



# Country Update

## Agricultural products' exports: Sanitary & PhytoSanitary barriers faced by exporters in Viet Nam

Provided by



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Viet Nam has made considerable progresses in terms of economic growth and integration since the country decided to abandon the centrally-planned development model to undertake market-based reforms, commonly referred to as the *Doi Moi* ('Renovation') programme, in 1986. The Southeast Asian nation's accession to the World Trade Organization (WTO) in 2007, the various preferential trade agreements (PTAs) and free trade agreements (FTAs) concluded with a multitude of countries all over the globe, and its latest achievements of negotiating the Trans-Pacific Partnership (TPP) agreement and signing an FTA with the European Union (EU-VN FTA) in 2015 were seen as major successes, paving the way for Viet Nameese products to penetrate large foreign markets, further contributing to Viet Nam's development process. However, though tariff barriers and quantitative restrictions against Viet Nameese products have been lifted as a result of these integration efforts, new impediments have come on scene. Viet Nameese exporters realised, to their dismay, that they are now faced with a plethora of few

non-tariff barriers, including Sanitary and Phyto-Sanitary (SPS) measures adopted by governments worldwide, whose impacts on trade could not be underestimated.

### Setting the Scene

As part of the *Doi Moi* programme, Viet Nam has been pursuing a trade policy consistently centred on promoting exports. This export-led growth strategy could be considered as fairly successful. In the past 5 years, Viet Nam's exports have doubled as competitive minimum wage and low costs of utilities boosted foreign direct investment (FDI) in the manufacturing sector. Viet Nam main exports are: telephone and spare parts (19 percent of total shipments) and textiles (14 percent). Others include: electronics, computers and components (10 percent), shoes and footwear (7 percent) and other machinery, equipment, tools and spare



parts (5 percent).<sup>1</sup> Agricultural exports (including aquaculture and horticulture products) do not constitute a large percentage, but have been growing continuously in value, and are given high priority by the Government of Viet Nam (GOV), since they bring in important means of living for a majority of the rural population (which accounts for 70-80% of the total population). From 2007 to 2011, total Viet Nameese agricultural exports doubled, surpassing US\$13 billion. Over recent years, Viet Nam has successfully developed specialized commodities for export. The country has emerged as a leading exporter of coffee, rice, cashew nuts, and pepper, as well as a variety of other commodities to the world market.<sup>2</sup>

The proliferation of non-tariff barriers, amongst them stringent SPS measures adopted by the governments of trading partner countries, thus is a source of constant worry for the agricultural exporters and the Government of Viet Nam. Recently, there have been many incidences of Viet Nam agricultural exports being detained for border inspection or rejected and returned, for failing to meet the quality standards of importing countries.<sup>3</sup> Several such cases could be quoted vis-a-vis important agricultural exports of Viet Nam, for example, it was reported by the Department of Animal Health (Ministry of Agriculture and Rural Development) that in the

first 10 months of 2015, more than 8,000 tonnes of fisheries products from Viet Nam were returned due to violations of sanitary regulations.<sup>4</sup> Other cases include the ban of Viet Nameese dragon fruits from Taiwan and the US,<sup>5</sup> Spain's control on black pepper imports from Viet Nam after a warning about high residue of carbendazim fungicide,<sup>6</sup> Russian authorities' sudden ban on fish products imported from Viet Nam in 2008, resulting in huge economic loss for Viet Nameese enterprises, or Japan's and South Korea's import control measure (testing for Ethoxyquin level) over shrimp imports from Viet Nam,<sup>7</sup> or the EU DG SANCO's warning about import ban if more prohibited bacteria could be found in Viet Nam's vegetable imports,<sup>8</sup> etc. This means even though tariff barriers have been lifted, trade is still being impeded, because:

- Viet Nameese agricultural products do not meet the high quality standards or other stringent SPS requirements in the import target markets; or
- Importing countries could impose total import bans or partial bans where they have detected critical health risks originated from our exports; or
- Sometimes, meeting the various restrictions and requirements (e.g. standards, conformity assessment procedures, border inspection

<sup>1</sup>[http://www.tradingeconomics.com/Viet Nam/exports](http://www.tradingeconomics.com/Viet%20Nam/exports)

<sup>2</sup> Shawn S Arita and John Dyck, "Viet Nam's Agri-Food Sector and the Trans-Pacific Partnership", *US Department of Agriculture*, October 2014, <<http://www.ers.usda.gov/media/1692699/eib130.pdf>>.

<sup>3</sup> See for example, Khoi, N. V. and Thuy, L.T.T, "Green Trade Barriers and Viet Nam's Agricultural and Fishery Export", *Journal of Globalization Studies*, Vol. 5 No. 2, November 2014 69–80, <[http://www.sociostudies.org/journal/files/jogs/2014\\_2/069-080.pdf](http://www.sociostudies.org/journal/files/jogs/2014_2/069-080.pdf)>; or Henson S.J., Loader R.J., Swinbank, A., Bredahl, M. and Lux N., "Impact of sanitary and phytosanitary measures on developing countries", Paper prepared for the *World Bank's* Integrated Program of Research and Capacity Building to enhance participation of developing countries in the WTO 2000 Negotiations, P.36, <[http://siteresources.worldbank.org/INTARD/864477-](http://siteresources.worldbank.org/INTARD/864477-1112355387702/20424577/henson_et+al.pdf)

[1112355387702/20424577/henson\\_et+al.pdf](http://www.tradingeconomics.com/Viet%20Nam/exports)>

<sup>4</sup> See <[http://Viet Namnews.vn/economy/281622/local-companies-urged-to-study-eu-regulations.html](http://VietNamnews.vn/economy/281622/local-companies-urged-to-study-eu-regulations.html)>

<sup>5</sup> See <[http://www.fruitnet.com/asiafruit/article/2078/trouble-for-Viet Nams-dragon-fruit-exports](http://www.fruitnet.com/asiafruit/article/2078/trouble-for-Viet-Nams-dragon-fruit-exports)> and <[http://www.fruitnet.com/asiafruit/article/168479/taiwan-ends-Viet Nam-ban](http://www.fruitnet.com/asiafruit/article/168479/taiwan-ends-Viet-Nam-ban)>

<sup>6</sup> See <[http://Viet Namnews.vn/economy/282582/spain-to-control-pepper-imports.html](http://VietNamnews.vn/economy/282582/spain-to-control-pepper-imports.html)>

<sup>7</sup> See <<http://www.thitruongtaichinh.vn/55020/nong-san-xuat-khau-tu-duy-cu-kho-vuot-rao-can.html>>

<sup>8</sup> See <[http://www.thanhniennews.com/business/exporters-bitter-as-eu-bacterial-warning-stops-Viet Nam-veggies-32228.html](http://www.thanhniennews.com/business/exporters-bitter-as-eu-bacterial-warning-stops-Viet-Nam-veggies-32228.html)>

procedures, labeling requirements, etc) has raised the export costs (including the time involved) to prohibitive levels, making it no longer profitable for Viet Nameese exporters to continue trying to enter the target markets, etc.

Viet Nam undertook to comply with the requirements of the SPS Agreement upon its accession to the WTO without recourse to any transitional arrangements. The national enquiry point for SPS matters is the Viet Nam SPS Office in the Ministry of Agriculture and Rural Development (MARD). Other governmental agencies responsible for SPS-related matters include the Ministry of Industry and Trade (MOIT), the Ministry of Health (MOH), and the Ministry of Science and Technology (MOSTE). Viet Nam is also a member of Codex Alimentarius and the World Organisation for Animal Health (OIE), and a contracting party to the International Plant Protection Convention (IPPC), which are the three international standardisation bodies referenced by the SPS Agreement.

Viet Nam has made 42 regular notifications (and addenda to two of these) to the SPS Committee in the WTO. These notifications cover a wide variety of products and SPS-related issues. They also included the Law on Food Safety (No. 55/2010/QH12) and a draft Law on Plant Protection and Quarantine. Several WTO Members have used the SPS Committee on various occasions to raise a specific concern with Viet Nam about its ban on imports of offal products as from 7 July 2010.<sup>9</sup> Till date, however, it is not known whether Viet Nam has ever used the SPS Committee to challenge any notification made by other WTO

Members.

## Important Issues at Stake

SPS barriers to Viet Nam exports have made a countless number of headlines in Viet Nam news and business papers, which by itself shows that important issues are at stake, and that the GOV, the Viet Nameese business community, and Viet Nameese people in general, attach a high level of importance to SPS issues. In its October 28, 2007 issue for instance, *Thanh Nien* ("Youth") News reported that, "*Viet Nameese products rejected by importing markets have increased. This has offset the benefit from Viet Nam's new WTO visa to world trade. Hoang Tung, Head of Quarantine Department under the Ministry of Agriculture and Rural Development (MARD), said seafood and agricultural products are in the top declined exports, especially by Japan, the US and Europe. Nguyen Huu Dung from the Ministry of Health's Food Administration Department said there are many examples. In early October, two consignments of green tea under Ha Long and Thai Hoa businesses' brand names were discarded by the Taiwanese authorities due to a residue of dicofol 0.15 ppm and endosulfan 0.24 ppm, exceeding the territory's regulated standards. There were hundreds of other cases where the new SPS regulations prevented exports. Dam Quoc Tru, Deputy Director of MARD's Plant Protection Department said Viet Nameese products were subject to much stricter importing conditions than ever before.*"<sup>10</sup>

Representatives of the Viet Nameese business community were also quoted in many

<sup>9</sup> See World Trade Organization, "Viet Nam Trade Policy Review", Report WT/TPR/S/287. August 13, 2013, P. 72

<sup>10</sup> Tancrede Voituriez, "WTO Entry and Beyond: Accession Benefits and the Cost of Membership. A Preliminary Analysis in the Case of Viet Nam", Paper prepared for the MALICA

Seminar entitled "*Recent changes affecting quality in Viet Nam's agriculture and food chains—institutional challenges and methods*", Hanoi, December 11 & 12, 2007, <[http://agents.cirad.fr/pjjimg/tancrede.voituriez@cirad.fr/paper\\_TV1.pdf](http://agents.cirad.fr/pjjimg/tancrede.voituriez@cirad.fr/paper_TV1.pdf)>

instances, indicating how they consider SPS issues as being critical to the viability and success of Viet Nam agricultural products. One exclaimed that “even packaging and labelling for exports into the EU is prohibitively difficult for a majority of Viet Nameese enterprises...and compliance significantly increases production costs, making Viet Nameese products less competitive as compared with those from other countries, including China”.<sup>11</sup> A Viet Nam trade consular to the US market was quoted saying, “for all types of foods placed on the dining table, the US requires barcodes, which the US consumers could use their smart phones to trace back to which province, which district, and even which farms having produced the products. This is a highly complex process, which is very difficult to be implemented in Viet Nam.”<sup>12</sup>

Fortunately, Viet Nam agricultural export products do not rank among the top most SPS-affected products. The top ten most affected products in terms of numbers of notifying countries in the WTO, according to a recent study, represent a mere 0.43% of Viet Nam agricultural exports. This ratio even drops to 0.10% if we rank products according to the coverage ratio. The only criteria for which Viet Nam’s export products would face the most serious SPS constraints is imports value in notifying countries. Rice which is ranked 9<sup>th</sup> represents 31% of Viet Nam agricultural exports value.<sup>13</sup> On the other hand, the four largest import markets for Viet Nam’s

agricultural exports at present are the US, the EU, Japan and Australia; and these markets are notoriously difficult and famous for the number of SPS measures being put in place, especially the EU.<sup>14</sup> Therefore, if Viet Nameese exporters are unable to comply with the stringent SPS measures imposed in these markets, the export revenue forgone would be quite high.<sup>15</sup>

In general, SPS challenges faced by Viet Nameese exporters could be summarised as follows:

### High compliance costs

Technical standards and conformity assessment procedures of any country, to a certain extent, would naturally discriminate in favour of domestic suppliers, and against foreign suppliers. This is because they reflect the institutional infrastructure within that country and the market demands/preferences there. Domestic suppliers will be more accustomed to operating within these structures, and they will have themselves developed in response to the local demands. Viet Nameese exporters, however, when trying to enter an overseas market other than their home ground, would have to learn to get accustomed to, sometimes extremely, different procedures, for example differences in the number of samples required for product testing, permitted levels of ingredients, performance thresholds, differences in permitted test methods, or types of ingredient allowed, etc.

<sup>11</sup> See <<http://kinhtevadubao.vn/chi-tiet/100-471-nong-san-xuat-khau-truoc-nguon-cua-fta-viet-nam--eu--con-nhieuraocan.html>>

<sup>12</sup> See <<http://www.thesaigontimes.vn/142492/Nhan-dien-rao-can-de-day-manh-xuat-khau-nong-san.html>>

<sup>13</sup> See Footnote 10

<sup>14</sup> See for example <<http://VietNamnews.vn/economy/281622/local-companies-urged-to-study-eu-regulations.html>>, <<http://english.VietNamnet.vn/fms/business/135715/us-imposes-tough-standards-for-Viet-Nam-s-food-imports.html>>, and <<http://www.thesaigontimes.vn/142492/Nhan-dien-rao-can-de-day-manh-xuat-khau-nong-san.html>>

<sup>15</sup> As noted by the World Bank in 2006, “while it is not possible to estimate total losses to the economy with any degree of precision, it is safe to say that the human health costs of food-borne diseases, production losses from pests and diseases, and forgone markets resulting from recent pest and disease introductions, easily surpass US\$ 1 billion per year, about equally distributed between food safety (public health) and agricultural health causes”. The opportunity cost of non-compliance would hence amount to an estimate of 15% of Viet Nam agricultural exports in the same year. See Footnote 10.



The situation is worse when the technical standards and conformity assessment procedures in the importing market is more stringent, or higher than that of Viet Nam, requiring them in many cases to adjust their manufacturing practices or production methods, apply new technologies, etc., i.e. resulting in remarkably high costs of compliance. The problem is further compounded when there are many different import markets, with different standards and requirements, to study and comply with at the same time, even for one single product.

As an example, Viet Nam's shrimp exports to Japan, and more recently South Korea, have been subject to testing to control the level of Ethoxyquin residue (at 0.01 ppm), an antioxidant very commonly used in Viet Nam for preserving feeds. This has resulted in a lot of difficulties for Viet Nameese exporters, some even having to completely change their production method, or switch their suppliers, in addition to more rigorous testing. The total additional cost incurred was estimated at US\$250-500 per 20-foot container. According to the Viet Nam Association of Seafood Exporters and Producers (VASEP), all shrimp exports to Japan have to undergo at least 6 tests at testing facilities and laboratories certified by the MARD. The cost for these tests totals at approximately US\$2,000 per shipment, and around US\$200,000 for each large shrimp exporter every year.<sup>16</sup>

In cases where border inspection and ultimately rejection is involved, we should also add up the loss of product value, transport and other export costs, and product re-export or destruction. And as mentioned above, recently, there have been more and more cases of product rejection or border inspection for Viet Nameese agricultural products, resulting in huge economic losses for

exporters.

### **Lack of (timely) information**

A common complaint against SPS measures imposed by developed countries against agricultural imports from developing countries is that very little time is given for compliance, which sometimes even requires changes in technologies and production facilities. In the case of Viet Nam, a more common complaint of exporters is that the government representatives/agencies have been slow to react to changes in SPS standards in major export markets, and inform the private accordingly. As a result, the period within which they had been required to comply had been significantly reduced, increasing costs and, in extreme cases, limiting their ability to export.

As an example, a black pepper exporter from Viet Nam shared that pepper exports from Viet Nam is being faced with a lot of barriers regarding the level of pesticide residue. However, enterprises in Viet Nam only came to know about Spain's concerns regarding the level of pesticide residue in pepper imported from Viet Nam through the mass media, which in turn has retrieved the information from Viet Nam's trade office in Spain. There is no direct connection between the relevant government agencies and the private sector, so that information can be exchanged timely and necessary actions taken. A rice exporter also expressed her concerns about the lack of information regarding the SPS requirements of the US market similarly.<sup>17</sup>

### **Incompatible farming and production practices**

This is the most significant issue identified by a recent study regarding Viet Nameese exporters being unable to meet with the strict SPS

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<sup>16</sup> See <<http://news.vinagri.com/2012/12/tom-viet-nam-khon-on-voi-rao-can-du.html>>

<sup>17</sup> See <<http://tuoitre.vn/tin/kinh-te/20160223/doanh-nghiep-xuat-khau-keu-thieu-thong-tin/1055701.html>>

measures imposed by more developed trading partners such as the EU lies in the incompatible farming methods and production practices in Viet Nam itself.<sup>18</sup> It was noted by the World Bank that important discrepancies (at least for half of the regulations) still exist between national standards of Viet Nam and international standards in major areas of food safety and agricultural health.<sup>19</sup> And even these low standards are not being strictly complied with by small-scale producers, who are scattered along the very fragmented agricultural supply chain, having no knowledge about food safety standards and health requirements, or sometimes intentionally engaging in unsustainable production activities for rent-seeking purpose.

A recent survey of 314 exporters showed that 252 of them were faced with some kind of export barriers. The top three markets where exporting enterprises interviewed face the most difficulties related to SPS (and TBT) measures are the EU, the US and Japan. The survey results also showed that agricultural products are always on the top of products facing those measures in every market mentioned in the survey. According to companies interviewed, after Viet Nam joined the WTO, the frequency with which interviewees faced with trade measures increased dramatically. The interviewers tended to suggest that when tariffs cannot be officially used to protect domestic markets, other countries have to resort to non-tariff barriers such as SPS measures.

Also according to the survey, enterprises in Viet Nam have begun to actively seek information relating to SPS measures in export markets. They can research the regulations by themselves and/or rely on support from industry associations (e.g. associations contributing around 22% to the source of information for enterprises). In order to respond to SPS measures, many enterprises set up separate departments to deal with the issues or at least assign staff (e.g. 21.67% enterprises interviewed having separate departments on (TBT and) SPS, 26.67% assigning staff). However, the majority reported that they do not have specialized staff or department, and only rely on external supports or sources of information. This is understandable as 98% of Viet Nameese enterprises are small and medium-sized and lack sufficient resources.

Regardless of trade measures, Viet Nam's exporters seemed quite resilient. 83.9% of businessmen interviewed decided to continue exporting when facing with (TBT and) SPS measures. Only 2.6% decided to move from export to selling domestically. 17 enterprises have informed the relevant authorities of the trade measures they were faced with.

Four solutions are reportedly used to overcome the SPS measures. They are technological renovation (21%), quality assurance (25%), education of relevant staff (25%) and strict compliance with importing countries' requirements. To overcome the measures, enterprises are faced with different kinds of difficulties.

<sup>18</sup> Digby Gascoine, "Overcoming SPS Barriers to Enhanced Exports of Viet Nameese Products to the European Union", <<http://mutrap.org.vn/index.php/en/library/reference-documents/mutrap-iii/finish/65/176>>

<sup>19</sup> World Bank, "Viet Nam: Food Safety and Agricultural Health Action Plan", Report No. 35231-VN, Washington D.C.; <[http://siteresources.worldbank.org/INTVIETNAM/Resources/Viet\\_Nam\\_sps\\_report\\_final\\_feb\\_06.pdf](http://siteresources.worldbank.org/INTVIETNAM/Resources/Viet_Nam_sps_report_final_feb_06.pdf)>

The greatest problem lies in the establishment of proper administrative procedures (22%). The increasing cost of compliance is the next highest obstacle (19%). Additional capital is required to upgrade technologies, train staff, for research and beyond, to comply with strict requirements from importing countries. Inadequate technology is the most common reason, and then lack of information on SPS and TBT measures.

Source: Ngoc Thuy Hoa, Ha Ngoc Nguyen, and Ngan Kim Vu, "Implementation of SPS/TBT agreements - Experiences from other countries and lessons for Viet Nam", Working Paper Series 1/2013, SECO / WTI Academic Cooperation Project, <[http://old.wti.org/fileadmin/user\\_upload/wti.org/7\\_SECO\\_-\\_WTI\\_Project/Publications/Implementation\\_of\\_SPS\\_TBT\\_agreements\\_Ho\\_Nguyen\\_Vu.pdf](http://old.wti.org/fileadmin/user_upload/wti.org/7_SECO_-_WTI_Project/Publications/Implementation_of_SPS_TBT_agreements_Ho_Nguyen_Vu.pdf)>

## Seeking Solutions

A most common solution suggested for Viet Nameese agricultural exports to overcome SPS measures and grow was for the business community themselves to change the production method, upgrade manufacturing/processing facilities, and apply science and technology in farming, and comply with international standards. Good Agricultural Practices (GAP) have been adopted nationally in Viet Nam, alongside with many other international standards, such as ISO 9001, ISO14001, ISO 22000. However, their implementation remains a challenge, mostly because small-scale farmers, the main supplier of agricultural products in the country still need to be further educated.

The role of the government, however, cannot be ignored. In addition to providing timely information about changes in or new SPS measures of other countries, there are many other ways in which the GOV can help to create a favourable environment for agricultural export

growth:

- By encouraging the formation of industry associations to assist individual enterprises and to liaise with government on their behalf;
- By adopting relevant international standards and supporting the application of appropriate technologies and practices by producers and processors;
- By undertaking export promotion programmes;
- By establishing effective government-to-government relations with the relevant authorities of importing countries; and
- By negotiating with importing countries over their application of SPS measures.

Amongst these solutions, the last suggestion also means for the Viet Nameese mission to the WTO in Geneva to participate effectively in all meetings of the SPS Committee and provide the capital (SPS Office) with relevant information and update. Even though the SPS Agreement permits individual nation states to take legitimate measures to protect the life and health of consumers given the level of risk that they deem to be 'acceptable', provided such measures can be justified scientifically and do not unnecessarily impede trade, it also instructs Members to take account of the special needs of developing countries, and in particular least-developed countries, in the development of SPS measures, and to maintain opportunities for exports from developing countries. This means that the application of SPS measures by importing countries could be challenged and negotiated, to become less restrictive for Viet Nameese exports. However, this would require two-way consultation and very close cooperation between the mission in Geneva and private sector in the country.







## CUTS International, Geneva

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The Geneva Trade & Business Connexion Forum project is undertaken with funding support from the Australian Aid agency (Australian government).