documents are required, such as phytosanitary certificates or plant import permits. This department has officials in some selected border ports.

Zambia Agriculture Research Institute (ZARI)

ZARI, through the Plant Quarantine and Phytosanitary Service (PQPS), the National Plant Protection Organization (NPPO), is responsible for issuing phytosanitary certificates, Plant Import Permits (PIP) and non-GMO certificates. A phytosanitary certificate costs K15.50 Zambian

Kwachas, PIP at K 5.00 while the GMO certificate has no fee.²⁵ These permits are issued and authorized by Plant Health Inspectors (PHIs). Zambia does not produce GMO products. The PHIs are located at various border ports that have substantial trade in plants and plant products. At border ports where there are no PHIs, the Customs Official take charge of some responsibilities such as documentation check. When technical issues arise, the Customs Officials contact the nearest MAL office, and subsequently PQPS.

The Seed Control and Certification Institute (SCCI)

The SCCI is one of the departments under MAL. SCCI is a seed certification authority which enforces the Plant Variety and Seeds Act (CAP 236) of the laws of Zambia. The Act provides for regulation and control through variety testing and release; production and marketing of seed; import and export of seed; seed quality control, and coordination of the seed industry. The SCCI does not have a physical presence at the border though SCCI controls the seeds that enter Zambia through registration.

The Department of Veterinary Services

The mandate of the Department is described on the Ministry website as being to "regulate the import and export of livestock, livestock products and by-products using the World Organisation for Animal Health (OIE) risk analysis and management principles and methodologies". This is part of a "sustainable and cost effective" national strategy to protect the country from Diseases of National Economic Importance (DNEIs) and Transboundary Animal Diseases (TADS).

Zambeef, the largest agribusiness in Zambia, is a major producer, processor and distributor of beef, chicken, eggs, milk and dairy products. The representative of Zambeef cited delays in the allocation of movement permits, import permits and laboratory results as a major impediment to trade in animal products. Zambeef's representative also identified problems with abattoir inspections due to apparent misunderstandings about the respective roles of the Ministry of Agriculture and Livestock and the Ministry of Health, even though national legislation is clear on the responsibility for meat inspection. Procedures regarding import conditions are another problem faced by Zambeef. This suggests that there is a need to clarify roles in these areas.²⁶

Zambia Environmental Management Agency

The role of the Zambia Environmental Management Agency is to safeguard human health and the environment through effective environmental management. Agribusiness firms, for example, must register with the agency any kind of fertilizer, agrichemical and / or seed that they plan to use, at a cost of \$3.2 per product per annum. ZEMA does not have a role in SPS controls at the border.

5.5 Transparency

In interviews with the private sector and the competent authorities very differing views were expressed. In particular the veterinary authority held the view that information on SPS requirements was both accurate and readily available from the offices of the veterinary department as and when required. A major importer of beef strongly felt that information was not readily available and should be made easily accessible on a government website to avoid the problem of inconsistencies in the information they received on SPS issues.

According to the private sector information on fees for services and waiting times was not available from any other source except from officials of the various SPS agencies.

5.6 Agency Cooperation and Collaboration

Apart from the Customs officials, inspectors from ZABS, ZARI and Veterinary Services are present at the border. Industry involved in imports of beef, indicated that there was no consistency in the manner in which imports were treated at the Chirundu border, through which most of the meat

²⁵ While the GMO certificate is provided at no charge, it nevertheless entails costs for traders who may be required to provide transportation for inspectors to draw samples, which can only be analysed in Lusaka.

²⁶ Issues faced by traders of animal products for domestic and export markets. A Zambeef perspective. J. Simutowe.

imports enter Zambia. Sometimes a physical inspection may be carried out. The controls on beef imported into Zambia from Namibia at Katima Mulilu carried out by the Namibian authorities were more in line with the checks performed for exports to the EU, according to one importer. Based on the author's understanding, this appears to be linked to the Namibian authorities' desire to ensure that whatever meat products are exported from Namibia are always of the highest standard and not the subject of any negative publicity, which could damage the industry's reputation and affect access to the valuable EU market.

A visit to the Chirundu One Stop Border Post (OSBP) was carried out on a day when the scanner was off and there was a huge backlog of trucks south and north bound, waiting to be processed. According to one of the international experts consulted during this research, the normal practice is to scan all consignments that fit through the scanner. No use is made of a risk-based approach or stop checks. One driver claimed to have been at the border for six days. However, the clearing agents and inspectors from ZARI reported that when the scanners are not down, waiting times are reduced substantially because the system allows for the separation of ordinary passengers/travellers and commercial trucks. Also in place is a system that allows trucks carrying goods that are pre-cleared, in-transit and are part of the Customs accredited clients programme to proceed to a fast track lane for rapid processing. However, these pre-cleared trucks are still required to go through the scanner. Northbound traffic only stops once on the Zambian side for processing and southbound traffic stops on the Zimbabwean side of the border. There is scope to review, streamline and harmonize the document requirements on both sides of the border. Traders are still required to complete various documents required by both Zambian and Zimbabwean agencies, which are checked by officials from both countries.

The ZARI inspectors at the border indicated that there was good cooperation among the agencies, however they faced a challenge because although the clearing agents could log on to the ASYCUDA system, ZARI is not yet connected to the ASYCUDA online clearance system and therefore had difficulty getting information on imports and exports that were due to arrive (clearing agents, by contrast, do have access to the system). As a result, ZARI officials are not able to plan properly and depend on the other agencies to inform them. This situation is likely to improve in the future once ZARI is connected to ASYCUDA. Information provided by the World Bank has indicated that the ASYCUDA project in Zambia is following a phased approach whereby agencies will be connected in stages, starting with Customs in Phase 1, followed by 5 priority agencies in Phase 2, and the remaining agencies in a subsequent phase. Both ZARI and the Zambia Bureau of Standards will therefore be connected to ASYCUDA in due course.

ZARI inspectors are responsible for verifying that consignments leaving Zambia are accompanied by an export permit, a phytosanitary certificate (if required by the importing country) and a non-GMO certificate and a fumigation certificate (if required by an importing country). The inspectors indicated that a missing/incorrect document would trigger an inspection. The inspection would involve the collection of a sample and the use of basic equipment available at the border to check the consignment for pests. If the truck is free of quarantine pests it would be released. However, if pests are observed both the trader and the ZARI office at Mount Makulu are informed. The truck is then quarantined and a ZARI approved fumigator must be engaged by the trader. A re-inspection is carried out at a cost of K54 before the consignment is released.

For maize and other grains, while ZARI is the only agency involved in SPS controls, the Department of Agribusiness and Marketing also implements additional controls, albeit not focused on SPS issues. Exports of maize bran to Botswana also require a certificate from the Veterinary Department of Botswana to be cleared for export. The purpose of this certificate is to ensure that no additives (antibiotic, growth promoters) are used in bran, which will subsequently be used to feed animals in Botswana destined for export to Europe.

Finally, ZARI and SCCI have a close working relationship at the border for seed imports. Traders are required to get approval to import seed from SCCI, following which they are then required to get a plant import permit from ZARI.

Fresh Fruit and Vegetables imports are subject to sampling and testing by ZARI for each consignment at a cost of K54. Small traders importing small volumes of fresh fruit and vegetables are not required to pay for this inspection. The introduction of pre-clearance SPS procedures has made it easier to process fresh fruit and vegetable imports.

5.7 Observations

The dissemination of information on SPS requirements in Zambia is the responsibility of several Ministries. In almost all cases importers, exporters, producers and traders have to get in touch with the competent authorities' officials to access information on requirements, fees etc. None of the websites have been updated with the relevant SPS information, apparently due to financial constraints. Although ZARI officials are said to be very helpful, according to the Grain Traders' Association and the Fruit and Vegetable Association, respondents also indicated that the need to go to different offices to process import documents was a costly exercise and a burden for the private sector.

Inspections of both exports and imports are not based on the level of risk associated with the products, nor is there a system of categorizing traders either on the basis of a history of compliance with SPS requirements, a risk assessment or third party certification for HACCP or Good Hygiene Practice, Good Agricultural Practice.

Communication among SPS officials at the border and officials at Headquarters is by mobile phone. There is very little use of ICT to disseminate information or to process import permits and phytosanitary certificates.

5.8 Recommendations

Based on the research work, the following recommendations are proposed for consideration in Zambia:

1. **Empower the national SPS Committee to address and resolve technical SPS issues faced by traders, and increase transparency on SPS requirements.** A national SPS Committee exists in Zambia. To ensure that this Committee deals with the most important SPS matters, the committee should include representatives from authorities responsible for SPS matters as well as producers, importers and exporters of agricultural products. It is recommended that the Committee develop procedures to run its meetings. The main focus of Committee meetings should be on the resolution of technical SPS issues faced by importers and exporters. The SPS Committee should also be the main source of information on new SPS regulations, including measures introduced by trading partners. If possible, the officials responsible for the SPS National Notification Authority and Enquiry Points should function as the Secretariat. In addition the SPS Notification and Enquiry Points' responsibilities could include the publication of changes to SPS requirements and recommendations made by the World Bank's Zambia-WTO TFA Validation and Reform Map draft report.²⁷
2. **Disseminate information on SPS requirements of trading partners to interested private sector stakeholders.** In the short term, authorities responsible for SPS controls should develop and implement a policy publicising the SPS requirements emanating from regional and international trading partners to interested domestic stakeholders at regular intervals (e.g. every month). Ideally, information would be filtered and targeted by sector, for instance grain exporters should receive information on SPS requirements related to grain exports. This function could be performed by the SPS National Notification Authority.
3. **Include all agricultural trade information in the trade portal planned by the Ministry of Commerce, Trade and Industry.** Given resource limitation, priority should be given to ensuring that all agricultural trade information is included in the trade portal, which will be developed by Ministry of Commerce, Trade and Industry, rather than updating the websites of the Ministry of Agriculture and Food Security, Zambia Bureau of Standards, and the Ministry of Health. This recommendation is supported by World Bank work in other countries (including the Lao People's Democratic Republic and Lesotho), where single trade portals have been established.
4. **Develop and implement a risk-based system for all food safety inspections,** which is based on the level of risk associated with products. High risk products should be subjected

²⁷ Zambia-WTO TFA Validation and Reform Map, Draft for discussion, January 2015, World Bank Group.

to more frequent and stringent inspections than low-risk products, according to relevant international standards. As part of this system, thought could be given to categorize traders on the basis of their history of compliance with food safety requirements or third-party certification.

5. **Identify options to further strengthen SPS controls at the Chirundu Border.** The One Stop Border Post (OSBP) at Chirundu should be taken a step further, for instance, by streamlining SPS inspection activities to reduce overlap among the multiple agencies that are still active on both the Zambia and Zimbabwe sides of the border. There is also a need to ensure that SPS authorities involved in controls at the border are fully linked to, and able to benefit from, efforts and IT solutions to improve border management. For instance, facilitating access by relevant SPS authorities to the ASYCUDA online clearance system would improve operations and performance. Behind the border, SPS procedures should be reviewed to ensure that maximum benefit is derived from the introduction of the OSBP. In particular, priority should be given to finding ways to improve implementation of the transparency provisions of the SPS Agreement, in addition to the SPS Annex to the SADC Trade Protocol.
6. **Consider options to delegate document checks to customs:** Consideration could be given to enabling customs officials to carry out preliminary document checks at borders, and to refer specific cases to food safety or plant health inspectors, as required. At some border posts, where plant health inspectors under the Plant Quarantine and Phytosanitary Service (PQPS) are not physically present, customs officials already undertake document checks, on behalf of PQPS, particularly on low-risk products. As part of this arrangement, the PQPS is involved in the orientation programme for new customs officials at the Customs School and provides information on the documents needed to import plants and plant products, and what to look for. This is an interesting practice which could be further explored as a possible option to streamline procedures and enhance efficiency.

6 CONCLUSIONS & RECOMMENDATIONS

This research work was limited to only three countries, and focused primarily on food safety and phytosanitary controls. Therefore in order to draw conclusions on the situation in Sub-Saharan Africa, further research needs to be carried out. Nevertheless, the work did identify a number of issues related to the implementation of SPS control, inspection and approval procedures which merit attention, not least in view of the expected entry into force of the new WTO Trade Facilitation Agreement (TFA), once two-thirds of WTO Members have completed their domestic ratification process. While the new TFA clearly does not diminish the rights and obligations of Members under the SPS Agreement, it adds more specificity to a number of existing provisions in the SPS Agreement, which could be considered as "SPS-plus". For instance, the SPS Agreement regulates fees for control, inspection and approval procedures and requires that such fees should not be higher than the actual cost of the service and equitable for like domestic products and products originating in any other Member. The TFA will also require that Members publish information on such fees and charges, allow an adequate time between the publication of new or amended fees and charges and their entry into force, and periodically review the charges with a view to reducing their number and diversity.

While the research identifies some common challenges and areas for improvement in Malawi, South Africa and Zambia, it also found some examples of good practice in the implementation of SPS measures to facilitate trade. For instance, South Africa publishes fees for all SPS-related services in a tariff book which is available on the Internet. Authorities in South Africa also consult industry associations on possible fee increases in the year prior to their consideration, approval and introduction. Although the SPS Agreement does not require fees to be published online and/or industry to be consulted on costs, the practice of publishing fees – in addition to comprehensive information on particular SPS requirements and procedures for imports and exports – enhances transparency and reduces opportunities for informal costs. As such, this practice should be encouraged elsewhere in the region and beyond.

A number of regional efforts focused on trade facilitation in general (and not necessarily on SPS controls) have been initiated within COMESA and SADC to address some of the challenges that exist, and have produced some promising results. As Box 3 below illustrates, the performance and success of many such initiatives would be enhanced through a more systematic focus on SPS

controls, including how to enhance the linkages and complementarities that exist at the border between SPS and other border controls.

Box 3: Regional approaches to facilitate safe trade

The **COMESA Simplified Trade Regime (STR)** was developed to simplify customs procedures, reduce costs and accelerate trade for small traders carrying goods produced in the COMESA free trade area and worth less than US\$1,000. While this initiative has the potential, many small traders continue to use informal channels or alternative systems, however, the use of the STR is increasing. One of the reasons for this is that many non-customs measures, including a number of SPS-related requirements for permits and certification, are even more burdensome than customs procedures targeted by the STR. Although traders are not required to be members of Cross Border traders association to make use of the STR, those traders who do belong to a relevant Cross-Border Traders Association have access to benefits such as negotiated cargo rates with airlines and bus companies, assistance with the processing of import permits and access through the association on information on where to obtain Phytosanitary certificates.

The **Tripartite NTM Reporting, Monitoring and Eliminating Mechanism** was set up by COMESA, the East African Community (EAC) and SADC, with support from TradeMark South Africa, to enable traders to register complaints about non-tariff barriers to trade on their mobile phones, using a Short Message System (SMS) service. This mechanism is currently managed by Trade Mark East Africa, which is seeking funding to upgrade and continue its operations. Complaints are categorised and publicised online, including the exact date and time at which a complaint has been registered and how long it has taken for the authorities to address the problem. To date, 22 complaints were categorized as related to SPS measures. While the system increases transparency and encourages stakeholders to voice their concerns in public, there is scope to improve and simplify the categorisation of NTBs so it can be more easily and effectively used by traders (the complainants) and to refine the website's problem-solving mechanism. SPS issues, for instance, are often misclassified and therefore under-reported by those who use the website's search engine to obtain statistics on NTBs, thus compromising the overall usefulness of the tool. The second problem concerns the extent to which authorities are able to address issues in a superficial or unsatisfactory manner, classifying them as "resolved" even when equivalent NTBs continue to cause transaction costs.

The **Comprehensive Tripartite Trade and Transport Facilitation Programme** has published draft guidelines on Coordinated Border Management (CBM) in August 2011 (SADC, 2011), which recommends "placing all [border] agencies in one place", "enabling economic operators to make one declaration which will serve the purposes of the various border agencies concerned" and encouraging one-off payments, which would enhance coordination at the border and limit opportunities potential for informal levies and corruption. From a SPS perspective, CBM calls for trade facilitation efforts on several fronts, both within SPS agencies themselves and in cooperation with other agencies, or with a border management authority that holds a mandate to facilitate trade. Although coordinated border management is one of the most effective ways of streamlining border procedures, it is almost certainly a goal to be pursued over the long term, as an ongoing process involving increased dialogue and trust between regulatory bodies and consistent fine-tuning of border practices.

Trade Information Desks were launched, with COMESA support, to help small traders implement the STR and other trade procedures at border posts in Zambia, Malawi and Zimbabwe, and to act as a liaison between the private sector and the border authorities. In general, TID officers have established good rapport with border authorities and have been entrusted with processing STR transactions, managing certificate books, filling out forms and, in some cases, assisting traders to obtain SPS certificates and permits. As COMESA's financial support for TIDs has declined, the operation of TIDs has encountered challenges. The issue of sustainability has been dealt with on an ad hoc basis, with some countries like Rwanda committing to public funding of TIDs at all border posts (Nijwa, 2012), whilst others have allowed traders themselves to provide the service in return for a fee (e.g. \$0.20 per transaction at the Malaba TID on the border between Kenya and Uganda). Even without publicly funded wages for officers, some desks have been considered such a success that the authorities have entrusted them with data entry into Automated Customs Data Systems (ASYCUDA), which also generates revenue (\$0.40 per transaction at Malaba). Although they originated as a regional effort, Trade Information Desks could be encouraged at the national level to assist domestic traders in complying with border

procedures on a more general level, including SPS controls behind and at the border.

The **SADC and COMESA harmonized system for seed variety release** stipulates that any variety of seed registered in two Member State can be freely traded through the region without the need for further registration. The SADC seed system was developed over more than 15 years, with extensive input from member states, leading to the release of full details of the system in 2008 and the signing of a Memorandum of Understanding by Agriculture Ministers in 2013. The rules of the regional seed system have also been adopted by COMESA. As Africa's leading seed exporter, Zambia stands to benefit the most from harmonized rules in this sector but has yet to amend its national seed legislation to comply with the system. Domestic legislative reform has proved to be one of the biggest challenges to effective implementation of the harmonised system in recent years, so it is all the more important for Zambia to take the lead in encouraging partner countries to adopt appropriate legislation and promote regional trade under the harmonized system (World Bank, forthcoming).

The main conclusions of this research work are discussed below, followed by specific recommendations to improve the implementation of SPS measures a way that facilitates safe trade.

Purpose and effectiveness of SPS measures

Considering the purpose and effectiveness of SPS measures in providing the desired level of SPS protection provides opportunities to identify how the establishment of SPS measures could simultaneously facilitate trade and strengthen the protection of human, plant and animal life or health against trade-related risks. In many developing countries, SPS measures represent a large share of the controls faced by formal traders both behind and at the border. Such SPS measures may for instance include numerous documentary requirements (e.g. import/export permits, phytosanitary certificates, fumigation certificates, quality standards certificates, non-GMO certificates, certificates of origin, etc.), as well as inspections and tests to ensure that goods conform to the specifications in the relevant documents. While many of the aforementioned requirements may be justified as SPS measures to protect human, animal and plant health, others may not be.

The research identified substantial opportunities in all three countries to strengthen the implementation and effectiveness of SPS measures through the development and implementation of a risk-based approach to SPS-related border inspections. Inspections are but one of the tools used in the management of SPS risks and should be implemented in a way that minimizes unjustified delays and costs for traders. The use of risk management techniques in the planning of SPS inspections can help to reduce and/or restructure inspections, while maintaining an equivalent level of protection for the domestic population. International organizations and standard-setting bodies have developed international standards, as well as various manuals and guides²⁸ to strengthen the implementation of SPS inspections, and Southern African countries are encouraged to make full use of these tools. South Africa is implementing a risk-based approach to SPS inspections, which provides some useful experiences and lessons in this regard. In South Africa, there may be scope to further enhance the risk-based approach in food safety inspection (and more effectively target limited public resources) through the inclusion of an authorized trader scheme, which could consider entities with third-party certification with schemes such GlobalGAP or BRC, as less risky when compared with new entrants into the market. This approach is in line with developments and trends in Europe and elsewhere to develop and implement co-regulatory models in the food safety area.²⁹

One of the main ways to facilitate trade is by encouraging the use of the international standards developed by Codex, the IPPC and OIE, the three international standard-setting bodies referenced in the SPS Agreement. While some of the Regional Economic Communities in Africa – including SADC and EAC – have developed their own regional standards, it is important to ensure that any new regional standards do not become a barrier to trade, for instance by setting the bar higher

²⁸ See, for example, Codex Food Import and Export Inspection and Certification Systems, 3rd Edition (<http://www.fao.org/docrep/010/a1391e/a1391e00.htm>).

²⁹ See chapter 3.5, "Co-regulatory approaches in food safety" in STDF/IDB. April 2012. Public-Private Partnerships to Enhance SPS Capacity. Available at: <http://www.standardsfacility.org/public-private-partnerships>

than international (e.g. Codex) standards or by mixing up voluntary quality issues with SPS requirements.

SPS authorities in the region should participate actively in the standard-setting processes under Codex, IPPC and OIE to ensure that the standards developed meet their needs. They should also consider opportunities to make more use of specific guidance of relevance to trade facilitation. For instance, these include the IPPC technical resources on transit goods, entitled "Phytosanitary Issues of Consignments in Transit: A Guide for National Plant Protection Organizations" (2014b) and the relevant chapters on transit procedures in the OIE Terrestrial and Aquatic Animal Health Codes (2014b).

Transparency and governance

SPS procedures are documented in government regulations, however, this information is not easily accessible to traders. Traders in all three countries indicated that information on SPS procedures, and other information such as fees and waiting times, was not easy to find. Invariably, traders are reliant on the relevant industry associations and personal contact with government officials for information including information on the fees to be paid for each service. While government authorities in South Africa publish information on the Internet, some traders were not aware that this information is available on the internet, even if most conceded that the fees were low.

All three countries could benefit greatly from the use of ITC Trade Intelligence Tools, especially the Market Access Map,³⁰ which contains a wealth of information on national regulations related to SPS and TBT for import and export. This free online database offers an additional way for interested stakeholders (including the private sector) to find out about SPS regulations (in their own countries and in their trading partners) that affect their import/export trade. Malawi is already covered by the ITC's Market Access Map and should be encouraged to keep this information updated, and to inform interested domestic stakeholders about the existence of this database.

Challenges related to governance in the implementation of SPS measures are closely linked to SPS transparency. Relatively simple efforts to improve transparency would therefore create opportunities to improve governance. In South Africa, traders have online access to application forms for SPS measures. The government in South Africa publishes detailed information on SPS regulations, fees and waiting times. This is a good practice (even if in some cases some potential traders have difficulties to find this information) which should be encouraged elsewhere. While officials in Zambia and Malawi reported that traders were aware of the time taken to process documents and clear goods, since this information has not been openly published, this cannot be assumed. The practice in South Africa of enabling payments to be made directly into a DAFF bank account – and issuing receipts – means that no officials are required to handle cash payments. Automation of the system of applying for permits, phytosanitary certificates and laboratory tests is an additional improvement that South Africa should consider in the short to medium term.

While mechanisms exist to encourage and facilitate dialogue and coordination among SPS authorities and with the private sector in each of the countries considered in this research, there are considerable opportunities to strengthen and improve the outcomes of such dialogue and coordination. The experiences of South Africa are relevant here and provide several interesting experiences, which could be considered and replicated to enhance public-private communication in other countries.

Efficiency in the implementation of SPS measures

This research identified opportunities to improve the efficiency of how SPS measures are implemented in practice based on the resources (e.g. time, personnel, fuel, finance, etc.) needed by the public and/or private sector to enforce and/or comply with measures. In some cases, relatively simple changes would provide opportunities to reduce the time and costs involved, without lowering the desired level of SPS protection.

Some attempts have been made in all three countries to decentralize some of the processes involved in implementing SPS measures. This is welcome, however, because of the size of the three countries, further efforts would be useful since many traders, especially in rural areas, are

³⁰ <http://www.macmap.org/>

still required to travel large distances in order to comply with the requirements adding to the costs. In both Malawi and Zambia, travel within the city to offices which are large distances apart is both time consuming and expensive. In some cases, it was reported that due to scarce resources, traders have to make provision for transport or fuel to enable inspectors to carry out inspections. This further highlights the need to give more emphasis to ensuring that inspections are risk based, as far as possible, so that scarce resources are used where they are needed the most.

There is definitely room for simplifying the procedures related to SPS-related documentation needed for trade. Simplification of the procedures is likely to entice a greater share of small-scale traders to formal borders, which would have additional benefits. As long as official border posts remain more of hindrance than a help to trade, it is likely that many informal traders will continue to take advantage of the porous land borders between sparsely populated and de-centralized territories, especially when small-scale trade in food products remains crucial to their survival. In the context of Southern Africa, moreover, strong arguments have been made in favour of legitimizing informal cross-border trade, on the grounds that it increases regional food security and creates sustainable economic benefits for small traders (AfDB, 2012). In some cases, therefore, it might prove more effective to reallocate resources towards SPS capacity-building for small-scale traders and towards the reduction of burdensome border procedures, in order to entice traders towards official border posts, where their goods are submitted to regulatory oversight. Seen from this angle, trade facilitation could become a way of increasing the effectiveness of SPS measures.

Such an outcome would, of course, require significant changes in prevailing attitudes towards informal traders as well as reform of current SPS legislation in many countries, which outlaws or discourages their activities. It would also be necessary to address the numerous other logistical challenges that lie outside the control of SPS agencies, such as border congestion, inadequate infrastructure and customs procedures.

Simplification of SPS-related procedures would also, in some cases, reduce the need to rely on clearing agents or customs brokers. In some cases, to circumvent the need to travel from one office to another to get authorisations and import permits, traders make use of such brokers. For example, the Fruit and Vegetable Association of Zambia use a specific clearing agent based in South Africa to import product from the Johannesburg Market. Clearing agents have a role to play in that they can free up valuable time and resources for those traders not wishing to employ full time personnel to carry out these functions, however, the system should be simplified in all three countries so that even small traders can process their own documents and the use of clearing agents should be a matter of choice.

The research identified cases where the implementation of SPS measures is hindered by overlap and fragmentation of the SPS control system, as well as inadequate coordination between different SPS authorities and with other border authorities. In practice, this often results in overlapping documentary requirements linked to SPS controls. In some cases, the reliance of some agencies, for part of their operating budget, on revenues from fees linked to SPS controls contributes to this situation. Communication among competent authority personnel needs to be encouraged to address these issues.

During interviews with officials in government departments responsible for food safety, animal health and plant health matters, it became clear that some officials were not aware of the roles and responsibilities of other agencies implementing SPS controls in their country. Interagency communication among food safety, animal health and plant health officials at the country level needs attention. One option could be to encourage interagency collaboration at borders. The intention to set up Border Management Agencies in Malawi, South Africa and Zambia may help to enhance national-level interagency coordination. Judging by the situation at the Chirundu border, between Zambia and Zimbabwe, it is important to ensure that there is also dialogue and collaboration between SPS authorities working on different sides of border points.

Follow-up work to address the conclusions and recommendations of this research work should be based on a clear prioritization of needs and appropriate sequencing of reforms. Where they have not already done so, countries are encouraged to apply the capacity evaluation tools developed by FAO, OIE and the IPPC to assess their capacity needs in the area of food safety, animal and plant

health, and identify capacity building priorities.³¹ Given resource limitations, authorities are encouraged to identify and prioritize the more "simple" ("quick win") solutions for immediate attention. They are encouraged to actively consult and engage the private sector as part of the process of identifying possible solutions to facilitate safe trade.

The World Bank's hierarchy of trade-related SPS management functions also provides guidance on where to start.³² It recommends, for instance, that countries first ensure that the public and private sector are aware of the importance of effective SPS controls to export competitiveness and that export-oriented supply chains are able to apply established risk and quality management practices, before seeking to review SPS legislation and institutional mandates, implement more technically-advanced risk management functions or engage in SPS diplomacy.

In the short term, it may be advisable to focus efforts (e.g. to improve transparency or streamline SPS procedures) on particular value chains of importance to trade or small and medium sized businesses. Both Malawi and Zambia have already used the STDF framework to prioritize SPS investments needed for market access based on a multi criteria decision analysis approach (SPS MAP), and this work could be used to help prioritize particular SPS investments that are a priority for trade.

Recommendations

1. WTO Members are encouraged to periodically take stock of their various SPS measures to protect food safety, animal and/or plant life or health (as well as the procedures to implement them) to avoid unnecessarily trade-restrictive regulatory outcomes, wherever possible. Such a self-assessment of SPS measures should examine the extent to which measures are transparent and/or open to misuse. Annex 2 provides a checklist to help regulators assess whether their SPS measures are consistent with the SPS Agreement.
2. Governments need to review the specific SPS roles and mandates of different authorities involved in SPS controls – as well as the roles of related authorities working at borders – in order to identify ways to reduce fragmentation and duplication, streamline controls and avoid conflicts of interest, wherever appropriate. This is also important in the context of plans in some countries to set up Border Management Agencies. Although such agencies may help to reduce existing overlaps, if they are not well thought out and implemented, they may also introduce new challenges.
3. The research highlights that much more attention is needed to increase transparency about existing SPS measures, and the relevant procedures to implement them, both to domestic traders and other interested stakeholders, as well as trading partners. South Africa is implementing good practices in this area and its efforts (e.g. to publish application forms, as well as waiting times, etc. online) should be considered and replicated as far as possible in other parts of the region.
4. Strengthening dialogue among SPS authorities, other border authorities and with the private sector would enhance efforts to clarify roles and mandates, and also improve transparency on SPS regulations and what is required to implement them. The good practices in South Africa of public-private consultations regarding SPS measures (including related fees) could be considered and replicated by other countries. In terms of strengthening communication between SPS and other border authorities, countries are advised to make full use of and build on existing mechanisms, including SPS or trade facilitation committees, rather than attempting to set up new committees which may be difficult to sustain. Increasing awareness among SPS officials and other border officials (including customs) about their respective roles and responsibilities, and how to enhance the complementarities and synergies inherent in their tasks, would also be useful. Facilitating a discussion among SPS and customs officials could be a useful first step.
5. While longer-term efforts would be useful to address the weaknesses that exist in risk analysis capacity in the region, much more could be done with existing resources to

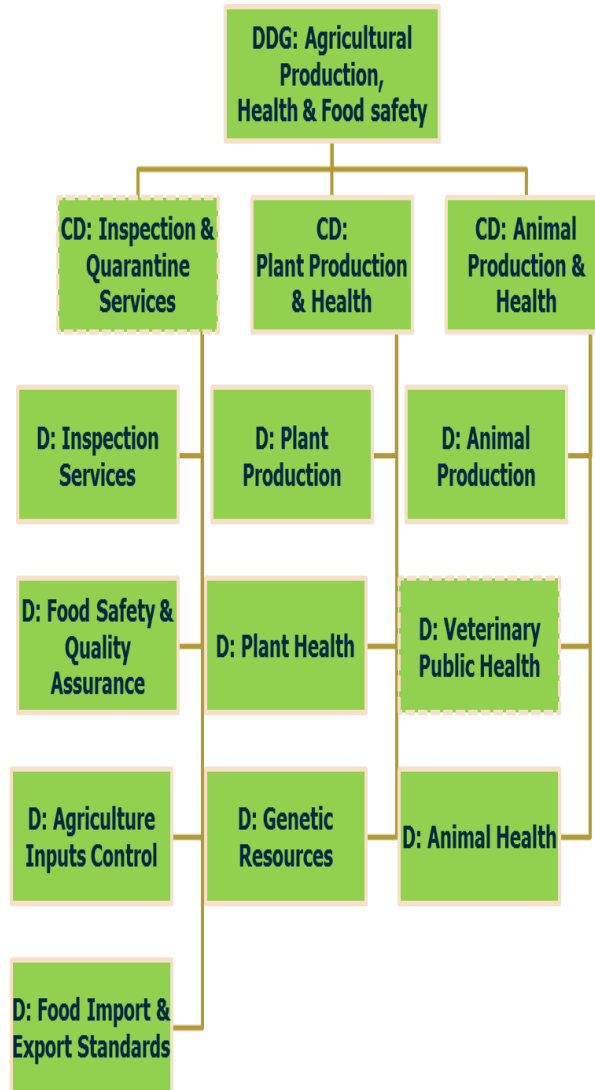
³¹ Malawi, South Africa and Zambia have applied the IPPC's PCE Tool and the OIE PVS Tool. The PVS report for South Africa is available in the public domain.

³² See: World Bank. 2005. Food Safety and Agricultural Health Standards: Challenges and Opportunities for Developing Country Exports. See: http://siteresources.worldbank.org/INTRANETTRADE/Resources/Topics/Standards/standards_challenges_synthesisreport.pdf

implement risk-based controls. The international standard-setting bodies have developed standards and guidelines to support the implementation of risk-based controls (e.g. ISPM 32 on the categorization of commodities according to pest risk) and these should be implemented. In terms of food safety, more rigorous controls are important for high-risk products, while less stringent controls should be implemented for lower risk products, such as some processed goods. In the context of risk-based inspections in food safety, consideration could be given in the medium to long term in all three countries to the development of a policy on authorised trader schemes. Based on the provisions of the SPS Agreement related to non-discrimination and equal treatment of domestic and foreign goods, governments also need to ensure that SPS controls applied to imports are not more onerous than controls applied to domestic products.

6. Given the scale of informal trade in Southern Africa, more attention should be given to identify practical ways to gradually formalise informal trade, including the introduction of some form of SPS oversight. As well as enhancing health protection, this would increase capacity to monitor trade flows and to plan for food shortages. Informal traders are likely to be enticed towards official border posts through the introduction of simplified, more efficient and less costly procedures. To be effective, such efforts should be backed up by political will and a clear signal that smuggling is not tolerated.
7. Last but not least there is an urgent need to address the capacities and resources of authorities involved in the implementation of SPS controls. Protecting countries against the entry of risks related to food safety, animal and plant health is a public good, which requires adequate resources (personnel, infrastructure, financial resources, scientific and technical expertise, etc.). SPS authorities in many developing countries are under-resourced and face huge challenges on an ongoing basis to effectively carry out their mandates. Ensuring adequate resources for SPS authorities is essential to ensure that key activities are undertaken satisfactorily, without delay and without any perceived conflict of interest.

ANNEX 1: ORGANISATIONAL STRUCTURE OF THE AGRICULTURE PRODUCTION, HEALTH AND FOOD SAFETY (APHFS) BRANCH, SOUTH AFRICA



ANNEX 2: ARE MY MEASURES CONSISTENT WITH THE SPS AGREEMENT? A CHECKLIST FOR REGULATORS

1. Does the regulation impose measures more strict to imported products than to national products?
2. Does the regulation have a stronger impact on products imported from certain countries than from others? If so, could this be considered as simple discrimination, or as a response to different levels of risk?
3. Are there other ways to fulfil the objective of this regulation, imposing less restrictions on international trade?
4. Are there exporting countries to which such regulation applies, which may objectively demonstrate that their own system meets the objectives of this regulation? Have we followed the SPS Committee's guidelines on equivalence (G/SPS/19/Rev.3)?
5. Is this regulation more stringent than the international standards of CODEX, IPPC or OIE?
 - If the regulation is not based on an international standard, can its scientific base be doubtful?
 - Is there scientific evidence suggesting that this regulation is not necessary?
6. Is the level of risk accepted by this regulation different from the level of risk accepted by the regulations regarding other products? Have we followed the SPS Committee's guidelines on consistency (G/SPS/15)?
7. If a region(s) of an exporting country were able to demonstrate that they were free of a pest or disease, does this regulation impose that such information be ignored?
8. Is this a precautionary measure? If so,
 - Is the measure temporary?
 - Is relevant scientific evidence insufficient to assess the health risks?
 - Are we actively seeking to obtain additional evidence in order to complete a risk assessment?
9. Can this measure have a significant effect (positive or negative) on trade?
 - Is it different from the relevant international standard?
 - If so, was the draft regulation notified to the WTO secretariat? (G/SPS/7/Rev.3)
 - If notified, were at least 60 days provided for comments by other countries?
 - Were the comments taken into account in the final regulation?
10. Was the regulation published promptly upon its adoption?

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