International Trade Centre

CASE STUDY

Vietnam's Fisheries Exports to the EC

Public - Private Collaboration to Address Non-Tariff Measures

Business and Trade Policy

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Abstract

The case study shows how a set of coordinated actions lead to the valorisation of fishery products and, consequently, positively impact on the export performance in the highly regulated markets. Vietnam's success in exporting to the European Community (EC), was the result of a strategy planned and implemented at both government and business levels, partially funded by international aid programs. A historical and economical overview describes how Vietnam has embarked on a gradual process of transformation from a centrally-planned system into a market-oriented economy with a socialist orientation. It also shows that Vietnam's strategy of increasing its fisheries and agricultural exports faced a number of constraints and deficiencies.

Market access to the EC is granted to selected private operators and is the result of the fulfilment of a number of health and supervisory requirements. The crucial issue in recognizing equivalence is the evaluation of a set of requirements related to the exporting country's organization and capability to control safety both at the administrative and enterprise level. Vietnam's ability to export foodstuffs to developed markets such as the EC was the result of a two-fold strategy:

1) The creation of a legal and regulatory framework, fitting the legal standards required to access the specific market; and

2) Private and public sector involvement in investments in processing, facilities, machineries and marketing skills, which are competiveness-drivers on global markets.

Vietnam upgraded its internal sanitary legislation and food processing in line with international standards. Compliance with World Trade Organisation's agreements and international standards laying down requirements for agro-based products were perceived as the main tool for achieving better market access for Vietnamese commodities. Furthermore, actions were taken with the aim of setting-up a network of authorities and laboratories, which apply internationally-recognized standards in sampling and inspection tests. Finally, the implementation of capacity building activities was a key factor for the successful development of the strategy.

Equivalence and mutual recognition agreements represent tools of trade facilitation to minimize the trade-distortive consequences of product testing and certification procedures that must be undertaken in order to enter third markets. The case study describes how Vietnam has entered into such agreements with the EC. Although many requirements in this field of regulation may be identical to the regulatory framework in place in the EC, it cannot be said that Vietnam's regulation in the field of fisheries as a whole is identical to EC law. However, equivalence of SPS measures does not require duplication or sameness of measures, but merely the acceptance of alternative measures that meet an importing Member's appropriate level of sanitary or phytosanitary protection.

The case study also makes a number of economic considerations and places emphases on the prioritisation of programs in order to identify those products or sectors where a set of interrelated actions should be addressed to facilitate trade.

Preface

The International Trade Centre (ITC) is the joint technical cooperation agency of the United Nations and the World Trade Organization (WTO). ITC supports, *inter alia*, policymakers in developing and transition economies to integrate the business sector into the global economy for export success.

To achieve this, ITC promotes business advocacy for integrating business priorities into national trade policies, and that the needs of business, especially small and medium-sized enterprises (SMEs), are taken into consideration in the negotiation of international trade agreements. Linking the business sector, through their representative trade support institutions, to policy-makers is key to creating a conducive business environment.

While delivering ITC's business advocacy related activities, a need has been felt for a course on 'Trade Policy for Business Managers' in developing countries and economies in transition. They need to be well aware of the evolving international trading system, as shaped by WTO, regional integration, bilateral trade agreements as well as autonomous liberalization, so as to:

- ◊ Position themselves to seize new opportunities and cope with the challenges;
- ◊ Give them the confidence to engage in business advocacy and promote their interests as their government are engaging in international trade negotiations
- ◊ Gain the competence to learn from best practices aiming at exploiting the business opportunities stemming from the evolving international trading system; and
- ◊ Empower them to be a credible partner of their governments in pursuit of reforms of trade policies and regulations for enhancing export competitiveness.

This case study showcases Vietnam's success in overcoming Non-Tariff Measures (NTM) encountered in exports. The project highlights what it takes for all stakeholders to turn the challenges stemming from NTMs into business opportunities. It underlines the importance of public - private sector collaboration for creating an enabling business environment for economic growth. As a result, the competitiveness of Vietnam fisheries' exports was significantly improved.

We are confident that this experience can be replicated in other countries as well with some adaptation to suit the local conditions.

1. Introduction

The purpose of this case study is to show how a set of coordinated actions may lead to the valorisation of agricultural raw and processed food and, consequently, positively impact on the marketability, export performance and, ultimately, the economic growth of any country.

Vietnam's success in exporting to the highly regulated fishery markets of developed countries, such as those of the United States (hereinafter, "US") or the European Community (hereinafter, "EC"), was the result of a strategy planned and implemented at both political and business level, partially funded by international aid programs.

2. The success-story of Vietnam's fisheries export growth

Once Vietnam's leaders and the local industry community realized that the development of quality fishery production was in the interest of the country, they started to work together with the aim of bringing national sectoral standards in line with international norms.

Between 1976 and 1992, the Vietnamese fisheries sector experienced rapidly - declining outputs reflecting a number of adverse conditions. Low skills in aquatic management and exploitation, irregular and low quality supply of raw materials to the processing industry, worn down production facilities and limited knowledge of modern marketing principles were the main causes of such downturn.[1]

A decade later, Vietnamese crustaceans, molluscs, fish fillets, fresh fish, and frozen or canned fisheries products are increasingly supplied to the main Asian markets (i.e., China, South Korea and Japan), as well as to western markets (i.e., the EC and US). The Vietnamese capture and aquaculture production grew from approximately 1 million tons in 1991 to approximately 3 million tons in 2004, a growth of 190%.

2.1. Historical and economical overview

Since 1986, Vietnam has embarked on a gradual process of transformation from a centrally-planned system into a market-oriented economy with a socialist orientation ("*Doi Moi*"). Reforms are being pursued at the institutional and economic level. Legal and regulatory policy frameworks for energy, water, and forestry, as well as for investment and enterprises, were adopted.[2] Vietnam also succeeded in becoming an integral part of international production and distribution chains.[3] Accession to the World

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[1] See "Fisheries Sector Report", Annex 3 to "Evaluation Danish Development Assistance to Vietnam 1993 – 2000", p. 4, available at: http://www.um.dk/Publikationer/Danida/English/Evaluations/Vietnam1993-2000/index.asp.
[2] See "Vietnam: Laying the Foundation for Steady Growth", 2007, IDA AT WORK, World Bank, available at: http://www.worldbank.org/ida/ p. 2.
[3] *Ibid.*, p. 3.

Trade Organization (WTO) in January 2007 deepened the connection between Vietnamese farms and firms and international markets.

The fisheries and aquaculture sectors are significant contributors to the economy of Vietnam. Vietnam has a coastline of 3,260 km and an Exclusive Economic Zone of more than 1 million km[4]. According to statistics, nearly 10% of the population derives their main income from fishery. Vietnam's fisheries sector contributed some 3% to the GDP in 2001[5] and generated 9-10% of the total Vietnamese export revenues.[6] In the early 2000s, fishery products were the third biggest exported commodity after oil and garments.

2.2. Trade in agricultural products

At the beginning of 2000, Vietnam was a country with a strong reputation in exporting coffee (with nearly 1 million tonnes of *robusta* beans a year), pepper (exporting around 50% of the world's market) and fishery. In the decade 1990-2000, the export earnings from the seafood sector increased by some 584%.[7] Differently from sectors such as fruit, vegetables and meat, whose growth was almost entirely driven by domestic demand (as international market access was often hampered by Vietnam's lack of competitiveness - including difficulties in compliance with quality and sanitary and phytosanitary standards of developed markets[8]), the fisheries sector was successful in capturing significant parts of the high-end markets, despite market defence interventions and other trade remedies such as the antidumping measures introduced by the US.[9]

2.3. Domestic Vietnamese constraints

Vietnam's strategy of increasing its fisheries and agricultural exports faced a number of constraints and deficiencies. Some of these were common to other commodities from Vietnam.

The geography and topography of Vietnam makes the country highly vulnerable to natural hazards. Each year, natural disasters such as typhoons, storms, floods or drought have severe effects on people, agriculture, livestock and infrastructures.

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[4] See B. Hersoug, I. Falk-Petersen, Knut Heen, H. Reinertsen, "Report from Fishery Education Mission to Vietnam", 2002, p. 7, available at: www.nfh.uit.no/norad/reports/.
[5] See P. Flewelling and G. Hosch, Vietnam Country Profile, FAO Document "Review of the state of world marine capture fisheries management: Pacific Ocean", Edited by C. De Young, 2007, p. 597, available at http://www.fao.org/docrep/010/a1465e/a1465e00.htm quoting reports published by Dr. L. Nguyen in 2001.
[6] *Ibid*., quoting the Vietnamese Ministry of Finance (MOF), 2001.
[7] *Ibid.* and L. Nguyen, "Responsible management for marine fisheries in Vietnam", Research Institute for Marine Fisheries, MOF, p. 54.
[8] See "Vietnam - Food Safety and Agricultural Health Action Plan", Draft 18 October, 2005, p. ix.
[9] *Ibid*, page 5.

The lack of awareness and control on the marine fishery capture significantly impacted coastal fishery resources and aquatic biodiversity.[10] In addition, deficiencies in management seriously affected the improvement of actions: in 1993 the Vietnamese Government had an insufficient knowledge of the biologic resources available in the marine and aquaculture sectors.[11] This had a negative impact on national disease control as well as on its product quality development plans. Also, the ban on fishing practices having a negative impact on aquatic resources and the environment was hard to enforce.

Moreover, a number of facilities were lacking: the fleet of vessels for the various types of fisheries was insufficient and inefficient, transportation and retailing facilities (i.e., storage, depuration establishments, or "cold chain" facilities, etc.) were underdeveloped, access to credit was difficult, extension services and marketing channels were lacking, and there was low awareness among farmers and processors with respect to hygienic standards, quality tools and chemical monitoring.

All these constraints or shortcomings led to very low added value products, which were not competitive on the international markets. Furthermore, high levels of food-borne pathogens, with poor water quality and deficient production, processing, marketing and retailing technologies, in particular of meat and vegetable products, caused high levels of food-borne diseases.[12] High levels of toxic residues and the exceeding of maximum residue levels for pesticides were common problems. In the early 90s, no information was available from producers on the quantity of antibiotics used in meat and fish production.[13] Specific concerns of the fisheries sector with respect to their products and their marketability were: maximum residue levels, histamine, heavy metals, including mercury, microbiological requirements and parasites.

Costs and constraints driven by non-compliance

Where the exporting country does not meet the appropriate level of protection requested by the importing country, it is not eligible to export. The case of bivalve molluscs from Vietnam in 1997 is a good example: as mentioned above, non compliance with EC standards resulted in a delay in accessing the EC market due to the lack of planning and managing capacity at Governmental level. Where non-compliance with mandatory requirements is found, a number of negative effects ensue on food business operations. A legitimate ban to the importation can be imposed. Additionally, where market access is granted, costs may arise in relation to product testing, whose frequency and methodology strictly depends on the sanitary situation in the exporting country as well as on the established capability of managing safety concerns. In this context, accreditation of laboratories may reduce such costs. Agreements in the field of mutual recognition of conformity assessment procedures may positively impact on costs and competitiveness.[14]

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[10] See "Fisheries Sector Report", Annex 3, p. 4.
[11] *Ibid*.
[12] See "Vietnam - Food Safety and Agricultural Health Action Plan", *supra*, p. ix.
[13] *Ibid*.
[14] On 30 April 2004, the National Fisheries Quality Assurance and Veterinary Directorate of the Vietnam Ministry of Fisheries ("NAFIQAVED") and the Canadian Food Inspection Agency

Where traded foodstuffs are identified as unsafe because of, for example, detection of pesticides exceeding the established maximum residues levels, importing and trading in the EC market is not permitted or it is permitted under stricter conditions, which are time-consuming and expensive to comply with.

An example was the presence of chloramphenicol and nitrofurans detected in shrimps intended for human consumption and imported from Vietnam in 2001. Nitrofurans and chloramphenicol are veterinary medicines (antibiotics) banned from use in food-producing animals in the EC. The EC has established a harmonised minimum required performance reporting limit (MRPL) for the detection of residues of nitrofurans at 1 part per billion (ppb) and chloramphenicol at 0.3 parts per billion[15] (basically a "zero-tolerance"). Being these substances potentially dangerous to human health, the EC Commission requested[16] that each consignment of shrimps originating from Vietnam should be tested to ensure that the products concerned did not present a risk to human health.

A trade ban on shrimps was not imposed. However, the limits of detection (LOD) applied in the EC were much lower than the capability of Vietnamese laboratories at that time (1.5ppb). The incidents caused a big economic loss due to a drop of exports to the EC market. By the end of 2002, chloramphenicol, nitrofuran and ocyterracyline were discovered in 66 fishery shipments from Vietnam. The cost alone for destroying the contaminated products was over 7,000 USD per container.[17] Following guarantees provided by the Vietnamese authorities, and the favourable results of the checks carried-out by the Member States, the protective measures were revoked by means of Commission Decision 2002/770/EC with effect on 6 October 2002.[18]

In 2003, there were again alerts on these antibiotics in shrimps from Vietnam. Six alerts and information notifications for fish products have been published up to date on consignments with a certification date after October 2002. For example, in February 2003, the UK authorities detected 5.5 µg/Kg net weight of nitrofurans in a batch of Royal Tiger King Prawns for the UK retailer Iceland. This was notified to the newly-established EC Rapid Alert System for Food and Feed (RASFF). This and other

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(CFIA) signed an Arrangement Concerning the Inspection and Certification of Aquaculture Fish and Fish Products Exported from Vietnam to Canada for Drug Residues (hereinafter referred to as the "Arrangement"). Under the terms of the Agreement all certifications granted by NAFIQAVED of aquaculture fish and fish products shipped from Vietnam to Canada are recognised automatically by the Canadian Central Competent Authority for residues of Chloramphenicol, Nitrofurans, Malachite Green (MG) and Leucomalachite Green (LMG).

[15] The reporting limit is the lowest calibrated level employed during analysis to detect residues. See: http://www.food.gov.uk/news/newsarchive/2003/jun/nitrofuranschloramphenicol.

[16] Commission Decision No. 2001/669/EC, OJ L 251, 20.9.2001, p. 11–12, and Decision No. 2002/250/EC, OJ L 84, 28.3.2002, p. 75–76.

[17] Fishery export enhancement to Europe – Clean product is the answer. Vietnam's Fisheries – Development and Integration, National Politics Publishing House, Ha Noi October 2003, p. 86.

[18] Commission Decision No. 2002/770/EC, OJ L 265, 3.10.2002, p. 16–17.

[19] Final report of a mission carried out in Vietnam from 19 to 27 November 2003 in order to evaluate the control of residues in live animals and animal products, DG(SANCO)/9048/2003 – MR –Final.

positive tests triggered a new mission to Vietnam by the FVO in November 2003. The result was satisfactory, but the EC will continue monitoring.[19]

Increased costs and delays are associated with: the repetition of tests for different markets; increased transportation costs (if the product is considered not to comply with the importing country's regulatory requirements and must be returned to the exporting country); possible harm to the product or country image; and delays and costs associated with inspection visits which may be undertaken by the authorities in the importing country.

2.3.1. The EC Market and its requirements

The European Community Market constitutes the second largest fishery products market in the world after China and ahead of Japan and the US. 10% of all fish supplied to the world markets are consumed in the EC.[20] At the same time, the EC food market is one the most regulated markets in the world.

Market access is granted to selected private operators established in specific country lists. The access to the EC food market is the result of the fulfilment of a number of health and supervisory requirements designed to ensure that imported products meet standards at least equivalent to those required for production in, and trade between, EC Member States. To be eligible to export to the EC, third countries' official services, control systems and production standards, and animal and public health situations are evaluated in terms of the adequate level of safety management.

Private operators are also assessed as to whether their processes and products (i.e., handling, storage or dispatch, procedures for organoleptic checks, parasites checks, chemical checks, contaminant levels and microbiological analyses, etc.) comply with the relevant legal provisions. The responsibility for these evaluations falls within the domain of the EC Commission's Health & Consumer Protection Directorate-General (DG SANCO).[21]

The crucial issue in recognizing equivalence is the evaluation of a set of requirements related to the exporting country's organization and capability to control safety both at the administrative and enterprise level. The health situation in the exporting country,

[20] See "Market Study on selected Western European Fish and Seafood Markets" on behalf of InWEnt – Capacity Building International, Germany – PDM-Group Bremen 2006, p. 3.

[21] For most commodities, where a request for approval is received by the European Commission, a preliminary questionnaire, relating to the animals/products in question, will be sent to the national authorities. This is designed to assess whether Community requirements can be satisfied and to gather information prior to a possible on-the-spot inspection by the Food and Veterinary Office (FVO). Where the information provided by the national authorities is considered satisfactory, and the FVO's inspection leads to a favourable recommendation, the European Commission will adopt the necessary legislation to grant approval for imports after receiving a favourable opinion of the Standing Committee on the Food Chain and Animal Health (comprising representatives of the Chief Veterinary Officers of the Member States). Approvals may cover all or part of a third country, reflecting the animal and public health situation and the nature of the animals/products for which approval is sought.

the relevant legislation, the organisation of the competent authority and the inspection services, as well as their facilities for effectively verifying compliance, are essential for achieving greater and consistent market access in the EC.

3. Vietnam's Strategy for developing fisheries exports to EC

The ability to export foodstuffs to developed markets such as the EC is the result of a two-fold strategy:

(i) The creation of a legal and regulatory framework fitting the legal standards required to access the specific market; and
(ii) Private and public sector involvement in investments in processing, facilities, machineries and marketing skills, which are competiveness-drivers on global markets.

The domestic legal framework is intended to be recognised as entitling exported foodstuffs to enter the targeted market. The principal aim of such legislation (or reform of) is to fulfil the equivalent level of protection, which the importing country's legislation requires. In the case of an EC-oriented exporting strategy, such requirements affect both the supervisory organisation and private establishments aiming at exporting their products.

The legal framework should provide for the supervisory requirements for managing the food safety. These requirements entail:

- Establishing the competent authorities with appropriate enforcing powers (i.e., command, control and inspections)
- Setting up a nationwide production control system: programmes on plant pests and/or animal diseases monitoring; and
- Trade laws and regulations on products and food processing;

The implementation of the legal requirements from the Government's perspective means:

- Improvement of facilities: laboratories and testing expertise.
- Competent authority's capability in market control, production monitoring and inspections at governmental level;

The business community (i.e., farmers, producers, retailers, exporters, and extension services providers) must comply with the importing country's mandatory product and processing requirements in order to be successful in exporting. In achieving this goal, an effective and well-coordinated partnership between public and private is a must.

Compliance requires time and resources. The acquisition of know-how and its implementation with an economic return in the shortest timeframe is possibly the best way of spending such limited resources. A number of tools may facilitate this process. These include certification under ISO schemes or national and regional schemes.

Compliance with voluntary standards plays a role in ensuring effective and sustainable marketability of the products.

3.1. Upgrading the internal legislation

Without a recognised and up-to-date system to achieve the expected level of safety, the access to third markets is difficult and the possibility of negotiating MRAs or equivalency agreements may be prejudiced. Upgrading domestic legislation is essential to ensure that the exporting country's institutions are strong, reliable and qualified as partners of the importing country's authorities as well as of the domestic industry and trading companies.

In addition, the creation of domestic standards, as well as the use of internationally recognised standards, facilitates the export promotion strategy by:

- Avoiding that the country become the "dumping-ground" for sub-standards products; and

- Upgrade the image and the ultimate marketability of the country's products and processes.

3.1.1 The relevant international framework

Vietnam upgraded the internal sanitary legislation and food processing in line with international standards. Compliance with World Trade Organisation (hereinafter, "WTO") agreements and international standards laying down requirements for agro-based products were perceived as the main tool for achieving better market access for Vietnamese commodities.

The use of internationally recognised standards facilitates harmonization and must be viewed as an element of trade facilitation. Joining standards-setting bodies (for example OIE, CODEX, and IPPC, which are recognised by the WTO) represents the best way to positively participate to the work of such organisations. Vietnam joined the main international organizations and consultative *fora*. Vietnam is currently member of OIE, CODEX, and IPPC, which are the standards-setting bodies expressly referred to in the SPS Agreement and recognized by the WTO.

3.1.2 The WTO and the standards-setting bodies

The relevant rules within the WTO affecting trade in food are provided, in particular, by the Agreement on Sanitary and Phytosanitary Measures (hereinafter, "the SPS Agreement"), which concerns sanitary and phytosanitary measures[22] (hereinafter, "SPS

[22] SPS Agreement defines an SPS measure as a measure which: i) has the subjective intent to protect human, animal or plant life or health; ii) aims to protect against either food-borne risks or against pest or disease related risks; iii) directly or indirectly affects international trade.

measures"). Under this Agreement, WTO Members have the right to adopt appropriate SPS measures that they consider necessary to protect life and health, provided that they are consistent with the provisions of the SPS Agreement. Although WTO Members do have a certain degree of flexibility with regard to SPS measures, the SPS Agreement provides that measures not based on scientific principles are not WTO consistent. WTO Members may base their measures on international standards or on scientific risk assessment. WTO Members also have the right to implement separate measures, which provide appropriate levels of protection for their own population. Since such measures potentially hinder trade, the SPS Agreement encourages international harmonisation of health-related food standards. The Agreement recognizes three international standards-setting bodies: the Codex Alimentarius Commission for food safety,[23] the International Office of the Epizootics (hereinafter "OIE")[24] for animal health, and the Secretariat of the International Plant Protection Convention (hereinafter, "IPPC") for plant protection.[25]

Upgrading the internal legislation and harmonisation can be facilitated by WTO accession procedures as in the case of Vietnam. In January 1995, Vietnam applied for WTO membership and indicated that it would amend or abolish trade and investment related laws that were inconsistent with WTO rules, and amend ordinances of plant and animal protection and quarantine. The amendments were intended to bring greater

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"Measures" (legislative or administrative acts or practice) are considered as being SPS measures where dealing, *inter alia*, with: end product criteria, processes and production methods, testing, inspection, certification and approval procedures, quarantine treatments including those associated with the international transport of animals or plants (or those concerning the materials necessary for their survival during transport), provisions on relevant statistical methods, and sampling procedures and methods of risk assessment and packaging and labelling requirements that are directly related to food safety.

[23] The Codex Alimentarius Commission was created in 1963 by the Food and Agriculture Organisation (hereinafter, "FAO") and the World Health Organisation (hereinafter, "WHO") to develop food standards, guidelines and related texts such as codes of practice under the Joint FAO/WHO Food Standards Programme. The Codex Alimentarius Commission has the objective of protecting the health of the consumers and ensuring fair practices in the food trade by developing food standards and other texts related to food safety and quality (i.e. the Codex Alimentarius). Codex Alimentarius contains general guidance to member countries on the exchange of information between countries on rejection of imported foods. This guideline describes many elements that are essential for a rapid and transparent communication between administrations and laboratories if residues are detected in food.

[24] The International Office of the Epizootics (OIE) is the intergovernmental organisation responsible for improving animal health worldwide. It is recognised as a reference organisation by the World Trade Organization (WTO). The OIE develops normative documents relating to rules that Member Countries can use to protect themselves from the introduction of diseases and pathogens, without setting up unjustified sanitary barriers. The main normative works produced by the OIE are: the Terrestrial Animal Health Code, the Manual of Diagnostic Tests and Vaccines for Terrestrial Animals, the Aquatic Animal Health Code and the Manual of Diagnostic Tests for Aquatic Animals.

[25] The International Plant Protection Convention (IPPC) is an international treaty to secure action to prevent the spread and introduction of pests of plants and plant products, and to promote appropriate measures for their control. It is governed by the Commission on Phytosanitary Measures (CPM) which adopts International Standards for Phytosanitary Measures (ISPMs).

harmonization with the standards of Vietnam's trading partners and affected not only cross-border trade in food (as well as in other products), but also domestic food markets.[26]

Vietnam also joined ASEAN/AFTA[27] in 1995, the Asia-Europe Meeting (ASEM)[28] in 1996, and the Asia Pacific Economic Cooperation (APEC) [29] forum in 1998. Membership in these organisations gives Vietnam means to contribute to the elaboration of standards which potentially affect its trading competiveness.

3.1.3 National Legislation and Regulations

The responsibility for national organisation vested with the Ministry of Fisheries and Aquatic Resources[30] (hereinafter, "MoFI"). They took the following steps:

- Setting up a legal framework of provisions allowing a satisfactory supervision on the sectors concerned;
- Setting up a transparent and clear chain of command within MoFI with special regards to risk control and safety management activities;
- Organisation and formulation of the control plans over:
    - Farming, processing and retailing activities (general surveillance);
    - Procedures on approval and inspection of the establishments;
    - Procedures on listing areas of production of bivalve molluscs; and
    - Specific guidelines and control plans with special regard to:
        - Control of the distribution and use of veterinary drugs and medicated feeding stuffs;
        - Chemical, microbiological parameters; and
        - Parasite control and biotoxins.

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[26] See "Vietnam - Food Safety and Agricultural Health Action Plan", Draft October 18, 2005, p. 24. Proactive participation in Codex, IPPC and OIE activities and the adoption of international standards for SPS regulations requested a general re-organization of the Ministry of Agriculture and Rural Development as the national enquiry point and notification authority on SPS issues. In 2004, Vietnam dropped an earlier request for a phased-in implementation of the Sanitary and Phytosanitary (SPS) Agreement and pledged to comply with it from the date of WTO accession.

[27] The Association of Southeast Asian Nations (ASEAN) was established on 8 August 1967 in Bangkok by the five original Member Countries, namely, Indonesia, Malaysia, Philippines, Singapore, and Thailand. Brunei Darussalam joined in 1984, Vietnam in 1995, Lao PDR and Myanmar in 1997, and Cambodia in 1999.

[28] The Asia-Europe Meeting (ASEM) is a multilateral channel for communication between Asia and Europe, strengthening interaction and mutual understanding between the two regions through dialogue.

[29] The Asia-Pacific Economic Cooperation.

[30] The Ministry of Fisheries and Aquatic Resources was the main Government body responsible for protecting and developing fishery resources. In 2007, the Ministry of Agriculture and Rural Development absorbed MoFI. The new unified Ministry (MARD) is currently responsible for defining (i) total allowable catch and fishing capacity, (ii) protection measures relating to the marine environment and living resources; and (iii) zoning, monitoring and research.

- An integrated agricultural health safeguarding system aiming at providing an integral seamless protection system for the protection from alien pests and diseases.

3.1.4 Improvement of facilities: laboratories and testing expertise

Actions were taken with the aim of setting-up a network of authorities and laboratories, which apply internationally recognized standards in sampling and granting tests. Risk analysis procedures were perfected through training exercises conducted both at administrative and private sector level.

3.1.5 Competent authority's capability enhanced in market control, production monitoring and inspections at governmental level.

The implementation of capacity building activities is a key factor for the successful development of the strategy. Typically, capacity-building activities include:

- Creation and constant upgrading of an appropriate institutional, legal and policy framework that enables the relevant players to maximise their capacity;
- Enhancing human resource development; and
- Elaboration and development of management structures.

This was achieved with both Vietnamese private/governmental efforts and international technical and financial support. The central component of the capacity building support programme, through cooperation with the Danish assistance programs, was the strengthening of the Fisheries Administration.[31] In this context, actions were taken in order to:

- Enhance the National Organisation to manage fisheries safety and quality; and
- Upgrade the private sector.

The Danish assistance programme

Within the fishery sector, the Danish International Development Agency (Danida) has been a key donor in Vietnam since 1993 and it is still considered the major foreign partner of the Vietnamese Ministry of Agriculture and Rural Development (MARD). Danida is expected to continue to be the largest bilateral donor in the sector in the years to come. In the period 1995 – 2010 Danida spent (and is spending) around 100 million USD.

The first main activity was the support to the formulation of a Master Plan for the sector, followed by two projects: Assessment of the Living Marine Resources in Vietnam (ALMRV I) and Seafood Export and Quality Improvement Project (SEAQIP I). The second phases of these projects were eventually incorporated as components into

[31] See "Fisheries Sector Report", Annex 3, *supra*, p. 15.

the first Fisheries Sector Programme Support (FSPS I), which commenced in January 2000. The FSPS was planned to run for a five-year period, but it has been extended by one year to expire in December 2005. The follow-up programme, FSPS II, runs over a period of five years from January 2006 to December 2010. The total contribution of Danida for the FSPS II is estimated at 245.7 million DKK (around 43.10 million USD). The Government of Vietnam supports FSPS II by allocating 'appropriate' counterpart funds for implementation; however, there are no precise figures as to how much the Government is contributing.

What has been done in detail by Danida?

The Fisheries Sector Master Plan (FSMP) was designed to modernise the sector. It included support to the preparation of the national five-year plan 1996-2000, and support to the preparation of policies, strategies and an action plan. The FSMP had a focus on the transfer of planning methodology through the participation of the Vietnamese counterparts. 40-50 villagers were trained in how to plan and establish ponds. Also 75 people received training in shrimp farm management techniques. Furthermore, farmer groups with five to six participants per hectare have been established. A land survey to identify and assess suitability for brackish water aquaculture has been carried-out and pilot projects within pond scheme design and management have been executed at communal level. Finally, a micro-credit management agreement with the Agricultural Bank of Vietnam had been agreed but not yet implemented.

The aim of the Assessment of Living Marine Resources (ALMR) project was to generate basic information on marine resources and their exploitation.

The Seafood Export and Quality Improvement (SEAQIP, 1995-1999) project broadened the industry perspective and placed SEAQUIP as a component of the FSPS. The objective was to modernise the fish processing industry and bring up the quality standards to the European Community requirements. Necessary "institutional infrastructures", including the Vietnam Association for Seafood Exporters and

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[32] Level A laboratories (Sentinel labs) are designed to perform initial tests. Level B and C laboratories (Reference labs) can confirm or refute initial preliminary test results. Level D laboratories (national labs) are the most sophisticated.

[33] As to the sustainability and quality of these laboratories a FVO mission report of 2007 states the following: Some new parameters (including E. Coli MPN/100g) have been registered by NAFIQAVED laboratories for accreditation. With EC support, in November 2007, NAFIQAVED has organized, in coordination with APRIS II, the Workshop on ASEAN Reference Laboratories (ARL) for fishery products. At the workshop, one NAFIQAVED laboratory has been appointed as ARL for toxic phytoplankton and biotoxin. In 2008, NAFIQAVED laboratories have planed to take part in international proficiency tests for some microbiological parameters (including Salmonella spp., and E. Coli), and organize internal proficiency tests for Histamine, veterinary drugs (tetracycline compounds, MG/MLG) and others biotoxin parameters (ASP, PSP and lipophilic toxins).

[34] USD 1 = Approximately 5.70 DKK (Danish Krone(r).

[35] Extension activities should improve the understanding of the government's policies and strategies, but also extension must originate from the farmers' needs and be a two way communication channel.

Producers (VASEP) and the National Fisheries Inspection and Quality Assurance Centre (NAFIQACEN), were established and operational guidelines for the industry were prepared. Direct assistance to selected industries demonstrated the various quality assurance principles and systems and introduced a professional association and consulting service.

More in detail, the following outputs were delivered:

- Technical assistance for the establishment of a Seafood Exporters' Association aimed at offering marketing information, advice on legislation and training programmes. The Association VASEP was established and staffed in June 1998. A marketing information service and training programmes were established;
- Consultancy services were provided for increased market and product differentiation in seafood marketing. Six new product/market combinations were achieved by mid 1997;
- The National Fishery Inspection and Quality Assurance Centre (NAFIQACEN) laboratories were established or upgraded: four level B laboratories in Hai Phong, Da Nang, Nha Trang, Minh Fai and one level A laboratory in Ho Chi Minh City.[32] Equipment was installed and the staff was trained. The cost for establishing and equipping one microbiologic laboratory was about DKK 60,000 (USD 10,500).[33]
- NAFIQACEN is performing as an internationally recognised quality inspection institution. Inspection reports were prepared regularly;
- Guidelines and regulations for handling, storage landing, transport and processing of marine products were elaborated and implemented and the legislative framework for seafood handling and processing was completed;
- Consulting services were provided for the upgrading of seafood processing factories and implementation of good manufacturing practices. 27 seafood processing factories were upgraded;
- Consultancy services were provided for management upgrading of seafood companies. Assistance was provided for the preparation of management development plans for 12 companies. Good manufacturing practices were implemented and business development plans were drafted;
- Two proposals were elaborated for improved landing facilities aimed at reduction of post-harvest losses and improvements in the quality of raw materials in connection with small scale fishing operations;
- Proposals were prepared for marketing, handling and transport of live and iced seafood to high income, neighbouring countries. Customers were identified in Japan, Hong Kong, China, South Korea and Taiwan. Guidelines were prepared for handling and transport of live fish by air and by boat to these markets; and

SEAQUIP II provided the following:

- VASEP was functioning as a service centre for members in terms of training, information and advice concerning export marketing, quality assurance, management and plant upgrading. VASEP was financially

self-sustaining. Its income covered all expenses related to services to members;
- Wastewater treatment and occupational safety regulations were being observed in a number of plants. Factories were supported in establishing waste water treatment;
- NAFIQACEN was carrying out inspections of all seafood processing plants in accordance with internationally recognised inspection standards. A number of plants were inspected on a regular basis. NAFIQACEN was being recognised internationally as the competent national inspection body for fish products and had sufficient resources to maintain the number of inspectors required;
- A continuous process of training of trainers from each plant regarding quality assurance was established. Each plant had a qualified quality assurance trainer in place; and
- Quality standards were being monitored from catch/culture to factory.

The FSPS project was partly prepared through the above interventions. It was approved in April 1999. It was a comprehensive package with one common development objective and five components. Outputs were achieved through pilot schemes executed in five provinces selected on the basis of poverty and technical criteria. Implementation of the first component – STOFA (Strengthening of fisheries administration) – began in February 2000 and implementation of the last component – Support to Industry Restructuring and Enterprise Development (SIRED) – began in May 2000. FSPS I comprised the following five components:

- Strengthening of fisheries administration (STOFA);
- Support to freshwater aquaculture (SUFA);
- Support to brackish water and marine aquaculture (SUMA);
- Seafood export and quality improvement programme (SEAQIP II); and
- Support to industry restructuring and enterprise development (SIRED).

The Danida FSPS II 2006-2010 comprises four components:

- Strengthening of the fisheries administration;
- Strengthening of capture fisheries management;
- Sustainable development of aquaculture; and
- Strengthening capacities of post-harvest and marketing.

The component “Sustainable development of aquaculture” aims to train 100,000 farmers in good aquaculture practises, 50% of whom are lifted out of poverty. This component is budgeted with 68.26 million DKK, around 12 million USD[34] (among which studies account for 0.50 million DKK, workshops for 1.88 million DKK, training for 0.78 million DKK, extension activities[35] for 20.39 million DKK and finally community development for 7.91 million DKK). The component “Strengthening capacities of post-harvest and marketing” works with producers in both capture and aquaculture fisheries, traders and small-scale processors, supporting the formation and capacity building of extension agencies and fisheries stakeholder associations by providing services in the areas of hygiene, marketing and traceability systems. This component is budgeted at 38.62 million DKK (around 6.77 million USD), of which 7.35 million DKK are set aside for training.

Through the Fisheries Sector Programme, Danida supports training of poor farmers in sustainable techniques within capture fisheries and in good aquaculture practices. Training is supported by the production and publication of several manuals and training materials, including on training based on participatory methods, which are used across the country. This is how 100,000 farmers can be trained in practice. The training of farmers is essential in order to promote and increase aquaculture production in environmentally sustainable ways. In addition to practical manuals and guidelines, support has also been provided to the publishing of an illustrated book on "Common Freshwater Fish Species of Vietnam" in both Vietnamese and English.

Danida supports the development of the private sector in the country with the Business Sector Programme. The Programme assists companies in Danida's programme countries and South Africa in finding a Danish partner, which can help them to gain access to Danish technology and know-how. On the other hand, the Danish companies can obtain access to new markets, products and production opportunities. The B2B (Business-2-Business) Programme aims at developing the private sector in a range of Danida programme countries by supporting the establishment of long-term and mutually committing partnerships between Danish companies and companies in developing countries.

4. The role of the private sector

In the fishery sector, business has played an important role in providing inputs, particularly fishing gear, feed and seed supply, boat repair and aquaculture extension services. Individual companies invested in upgrading their processes (i.e., raw material, handling, food processing, training, quality management, traceability systems, marketing skills, etc.) and mass organisation. [36]

The industry is organised in an independent professional association, the VASEP. VASEP is now an important player in the enhancement of competences and good practices in the sector. It is a non-governmental organization representing seafood business operators exporting 80% of the total seafood exports of Vietnam. Its main role is to support the development of Vietnam's seafood industry focusing on enhancing the relationship between members of the association with key business partners, reinforcing the relationship and cooperation with international and local organizations, providing updated market information and consultancy services to improve productivity, quality and proficiencies in production and business, improving the competitive power of the enterprises and their products through dissemination of knowledge and management of HACCP, standards of the International Organisation of

[36] For example, the Vietnam Fisheries Association (VINAFA) which is a socio-professional organization with people from various sectors of the fisheries industry working as volunteers. The members come from 30 enterprises, cooperatives and State-owned enterprises. There are sub-associations at various local levels in almost all the provinces and cities with a fisheries sector. VINAFA is an official member of the ASEAN Fisheries Federation (AFF) and the International Fisheries Coalition of Associations (IFCA). VINAFA receives dedicated assistance from the Southeast Asian Fisheries Development Centre (SEAFDEC) in training for fisheries conservation and management.

Standardisation, of the British Retail Consortium and other voluntary (or private) standards.

At present, VASEP has 185 members including 148 ordinary members and 37 associate members.[37] With the main role of supporting the development of Vietnam's seafood industry, VASEP has enhanced the relationship between members of the association with its key business partners: organizing and coordinating activities to establish the relationship of assistance and cooperation for development among member enterprises, aquaculture farmers and related key business partners so as to enhance their competitive capability, to overcome effectively international trade barriers and disputes, to set up an united and strong enterprise community. VASEP also enhanced the relationship with the Government, being a linkage between association enterprises and the State by collecting and reflecting opinions from member-enterprises to the governmental agencies on difficulties with state managing policies in the sector; recommending and proposing solutions for sustainable fishery development; co-operating with the authorities to organize activities in supervising and controlling quality assurance, food hygiene and safety, fishery veterinary; disseminating and guiding enterprises to implement the state policies and regulations; recommending the related governmental agencies to enforce policies which bring benefits to seafood enterprises as well as to the sustainable development of Vietnam's fishery; representing and protecting legitimate rights and interests of member-enterprises.

VASEP organized and implemented educational and training courses to improve the ability, professional knowledge, skills and awareness for technicians, managers and personnel, who are in charge of import-export business in the seafood enterprises. Finally, VASEP provides consultant services to support member enterprises to improve productivity, quality and proficiencies in production and business, build up raw material resource, expand markets and improve the competitive power of the enterprises and their products. In the whole country, there are 245 seafood processing facilities which are allowed to export to EC market, 190 of which are members of VASEP. Many other member facilities apply international quality management programs, like HACCP, ISO, HALAL, BRC, SQF, conforming to international standards. The application of such standards permits export of their seafood products to world markets. VASEP also assists its members in seeking financial and technical assistance from various sources to upgrade quality standards and add value to their seafood products.

According to VASEP's regulations, the association's revenues include the joining fees and annual membership fees contributed by members, a fund sponsored by individuals, and local or international organizations, and income generated by association activities, such as advertisement, trade fairs, exhibitions, and other services.

[37] See: http://vasep.com.vn/images/vintroduction/vabout/eabout.htm .

4.1. Credit schemes to support the private sector

Access to cheap credit via the offshore fishing programme and subsidized loans from the Government's Development Assistance Fund (DAF) and the Danida mixed credits was an important tool in developing the Vietnamese fishery sector.

The offshore fishing programme

To boost offshore fisheries, the Vietnamese Government issued Decision 393/TTg on 9 June 1997 and Decision 159/1998/QD-TTg on 3 September 1998 on investment credit loan usage and management organisation for offshore boat upgrading and building projects. According to the Ministry of Fisheries' figures on credit loans for this programme, 896 programmes have been approved with a total of 1,306 offshore boats upgraded or built (of a total fleet of 6,005 vessels) creating more than 12,000 jobs. The programme also attracted a huge capital investment from the private sector. Official lending was 12,823 billion VND, while fishermen contributed 3,241 billion VND. However, it appears that among the 1,306 boats which were upgraded or built under the preferential credit programme, only 420 (32.25%) made profit, other 410 (31.5%) made loss and the rest got bankrupt.[38]

In 2002, FAO's Regulation Programme and Development Assistance Fund conducted a survey of the offshore credit fund programme (details of the survey below). The survey concluded that as the programme focussed too much on poverty alleviation activities such as creating jobs for fishermen, supporting the interest payments and minimizing the requirements on collateral and equity capital (15% of the total capital). Many borrowers considered the programme as a form of governmental welfare and "hoped that the loans would be forgiven as a gift". This has caused a substantial loss to the Government.[39]

The Danish Mixed Credits Programme

The Danish Mixed Credits Programme had more success. The Mixed Credit Programme offers interest free or low interest loans. A typical loan has a 10 years maturity and is aimed at various sectors (i.e., water and sanitation, energy, infrastructure, health and education). There are two types of Mixed Credits – tied and untied. Almost all Danish Mixed Credits are tied: this means that the supplier must be Danish. However, it is not required that the goods and services are produced in Denmark. The tied mixed credit facility is offered to Denmark's Programme Countries and creditworthy countries with a GNI per capita below 2,876 USD (2007/2008). Tied credits are always the starting point for any project under this programme. When considering - or applying for - a Mixed Credit, it is important to recognise that a series

[38] Offshore exploitation – initial result and challenges, Vietnam's Fisheries – Development and Integration, National Politics Publishing House, Ha Noi October 2003, p. 36; Well-planed investments produces more successes, Vietnam's Fisheries – Development and Integration, National Politics Publishing House, Ha Noi October 2003, p. 110.

[39] Credit fund for offshore fishing – necessary changes in ideas and actions, Vietnam's Fisheries – Development and Integration, National Politics Publishing House, Ha Noi October 2003, p. 115.

of requirements have to be fulfilled to obtain Danida's approval of a project under the Mixed Credit Programme.[40]

As an example, in early 1995, the Vietnamese company Camimex invested 2.5 million USD taken from the Danish mixed credit scheme to renovate its facilities. In 2002, Camimex was fourth among the seafood exporting companies.[41] Established in 1977, CAMIMEX has been continuously enlarged and developed to become one of the leading companies on the processing and exporting of aquatic products, especially shrimps (including organic), fish, squid and cuttlefish. Every year, CAMIMEX processes and exports more than 10,000 tons of products to the world markets.

Mixed credits may also be granted for larger amounts (and in other sectors). On 16 March 2007, Bac Giang city and the Danish contractor MT Højgaard signed a commercial contract valued at EURO 14,649 million to build a wastewater treatment plant and a drainage system in Bac Giang city. This is the largest commercial contract under the Danish Mixed Credit Scheme launched in Vietnam in 1995.[42]

The FAO survey on fish marketing and related credit arrangements

In 2002, the Food and Agriculture Organization of the United Nations (FAO) has carried out a survey on domestic fish marketing and related credit arrangements and needs in Vietnam[43].

The study gives a remarkable insight as to how credit was used by the Vietnamese fishermen to develop the sector, who gave credit, how much and for which purpose. Credit was widely used for financing marine capture fisheries, particularly offshore fishing and export-oriented fish culture, processing and marketing. State owned financial institutions played a major role in financing capital expenditure while working capital requirements were mainly met by informal sources of credit. Future investment requirements and credit needs were greater than current availability. In particular, the domestic fish marketing sector (i.e., wholesalers and retailers had only limited access to credit and this was perceived as an obstacle to the growth and improvement of the sector). In the case of offshore fisheries, FAO suggested that there should not be any further expansion of credit, and future credit support should focus on making the fleet more efficient and sustainable. These were the reasons for which the Ministry of Fisheries of Vietnam requested donor assistance in support of its efforts to ameliorate information on domestic fish marketing and on identifying constraints and opportunities for the improvement of marketing arrangements. A specific objective was to contribute

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[40] For more information on mixed credits, see: http://www.um.dk/NR/rdonlyres/E373B942-4873-4FF7-BB2D-EC29AEC3D5E7/0/DANIDA_brochure_web2.pdf.

[41] Ca Mau Import-Export and Seafood Processing Company – A perfect path in the new age, Vietnam's Fisheries – Development and Integration, National Politics Publishing House, Ha Noi October 2003, p. 382.

[42] See: http://www.ambhanoi.um.dk/en/menu/AboutUs/News/NewsArchives2007/THELARGESTCOMMERCIALCONTRACTONAMIXEDCREDITPROJECTSIGNEDINBACGIANGPROVINCE.htm.

[43] FAO Fisheries Technical Paper 468, Fish marketing and credit in Vietnam, by Audun Lem, Uwe Tietze, Erhard Ruckes and Raymon van Anrooy, 2004. See http://www.fao.org/docrep/007/y5707e/y5707e00.htm#Contents.

to the existing knowledge on how fish production, marketing and processing were being financed and on how marketing-related financial flows and transactions took place and could be further developed in Vietnam, including the identification of investment requirements and credit needs and channels.

The original credit sources were own resources and savings, loans from middlepersons (investors), banks, moneylenders, the Women's Union, friends, neighbours, relatives and projects. There were recent changes in the sources of credit. Banks like the Bank for the Poor were now providing more credit for aquaculture and had increased their loan ceiling to 10 million VND. In spite of these efforts by the Bank for the Poor, there was still a lack of institutional credit for fishing, fish farming and fish marketing and processing. As competition among middlepersons was increasing, they also provided more loans to fish farmers to ensure regular fish supplies.

The survey included fishing enterprises that invested their own capital resources. Investment levels seemed to be related to small and medium-size inshore fishing units as well as to offshore fishing vessels. The majority of fishermen and fishing enterprises (80%) were relatively evenly distributed over an investment range, from below 6 million VND (400 USD)[44] to 500 million VND (33,000 USD) over the previous three years, which suggests small to medium-scale inshore fishing activities. Another 10% of the sample had invested between 520 and 1,000 million VND (35,000-67,000 USD), which was sufficient for both, medium-scale inshore capture fishing and offshore fishing depending on other investment finance such as loans. The remaining 10% of the sample invested between 1,100-6,000 million VND (73,000-400,000 USD) of their own financial resources into fishing vessels over the last three years. FAO concluded that these levels of investment seemed to be appropriate for offshore fishing activities.

As far as the lending periods were concerned, 34 months was the average term of a loan. While most of the loans were thus medium-term loans with a repayment period of 3 years, a few respondents had also taken long-term loans of lending periods of up to 10 years while others had taken short-term loans. The Vietnam Bank for Agriculture and Rural Development (VBARD) was by far the most important main source of credit accounting for 2/3 of the total credit supply followed by state-owned commercial banks and the Development Assistance Fund of Vietnam (DAF). Informal sources such as moneylenders, business partners, friends and relatives only account for seven percent of the total credit supply for capital investment purposes.

[44] 1 USD = 15,000 VND (at times of the FAO survey).

Sources of credit for capital investment purposes available to fisher folk and their uptake		
Source of credit	**No of borrowers**	**%**
VBARD	87	66
Social Policy Bank (SPB)	2	2
State-owned comm. Banks	22	17
DAF	8	6
People's Committee	1	1
Cooperatives	1	1
Mass organizations	2	2
Informal sources	9	7
Total	**132**	**100**

While more than two-thirds of all respondents had taken a loan over the last three years to meet their capital investment needs, borrowing money for meeting working capital needs was much less common. Less than one-third of all respondents had taken a loan over the last three years to meet their working capital requirements. The amount of funds borrowed by individual fishermen and fishing enterprises for meeting their working capital requirements ranged from 3,000,000 VND (200 USD) to as much as 400,000,000 VND (27,000 USD).

Amount of credit for working capital borrowed by fishermen			
Amount borrowed (VND x 1 000)	**No of borrowers**	**%**	**Cum. %**
3 000 - 20 000	16	47	47
22 000-75 000	13	38	85
100 000-400 000	5	15	100
Total	**34**	**100**	**100**

Almost half of those, who took a working capital loan over the last three years, borrowed an amount not exceeding 20,000,000 VND (1,300 USD). 38% of the respondents borrowed between 22,000,000 and 75,000,000 VND (1,500-5,000 USD) while only 15% borrowed a larger amount ranging from 100,000,000 to 400,000,000 VND (6,700-26,700 USD). When comparing the main sources of loans for working capital with the sources of loans for capital investment, informal sources such as moneylenders, business partners, friends and relatives were by far the most important source. They accounted for more than half of the working capital finance. As in capital investment finance state-owned commercial banks also played an important role providing working capital credit for more than 20% of the respondents.

Sources of credit for working capital purposes available to fishermen and their uptake		
Source of credit	**No of borrowers**	**%**
VBARD	4	10
Social Policy Bank (SPB)	1	3
State-owned comm. Banks	9	23
Private banks	1	3
DAF	1	3
Mass organizations	1	3
NGOs, international NGOs	1	3
Informal sources	22	55
Total	**40**	**100**

Credit for commercial fisheries and fish marketing in Vietnam was mainly available through Government-sponsored directed credit programmes. Credit for fishery-related economic activities was also available to a lesser extent through private banks. Since the second half of the nineties, the directed fishery credit programmes focused mainly on developing offshore fisheries and, to a lesser extent and more recently, on export-oriented fish processing and marketing, as well as on coastal shrimp culture for export.
The financial institutions, which have provided the bulk of this form of credit, include the Vietnam Bank for Agriculture and Rural Development (VBARD), the Development Assistance Fund (DAF), the Bank for Investment and Development of Vietnam (BIDV), INCOMBANK, Marine Bank and other financial institutions. In addition, Provincial Governments and other Government bodies invest directly in Government owned fishery and fish processing enterprises. Generally, access to credit for the private sector seems to be sometimes more difficult than for Government owned fishery and fish processing enterprises.
As far as artisanal and small-scale fisheries, fish farming and fish marketing are concerned, the main institution catering to this sector was the Social Policy Bank (SPB). The SPB mainly provided loans for fishing craft and gear and on a very limited scale for inland fish culture but not for small-scale fish marketing and processing. In addition, a number of international donors (i.e., UNDP, DANIDA, etc.) and NGO-sponsored projects provided credit for inland fish farming in some Provinces of Vietnam.

Informal sources of credit such as moneylenders, fish wholesalers and processors and suppliers of inputs seemed to play a certain role both with regard to providing loans for working capital needs and, to a lesser extent, for capital investments. As in other cases and countries, most of the key informants thought that the cost of this form of credit was high due to high interest rates and unfavourable conditions attached to loans such as pre-fixed low prices on fish and other raw material.

Loan repayment and loan use was not satisfactory under most institutional credit programmes. The reasons include unsatisfactory feasibility studies resulting in financing technologically and economically inefficient fishing vessels with wrong or inadequate fishing gear and equipment, lack of trained crew on offshore fishing vessels, lack of qualified staff in lending institutions and poor appraisal of loan

applications and selection of borrowers, lack of monitoring of loan use and proper efforts for loan recovery.

The economic efficiency of the existing offshore fleet and shrimp farms was also hampered by the lack of appropriate landing, fish handling, preservation and processing facilities and arrangements. Government and private sector are presently making considerable efforts to establish and develop fish landing, processing and marketing facilities and there is an urgent need to establish matching institutional credit facilities, which are demand rather than supply oriented as it has been the case in the past.

This is all the more necessary, as many Government-owned fish processing and exporting enterprises are now being privatised and their employees and others are acquiring their shares. As a result, they will no longer be in a position to secure financial resources for investment and working capital from Government institutions and administrations, but instead from financial institutions. This is particularly important for the development of domestic fish marketing, which was seen by many fishery and fish processing enterprises as a way of diversifying their businesses and making them more stable and profitable.

To develop institutional credit facilities in support of fish marketing and processing in Vietnam, there is a need to improve the on-going fisheries credit programmes with the objective to enhance financial and economic efficiency.[45]

Borrowing money to purchase and construct fishing vessels was very common among the fishermen interviewed during the survey. 68% of the fishermen had borrowed money during the last three years to purchase and construct fishing boats. The VBARD was by far the most important source of credit accounting for 2/3 of the total credit supply followed by state-owned commercial banks and the DAF. Informal credit sources such as moneylenders, business partners, friends and relatives accounted for only 7% of the total credit supplied for capital investment purposes.

While more than two-thirds of all respondents had taken a loan over the last three years to meet their capital investment needs, borrowing money for meeting working capital needs was much less common. Only 29% of all respondents had taken a loan over the last three years to meet their working capital requirements. The amount of funds borrowed by individual fishermen and fishing enterprises in order to meet their working capital requirements range from 3,000,000 VND (200 USD) to 400,000,000 VND (26,700 USD). Informal sources such as moneylenders, business partners, friends and relatives were the main sources of loans for working capital, accounting for more than half of the working capital finance. State-owned commercial banks also played an important role providing working capital credit for more than one-fifth of the respondents. In addition to cash credit, loans in kind also played an important role. One quarter of all fishermen interviewed had taken a loan in kind. Credit in kind was mainly used for fuel and ice. Wholesalers were the most important source of such credit, accounting for more than 85% of all fuel and ice supplies on credit.

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[45] Financing of production and marketing of fish and fish products in Vietnam, Dr. Uwe Tietze, in: FAO 2004. Fisheries Technical Paper 468, Fish marketing and credit in Vietnam.

5. Negotiating equivalency agreements and MRAs

Equivalence and mutual recognition agreements (MRAs) represent tools of trade facilitation to minimize the trade-distortive consequences of product testing and certification procedures that must be undertaken in order to enter third markets. These include, *inter alia*: increased costs and delays associated with the repetition of tests for different markets; increased transportation costs (if the product is considered not to comply with the importing country's regulatory requirements and must be returned to the exporting country); possible harm to the product or country image; and delays and costs associated with inspection visits, which may be undertaken by the authorities in the importing country.

The SPS Agreement imposes an obligation on all WTO Members to enter into negotiations with the requesting WTO Member that provides for the appropriate level of protection. If a WTO Member can objectively demonstrate the appropriate level of SPS protection, an importing WTO Member must accept the exporting WTO Members' SPS measures as equivalent.[46]

The negotiation of equivalency or MRAs is a costly and time consuming effort to be undertaken only after a thorough evaluation of a number of factors, which range from economic considerations (*inter alia*, the level of trade in the product concerned, prioritization, availability of relevant statistics, tangible benefits accruing from the conclusion of such agreements, etc.), to other considerations such as the compatibility between regulatory systems, impact on domestic regulatory system, the regulatory challenges imposed by the negotiation, costs assessment and time forecast of the negotiating process, availability of resources, and domestic support.[47] Other factors

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[46] The crucial factor for determining equivalence is whether the "appropriate level of protection" is demonstrated to exist "objectively". The appropriate level of protection in a given area of health protection is controversial as it has been demonstrated by the cases which have been subject to WTO dispute settlement. This issue is also the subject of comprehensive provisions elsewhere in the SPS Agreement. What is not necessarily clear in the SPS Agreement itself is what requirements are needed to satisfy the "objective" test of equivalence. There is no annex to the Agreement setting out how WTO Members should demonstrate equivalence. That being said, it is clear that, in the light of the object of the SPS Agreement itself, an objective test of equivalence would have to be based on science and demonstrable along the lines of Annex C to the SPS Agreement, which gives details on control, inspection and approval procedures. It is noted that the WTO Agreement on Technical Barriers to Trade (hereinafter, "TBT Agreement") recognizes the concept of equivalence in a much weaker form as compared with the SPS Agreement. According to the TBT Agreement, the importing Member must only give positive consideration to proposals of equivalence. Secondly, the determination of equivalence is premised on a subjective criterion (i.e., the "satisfaction" of the importing WTO Member). Typical TBT measures are defined in terms of types of measures such as technical regulations, standards or conformity assessment procedures that can be used by manufacturers. These TBT measures are implemented mostly on a product-specific basis and often regulate the production processes rather than the end-product itself. Due to the need for TBT measures to be applied in terms of products, the TBT Agreement stipulates the conventional non-discrimination obligation, rather than emphasizing the equivalency concept.

[47] WTO Members identify products or sectors on which to concentrate their negotiating efforts to achieve equivalence or MRAs on the basis of certain basic and common criteria. Consideration is always given to the trade relevance of the instruments (i.e., the volume of trade affected), the

that should be considered are: the resulting costs and benefits for consumers; the potential implementation costs at both national and sub-national level; and the potential impact on domestic suppliers of those products which may enter from the third country under an MRA.

Key in the assessment of the opportunity to negotiate is whether the exporting country's structures likely to be involved are efficiently organised and disciplined to sustain a lengthy negotiation. The length of such negotiations depends on a number of factors. One is the process of document review and comparison, which is time consuming. Problems may also arise as a consequence of different structures of law and difficulties in identifying a single authority for overall control of the system (especially where more than one regulatory body is involved) and of the counterpart's lack of will and readiness to negotiate. In addition, such negotiations often require the commitment of technical and trade specialists to review materials.[48]

It is important that the country involved in such negotiations inform all stakeholders about the ongoing and intended equivalence discussions with other Members, particularly in the light of the beneficiary-driven nature of equivalence and mutual recognition negotiations. The requests for negotiation of equivalency or mutual recognition with other countries consistently originate from the proposing country's producers, farmers, manufactures, processors or exporters. It is these categories of economic operators that feel the need to secure instruments of trade facilitation (such as equivalence or mutual recognition of conformity) to increase the relative competitiveness of their products. A constant dialogue between governmental agencies and these stakeholders is therefore a common and necessary feature.

Once the outcome of the assessment of such factors suggests the opportunity to enter into equivalency or mutual recognition negotiations, the interested country (normally, the exporting country) starts the process by addressing a specific request.

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existence and extent of SPS or TBT barriers to trade, the readiness of the necessary technical infrastructure to satisfy the procedures and criteria needed to verify equivalence or conformity, and the attractiveness of the final agreement to the ultimate beneficiaries and the country with which the deal is sought. Essential criteria for the determination of equivalence by WTO Members include: trade facilitation; consumer protection; the elimination of duplication of controls; the assurance that implementation costs do not exceed profits in order to guarantee product competitiveness in foreign markets; transparency; the assurance of quality and confidence in the negotiated products; the achievement of the appropriate level of protection at minimum cost (particularly in case of SPS measures); the avoidance of cost transfers to the price of the product; and the guarantee of reasonable market access levels. Key considerations for the obtainment of mutual recognition are, in relevant part: tangible economic benefits; obstacles faced by exporters and importers; the determination of the most appropriate regulatory tools; support from key players (at domestic and international level, such as producers, exporters and importers); the underlying compatibility between the regulatory systems of the potential MRA parties; and sufficient resources allocated for the negotiation and implementation of the MRA.

[48] In particular, with respect to equivalency determinations and negotiations, there seems to be an inherent difficulty associated with linking domestic measures with the other country appropriate level of protection. This problem is magnified when the scope of the agreement is broadened to include multiple products and the concept of equivalence is applied to import and export control and inspection systems.

Again, the export of Vietnamese fishery products to the EC is a good example. Any business community intending to put its fishery products on the EC market must follow a formal procedure. It was the Government that formally requested to the European Commission for the inclusion of Vietnam in the list of authorised countries to export to the EC. This request was addressed specifically to the Food and Veterinary Office (FVO) of the Health and Consumer Protection Directorate-General, as the responsible authority. The headquarters of the FVO are in Dublin. The normal procedure is the submission of a formal letter by the competent authority for fishery products of the third country to the Director of the FVO. Then the competent unit for fishery products in the FVO started working on the dossier and the responsible FVO auditors contacted the country's authorities to initiate a dialogue. Complete written information on the country's sanitary system of control of fishery products and/or shellfish was requested and bilateral meetings were held. The aim of this phase was the collection of high quality data and information in order to adequately plan the subsequent evaluation/audit mission of the FVO team to the country.

The FVO cannot take official decisions. It is only the EC Member States in the respective committee who, based on a proposal from the Commission services (including the FVO), can decide in the first instance. These decisions must be finally adopted by the Commission and published in the Official Journal of the EC. When the outcome of the evaluation is considered satisfactory, a specific European Commission Decision is produced for the country, allowing it to export to all EC Member States. No further bilateral equivalency negotiations are required. The country is automatically included in the list of countries. Finally, in certain areas of production, such as fishery and aquaculture products, the individual establishments need also to be authorised.[49]

The authorisation first establishes which institution in the third country is the competent authority for purposes of verifying and certifying compliance with the requirements of EC law (in the case of Vietnam and fishery and aquaculture products, the competence rests with the "National Fisheries Inspection and Quality Assurance Centre (NAFIQACEN) of the Ministry of Fisheries").

Then, the decision states that each consignment of the products originating in the respective third country must be accompanied by a numbered original health certificate and must come from the approved establishments, in case of fishery and aquaculture products, the factory vessels, cold stores or registered freezer vessels which are listed in an Annex to the decision.

The European Commission's DG SANCO planning process always starts early in the year. Detailed proposals are agreed by mid-year (various inputs including identified risks, policy/legal priorities, trade considerations, etc). The proposed programme of inspections is presented to the Member States, at a Heads of Service and CVOs (Chief Veterinary Officers) meeting before the summer break. Further refinement and inputs

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[49] See: Commission Decision 1999/813/EC of 16 November 1999 laying down special conditions governing imports of fishery products originating in the Socialist Republic of Vietnam, Official Journal L 315, of 9.12.1999, p. 39 – 43. Annex B of the decision lists the approved establishments, factory vessels, cold stores or registered freezer vessels.

are received from other related DGs (e.g. DG AGRI). The programme is submitted to the Directorates General (and ultimately the Commissioners) for approval. The detailed programme is distributed to the Member States in the final quarter of the year and forwarded to the European Parliament and published on the SANCO Europa website. Finally, the programme is adjusted to deal with emergencies/cancellations/political issues, etc.

5.1 Vietnam approached EC for mutual recognition agreement

In the early 90s, Vietnam targeted the EC market for its export-oriented production. The programme's implementation, which was scheduled for 1995-1997, was completed in 1998.

In February 1997, a preliminary inspection was carried-out by the European Commission's Food and Veterinary Office (hereinafter, "FVO") in order to assess the conditions of production, storage, dispatch of fisheries and bivalve molluscs, as well as the national organization of food control and safety management.[50] The findings were positive only for fisheries and in 1999 18 Vietnamese establishments were approved for export to the EC.[51] The approval for exporting bivalve molluscs was granted a year later because of a number of deficiencies found in the bivalve molluscs sector by the FVO inspection held in 1997: low supervisory management skills and detection of toxins in raw and processed sea products caused some delay in granting the approval.[52]

The success in achieving market access was firstly the result of the capability of the competent national authority (i.e., the National Fisheries Inspection and Quality Assurance Centre, hereinafter "NAFIQACEN"), as well as the private sector, to effectively manage food safety concerns consistently with EC standards. Key factors for being listed as a country exporting fisheries to the EC market were:

- The establishment of a Competent Authority responsible for providing accurate and up-to-date information on sanitary and phytosanitary regulations, control procedures and risk assessment procedures with regard to products exported to the EC;
- Planning and implementing monitoring programmes for the surveillance of the fisheries and bivalve sector, particularly:
    - Surveillance over production areas, with particular reference, but not limited to, biotoxins, residues of heavy metal and pesticides, etc.;
    - Definition of systematic laboratory checks for microbiological and chemical parameters and marine biotoxins; and

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[50] See DG SANCO – FVO Document No. 1130/1999 – MR final.

[51] See Commission Decision No. 1999/813/EC, OJ L 315, 9.12.1999, p. 39–43. In 2006, 260 establishments were listed (see Commission Decision No. 2006/766/EC), OJ L 320, 18.11.2006 p. 53 – 57.

[52] A Bivalve Molluscs Monitoring Project, under Danish Assistance, was designed to revive Vietnamese exports to the EC of bivalve molluscs, which was successful in lifting the ban, which was addressed by the EC.

    - Inspection of establishments on a monthly basis and intensive control procedures and guidelines for analysis and sampling;
- Equipment of laboratories for the research and control of marine biotoxins in accordance with standards accepted in the EC (ISO schemes);
- Establishment of a network of authorities both at central and local level responsible for risk control in the field of fisheries and bivalve molluscs as well as for issuing the certificates of origin accompanying products to be exported; and
- Definition of procedures for issuing health certifications which comply with EC standards.

From a business point of view, Vietnamese establishments seeking to be listed for EC-export had to design or re-design their processes consistently with EC standards with special regard to Hazard Analysis Critical Control Point[53] (hereinafter, "HACCP")-based procedures and product standards and testing plans (i.e., for biotoxins, residues of heavy metal and pesticides, etc.).

6. Vietnam's domestic regulatory framework vis-à-vis EC requirements

The question is whether Vietnam has adopted a domestic regulatory framework which is identical to the regulation in place in the EC (in this case, it would have become easier for equivalence to be granted) or equivalent only (in this case, the natural question would be whether Vietnam has been able to obtain the recognition of equivalence by the EC).
Although many requirements in this field of regulation may be identical to the regulatory framework in place in the EC, it cannot be said that Vietnam's regulation in the field of fisheries as a whole is identical to EC law. However, equivalence of SPS measures does not require duplication or sameness of measures, but the acceptance of alternative measures that meet an importing Member's appropriate level of sanitary or phytosanitary protection.
The situation, in practice, is as follows, as described in a recent FVO report:
On the basis of the information provided to the EC Food and Veterinary Office in a mission carried-out in Vietnam from 27 September 2007 to 8 October 2007, in order to evaluate the control systems in place governing the production of fishery products and live bivalve molluscs intended for export to the European Union[54], it was concluded that

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[53] HACCP is internationally defined as "a system which identifies, evaluates, and controls hazards which are significant for food safety". HACCP plan is defined as "a document prepared in accordance with the principles of HACCP to ensure control of hazards which are significant for food safety in the segment of the food chain under consideration" (see Codex Alimentarius document CAC/RCP 1-1969, Rev. 4-2003 – Annex). The use of this approach in food industry became mandatory in the EC for all supply chains, since 1993 (EC Council Directive No 93/43/EEC on the hygiene of foodstuffs, now repealed by Regulation No 852/2004 of the European Parliament and of the Council on the hygiene of foodstuffs, OJ L 139, 30.4.2004, p. 1–54, and Regulation No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin), OJ L 139, 30.4.2004, p. 55–205.
[54] See DG SANCO – FVO Document No. 2007-7291 – MR final.

Vietnamese fisheries regulations include provisions which can be generally considered as at least equivalent to EC requirements.
In particular, Decision 190/QD-CTLY of 12 September 2006 states that EC requirements (a list of the relevant pieces of EC legislation is enclosed to the decision) apply to the production of fishery products and live bivalve molluscs exported to the EU. However, it was noted that the check-lists in use by inspectors still referred to the former EC rules for fishery products (i.e., Council Directives 91/493/EEC and 91/492/EEC, repealed by Directive 2004/41/EC). Another example of a legislative shortcoming is that, for frozen fisheries products, the Vietnamese legislation allows fluctuations of three degrees during any stage (storage included), while EC requirements foresee a temperature of max -18° with short upward fluctuations of not more than three degrees during transport only.
Some of these issues are obviously very technical, but testimony that while there are no identical regulatory frameworks between Vietnam and the EC, the degree of equivalence reached by Vietnam vis-à-vis the EC system is very high.

7. Business perspectives in light of Vietnam's fisheries example

7.1 Defining the objectives

Defining the objectives for a company means setting targets. The general target is the achievement of better market access and increased export performance.

Market access for foodstuffs requires ensuring the safety of products and compliance with marketability requirements, as well as with consumer preferences. To that end, companies must assess a number of factors:

- Is the product safe for consumption?
- Is it complying with the mandatory requirements of the importing country, *inter alia*:
    - Is it certified (in case of high risk products)?
    - Does it comply with labelling requirements? and
    - Do the products and the company comply with existing traceability requirements?
- Is it in compliance with standards, *inter alia*:
    - Is it certified (in case of low risk products)?
    - Does it comply with the standards that apply in the importing country? and
    - Does it meet the applicable private standards?
- Which are the costs related with compliance?

Certification, control and inspection are costly procedures and often result in non-tariff barriers. These considerations are specific to enterprises. Government policies may, however, affect companies' choices (and reduce costs) by seeking to harmonise legislation, procedures and infrastructure.

7.2 The importance of a risk management approach

Risk management is a methodology applied by enterprises that wish to reduce risks. Trade-related risks are common in the field of foodstuffs, where a number of sanitary concerns continuously and randomly affect business plans related to fish, meat, dairy or other foodstuffs.

Risk management procedures vary greatly and risk management has been applied in different ways. There are several approaches and experiences that vary from country to country. In all of these, however, the following steps are common:

- Risk analysis;
- Risk control; and
- Continued improvement.

EC food law acknowledges the importance of "risk analysis".[55] The adoption of food-related legal measures requires a science-based approach.

Risk management plays an important role in managing food production. Manufacturing or retailing foodstuffs equally poses certain risks. Food business operators have to consider health related warnings, sanitary measures and commercial concerns. These may involve high-level legal risks which affect trade in food and related costs (i.e., penalties, breach of contract, bans and liabilities, misleading advertising, etc.).

To comply with their legal obligations, operators have to look, in particular, at the following:

- Analysis of the legal environment;
- Enterprise risk profile; and
- Advice on measures.

7.3 The Government-business partnership

A successful export promotion strategy is the result of a number of actions taken by the Government, but also by the private sector. Synergies and constant dialogue between the Government authorities or competent agencies and the operators are key to ensure, on one side, that the requirements established by law are properly implemented by the private operators and, on the other side, that the needs of the sector, for example in issues such as infrastructure development and upgrading and legislative reforms, are taken into account.

Partnership between business and Government should comprise:

- Planning;
- Implementation; and

[55] See Article 6 of Regulation No. 178/02, OJ, L 31, 1.2.2002, p. 1 - 24.

- Ongoing dialogue.

The partnership between the public sector and private operators is mutually beneficial. It should support a greater integration of the domestic producers and exporters in the international trade regime. On the other hand, private operators must cooperate with the Government and support decisions that aim at constantly investing, innovating and upgrading the sector so to enhance competitiveness.

As the development of the Vietnamese fisheries sector shows, the private sector may play an important role in providing inputs. The organisation of the domestic industry into trade and professional organisations may facilitate the constant dialogue between the public sector and private operators. In particular, such organisations favour the coordination of activities, positions, proposals and policies within the industry sector, and at the same time they act as a single point of contact where requests are centralised.

7.4 International support to enhance food quality and safety

The gathering of international support to promote quality and safety of foodstuffs may be the result of two different tools:

- The channelling and coordination of international donor-financed projects; and
- Membership and active participation of the country concerned in international standard setting bodies.

The reforms needed to promote, re-build or upgrade the agricultural and food processing industry often require a high level of technical expertise and high expenditures. International donor-financed assistance packages could be designed for specific needs in the area of food safety and food quality. The Danish assistance to the Vietnamese fisheries sector stands as an example of tailored assistance projects.

The second tool relates, in particular, to the idea of gathering consensus on specific standards and proposals in the relevant international *fora*. This exercise is useful in that it enables a country to set the agenda and promote harmonisation on the basis of its own evaluations and procedures. Participation within such *fora* increases the reputation of the country's attention to safety and quality, and, therefore, of its products' value and appeal. The process of leading such activities implies that the country's regulatory framework is, in itself, sound and effective.

8. If Vietnam's fisheries sector succeeded, why can't you?

The answer is simple. Any country can engage in such process and achieve successful and meaningful outcomes. Vietnam's experience shows it and should stand out as a model. Each country should make a similar early assessment, identify one pilot-project, gather the necessary resources (internal and external) and adopt a roadmap for action with simple steps, realistic timeframes and specific outcomes.

Economic considerations and prioritization

The two identified types of hurdles (i.e., market access constraints and consumers' preferences) are more efficaciously addressed through a sector-focused approach. There is firstly an economic reason, resources being limited. Investments, new infrastructure, the creation or upgrading of regulatory frameworks, as well as the process of entering into equivalency or mutual recognition negotiations with third countries, are time consuming and costly activities for Governments.

Secondly, programs focused on one product (or a homogenous category of products) can be used more effectively and efficiently to find solutions in order to address situations of hampered exports. Thirdly, pilot cases generate know-how which can then flow through to other products or sectors.

In such a context, prioritisation means identifying those products or sectors where a set of interrelated actions aiming at reducing trade risks will be addressed. It appears crucial that the choice of the product/sector/industry whose exports are intended to be promoted is carefully done and studied. The assessment of a number of economic considerations stands out as a pre-requisite for the development of any strategy intended to increase growth and export revenues.

A list of the economic factors to be considered must necessarily include:

- The level of trade in the product/(s) considered. This means the need to take into account the existing level of trade with the main targeted markets. The question to be asked is: are exports to such markets hindered by barriers to trade? How and to what extent is the removal of such barriers going to boost the exports to such markets?
- Capacity and interest of the targeted market: is there a market for the product concerned? Is the product appealing to consumers of the targeted market?
- Is there a comparative advantage in production/market/exportation of the product? Which products enjoy comparative advantage or a competitive edge vis-à-vis other countries' exports or the importing country's domestic production? and
- Which is the level of potential return on the investment?

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