

Trade Development

Briefing Note

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Sanitary and phytosanitary measures *Enhancing agro-food trade in the Lao PDR*

Key messages

The requirements of the World Trade Organization (WTO) are acting as a key driver of sanitary and phytosanitary (SPS) capacity building efforts in Lao PDR — directly through the accession process and indirectly through the expansion of the country's agro-food trade. Increased levels of imports raise the risk of Lao PDR being exposed to imported animal and plant pests and diseases, or foods that are unsuitable for consumption. Increases in the volume of imported seeds, breeding stock, pesticides, and veterinary drugs also pose heightened risks due to the growing commercialization of agriculture. Lao PDR's main trading partners are progressively implementing the same SPS principles in their own trade and domestic policies with implications for Lao agro-food exports.

A recent study by the World Bank¹ recommends actions that will have Lao PDR not only satisfy its legislative agenda for WTO accession and comply with the principles of the WTO SPS Agreement, but also create a food safety and agricultural health system that provides effective protection against trade-related health hazards, and allow the country to participate more in regional and international trade. This will require the adoption of modern, science-based SPS measures, as well as the more strategic use of limited resources and capacity to manage risks. Similarly lack of information on the prevalence of pests and risks at home, constrains Lao PDR from challenging market access constraints imposed by trading partners.

The WTO SPS Agreement

In order to meet the country's stated objective of acceding to the WTO, the Lao PDR must adjust its laws and policies to comply with the principles of the WTO SPS Agreement. At the same time, Laos PDR's main trading partners and other countries in the region are rapidly upgrading their systems for plant and animal health protection and food safety in accordance with the same WTO SPS principles.

The WTO SPS Agreement allows countries to protect the health of their consumers, crops, and livestock against trade-related health risks, but requires that any protective action is applied in ways that are least disruptive to trade.

The key principles of the Agreement are:

- **Nondiscrimination.** Measures are equally applied to importers as well as domestic producers. Similarly, all trading partners are subject to same requirements.
- **Transparency.** Information on SPS measures is easily accessible. There are set procedures for notification in cases of new or amended measures.
- **Proportionality.** Interventions are proportional to the health risks to be controlled.
- **Equivalence.** There is mutual recognition among trading partners of different measures that achieve the same level of protection.
- **Use of science-based measures.** Measures to protect plant, animal, and human health are based on scientific principles with sufficient scientific evidence. Generally, this requires the assessment of risks involved and the definition of the level of risk that is acceptable.
- **Regionalization.** The principle recognizes the possibility of disease or pest-affected countries having disease or pest-free areas or regions and allowing exports from such disease or pest-free areas or regions.

Countries are encouraged to harmonize with international SPS standards and measures but are allowed to apply stricter requirements as long as these measures are based on scientific justification that includes an assessment of risks.

Methodology

The study examines legal and regulatory measures, border crossing procedures and institutional capacities affecting Lao agro-food exports and imports. It reviews the experiences of the private sector with SPS export and import procedures, and identifies gaps and weaknesses in the implementation of SPS measures.

The report also looks at the SPS requirements of Lao PDR's main trading partners: China, Thailand, and Vietnam. Each importing country has its own requirements based on established practices and perceptions of import-related risks. Requirements evolve with economic development, changing requirements in domestic and international markets, regional harmonization, continuing implementation of international standards, and perceptions of newly emerging SPS risks.

Findings

The World Bank study has seven major findings on how Lao PDR could be better integrated into regional agro-food markets, as follows:

1. Increased SPS capacities are imperative for the successful export of plant products. There are a number of high-impact phytosanitary constraints from importing or potentially importing countries that are acting as a major binding constraints to increased Lao agricultural exports. In particular, China is increasingly strict in applying a system of first-time import permits based on risk assessment, which requires surveillance data and criteria that cannot be met with the present capacities in Lao PDR. Consequently, trade with China is constrained to small crop amounts for border trade under special allowances. Fruit and vegetables, and most likely rice and other potential new crops, cannot be formally exported at the present time.

Although Thailand and Vietnam have similar legal requirements (for new products or first time exporters of processed food to these countries), these are often waived for goods being imported from Lao PDR since the pest situation in Lao PDR is considered to be similar to that of Thailand and Vietnam. However, were plant pest or disease incidents to occur then these requirements could be enforced at short notice. In comparison, the volume of processed food exports is small, and product safety and quality depends mainly on the capacities of exporters. Formal export of livestock products from Lao PDR is difficult because of endemic contagious livestock diseases and formal quarantine requirements.

2. Lao PDR's SPS measures are not yet fully compliant with WTO principles. The decentralized system of the Lao PDR Government places important SPS responsibilities at the provincial level, such as plant and animal quarantine border controls, issuance of phytosanitary and veterinary certificates, conducting related inspections, and collection of fees. However, the existing legal framework leaves much room for provincial governors to adopt their own regulations and operational guidelines. According to WTO principles, there should be one authority that can promulgate trade policies, for example, one National Plant Protection Office in charge of plant quarantine and one veterinary authority. Decentralization of authority in this case lacks transparency and does not promote uniformity of SPS measures in accordance with WTO principles. Overcoming this requires attention from policymakers and changes in the legal and regulatory system, particularly with regard to decentralization policies.

3. More needs to be done for the SPS system to provide adequate protection against potential health hazards in imports, and to protect the health of consumers, crops, and livestock. The controls on international and local border crossings need to be strengthened and unified. However, border controls are, in many cases, not the most important element in health control systems. Effective health control systems should be based on monitoring and surveillance of the prevalence of pests, diseases, and health hazards, providing both the data required by trade partners and information needed for health risk managers.

¹ World Bank (2009) *Lao People's Democratic Republic: Sanitary and Phytosanitary Measures – Enhancing Trade, Food Safety, and Agricultural Health*, Report No. 48802, Sustainable Development Department, East Asia and Pacific Region. Washington, D.C.

4. Reforms to the SPS system could result in significant reductions in the costs of doing business. Several unnecessary SPS requirements are imposed on exporters and importers because the authorities either lack knowledge for proper implementation or need instruments to raise revenues. This affects the business environment; and for imports, it can violate the WTO principles that SPS measures should be science based and proportionate to the health risks.

5. The lack of scientific expertise in Lao PDR constrains the country in defending its legitimate rights under the WTO SPS Agreement. At present Lao PDR lacks information on pests and risks at home and in countries of export destination. It is virtually impossible for the country to ask questions about the scientific legitimacy of measures imposed by its trading partners, such as market access constraints and treatment requirements, and to propose modifications on the basis of equivalence.

6. Lao PDR's relatively weak capacity for SPS risk management not only has potential implications for the Lao PDR domestic situation but also for the food safety, agricultural production, and exports of its neighbors. The entry and establishment of an alien pest in Lao PDR could eventually affect the entire region. Various cooperative arrangements between Greater Mekong Subregion countries are based on the understanding that they share risks and are mutually dependent on each other to effectively control health hazards. Bilateral working groups are identified as effective tools for policy dialogue, setting a joint agenda for cooperation, and identifying priorities for technical assistance.

7. Insufficient funding to operate a viable SPS system is at the core of the problem for SPS capacity building. Although one-time improvements in training, legal reforms, and diagnostic facilities can get temporary help from donor funding or lending from international financial institutions, the recurrent costs fall upon Government resources. Hence, poor funding constrains the absorptive capacity for external support, and the sustainability of capacities created with external support is weak.

Recommendations

Table 1 (below) provides recommendations to solve gaps in the country's SPS capacities. The gaps and recommendations are characterized according to relevant WTO SPS principles.

Conclusions

The present technical, legal, and institutional environment should be strengthened to achieve effective health controls. Stronger capacities of the SPS authorities and national harmonization of operational rules will give trade partners more confidence in the inspection, and health and safety certifications of Lao PDR. Legal and regulatory reform is key and a necessary first step for solving many of the weaknesses in SPS management in Lao PDR. Most of the recommendations in the legal field are being addressed under the Trade Development Facility. However, other work, especially on surveillance and diagnosis, will require significant support from the regular budget and additional grant and lending sources.

Table 1: Gaps and Recommendations in Context of WTO SPS Principles

WTO SPS Principles	Gaps in capacity	Recommendations
Transparency	<ul style="list-style-type: none"> Legal and regulatory framework has gaps and is not sufficiently published. Decentralization allows provincial authorities too much discretionary power. 	<ul style="list-style-type: none"> Additions and amendments in the legal and regulatory framework to clarify institutional roles and responsibilities (especially between national and provincial offices). Pertinent laws and regulations to be published and made available to exporters and importers (such as mandatory fees).
Proportionality	<ul style="list-style-type: none"> Measures not significantly contributing to better human and agricultural health protection and are unnecessary and noncompliant. 	<ul style="list-style-type: none"> Amendments in the legal and regulatory framework to (a) repeal redundant measures, (b) make measures not required by international agreements voluntary, and (c) modify fiscal regulations in such ways that SPS measures are not used for para-fiscal purposes.
Uniform national measures	<ul style="list-style-type: none"> Discretionary powers of provincial authorities result in variance in implementation of SPS measures. 	<ul style="list-style-type: none"> Design and implement a unified national system of laws and regulations for food safety, plant health, animal health and related use of agro-inputs. Develop national inspection protocols. Unify SPS controls at local and international border posts.
Science-based measures	<ul style="list-style-type: none"> Certain measures are not science-based. 	<ul style="list-style-type: none"> Use of risk profiles, in the medium-term. Build capacity on risk management and assessment, and data gathering on hazards from both imports and domestic markets, and establishment or assignment of offices responsible for risk management.
Non discrimination	<ul style="list-style-type: none"> Limited capacity to validate requirements of trading partners. 	<ul style="list-style-type: none"> Capacity building for validating trading partner SPS requirements.
Equivalence	<ul style="list-style-type: none"> Limited capacity to propose equivalent measures. 	<ul style="list-style-type: none"> Capacity building for proposing equivalent measures on import requirements.
Harmonization	<ul style="list-style-type: none"> SPS measures and capacities are not yet adequate to meet needs of trading partners. 	<ul style="list-style-type: none"> Amendments in the legal and regulatory framework to be consistent with international good practices on food safety and agricultural health. Regular bilateral consultations with neighboring countries on plant health, animal health and food safety.



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Information contained in this briefing note reflects the views of the authors, and not necessarily those of the World Bank Group.

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