ADB

# MODERNIZING SANITARY AND PHYTOSANITARY MEASURES TO FACILITATE TRADE IN AGRICULTURAL AND FOOD PRODUCTS

REPORT ON THE DEVELOPMENT OF AN SPS PLAN FOR THE CAREC COUNTRIES

Asian Development Bank

ADB

# MODERNIZING SANITARY AND PHYTOSANITARY MEASURES TO FACILITATE TRADE IN AGRICULTURAL AND FOOD PRODUCTS

REPORT ON THE DEVELOPMENT OF AN SPS PLAN FOR THE CAREC COUNTRIES

Asian Development Bank

ISBN 978-92-9254-071-5 (Print), 978-92-9254-072-2 (PDF)
Publication Stock No. RPT135393-2

Cataloging-in-Publication Data

Asian Development Bank.
Modernizing sanitary and phytosanitary plan measures to facilitate trade in agricultural and food products: Report on the development of an SPS plan for the CAREC countries.
Mandaluyong City, Philippines: Asian Development Bank, 2013.

1. Trade facilitation. 2. Agricultural products. 3. Food products.
4. Central Asia Regional Economic Cooperation. I. Asian Development Bank.



Note:
In this publication, "$" refers to US dollars.

Asian Development Bank
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
Tel +63 2 632 4444
Fax +63 2 636 2444
www.adb.org

For orders, please contact:
Department of External Relations
Fax +63 2 636 2648
adbpub@adb.org

Printed on recycled paper

This report was prepared by Robert Black, Consultant on Biosecurity Law and Risk Assessment, under Asian Development Bank initiative RSC-C13610 (REG): Sanitary and Phytosanitary Measures. Asian Development Bank initiated the study on which the report is based as part of the Joint Transport and Trade Facilitation Strategy for the Central Asia Regional Economic Cooperation (CAREC) region.

The views expressed in this report are those of the consultant, and thus do not necessarily represent the views or policies of the Asian Development Bank, its Board of Directors, or the governments they represent.

# Contents

# Tables, Figures, and Boxes

**Tables**



**Figures**



**Boxes**

# Foreword

Every country has measures to ensure that food is safe for consumers, and to prevent the spread of pests and diseases among plants and animals. However, such sanitary and phytosanitary (SPS) measures can have the unintended result of restricting international trade. In many cases, these measures—which include food safety compliance, animal quarantine, and inspection of plants and other agricultural products—are administered independently of (and in addition to) standard customs formalities. SPS measures may be applied at the point of entry to, or exit from, the home country; they may be applied at inland facilities. If such measures are poorly designed, or are adopted without appropriate consultation with the private sector entities affected by them, they can result in cumbersome and time-consuming delays in the release of goods to the customer.

Such an outcome is undesirable because it restricts rather than facilitates international trade, thereby jeopardizing competitiveness in both regional and international markets. On the other hand, appropriately designed and administered SPS measures will ensure that trade management and regulation conform with internationally accepted standards, that both domestic and international consumers are protected from the spread of pests and diseases, and that a country is able to reap the full gains from international trade.

In the Central Asia Regional Economic Cooperation (CAREC) countries, reaping the full gains from international trade will require maximizing the number of trading partners with which CAREC countries exchange goods. The CAREC countries will have to transition from their former SPS regimes to updated systems that adhere to the principles embodied in the 1994 SPS Agreement adopted by the World Trade Organization. These set out the rules of trade accepted by most trading nations in relation to food safety within the international community.

To facilitate this transition, the Asian Development Bank (ADB) commissioned an assessment of CAREC countries' existing SPS management systems. Conducted from October 2011 to July 2012, this assessment reviewed existing SPS practices and risk management systems in the CAREC countries. In addition, it recommended ways to streamline these practices to ensure food safety and public health domestically and internationally, while at the same time facilitating trade and reducing in-transit losses of agricultural and food commodities.

It is ADB's sincere hope that the publication of this report will stimulate the CAREC countries to facilitate trade within and beyond the region by adopting international SPS standards, applying SPS procedures smoothly and efficiently, and investing in SPS-related infrastructure. For its part, the ADB is eager to support the collective, coordinated efforts of the CAREC countries in implementing SPS measures that facilitate trade of safe agricultural and food products regionally and internationally.

The publication of this report is consistent with ADB's strategy of driving positive change in the Asia-Pacific region by disseminating information that helps reduce poverty through economic development. This report is one of many knowledge products produced by ADB's East Asia Department in support of the overarching goal of reducing poverty in Asia-Pacific region.

I gratefully acknowledge the efforts and contributions of ADB officers and staff, and the consultants who worked with the Public Management, Financial Sector, and Regional Cooperation Division of the East Asia Department on the SPS study and the publication of this report.

**Robert Wihtol**
Director General
East Asia Department
Asian Development Bank

# Abbreviations

| | | |
|---|---|---|
| ADB | – | Asian Development Bank |
| APPC | – | Asia and Pacific Plant Protection Commission |
| AQSIQ | – | (General) Administration of Quality Supervision, Inspection, and Quarantine (of the People's Republic of China) |
| BCP | – | border crossing point |
| CAREC | – | Central Asia Regional Economic Cooperation (Program) |
| CFCFA | – | CAREC Federation of Carrier and Forwarder Associations |
| CIS | – | Commonwealth of Independent States |
| CSM | – | Center for Standardization and Metrology (of the Kyrgyz Republic) |
| ELISA | – | enzyme-linked immunosorbent assay [diagnostic technique] |
| EPPO | – | European and Mediterranean Plant Protection Organization |
| ESCAP | – | (United Nations) Economic and Social Commission for Asia and the Pacific |
| EU | – | European Union |
| EurAsEC | – | Eurasian Economic Community (comprising Belarus, Kazakhstan, the Kyrgyz Republic, the Russian Federation, and Tajikistan) |
| FAO | – | Food and Agriculture Organization of the United Nations |
| GASI | – | General Agency for Specialized Inspection (of Mongolia) |
| GMS | – | Greater Mekong Subregion |
| GOST | – | (Set of) State Standards (of the former Union of Soviet Socialist Republics) |
| HACCP | – | hazard analysis and critical control points |
| HPLC | – | high-performance liquid chromatography |
| IPFSAPH | – | International Portal on Food Safety, Animal and Plant Health |
| IPPC | – | International Plant Protection Convention |
| ISSB | – | international standard-setting body |
| ITC | – | International Trade Centre (of the Kyrgyz Republic) |
| MASM | – | Mongolian Agency for Standardization and Metrology |
| MER | – | Ministry of Economic Regulation (of the Kyrgyz Republic) |
| MOA | – | Ministry of Agriculture (of the People's Republic of China, Kazakhstan, or the Kyrgyz Republic) |
| MOFAT | – | Ministry of Foreign Affairs and Trade (of Mongolia) |
| MOFCOM | – | Ministry of Commerce (of the People's Republic of China) |
| MOH | – | Ministry of Health (of the People's Republic of China, Kazakhstan, or the Kyrgyz Republic) |
| MRL | – | maximum residue level |
| OIE | – | Office International des Epizooties (World Organisation for Animal Health) |
| PCR | – | polymerase chain reaction (diagnostic technique) |
| PRA | – | pest risk analysis |
| PRC | – | People's Republic of China |
| RASFF | – | Rapid Alert System for Food and Feed (of the European Union) |
| SanPin | – | sanitary and epidemiologic (rules and regulations) |
| SPS | – | sanitary and phytosanitary |
| SPSS | – | State Phytosanitary Surveillance Service (of Azerbaijan) |

| | | |
|---|---|---|
| STDF | – | Standards and Trade Development Facility |
| TBT | – | technical barriers to trade |
| TRACECA | – | Transport Corridor Europe–Caucasus–Asia |
| TTFS | – | Transport and Trade Facilitation Strategy (of the CAREC Program) |
| UNDP | – | United Nations Development Programme |
| WAHID | – | World Animal Health Information Database (of the OIE) |
| WHO | – | World Health Organization |
| WTO | – | World Trade Organization |

# Executive Summary

The Asian Development Bank (ADB) commissioned a sanitary and phytosanitary (SPS) assessment as part of its Transport and Trade Facilitation Strategy for the Central Asia Regional Economic Cooperation (CAREC) Program. This assessment was aimed at harmonizing SPS standards and streamlining SPS-related procedures at border crossing points (BCPs) administered by the countries in the CAREC grouping to shorten delays in the handling of perishable goods.

Existing SPS measures and procedures in the CAREC countries were assessed as a first step in developing an SPS action plan for the adoption and implementation of SPS measures that would facilitate regional and international trade in agricultural and food products in the CAREC region. This assessment of SPS measures in the People's Republic of China (PRC), Kazakhstan, the Kyrgyz Republic, Mongolia, and Uzbekistan was made to identify areas of nonconformity with the internationally accepted standards laid out in the World Trade Organization's Agreement on the Application of SPS Measures.

This assessment encompasses: (i) reviewing SPS-related policies in the CAREC countries; (ii) evaluating the SPS-related diagnostic and testing capacity of laboratories in the CAREC countries covered by the assessment; (iii) evaluating the capacity of staff engaged in SPS administration, as well as determining their training needs; (iv) discussing with government officials and private sector entities their concerns relating to existing SPS measures and procedures; and (v) preparing a draft work program for a regional cooperation initiative relating to SPS. In addition to country visits, a workshop was held in July 2012 to discuss the findings of the preliminary assessment and its recommendations. This workshop was attended by representatives of the CAREC countries, the World Trade Organization (WTO), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), and ADB.

A number of issues emerged, both during the study and during the SPS workshop. First, the major obstacle to implementing smoothly functioning SPS systems in the CAREC countries is the continued use of the State Standards (GOST) inherited from the former Soviet Union (the standards). The fact that such standards are not WTO compliant, means that they are not recognized by most trading countries. For this reason, the CAREC countries cannot gain access to markets beyond those in the former Soviet Union.

Second, the country-level assessment underscored the benefits of adopting WTO-compliant SPS standards, regardless of whether the country is already a WTO member or is in the process of becoming one. In this regard, the accession of Russia to the WTO on 22 August 2012 is of profound importance to the CAREC region, as this obligates Russia to replace its former GOST standards with WTO-compliant standards. It in turn forces other former Soviet Union countries to adopt WTO-compliant standards as well, to prevent loss of access to the Russian Federation market. Third, addressing the slow pace of reform of primary laws relating to SPS standards will require either passing new laws that adhere to SPS principles or amending existing laws.

Fourth, transitioning to smoothly functioning SPS systems in the CAREC countries will require streamlining the day-to-day administration of SPS controls at international entry and exit points. More specifically, single window facilities for processing goods through both entry and exit customs formalities, automated customs information systems, and coordinated management of border clearance procedures will be required to avoid duplication and overlap of customs control responsibilities among various agencies, along with the excessive inspection, conformity assessments, and permit issuance requirements that such duplication of effort entails. A unified inspection agency representing the three SPS sectors (food safety, animal health, and plant health)—like the agencies in the Kyrgyz Republic and Mongolia—is a positive step in this regard. However, the implementation of such a system must not weaken (i) conformity with the SPS Agreement, or (ii) the maintenance of food safety and animal and plant health standards. Both (i) and (ii) would be best achieved by identifying a single, specific source of policy advice regarding the implementation of internationally agreed SPS standards.

Fifth, the border controls currently in place for ensuring the safety of food of either plant or animal origin in the CAREC countries are generally not based on risk avoidance. As a result, they are inefficient in ensuring food safety for two reasons. First, they are based on the ineffective GOST standards implemented throughout the former Soviet Union. Second, the laboratories that provide diagnostic backup to the implementation of the current measures have significant deficiencies in capacity. Overall, therefore, none of the countries included in the assessment is properly equipped to test for hazards in food, or for pests and diseases that might be present in plants, fruits, or vegetables. Moreover, the food tests that these laboratories are capable of carrying out are for the most part obsolete and quality based rather than being oriented to safety.

Legal reforms in SPS measures will require raising awareness of SPS issues in all government sectors that relate to the administration of such measures, as well as among parliamentarians and private sector entities affected by safety measures for food and agricultural products. Direct assistance is likewise required in drafting amendments to, or replacing, outdated laws and regulations. Similarly, regional cooperation, and therefore coordination, in administering internationally recognized SPS standards for food safety and agricultural health, is of particular importance in this regard. Since the CAREC countries are in the same geographic region, they share similar agro-ecosystems, products, and agricultural practices, and thus often encounter similar food safety, and animal and plant health issues. Further, most (7 out of 10) CAREC countries share the legacy of the GOST system, and thus face common challenges of reform. Given the above, the formation of a CAREC SPS Working Group to oversee the implementation of an SPS work plan for the region may be the most effective approach to fostering regional cooperation in SPS-related matters.

The delegates to the July 2012 CAREC SPS Workshop held in Bangkok, Thailand agreed that, to achieve CAREC-wide adoption of internationally recognized SPS standards, the logical next steps for their respective governments would be to (i) modernize SPS measures, and (ii) identify SPS-related investments to facilitate trade. In turn, modernizing SPS measures will require the governments to

- acknowledge the importance of the WTO-sanctioned SPS Agreement, regardless of a country's WTO accession status,
- develop the policy base and legal and regulatory framework needed to complete the transition from the former Soviet GOST system,
- eliminate unnecessary inspections and reduce delays caused by inspection and testing by adopting the Codex Alimentarius,

- require that the content of national standards be justified by risk analysis within a formally constituted system,
- use pest risk analysis to identify quarantine pests and phytosanitary import requirements,
- introduce joint customs control using SPS-based flags at BCPs, and
- mainstream SPS concerns into the agenda of CAREC national transport and trade facilitation bodies.

Finally, in identifying the SPS investments required to facilitate trade, priority must be given to: (i) integrating risk-based SPS controls with customs-related risk management systems, (ii) introducing a single window import and export customs processing facility in each country, (iii) modernizing laboratory infrastructure, (iv) designating and upgrading specialized BCPs for priority handling of perishable commodities, and (v) building institutional capacity through training and stakeholder engagement.

# I. Introduction

The Central Asia Regional Economic Cooperation (CAREC) Program is a partnership of 10 countries: Afghanistan, Azerbaijan, the People's Republic of China (PRC), Kazakhstan, the Kyrgyz Republic, Mongolia, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan. With the support of six multilateral institutions, the CAREC Program promotes economic growth and poverty reduction in the region by creating opportunities for the CAREC countries to take advantage of rapid growth in adjoining markets and to emerge as a center of trade and commerce.

The CAREC Program assigns priority to transport, trade facilitation, trade policy, and energy. Under the CAREC Transport and Trade Facilitation Strategy (TTFS), CAREC member countries are pursuing coordinated initiatives to improve transport infrastructure and to facilitate trade. These initiatives require harmonizing regulations, procedures, and standards relating to trade and transport in the CAREC region. Much trade between CAREC countries involves goods and commodities subject to border controls and related activities for protecting human, animal, and plant life which the World Trade Organization (WTO) refers to as "sanitary and phytosanitary (SPS) measures."[1]

The processing of perishable goods through border crossing points (BCPs) in the CAREC countries is considerably delayed by a multiplicity of regulatory inspections and clearance procedures relating to food safety and animal and plant health. Further, the regulatory and permitting procedures through which the current standards are administered are complex, cumbersome, and opaque, compounding delays in the processing of perishable commodities, and creating procedural irregularities, and hence, a host of opportunities for unofficial payment.[2]

In its role as a multilateral institution supporting the CAREC Program, the Asian Development Bank (ADB) began an SPS initiative that seeks to streamline and harmonize SPS regulations, procedures, and standards at BCPs, particularly those along CAREC corridors. Also part of the TTFS, the SPS study and workshop on the ADB initiative assessed current SPS measures and risk management systems, as well as the capacity of the laboratory and staff of CAREC member countries to perform the diagnostic procedures that underpin the administration of SPS measures. This assessment made was to identify the nature and extent of the requirements for improving regional cooperation in streamlining the implementation of SPS measures within the CAREC region.

This report highlights the findings of the country-level SPS assessments in five CAREC countries: Mongolia, Kazakhstan, the Kyrgyz Republic, Uzbekistan, and the PRC (see Appendix 2). It discusses emerging SPS-related issues in CAREC, and the actions required to implement internationally recognized SPS procedures in the CAREC countries. In particular, it identifies the specific SPS-related investments needed to facilitate trade among CAREC countries, and with countries outside the CAREC region.

[1] ADB/CAREC. 2009. *CAREC Transport and Trade Facilitation. Partnership for Prosperity*. See Appendix 1.

[2] See CAREC Corridor Performance Measurement and Monitoring reports in Appendix 1.

# II. Overview of SPS Measures in the CAREC Region

## A. Overall Context

With its adoption in 1995, the WTO Agreement on the Application of SPS Measures ("the SPS Agreement") became the internationally recognized set of SPS measures for ensuring the safety of food and agricultural products, regardless of whether or not a particular country is a WTO member. In short, the SPS Agreement sets the rules for determining whether the SPS measures adopted by a particular country (i) conform to free-trade rules, (ii) are scientifically justifable, and (iii) do not impose arbitrary or discriminating barriers to trade in goods that might present a risk to the life and health of humans, animals, or plants.

"SPS measures" cover actions and policies designed to:

- protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment, or spread of pests, diseases, disease-carrying organisms, or disease-causing organisms;
- protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins, or disease-causing organisms in foods, beverages, or feedstuffs;
- protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants, or products thereof, or from the entry, establishment, or spread of pests; or
- prevent or limit other damage within the territory of the Member from the entry, establishment, or spread of pests.

SPS measures include all relevant laws, decrees, regulations, requirements, and procedures (including, inter alia, end-product criteria; processes and production methods; testing, inspection, certification, and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures, and methods of risk assessment; and packaging and labeling requirements) directly related to food safety.[3]

Because the SPS Agreement is binding on all WTO members, formal disputes over nonconformity with the agreement can be raised at the WTO. However, being a WTO member does not necessarily mean that the member country is in compliance with the SPS Agreement. This is because of the way the SPS Agreement was written in relation to what "developing country" members and "least-developed" countries had to do to get WTO accreditation. Developing country members that joined the WTO early did not have to undergo severe scrutiny with respect to their SPS measures. Indeed, even some rather advanced countries sought to be categorized as "least-developed countries" to be exempt from greater scrutiny.

Among the CAREC countries, the PRC, Mongolia, the Kyrgyz Republic, Pakistan, and Tajikistan are WTO members. Apart

[3] WTO SPS Agreement, Annex A.

from Turkmenistan (for the moment), all other CAREC countries are at various stages of accession to the WTO. To be accepted into the WTO, countries must demonstrate that they are improving their capacity to meet the requirements of the SPS Agreement, as well as the other WTO agreements.

Thus, regardless of whether or not a country is a WTO member, the SPS Agreement is the de facto normative framework for administering border controls on goods that pose the risk of harm to human, animal, or plant life. This is because the Codex Alimentarius (Codex), the International Plant Protection Convention (IPPC), and the World Organisation for Animal Health (OIE) are all aligned with the SPS Agreement, and because most CAREC member countries are already members of, or signatories to, the Codex, the OIE, and the IPPC.

## B. International Standard-Setting Bodies

The SPS Agreement does not make the WTO a world regulator of food safety, animal health, or plant health, and does not set actual rules for enforcing SPS measures. Instead, the SPS Agreement establishes the way in which SPS measures become internationally acceptable in facilitating trade. The SPS Agreement follows the standards set by the three international standard-setting bodies (ISSBs): (i) the Codex Alimentarius Commission, which is jointly convened by the World Health Organization (WHO) and the Food and Agriculture Organization (FAO) of the United Nations; (ii) OIE; and (iii) the IPPC Secretariat.

These three ISSBs are the source of the international standards, guidelines, and recommendations that are consistent with the SPS Agreement regarding food safety, animal diseases and zoonoses, and plant health. Indeed, regardless of whether a CAREC member country is a WTO member or not, its being a member of OIE or the Codex, or its being an IPPC signatory creates a de facto obligation to meet the requirements of the SPS Agreement as it relates to food safety, and animal and plant health. The CAREC member countries that are either members of the Codex and OIE, or are signatories to the IPPC, or both, are as follows:

Codex: Afghanistan, Azerbaijan, the PRC, Kazakhstan, the Kyrgyz Republic, Mongolia, Pakistan, Tajikistan, and Uzbekistan

OIE: All CAREC countries

IPPC: Azerbaijan, the PRC, Kazakhstan, the Kyrgyz Republic, Mongolia, Pakistan, Tajikistan, and Uzbekistan

## C. Current Country-Level SPS Legal Frameworks in the CAREC Region in Relation to the SPS Agreement

### 1. National Standards

Consistency with the SPS Agreement, the Codex, the OIE, and the IPPC is essentially achieved through the application of SPS-compliant standards—international, national, or regional standards that are justified on the basis of risk assessment. That said, in many developing countries, including those that are members of the Commonwealth of Independent States (CIS), two noteworthy aspects of outdated laws still in force affect the alignment of current standards with SPS standards.

The first of these two aspects is the existence of "voluntary standards" and "mandatory standards" in the CIS context, both of which must somehow be brought into alignment with SPS principles if the home country is to trade with WTO member countries. This confusion between "voluntary standards" and "mandatory standards" may have arisen from a passage in the Technical Barriers to Trade (TBT) Agreement, which states in Annex 1 that compliance with technical regulations is "mandatory," whereas compliance with standards is "not mandatory."

In CIS member countries (including Azerbaijan, Kazakhstan, the Kyrgyz Republic, Tajikistan, Turkmenistan, and Uzbekistan), all standards are voluntary unless they are identified as technical regulations, which must be complied with. From the perspective of developed country observers, this distinction between regulations and standards is clear and straightforward. However, under the Soviet GOST system, the distinction was often unclear. This Soviet view contrasts sharply with that of the WTO, which considers technical regulations and SPS measures to be two distinctly different, mutually exclusive concepts.

In two of the countries included in the assessment, the phrase "voluntary standards" is interpreted in the Soviet sense. In the Soviet view, a voluntary standard is one that (i) originates from any sector of the public or industry, (ii) involves public participation in its development, and (iii) is ultimately public property. From this Soviet perspective, voluntary standards are viewed as not being owned by the national standards authority and, by extension, do not need to conform with the standards that underlie SPS measures, particularly those relating to food safety. Further, in the two countries referred to above, the government assumes this Soviet view of voluntary standards in administering border controls, and in monitoring food for sale on the open market.

The second noteworthy aspect of outdated laws still in force that affect the alignment of current CAREC country standards with SPS standards is the performance of conformity assessments and certification of products by the national standards authority itself, rather than by an accredited—though disinterested—third-party entity. Thus, in these countries, the national standards authority responsible for setting standards is also responsible for assessing whether or not goods conform to the standards it set and whether they can be certified as such. Further, the national standards authority is also in charge of determining whether or not laboratories should be accredited to perform certifications, a task the national standards authority now carries out by applying standards set by itself.

To avoid such conflicts of interest and hence loss of credibility on the part of the national standards authority, goods must be certified independently of the national standards authority, either by accredited, third-party, private sector certifying entities by a legally separate and autonomous arm of the standards authority.

Alternatively, the national standards authority could issue test certificates for import permits issued by competent third-party authorities to confirm that the testing procedure complied with national standards. In the case of exports, the test certificates would meet the requirements and standards of importing countries. Such a system would simply involve a contractual relationship between the national standards authority and the private sector entity performing the certification. The national standards body would not itself be issuing permits, and would thus not be exposed to conflict of interest. However, one potential drawback of such a system would be the possibility of confusion between a laboratory test certificate and a permit in the country concerned.

Another pitfall encountered during the assessment in aligning current CAREC country standards with SPS principles is misunderstanding or misuse of the term "accreditation." For example, in the view of developed country observers, "accreditation of laboratories" generally refers to national accreditation of test laboratories by the national standards authority. However, in Mongolia, "accreditation" as used by the General Agency for Specialized Inspection (GASI) means validating its own work. Thus, in the case of GASI, "accreditation" actually means "proficiency testing," like that done under the Food Analysis Performance Assessment Scheme of the Food and Environment Research Agency of the United Kingdom.

GASI officials also refer to "accrediting GASI" when in fact they mean that they are validating GASI's test results and issuing a certificate of conformity. Such a view of "accreditation" stands in stark contrast to the internationally accepted definition of the term, as certifying the

credibility of laboratories that test food exports to the European Union (EU) and other developed regions. In this latter sense, "accreditation" of such laboratories is done by an international body.

## 2. The Commonwealth of Independent States

Appendix 3 presents the legislation in the CIS member countries that is intended to bring the standards of these countries into conformity with SPS principles. It is noteworthy that all of this legislation is identified as being current or updated. In this regard, the distinction between "primary legislation" and "secondary legal acts" is important to the discussion here. Primary legislation takes the form of laws that have been passed. That said, many of the important SPS-related laws currently in force date back to the Soviet era. As a result, many laws critical to the implementation of appropriate standards, veterinary matters, food safety, and plant quarantine are now being drafted. However, in reality, many years may go by before these draft laws are finalized, and even more years before new legislation regarding conformity with SPS principles is passed.

In contrast to primary legislation, secondary legal acts in CIS countries are resolutions, decrees, and normative acts issued by the president, the cabinet, or the minister concerned. Such legal instruments are executed to speed up the reform of primary laws. However, rather than being part of the solution to the problem of outdated legislation, secondary legal acts appear to have worsened the problem. For example, since a normative act need not be in accordance with a law, it can easily provide a parallel legal basis for new provisions.[4] This situation is relevant in the case of outdated veterinary laws and plant quarantine laws that do not embody concepts of OIE-listed diseases or "quarantine pests." For this reason, such provisions in secondary legislation may be ultra vires (illegal) in most western European jurisdictions, since under EU law, legal authority can ultimately derive only from legal measures passed by parliament.

A major disadvantage of this system of secondary legal enactments is that it often leads to conflicts between decrees issued by different bodies, in this case the ministry, the cabinet, and the president. Indeed, all too often, inconsistent or contradictory decrees are issued in the course of political rivalries or shifts in the power base that see new bodies emerging and others going out of favor. Moreover, outdated or superseded laws and normative acts under the Soviet and CIS legal systems tend not to be repealed formally; instead, they are simply ignored.

The above notwithstanding, secondary legal acts such as decrees and normative acts, in the Russian Federation and in the CIS countries, can serve to define clearly the authority and responsibilities of various agencies, and to correct deficiencies in the primary laws. Legal reforms needed to pass genuine SPS legislation can therefore be achieved without a change in the constitution. In such a case, secondary legal acts become a vehicle for implementing the principles that would be embodied in best-case primary laws, creating legal certainty regarding the source of authority for such primary laws.

## 3. The Russian Federation and the Customs Union

The Customs Union comprising Belarus, the Russian Federation, and Kazakhstan significantly affects SPS issues in the CAREC region. This is because of several factors: (i) the Customs Union's influence in regional trade matters, (ii) the Russian Federation's recent accession to the WTO, and (iii) the Russian Federation's membership in the Eurasian Economic Community (EurAsEC), comprising

[4] I. Kireeva and R. Black. 2010. Sanitary and Phytosanitary Legislation in the Russian Federation: A General Overview in Light of the WTO SPS Agreement and EU Principles of Food Safety. *Review of Central and Eastern European Law* 35, 225–255.

Belarus, Kazakhstan, the Kyrgyz Republic, the Russian Federation, and Tajikistan.[5]

In short, because of the Russian Federation's accession to the WTO, that country must ultimately become WTO compliant. The Russian Federation's trading partners in turn must either become WTO compliant or risk losing access to the Russian Federation market. In this regard, it is worth pointing out that a country need not become a WTO member for it to become WTO compliant.

In January 2012, the Working Party Report on the Russian Federation's accession to the WTO reported the degree of its noncompliance with WTO principles and rules, but also took note of the Russian Federation's commitment to change its systems upon accession.[6] Thus, the Russian Federation's accession to the WTO on 22 August 2012 was expected to result in the progressive adoption of internationally accepted standards by that country.

A fundamental issue in this regard is the Russian Federation's insistence on allowing the use of technical regulations as SPS measures even as it has adopted under its national law on plant quarantine mandatory phytosanitary measures, which it does not consider to be technical regulations. A Russian Federation representative justified this stance by arguing that technical regulations apply only to matters relating to the life and health of humans and animals. Thus, since phytosanitary measures relate to plant life and health, they are not to be considered as technical regulations; instead they should be treated purely as SPS measures adopted to ensure transparency and compliance with the WTO SPS Agreement. This explains why the Russian Federation continues to rely on technical regulations "stipulating mandatory and binding requirements for the goods subject to technical regulation," and on the conformity assessment system is still in use.

As to the adoption of international (SPS) standards, the Russian Federation subscribes to the "use of international standards or relevant parts as the basis for the development of technical regulations," as provided in Article 4.4 of the Customs Union's Agreement on Uniform Technical Regulation Principles, except in cases in which such documents do not conform with the purposes of the technical regulations of the Customs Union.

This leads to the issue of "mutual recognition" through bilateral agreements of conformity assessment certificates in place, to abide by the principle of equivalence in Article 4 of the SPS Agreement. Russia's solution is twofold: to produce its own technical regulations on SPS as counterpart to the SPS measures, and to reduce further the list of products that require certificates of conformity. It currently has a rolling program for introducing SPS technical regulations. Moreover, EurAsEC technical regulations will supersede the technical regulations of the Customs Union in this sphere, and technical regulations developed by the Kyrgyz Republic for the safety of honey and bottled water will become applicable to the Customs Union.

On SPS in particular,

> ...Members expressed concern as regards to the overlap of measures required by the Russian Federation to confirm the conformity of goods with the Customs Union and national food safety measures: through veterinary export certificates, declarations of conformity, certificates of conformity, listing of establishments authorised to export to the Customs Union, import permits, and State Registration. These Members questioned the utility of such repeated, multiple and overlapping requirements to verify conformity with requirements. In their view, it was burdensome, unnecessary, and trade restrictive to maintain together a declaration of conformity or other forms of conformity assessment and export certificate or additional requirements. Members requested that the Russian Federation eliminate this redundancy. (p. 212 of the Working Party Report)

[5] EurAsEC is more of a concept or plan than a working union that ultimately adopts a single currency.

[6] WT/ACC/RUS/70; WT/MIN(11)/2. Available from the WTO Information Centre (http://wto.org).

Russia committed to address the above concern upon its accession to the WTO. There is particular concern about the transit of goods of animal origin under customs seal being denied passage through the Customs Union because of noncompliance with Customs Union veterinary requirements; again, this concern must be addressed by new regulations. The SPS Working Party also considers as barriers to trade the non-OIE list of diseases included in many of the Customs Union's complex and burdensome veterinary requirements.

The review of phytosanitary measures focused on the following:

- Use by the Russian Federation of risk assessment to categorize goods as "high risk" or "low risk." It was pointed out that, despite the clear absence of risk, a phytosanitary certificate is required for some processed products of plant origin.
- Preclearance without justifiable reason of plant exports from plant nurseries to the Customs Union.

The Working Party Report classified general food safety under "protection of human health." A major concern raised pertains to whether or not the state registration certificate required of companies marketing food in the Customs Union is a genuine SPS measure. The new certificates required since 1 January 2012 have caused problems for Kazakhstan-owned companies operating outside the Customs Union in their exports to Kazakhstan (see the assessment of SPS capacity in Kazakhstan in Appendix 2). State registration is for higher-risk commodities, but the food marketers feel that the alleged SPS-related "quality controls" as an additional requirement for conformity assessment of their food products is an unnecessary burden (pp. 251–253 of the Working Party Report).

As noted in a review of maximum residue levels (MRLs) in the Russian Federation, another source of discord in international food trade is non-harmonized MRLs.[7] In particular, the Russian Federation has been employing MRLs well below internationally accepted levels, which effectively express a level of zero (p. 254 of the Working Party Report). Thus, once more, the report notes that the Russian Federation has had to commit itself to harmonize its practice with the Codex. As for the Kyrgyz Republic, it has already taken steps to this end (see the assessment of SPS capacity in the Kyrgyz Republic in Appendix 2).

According to the Working Party, there was a commitment at each point that from the date of accession of the Russian Federation to the WTO, all SPS measures would be developed, whether by the Russian Federation or by competent bodies of the Customs Union, and that these would be applied by the Russian Federation in accordance with the WTO Agreement, and with the WTO SPS Agreement in particular.

## D. How Border Controls Delay the Transport of Perishable Goods

One major observation made during the assessment was that SPS procedures at BCPs in the CAREC countries are delaying the movement of goods.[8] There is thus a need to streamline such procedures to reduce the delays in processing, and to increase efficiency and transparency.

In fact, border controls are being undertaken not just at BCPs along the CAREC corridors. The evidence shows that the majority of inspections and sampling of goods for testing have shifted to inland customs terminals or holding stations. Indeed, most of the delays relevant to the

[7] I. Kireeva and R. Black. 2011. Chemical Safety of Food: Setting of Maximum Residue Levels (MRLs) for Pesticides and Other Contaminants in the Russian Federation and in the EU. *European Food and Feed Law Review* 6 (3), 174–186.

[8] A survey of 17 BCPs was cited by the ADB CAREC coordinator in Tashkent.

discussion here occur during laboratory testing at these "temporary storehouses." The delays occur even if the terminal in question is just inside the border, or at a major city near a major laboratory. Compounding this situation is the fact that the "laboratory" at a BCP may actually be just a room for the superficial examination of goods using a magnifying glass or a low-power microscope, after which samples are taken and sent to a better-equipped diagnostic laboratory.

In fact, the assessment determined that many such tests required at the BCPs are not relevant to SPS at all. In particular, many of the tests ostensibly done to ensure food safety are not SPS related in some respects, and thus do not provide meaningful guarantees of safety. The actual food safety requirements being implemented fall under the sanitary and epidemiological rules and regulations (SanPin). Since the requirements currently in force at these BCPs may concern quality or irrelevant hazards (e.g., obsolete pesticides), whether or not they actually constitute "SPS measures" is a moot point.

There is also a general lack of laboratory infrastructure for genuine SPS tests in all three SPS sectors—animal health, plant health, and food safety—and particularly in the last two sectors. Overall, the rudimentary state of plant quarantine laboratories in Mongolia, the Kyrgyz Republic, and Uzbekistan is cause for great concern. In fact, the border protections appear to be inadequate for protecting human, animal, and plant life and health. Even if unnecessary tests were to be replaced with necessary ones to strengthen controls, delays would still occur.

## E. Competent Authority, Unified Inspection Agencies, and Integrated (Coordinated) Border Management

Under the SPS Agreement, the effective implementation of SPS measures demands a competent authority. In other words, there should be one competent authority with overall responsibility for each sector (food safety, animal health, and plant health), even if some of its functions are delegated to other implementing bodies or contracted out to such bodies. However, in the Russian Federation and the CIS, a typical feature of SPS-associated laws is a multiplicity of responsibilities, along with jurisdictional overlaps among the various authorities, with no agency being assigned overall responsibility.

Two of the countries visited during the assessment—Mongolia and the Kyrgyz Republic—have no such competent authority. This situation is a result of the creation of a unified border inspection agency, or plans by the two countries to create one, to facilitate trade. In Mongolia, the Ministry of Food and Agriculture (MOFA) was told that GASI was established to perform border inspections, and that MOFA would not be involved in SPS but only in inland policy. In the Kyrgyz Republic, the Minister of Agriculture and Melioration (MOAM) and the Ministry of Health (MOH) lost their powers as rule makers (see the report of the International Trade Center of the Kyrgyz Republic [ITC] in Appendix 1 of the present report) when the Ministry of Economic Regulation took charge of all aspects of trade regulation. However, the inspection agency that was to be created under the new arrangement has not yet materialized. As a result, MOAM and MOH SPS inspectors are still performing their jobs at the border in a state of uncertainty.

This lack of a required competent authority in SPS border inspection is cause for serious concern for several reasons. First, SPS "policy" appears to have been interpreted simply as a responsibility for internal agriculture or food safety, thus creating difficulties in its implementation in the form of border measures. In the Kyrgyz Republic and Uzbekistan, for example, there is legal separation between domestic plant protection and plant quarantine functions. However, the former does not carry the authority for surveillance and eradication of introduced pests. One major offshoot of this multiplicity of authorities involved in SPS is the inefficient use of resources in addressing breaches of quarantine.

Second, even if the border inspection agency were part of the ministry mandated with overall responsibility for SPS (as in the United Kingdom, for example), there should still be legal separation between "policy" and inspection operations. Otherwise, inspection services could not be adequately supervised. Indeed, a distinction should be made between the "regulator" as competent authority and the "inspectorate" under the administrative supervision of the former.

Third, the issue referred to above is compounded by the complex issue of SPS standards versus technical regulations. Since technical regulations constitute a regulatory package, they are not simply a set of standards meant only to consist of physical parameters.[9] Instead, they should be the basis for the standards imposed by the competent authority under its own regulations, such as import requirements. This distinction is not observed in the Kyrgyz Republic, where the Ministry of Economic Regulation validates technical regulations before they are brought to the Cabinet for approval. In Mongolia, on the other hand, the Mongolian Agency for Standardization and Metrology (MASM) has effectively assumed some of the functions of the competent authority. This is indicative of a conflict of interest on the part of the national standards body, since its proper function is to set standards and monitor their application and potential abuse, not to implement them.

The concept of a unified inspection agency is widely discussed in the countries included in the assessment, particularly in customs circles. Further, in the countries visited for this assessment, there is a strong desire for integrated, collaborative border management, which is a major objective of the CAREC TTFS.

## F. Risk Assessment and Risk Management

In response to modernization and trade facilitation, countries in various parts of the world have integrated risk management into their customs codes as a part of reforms that follow international practice. However, while the customs codes in the countries covered by this study make reference to risk management, they provide no details as to how it is to be undertaken. Further, there is no mention whatsoever of risk, risk assessment, or risk management in the codes of Azerbaijan, Mongolia, and Uzbekistan. However, Uzbekistan is drafting a new customs code with detailed provisions relating to aspects of risk.

On the other hand, Kazakhstan, the Kyrgyz Republic, and Tajikistan have provisions for risk assessment or risk management or both in their customs codes. However, in the case of Kazakhstan, risk assessment and management are viewed only in the context of noncompliance with customs legislation that may lead to losses to the state. In other words, Kazakhstan considers risk only in the operational sense, that is, only as a basis for prioritizing consignments for inspection, for efficiently assessing tariffs and taxes, and for preventing smuggling.

The differences between these two approaches are well illustrated in Articles 468 and 470 of the Customs Code of Kazakhstan.

> CHAPTER 60. RISK ASSESSMENT AND MANAGEMENT
>
> Article 468 – General Concepts and Purposes of Risk Management Application
>
> 1. "Risk" shall mean the degree of possible non-compliance with the customs legislation of the Republic of Kazakhstan, which may lead to losses to the state.... "Risk management" shall mean the technique of applying preventive measures that make it possible to determine methods of control for preventing risk.
>
> 2. The following are the purposes for using risk management: 1) to focus attention on high-risk spheres and to ensure more effective use of available resources; 2) to increase possibilities to reveal violations in the sphere of customs activity; 3) to create favorable conditions for participants in foreign economic activities, who are in compliance with the customs

[9] See footnote 6.

> legislation of the Republic of Kazakhstan, to convey goods and means of transport across the customs border of the Republic of Kazakhstan.
>
> Article 470 – Activities of Customs Authorities Regarding Risk Assessment and Management
>
> …
>
> 3. The established lists of risk factors shall be used by customs authorities in the course of customs control in order to use varied forms of customs control and cannot be used as grounds for restricting the conveyance of goods across the customs border of the Republic of Kazakhstan. These lists shall be regarded as confidential information.

Moreover, the Code of Tajikistan has the following risk provision that even contravenes WTO principles:

> The risk management system of Tajikistan shall be based on the effective use of resources of customs authorities to prevent violation of the customs legislation of Tajikistan:...
>
> (3) *undermining the competitiveness of local produce*. (Article 399, italics supplied)

In contrast to how risk assessment is interpreted or treated in the customs codes of Kazakhstan, the Kyrgyz Republic, and Tajikistan, risk assessment in the SPS Agreement is considered a critical element in SPS compliance. There are thus very specific SPS measures for identifying and describing the physical risks involved in the introduction of things that may harm the life and health of humans, animals, or plants.

However, the fact that the SPS Agreement was written when the terms "risk assessment" and "risk analysis" were still used interchangeably could explain why "risk assessment" is interpreted variously by the governments of individual countries. Indeed, all of the ISSBs primarily refer to "risk analysis" (e.g., pest risk analysis [PRA] under the IPPC) and not to "risk assessment." The term "risk assessment" as it pertains to the SPS Agreement may therefore have to be reinterpreted as "risk analysis." Risk management would therefore become a subset of risk analysis.

As a component of risk analysis, risk management refers to selecting from various recommended management options the best means of reducing or mitigating risk after risk analysis has been performed. Further, as it relates to SPS, risk assessment fundamentally differs from the risk assessment carried out under customs codes. This is because risk assessment in the SPS sense is a science-based procedure that should be performed according to formally established protocols or frameworks. In contrast, risk assessment as carried out under customs codes simply refers to determining the risk of noncompliance with the specific customs legislation of the country concerned.

# III. SPS-Related Issues in the CAREC Countries

## A. Technical Standards, Technical Regulations, SPS Measures, and the GOST System

A continuing primary concern of CAREC member countries is the complex issue of what exactly constitute "standards" in the SPS context—in particular, how Codex and other international food safety standards differ from the Soviet and CIS concept of technical regulations as embodied in the GOST system. Indeed, the most significant technical barrier to adherence to SPS principles, apart from being a trade barrier itself, is the GOST system, the Soviet State Standards system, which was replicated in the CIS countries (e.g., the UzStandart in Uzbekistan) and Mongolia upon independence.

The extent to which the GOST system pervades perceptions of SPS varies widely among the four countries visited for this study. That said, there exists at least a relic of the GOST system in all four countries. The widespread influence of the GOST system stems from the complex issue of "technical regulation" and certification. One source of confusion in this regard is the fact that the GOST system is a collection not just of standards but of regulatory packages, and these two are vastly different in the view of the SPS Agreement.

From the perspective of the SPS Agreement, standards are not regulations but the yardstick against which adherence to a regulation or rule is judged. Particularly in testing for food safety, standards are merely physical parameters, such as MRLs or the maximum number of bacteria allowable in food material of a given weight (usually zero). In contrast, technical regulations go far beyond standards. They are, in fact, complete specifications that may incorporate not only food safety elements but quality and compositional elements as well. In addition to lack of understanding of this distinction between technical regulations and standards, another source of confusion is the mutual exclusivity of technical regulations and SPS measures.

Indeed, in a move that highlights this mutual exclusivity, the Russian Federation's solution for WTO accession is to produce a series of "technical regulations on SPS." This problematic situation has prompted the WTO to state that the GOST system is not compatible with the SPS Agreement. The WTO does not consider the technical regulations in the GOST system to be SPS measures but a mixture of TBT-related regulations and SPS measures, whose SPS component is in general not risk related.

The critical concept underlying food safety standards is that such standards help define the level of protection that must be accorded to a country's population, and that this level of protection should be the same for both imported and domestically produced food. It is in this regard that the GOST system is at odds with the SPS Agreement. Under the SPS Agreement, once food or any other form of goods is cleared for entry, it should automatically be released in the domestic market. In the GOST system, this is not the case.[10] In fact, in the process of striving to make food exports meet importing-country

[10] Explained fully at the July 2012 CAREC SPS Workshop by Melvin Spreij, Counsellor, WTO Agriculture and Commodities Division.

| Area of Responsibility | GOST System | International Standards |
|---|---|---|
| Food safety | Public sector | Private sector |
| Focus of control | Product "end of pipe" | Process "chain" |
| Nature of requirements | Highly prescriptive and mandatory | Safety is mandatory. Quality is voluntary |
| Inconsistent procedures, methodological criteria | | |
| Incompatible laboratory procedures, equipment, and tests | | |

Source: Melvin Spreij. 2012. Implementation of the WTO SPS Agreement in CAREC Countries. WTO presentation at the CAREC SPS Workshop. Bangkok. July.

or international standards, countries may be neglecting domestic food safety. The table above shows the major differences between the GOST system and international standards.

## B. Slow Pace of Legal Reform and Poor Governance

A related but even more fundamental problem in many CAREC countries is the slow pace of reform of primary laws relating to standardization, food safety, animal health, and plant health. This problem dates back to the time of the former Soviet Union. As mentioned above, instead of amending primary laws, the countries update the legal frameworks through secondary legal acts such as decrees or resolutions (normative acts). In some cases, such secondary legal acts do not relate to the outdated primary legislation at all, but instead create additional overlaps and uncertainty.

As a result, there is resistance to the intended reform of primary laws. This is manifested in rent-seeking behavior in inspection and testing activities (e.g., charging fees for the payment of staff salaries), and demand for bribes and their acceptance to supplement the low salaries of the enforcers. At bottom, this situation arises because of a lack of understanding and appreciation of the importance of SPS at the highest levels of government, the desire of vested interests to maintain the status quo, and lack of the legal expertise necessary for transitioning away from the traditional Soviet approach.

The need for legal reform is now generally recognized in CAREC member countries, some of which have formulated new laws or are amending primary laws to embody and reflect SPS principles. From a technical point of view, this type of change is a precondition to changes in the GOST system. Moreover, the WTO has made a case for having the WTO SPS Agreement recognized by every country irrespective of its WTO accession status. Also, whether or not a country needs to make the SPS Agreement part of a national legal instrument depends on whether the country has a monist or a dualist constitution. However, there seems to be no need for constitutional change in the CAREC countries—even those that are CIS members—for SPS principles to be integrated into their border management operations. This is not to say that there are no serious political and cultural barriers to achieving the legal reform necessary for adopting SPS principles.

## C. Single Window, Integrated Border Management

Generally, the implementation of plans for establishing single window facilities to streamline foreign trade procedures has been slow. The same is also true of the implementation of integrated (coordinated) border management. The slow pace of implementation is primarily due to impediments or resistance in the case of the single window, and to lack of political will in the case of integrated border management. The fact that the private sector is driving these initiatives is encouraging, but parallel enthusiasm from

the government will be necessary to hasten adoption and implementation in both cases.

While a unified inspection service can form part of integrated border management, in Mongolia and the Kyrgyz Republic the apparent lack of a legally separate competent authority to implement SPS principles is cause for concern. Further, a 'single stop' approach can operate only in the context of customs inspections; in Mongolia, however, the first port of call for imports is GASI.

Overall, doing away with unnecessary inspections and testing requires streamlining border operations. It is generally recognized that the preconditions of such streamlining include the implementation of single window, its interconnection with automated customs information systems, and integrated border management, along with the adoption of risk-based import and export specifications.

Not everything needs physical inspection; this is the overriding principle behind the streamlining. Further, once goods are cleared for entry, further "certifications" before they can enter the domestic market are both unnecessary and in contravention of the WTO principle of nondiscrimination, which requires that the same level of protection be applied to both imported and domestic goods. Also needing reconsideration are the risk-based import requirements (e.g., prohibitions, restrictions, and conditions that must be fulfilled to allow the import of certain goods) that feed into customs lists, and the automated documentary system that "flags" goods requiring attention. Who the competent authorities are in each SPS area (food safety, veterinary affairs, and plant health) must also be clarified.

At this point, it is pertinent to call attention to the International Convention on the Harmonization of Frontier Controls of Goods, which is aimed at reducing barriers to international trade.[11] This convention states that

> Parties to the Convention are committed to streamlining administrative procedures at borders and reducing the number and duration of controls carried out by customs authorities. This commitment should be reflected in: cooperation and coordination between customs and other services for monitoring goods....

It is significant that the Convention emphasizes the need to streamline border clearance of perishable goods. In particular, border operations would benefit from adequate technology for ensuring the cold-chain integrity of frozen food products by checking their temperatures without breaking their seals. In the same way that growers and cooperative societies, as well as transport agents, need to be involved in improving food safety and quality, border inspectors must be honest and thorough in enforcing food safety and quality standards during border inspections.

## D. Indistinct Competent Authority; Duplication and Overlap of Functions

Unified inspection agencies now cover the three SPS sectors in Mongolia and the Kyrgyz Republic. While this is a positive step in streamlining border control operations in these countries, one consequence of the creation of a unified inspection agency is that there may no longer be a competent authority for each of the three sectors in these countries. Under the SPS Agreement and the international frameworks for food safety, animal health, and plant health, all countries must have these competent authorities.

Moreover, in some CAREC countries, there is evident duplication and overlapping of responsibilities among government agencies and, as a result, a plethora of unnecessary or redundant inspection and conformity assessments and permitting requirements. In the case of Mongolia, the current system, which is driven by the creation of GASI, is not helping the government's efforts to upgrade its border inspections. At bottom, the problem

[11] European Union (EU). Summaries of EU legislation website. http://europa.eu/legislation_summaries/customs/l06027_en.htm

is that Mongolia still has no source of basic policy relating to the adoption of international standards for food imports, or, alternatively, risk-based national standards. Instead, under the outdated Law on Standardization and Conformity Assessment, MASM continues to act as the relevant regulatory agency. Compliance with SPS norms requires each country to specify a source of basic SPS policy, regardless of whether border inspections are performed by a particular government agency, such as GASI, or delegated to the customs services, as in other countries.

In the PRC, the major SPS-oriented agency that carries out food safety, animal health, and plant health inspections is the General Administration of Quality Supervision Inspection and Quarantine (AQSIQ). AQSIQ is also involved in risk assessment and risk management. Its risk assessment function appears to have some overlap with the functions of the Ministry of Agriculture (MOA) and the Ministry of Health (MOH). Such overlaps are evident not only in the PRC and Mongolia, but also in the other CAREC countries.

## E. Controls Not Based on Risk

In general, border controls relating to food of plant and animal origin in the CAREC countries are not risk-based SPS measures. Instead, they are based on ineffective SanPin requirements (e.g., obsolete pesticides) that are linked to relics of GOST-based certification requirements unrelated to food safety in part or in their entirety. Thus, the controls employed in GOST-based certification do not provide sufficient protection for human, animal, and plant health. Further, because of their wide-ranging inspection requirements, as well as current deficiencies in laboratory capacity, GOST-based requirements are ineffective in ensuring food safety. Conversely, international (Codex) food standards are the correct basis for food import requirements, since they are physical standards devoid of the quality specifications and regulatory content that pervade GOST-based certification.

## F. Poor Laboratory Capacity; Training Requirements

All of the countries visited for this study have serious deficiencies in food laboratory capacity, particularly in testing for food-borne bacteria and in analyzing pesticide and antibiotic content. Better equipped are the veterinary laboratories in these countries, a situation that probably reflects the historical importance of their livestock sectors. Indeed, none of the national plant quarantine laboratories visited—in Mongolia, the Kyrgyz Republic, and Uzbekistan—have more than rudimentary facilities for identifying plant pathogens. Further, they have no capacity whatsoever for identifying nematodes. These countries are therefore inadequately protected against the introduction of unsafe food and plant pests.

Given the massive investment and significant technical capacity requirements for effectively managing food safety and agricultural health, a regional approach should be considered wherever appropriate. In fact, modern, sophisticated laboratories are quite expensive, and the operation of such labs requires advanced technical skills. Thus, scale economies in the operation of such laboratories are likely to be significant, since in smaller countries the workload of such laboratories is often quite limited. An appropriate solution would therefore be a small number of labs that serve regional demand as reference labs for a selective number of expensive tests and diseases.

The training requirements for border inspection are discussed in detail in the section of the report relating to country-level findings.

## G. Information Exchange and Transparency

Even in WTO member countries of long standing, two mandatory features of the SPS Agreement—the national notification authority for SPS and the SPS enquiry point—have not been clearly established. Among the countries visited, the Kyrgyz Republic and Mongolia seem

not to be complying with the requirements of Article 8 and Annex C of the SPS Agreement, even though they are already WTO members. In these two countries, the private sector has made well-articulated complaints regarding inspection delays and other border clearance problems. Nevertheless, there seems to be no mechanism for compelling the governments concerned to account for these delays, and to address such complaints.

## H. Equivalence, Mutual Recognition, and Bilateral Agreements

There is a need for mutual recognition of import requirements, in particular, regarding the issuance of laboratory test certificates. Although specific agreements for mutual recognition are required at present, they have become unnecessary under the SPS Agreement because they are covered by the overriding principle of "equivalence." And yet many countries, among them Pakistan, have not only a few, but numerous, bilateral agreements with trading partners regarding trade in particular commodities. Even if they may be advantageous under certain circumstances, these bilateral agreements effectively suspend WTO rules. This is not an equitable practice, for under the WTO's Most-Favored Nation principle, any concessions granted to one country must be granted to all WTO members, if these are found relevant.

An attractive idea in the context described above is regional collaboration in laboratory testing, whereby certain laboratories are designated to perform certain tests for the entire region, or at least for countries that lack the capacity to perform such tests. However, because such a solution is difficult to achieve in practice, the most viable alternative would be to accredit each large laboratory according to international standards, particularly ISO 17025 (the main ISO standard used by testing laboratories).

## I. Plant Health Issues

A critical issue is the separate treatment of international "plant quarantine" and domestic plant protection, both legally and institutionally, in many CIS countries and elsewhere. For example, in Azerbaijan, plant quarantine and pesticide control (controls on the import and marketing of pesticides) are surprisingly integrated under one piece of legislation, but then are treated separately from domestic plant protection. This practice prevails despite the fact that the measures and technology used for controlling internal plant pests are the same as those used for containing and eradicating exotic pests that have breached border controls and made their way inland. Thus, unifying "plant health" legislation and institutional arrangements, as in the EU, would be greatly advantageous to the streamlining of border inspection formalities.

In the discussions at the July 2012 CAREC SPS Workshop concerning the next steps to be taken to achieve compliance with SPS principles in the CAREC countries, one recommendation that figured prominently was to formulate a single, comprehensive pest list that takes account of climatic and agricultural variation. A "pest compendium," presumably in electronic format, would back up the pest list. The need for a single comprehensive pest list and for a regional backup list reflects the fact that plant health standards are indeed not the same as the food safety standards found in, say, the Codex and other international food standards. Instead, they are simply standard procedures for developing SPS-consistent plant health measures. Although the OIE has formulated lists of animal diseases and zoonoses that should trigger specific measures against them in any country, in reality there are no such things as "standard" plant pests.[12]

[12] Explained fully at the July 2012 CAREC SPS Workshop by Yongfan Piao, Senior Plant Protection Officer, FAO Regional Office for Asia and the Pacific.

## J. Halal and "Natural Products"

The assessment on which this report is based also covered some aspects of international trade in commodities that, though relevant to the study, do not relate directly to SPS. Such aspects include the evaluation of organic products, "natural" products, and products of traditional culture. In their presentations under the SPS project, the delegation from the Greater Mekong Subregion (GMS) specifically mentioned "green supply chains." In this regard, ADB has published a document titled "Case Studies on Cross-Border Ecotrade" (2012) (Appendix 1).

Because of the importance of the Muslim culture in most CAREC countries, halal meat and other products deserve particular interest in this study. Halal products are essential components of the internal market in the CAREC countries and therefore have significant export potential. The problem is that these products are poorly regulated, and the term "halal" itself may not be a credible brand. This is because the notion of "halal" derives from religious preferences; thus, halal products cannot justifiably claim to be intrinsically safer or healthier than non-halal products, although halal products bear some resemblance to "organic" food products. As a result, to exploit their significant potential as exporters of halal products, CAREC member countries need both standards and an appropriate certification system for halal products.

Various studies have explored the parallels between the halal concept and hazard analysis and critical control points (HACCP). As a result, HACCP has been suggested as the basis for a halal certification system (referenced in Appendix 1). Indeed, slaughtering animals in a way that ensures that the resulting meat is halal contains both HACCP and welfare elements, as is evident in the comparison between HACCP and the halal concept below:

Comparison of Halal and HACCP

- Both employ good manufacturing and good hygiene practices
- Both are preventive
- Both are holistic, rather than being based on stand-alone processes
- Both seek to eliminate microbial, chemical, and physical contaminants
- Both are controlled processes
- Both require a sanitized environment, as well as safe inputs
- Both require only healthy employees to undertake the process

Steps in Formulating a Halal/HACCP System

- Set up halal critical control points (HCCP)
- Supplement with HACCP
- Integrate the seven HACCP principles into the halal food safety system

This study took note of the fact that the Russian Federation, as well as Malaysia and Thailand, already has well-developed halal standards, and that Israel has an equivalent system for ensuring kosher (ritually fit for use) products.

# IV. Possible Modalities of Regional Cooperation in SPS

The study of the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) regarding technical barriers to trade in Central Asia (referenced in Appendix 1) provides many insights into possible regional cooperation in SPS. The study discusses SPS issues in detail, including the fact that technical regulations in the Russian Federation and the CIS relate to both the TBT and the SPS agreements, as noted earlier.

## A. CAREC SPS Working Group

At present, there already exists a CAREC Customs Cooperation Committee, as well as a CAREC Federation of Carrier and Forwarder Associations (CFCFA). A major recommendation of this study is to constitute a CAREC SPS Working Group (ostensibly under the auspices of the CAREC Regional Joint Transport and Trade Facilitation Committee described in the TTFS). Draft terms of reference for this proposed working group are in Appendix 4.

Cooperation among the CAREC countries, including priority being given to SPS by member countries at the government level, is crucial to constituting and operating the proposed CAREC SPS Working Group. In the case of Mongolia, a long-standing WTO member, there already exists an Inter-Agency WTO Working Group, which meets as required. However, according to Mongolia's Ministry of Foreign Affairs and Trade (MOFAT), the body that convenes this group, SPS is not a priority at this level. Moreover, Mongolia's small permanent representation in Geneva does not have specialist advisers on SPS, TBT, and related undertakings. Similar sentiments regarding the low priority accorded SPS were expressed by the equivalent ministries of other countries visited during this study, regardless of whether or not they were WTO members. This notwithstanding, the government ministries technically involved in border control inspections, as well as the relevant private sector entities in these countries, are well aware of the need to improve SPS controls. Now that SPS compliance has been recognized as a key component in CAREC trade facilitation, the overall indications are that these countries will give SPS higher priority in the future, and that they will cooperate in forming the proposed CAREC SPS Working Group.

The working group is envisioned to be a policy-oriented body. As such, it can become the driving force for initiatives to implement the technical adjustments required to achieve genuine SPS-compliant border inspection regimes. However, because science lies at the heart of the SPS Agreement, senior scientists involved in SPS regulation should be involved in formulating and implementing such policy initiatives.

The proposed membership of the CAREC SPS Working Group will be similar to that of national joint transport and trade facilitation committees (as described in the TTFS). It should include representatives from the following:

- The ministry responsible for foreign trade;
- The customs authorities;
- The national standards body;
- The competent authorities for food safety, veterinary controls, and plant quarantine;

- The chamber of commerce and industry; and
- The transport organizations or the ministry responsible for transport, or both.

Other positive indications for achieving a genuine SPS regime in the CAREC countries are: (i) their common experience with the GOST system; (ii) the Customs Union formed by some of the CIS countries; (iii) their participation in regional animal health testing; and (iv) membership of some countries in the European and Mediterranean Plant Protection Organization (EPPO).

One of the proposed functions of the CAREC SPS Working Group is to facilitate participation in the WTO SPS Committee in Geneva. Although only WTO member countries can fully participate in this committee, it is expected that, with the Russian Federation's recent accession to the WTO, more CAREC countries will also opt for WTO membership. Since Kazakhstan is already a member of the Customs Union, is likely to opt for WTO membership soon.

## B. The Customs Union and the Eurasian Economic Community

The Customs Union and the EurAsEC also provide opportunities for regional cooperation. However, success in such regional cooperation will greatly depend on reform by the Russian Federation of its approach to SPS in accordance with the commitments it has made with the WTO. At present, major issues include (i) whether or not other countries will join the Customs Union, (ii) whether EurAsEC will become more of a reality, and (iii) whether the Customs Union will continue to pose obstacles to the smooth movement of goods along economic corridors in the CAREC region.

## C. Sectoral Approaches

### 1. Plant Health

In the plant health sector, regional cooperation is possible through the EPPO. Azerbaijan and the Russian Federation are already EPPO members, as are Kazakhstan, the Kyrgyz Republic, and Uzbekistan, with Uzbekistan being particularly active in the EPPO. Further, the EPPO Council has already invited all of the CIS states to join the organization. According to the author's recent communications with the EPPO, Mongolia's membership in the EPPO would only require a formal request from that country, as its membership would be welcomed. Indeed, because of similar climatic conditions, membership in the EPPO would be more appropriate for the CIS countries and Mongolia than would membership in the more tropical-oriented Asia and Pacific Plant Protection Commission (APPC). While the PRC and Pakistan are APPC members, none of the CIS countries—Mongolia included—is. As a result, it would be advisable for the CIS countries to respond to the EPPO council's invitation to join the organization. No conflict is seen with the PRC's and Pakistan's membership in APPC.

One of the benefits of joining the EPPO is that it provides A1 and A2 pest lists, which can guide other countries in formulating their own lists of quarantine pests. The EPPO provides pest profiles and pest alerts, among other information services. In addition, it conducts regional workshops on plant health matters. One such workshop was the EPPO Workshop for all CIS states that the Republic of Uzbekistan hosted in April 2012.[13] More importantly, the EPPO has adopted the Computer Assisted Pest Risk Analysis system, a software package that provides practical methodology based on the formal frameworks now available.

[13] Collaboration with EPPO and other SPS-related organizations is currently being explored.

## 2. Food Safety

The main requirement for regional cooperation is the exchange of information regarding problems with food safety, or food alerts. One suggestion is for the proposed CAREC SPS Working Group to serve as a clearinghouse for food alerts—and alerts regarding animal and plant health as well—through a subcommittee on food safety. Apparently, all CAREC countries participate in the WHO/FAO International Food Safety Authorities Network food safety information exchange system.[14] Likewise, countries may opt to use the EU's Rapid Alert System for Food and Feed (RASFF), whose database is freely accessible on the internet.[15] Even though the RASFF was designed for EU countries, other countries can receive and share its alerts that affect or concern them through the RASFF window.

## 3. Animal Health

In the case of animal disease, the international reporting system and mutual exchange of information come under the OIE. Two Russian institutes have regional roles in that initiative: (i) the Federal Center for Animal Health, which provides diagnosis and control of animal diseases in Eastern Europe, Central Asia, and Transcaucasia; and (ii) the All-Russian State Center for Quality and Standardization of Veterinary Drugs and Feed, which provides food safety resources, as well as diagnosis and control of animal diseases in Eastern Europe, Central Asia, and Transcaucasia. The role of the proposed SPS Working Group would be to reinforce existing cooperation in veterinary matters.

[14] World Health Organization. International Food Safety Authorities Network. http://www.who.int/foodsafety/fs_management/infosan/en/

[15] European Commission. RASFF Portal. http://ec.europa.eu/food/food/rapidalert/rasff_portal_database_en.htm

# V. Conclusions and Recommendations

## A. Border Controls and SPS Measures

The reality in border control operations in the CAREC countries is that inspection and testing procedures relating to perishable agricultural commodities cause significant delays. These delays occur even if border controls for food of plant and animal origin do not generally follow risk-based SPS measures. They arise because the border control systems and procedures are based on ineffective SanPin requirements (e.g., obsolete pesticides) coupled with remnants of GOST-based certification requirements that are unrelated to food safety. The main challenge is that the system blurs the distinction between "standards" as physical parameters and the "regulations" or import requirements used to enforce these standards. In contrast, the international (Codex) food standards provide the appropriate basis for food import requirements, Codex standards being physical standards that are devoid of the quality specifications and regulatory content that pervade the GOST system.

Because of the wide-ranging nature of the requirements, as well as deficiencies in laboratory capacity, the border controls now employed in the CAREC region are ineffective in ensuring food safety. However, the degree to which they actually contribute to the delays and unauthorized payments cannot be accurately assessed, because, in many cases, these border control procedures physically take place at inland locations rather than at the border itself. Further, such border control procedures may not be related to SPS measures at all.

The fundamental problem is that these countries continue to base their border inspection procedures relating to food safety on the system of technical regulations—which in a sense is the GOST system—embodied in basic laws. In all of the countries visited during the study, the agencies involved with SPS do recognize the problems. While most of them are engaged in reforming the system, progress has been slow because of lack of supportive action by various levels of government. It is also likely that inspection authorities are able to engage in rent-seeking behavior by collecting legitimate fees charged for altogether useless inspections and tests.

Veterinary and plant health controls performed during border inspections focus on detecting, identifying, and intercepting potentially harmful zoonoses or plant pests present in imported goods. Controls, as well as inspection and testing requirements, need to target goods in general—whether imported or domestic in origin—that pose a significant risk of introducing plant pests or animal and plant pathogens into a country. Of course, the nature of these controls depends on the nature of the products and on their country of origin. However, countries such as Mongolia, the Kyrgyz Republic, and Uzbekistan are insufficiently protected against new pests in that they have poor laboratory capacity to detect and identify most types of quarantine pests.

Of particular concern are fruit and vegetable crops, whose cultivation is expanding in all of the countries visited during the study. These commodities account for a significant proportion of intra-CIS trade in perishable food. However, because of infiltration by new plant pests, attempts in many other regions to diversify away from staple crop production by adopting fruit and vegetable cash cropping have resulted in major losses. This is because those new quarantine pests are easily transmitted by fresh fruit, vegetables, cut flowers, cuttings, and

potted plants, and they are not always easy to detect and intercept during border inspections.

As for the development of a single stop border inspection system and integrated border management, the private sector is the main driver of these initiatives. This enthusiasm should be equally matched by the governments concerned. Efforts are under way throughout the region to establish single window facilities—featuring automated documentary systems managed by customs and shared with SPS-related agencies—to improve the efficiency of compliance with, and implementation of, international trade regulations.

That a unified inspection service should become part of integrated border management in the CAREC region is highly desirable. However, in Mongolia and the Kyrgyz Republic, there are still concerns that no legally separate competent authorities apparently exist to implement SPS principles. Similarly, to be effective, a single stop system must operate through the customs service. However, this is not the case in Mongolia, where the first port of call for imports is GASI. In border management, there has also been variable progress with automated, electronic documentary systems managed by customs services.

The top priorities for facilitating trade in relation to SPS are as follows:

- Adoption of single window facilities to administer international trade.
- Establishment of a robust policy base and regulatory infrastructure for risk-based controls to complete the transition from the former Soviet system.
- Adoption of internationally recognized (Codex) food standards to replace complex and outdated GOST and SanPin requirements as a principal means of reducing inspection- and testing-related delays.
- Coordination of risk-based controls (such as import requirements) with customs risk management systems by: (i) integrating risk-based controls through a single window and automated information system accessible to all relevant agencies, (ii) adopting a unified basis for border action (using the "prohibited," "restricted," and "free to enter" categories), and (iii) developing a regional or national strategy for a rationalized approach to providing appropriate laboratory infrastructure.

## B. Risk Assessment

In the CAREC countries, there is clearly no formal, structured approach to risk analysis and quality control and supervision relating to the screening of imports for unsafe food or agricultural products. This study did a preliminary profiling of the animal and plant health hazards and risks that arise in the trade between some CAREC countries. The results of this profiling are presented in: (i) Table 1 (animal health hazards), (ii) Appendix 5 (quarantine pests), (iii) Figure 1 (animal health risks), and (iv) Figure 2 (plant health risks).

## C. Harmonization of SPS Risk Analysis with Customs Approaches to Risk Management

To improve integrated border management and reduce delays, the various interpretations of risk assessment and risk management under the SPS Agreement and in customs laws should be standardized.

The key to standardization is to harmonize the provisions in the customs regulations for "prohibited," "restricted," and "free to enter" goods with the risk-based classifications of goods made by the SPS competent authorities. This can be done by attaching these data to Harmonized System codes. At the moment, materials are typically classified by many CAREC countries and by the Customs Union

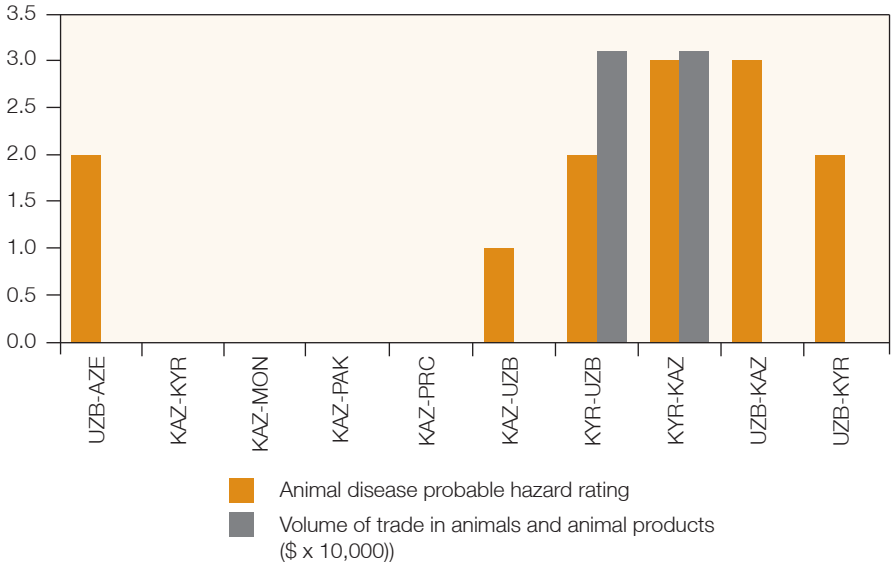
Table 1 **Probable Hazard Matrix for Animal Diseases and Zoonosis in the CAREC Countries**

| | Destination Country | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Country of Origin | Azerbaijan | Kazakhstan | Kyrgyz Republic | Mongolia | Pakistan | PRC | Tajikistan | Uzbekistan |
| Azerbaijan | | 3 | 3 | 2 | | 0 | 3 | |
| Kazakhstan | 1 | | 0 | 0 | 0 | 0 | 1 | |
| Kyrgyz Republic | 3 | 3 | | 1 | 1 | 0 | 3 | |
| Mongolia | 3 | 3 | 3 | | 3 | 0 | 3 | 3 |
| Pakistan | 3 | 3 | 3 | 3 | | 1 | 3 | 3 |
| PRC | 3 | 3 | 3 | 3 | 3 | | 3 | 3 |
| Tajikistan | 1 | 1 | 1 | 2 | 0 | 0 | | 1 |
| Uzbekistan | 2 | 3 | 2 | 2 | 2 | 0 | 2 | |

0 = None (0), 1 = Few (1), 2 = Several (2–4), 3 = Many (< 5), CAREC = Central Asia Regional Economic Cooperation, PRC = People's Republic of China.

Source: Derived from World Animal Health Information Database (WAHID) country-level data on OIE-listed diseases and their hazard ratings.

Figure 1 **Animal Health Risk Profiles in the CAREC Region**

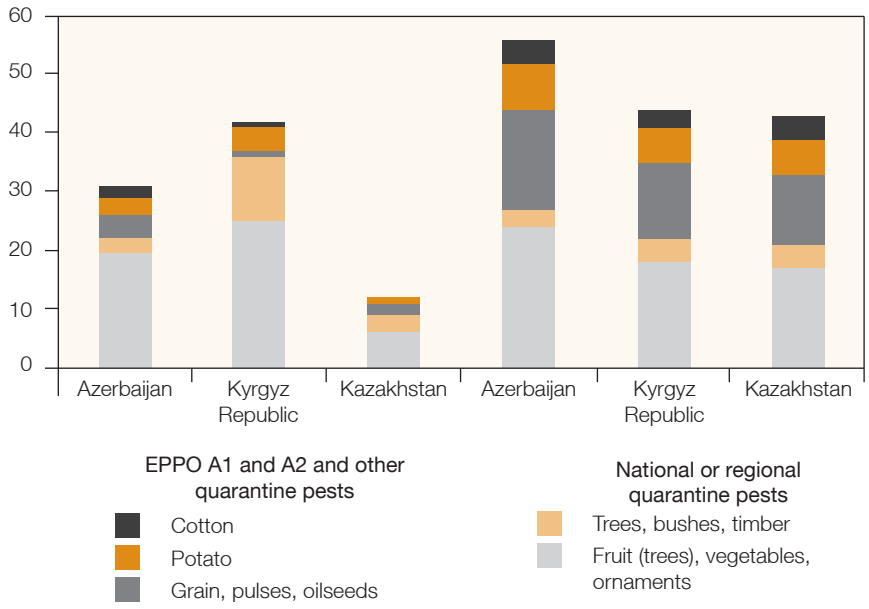



AZE = Azerbaijan, CAREC = Central Asia Regional Economic Cooperation, PRC = People's Republic of China, KAZ = Kazakhstan, KYR = Kyrgyz Republic, MON = Mongolia, PAK = Pakistan, UZB = Uzbekistan.

Source: Derived from World Animal Health Information Database (WAHID) country-level data on OIE-listed diseases and their hazard ratings.

and the Russian Federation as "high risk" or "low risk." Once a country adopts the three-way classification system, the SPS and customs provisions will be harmonized. When this happens, "prohibited" goods (flagged red) will be refused entry at the border by customs without any attention from the SPS inspectors, apart perhaps from documentary checks. On the other hand, goods marked "free to enter" (flagged green) will not require any physical inspection. An example is tropical fruit that has no pest risk and no food safety alert associated with it. "Restricted" goods will be subject to physical inspection, but not necessarily

Figure 2 **Comparative Pest Hazards for Imports into and Exports from Azerbaijan, Kazakhstan, and the Kyrgyz Republic**




EPPO = European and Mediterranean Plant Protection Organization.

Source: European and Mediterranean Plant Protection Organization (EPPO) A1 and A2 Lists of Pests and Lists of Invasive Alien Plants.

to laboratory testing. Laboratory testing will be done only when specifically indicated by the competent authorities' list of import requirements. As a rule then, inspection and testing requirements will depend on both the nature of the goods and the country of origin.

The above standard inspection procedures assume that in the case of routine testing for pesticides in fresh fruit and vegetables, and for antibiotic testing of meat and animal products, the tests will not be conducted at the border or at inland terminals. Instead, following international normative practice, food will be tested randomly at domestic markets. Only if there is a specific pest alert or food safety alert will border testing be perform.

All of the considerations discussed above point to the need, as a matter of priority, to abolish the double controls comprising import permits and certifications required for placing goods on the domestic market, to allow the border inspection process to conform to a single set of "standards."

## D. Laboratory Capacity and Staff Training Requirements

In the CAREC countries, most laboratories rely on traditional and totally inadequate methods of identifying fungal plant pathogens, such as culturing and microscopy. They do not use modern methods for identifying bacteria, viruses, phytoplasma, and cryptic fungi that cannot be cultured. Their information resources for taxonomy, pest distribution, and PRA are also limited. Similarly, these laboratories lack the capacity to identify food-borne bacteria to the required level of precision.

The main problem here is emphasis on quality-driven standards rather than on the accurate determination of food-borne risks. For important hazards, outdated methods, such as thin-layer chromatography, are still being used to screen for food contaminants. Internationally accepted methods of screening for pesticides, antibiotics, and aflatoxins are hardly used. In fact, the most appropriate methods for screening these substances are gas chromatography–mass

spectrometry and high-performance liquid chromatography (HPLC).

Veterinary laboratories in the CAREC countries are generally better equipped, especially for screening for viruses, because of the traditional importance of livestock production in these countries. Kazakhstan, the Kyrgyz Republic, and Uzbekistan have adequate veterinary capacity, and are well protected against animal diseases and zoonoses. It will be important to confirm the effectiveness of controls in the context of the PRC–Mongolia borders since the stated preparedness of laboratories has not been verified in their actual settings.

The process of upgrading laboratory capacity to SPS standards should begin with a regional consensus of diagnostic and analytical needs in each sector. This is a task for the CAREC SPS Working Group. Top consideration should be given to the degree of sophistication required to identify plant and animal pathogens, as well as food-borne bacteria. For internationally recognized diagnosis of many types of pathogens, molecular techniques, such as polymerase chain reaction (PCR), are now becoming the standard, with PCR becoming increasingly sophisticated now that it has incorporated DNA and RNA sequencing. However, these sophisticated diagnostic techniques have considerable running costs because of their use of disposable sample tubes and other testing apparatus. The use of relatively inexpensive basic instruments would therefore be a practical alternative.

A network of regional laboratories could meet the diagnostic and analytical needs of the CAREC region. Conceptually, these laboratories are variously called "reference laboratories" or "centers of excellence." Regional cooperation is ideal in cases where certain areas of specialization are allocated to particular countries. One challenge in this regard is achieving sustainability of funding for running costs, equipment maintenance, and renewal of accreditation, once initial donor support ends. The greatest possibilities for regional laboratories exist where DNA and RNA extracts may be sent by courier for rapid testing, there being no quarantine issues in this case. However, if a national laboratory can extract DNA, it should also be capable of doing PCR, thus obviating the need for a regional laboratory. In the analysis of food contaminants with the help of advanced chromatographic techniques, extracts cannot be easily stabilized, so food samples would have to be sent for analysis. However, because of import restrictions, the manner in which delays might be avoided in such a situation is not clear.

Centers of excellence focus on research rather than on routine testing. Thus, research scientists may go for advanced training at centers of excellence, or use these facilities for routine testing if appropriate facilities are not available in their own countries.

Attention should also be given to international accreditation of the laboratories involved in SPS. The misconceptions about "accreditation" referred to above should be clarified. Only after these strategic considerations are addressed should funds be sought for equipment procurement and staff training.

## E. Private Sector Involvement and Interest in SPS

In Mongolia, the National Chamber of Commerce and Industry was not generally concerned with SPS issues at the time of the visit for this study. However, it is working to change the country's standards law, and has formed a trilateral memorandum of understanding with the customs service and GASI. These three—the chamber, the customs service, and GASI—are now doing the relevant business process analysis ("Road Map," Appendix 1) and are pushing for the development of a single window facility. The private sector is particularly concerned about the correct use of process standards, particularly the ISO 22000 standard for food safety, in place of food certification. All of these measures are being undertaken to reduce transaction costs and increase efficiency, thus facilitating trade across Mongolia's borders.

Among the countries visited during the study, Kazakhstan was found to have the greatest awareness of SPS issues. Representatives from its private sector, in particular, pointed

out several examples of border-associated problems (see assessment of SPS capacity in Kazakhstan in Appendix 2).

In the case of the Kyrgyz Republic, the involvement of the Chamber of Commerce in SPS-related trade is limited to the issuance of certificates of origin, which are actually not required for compliance with SPS principles. However, to facilitate trade, the chamber has been working to operationalize the single window, and has been pressing for full automation of documentation.

In Uzbekistan, the major formal responsibility of the Chamber of Commerce is the issuance of certificates of origin and assistance in securing letters of credit. The chamber has been promoting the single window, as well as automated documentation, and has articulated the need for consistent approaches to the export of organic and halal products, and for better use of pre-shipment clearance.

## F. SPS Plans for the Greater Mekong Subregion and the CAREC Program

In the GMS, the modernization of SPS measures is already in progress with ADB support and assistance. Unlike the CAREC region, the GMS already has a detailed action plan and associated funding. However, from an SPS standpoint, the CAREC region has some built-in advantages. These include its greater geographic proximity to Europe and the EU, which gives it easier access both to trade opportunities and to the assistance enjoyed by some CIS countries as EU partners. Thus, the SPS plan for the CAREC region mainly involves the participation of all CAREC countries in the proposed Regional SPS Working Group, whose primary objective is to identify priorities for concrete action. Table 2 compares ADB's SPS initiatives in the GMS and the CAREC region.

Most of the areas for priority action identified in the table need to be addressed by the CAREC countries. With respect to food safety issues, the only item in the GMS Action Plan for SPS irrelevant to CAREC border operations is improved restaurant hygiene in tourist areas. Overall, there is a great deal of synergy between the GMS and the CAREC region. Some aspects of the training curriculum developed under the GMS initiative may also be appropriate for the CAREC countries. Since the core aspects of SPS are common to all regions, the training curriculum could be adapted to the CAREC region by integrating local case studies. Thus, the CAREC Institute[16] could develop an appropriate curriculum by adapting the curriculum contained in the GMS Action Plan.

## G. SPS Best Practices in the CAREC Countries

Overall, the best SPS practice was observed in Uzbekistan, which already has the following: (i) a forward-looking customs service; (ii) a single window system for exports (which is presently being expanded to cover import transactions); (iii) a progressively improving automated information system; (iv) veterinary and plant health services that are well aligned with OIE and IPPC regulations, as well as plant health services that make efficient use of EPPO resources; (v) a Ministry of Health that is working to gradually phase out SanPin requirements and adopt Codex standards; (vi) an Agency for Standardization that takes HACCP seriously; and (vii) a private sector able to articulate needs in SPS fringe areas such as organic food and halal products.

It is remarkable that Uzbekistan has achieved the level of proficiency in SPS practice described above, despite the fact that it is not a WTO member, and does not seem to be progressing toward accession. However, it is admittedly still addressing problems associated with relics of the GOST system, such as the fact that its Agency for Standardization still certifies products in most cases, rather than delegating this function to third-party, private sector certification entities (see "Standards Law" referenced in Appendix 2).

[16] Central Asia Regional Economic Cooperation (CAREC) Program. CAREC Institute. http://www.carecprogram.org/index.php?page=carec-institute

Table 2 **ADB-Supported SPS Initiatives in the GMS and the CAREC Region**

| Point of Comparison | GMS | CAREC |
|---|---|---|
| Overall objective | Overview of SPS, and such aspects as domestic food safety | Border operations initially; ultimately a broader focus |
| Outcome so far | Action plan | Work plan for SPS centered on regional SPS Working Group |
| Regional characteristics | Different cultures, political histories, and regulatory systems | Outdated legislation and GOST approach, but common heritage derived from the former Soviet Union |
| Level of awareness of SPS and need for reform | Varied understanding of SPS and priorities to be addressed across countries | Reform faster in some countries than in others, but all countries are aware of problems |
| Level of technology | Some countries (the People's Republic of China, Thailand) more advanced than others. | Technologically and broadly similar level of expertise, a positive heritage of CIS |
| Main means of improvement | Cooperation through twinning and bilateral agreements, with more advanced countries helping less advanced countries; regional investments for Cambodia, Lao People's Democratic Republic, and Viet Nam | Cooperation primarily through Regional Working Group, but bilateral mechanisms should be considered: plant health, EPPO membership, food safety, and participation in RASFF |

ADB = Asian Development Bank, CAREC = Central Asia Regional Economic Cooperation, CIS = Commonwealth of Independent States, EPPO = European and Mediterranean Plant Protection Organization, GMS = Greater Mekong Subregion, GOST = (Set of) State Standards (of the former Union of Soviet Socialist Republics), RASFF = Rapid Alert System for Food and Feed (of the European Union), SPS = sanitary and phytosanitary.

Kazakhstan shows best SPS practice with regard to the following:

- A well-organized, forward-thinking customs service with a computerized information system that could easily be adapted to accommodate SPS risk-based requirements;
- A customs service that has appropriate overall control and a positive stance toward the single window approach, but that does not diminish the authority of the Ministry of Agriculture or the Ministry of Health;
- Advanced laboratory capacity in some respects, especially as these relate to some key virus diseases (but not rabies);
- Gas chromatography capability for testing such pesticide residues (market samples only) as organophosphates and organochlorines (among the countries visited, Kazakhstan is the only one with this capability);
- The capability to use HPLC as well as enzyme-linked immunosorbent assay (ELISA), to analyze antibiotics; and
- A private sector that is keenly aware of the country's SPS problems.

In Mongolia, the National Chamber of Commerce and Industry was conducting business process analysis at the time of the study, and had already produced a "road map" for trade, which is discussed in greater detail in the section on country-level assessments.

# VI. Next Steps

## A. Proposed Key Priorities and Actions

From the discussions during the July 2012 CAREC SPS Workshop, a proposal for immediately feasible action was developed, identifying the next steps relating to SPS that CAREC should undertake. These proposed steps are presented in Table 3 under two headings: (i) Modernizing the Implementation of SPS Measures, and (ii) Identifying Investments in SPS to Facilitate Trade.

Table 3 **Proposed Key Priorities for SPS in the CAREC Region**

| Key Priorities | Proposed Actions |
|---|---|
| 1. Modernizing the Implementation of SPS Measures | • Recognize the WTO SPS Agreement independently of WTO accession status.<br>• Develop a strong policy base and legal and regulatory infrastructure for risk-based controls to complete the transition from the former Soviet system.<br>• Eliminate unnecessary inspections and reduce inspection- and testing-related delays by adopting international food standards (Codex) to replace the complex, outdated GOST and SanPin requirements.<br>• Where standards are inappropriate or inapplicable to achieving the desired level of protection, use risk analysis within a formally constituted system to justify national standards (Codex standards are mostly applicable to food safety issues); base all animal and plant health imports on OIE-listed diseases and on recognized quarantine pests in the first instance; base controls for non-OIE listed animal diseases (emerging diseases) on risk analysis according to OIE protocols.<br>• Designate quarantine pests and phytosanitary import requirements using PRA according to standards set under the IPPC.<br>• Introduce joint customs control based on SPS-based flagging system at BCPs.<br>• Mainstream SPS concerns in the agenda of CAREC national transport and trade facilitation bodies |
| 2. Identifying Investments in SPS to Facilitate Trade | • Coordinate and integrate risk-based controls (import requirements) with customs risk management systems.<br>• Develop and introduce single window facility for imports and exports (an automated information system accessible to relevant agencies regulating trade).<br>• Rationalize and modernize laboratory infrastructure.<br>– Conduct an inventory of laboratory assets in the region.<br>– Determine the need for laboratory facilities on a regional basis.<br>– Upgrade and modernize designated facilities to serve regional demand along key CAREC corridors.<br>• Designate and renovate specialized BCPs for priority handling of perishables and facilitate accreditation to ISO 17025 standards.<br>• Build capacity through training and stakeholder engagement to maximize the benefits accruing from investment. |

BCP = border crossing point, CAREC = Central Asia Regional Economic Cooperation, GOST = (Set of) State Standards (of the former Union of Soviet Socialist Republics), IPPC = International Plant Protection Convention, ISO = International Organization for Standardization, OIE = Office International des Epizooties (World Organisation for Animal Health), PRA = pest risk analysis, SanPin = sanitary and epidemiologic (rules and regulations), SPS = sanitary and phytosanitary, WTO = World Trade Organization.

## B. Possible Roles for ADB

To implement effectively the SPS measures in border inspection management, the CAREC countries must pursue a phased, focused, and incremental approach. This will require further advisory and preparatory technical assistance, as well as policy reform. If the CAREC countries are to succeed in developing and implementing an SPS reform agenda that truly and successfully systematizes inspection and facilitates trade in the region, they must strengthen their border trade inspection agencies.

The following steps are proposed as the best means for the CAREC countries to achieve the objectives stated above:

- Short-term technical assistance and funding by ADB for the following activities: (i) a review of the laws and regulations in the CAREC countries that govern the oversight and application of SPS measures; (ii) an inventory of laboratory assets in the region; (iii) an assessment of the training needs of each CAREC country, and specification of the order of priority of the programs needed to meet those needs; and (iv) identification of the needs, opportunities, and practices that would engage SPS agencies in collaborative border management.
- In parallel with the activities proposed for ADB technical assistance, the CAREC countries should modernize their oversight and application of SPS measures by: (i) eliminating or at least reducing unnecessary inspections and testing-related delays, (ii) formulating a transition strategy for replacing outdated GOST and SanPin requirements with international standards, and (iii) mainstreaming SPS concerns into the agenda of national transport and trade facilitation bodies.

Selective investments in SPS that facilitate trade are a precondition of the successful implementation and sustainability of regional reforms. Thus, ADB must expand its support for regional improvement of border services to include support for the development of specialized BCPs to prioritize handling of perishable commodities and other goods that are subject to SPS measures. An inventory of regional laboratory assets should also be made to identify the investments needed to upgrade and modernize laboratory infrastructure that serves regional demand along CAREC corridors. Moreover, national single windows and single stop border inspection facilities should be further developed to: (i) augment regional action to harmonize SPS implementation, (ii) enable mutual recognition of laboratory findings, (iii) refine border risk identification and risk management procedures, and (iv) make pertinent information accessible to all trade regulation agencies.

Appendix 1

# Documentary Sources on SPS Relevant to CAREC

## General

| Title | Organization | Year | Source |
|---|---|---|---|
| Project Information Documents –Trade Facilitation: Improved SPS Handling in GMS Cross Border Trade | ADB Southeast Asia Department | n/a | http://www.adb.org/Projects/project.asp?id=43120 |
| Sanitary and Phytosanitary (SPS) Management—Draft Paper | ADB | _ | Email from Jeff Procak (covers CAREC and GMS) |
| Implementation of International Law in CIS States: Theory and Practice | Danilenko | 1999 | European Journal of International Law http://www.ejil.org/pdfs/10/1/578.pdf |
| Sanitary and Phytosanitary Requirements and Developing-Country Agro-Food Exports: Methodological Guidelines for Country and Product Assessments | Hensen et al. | 2002 | http://siteresources.worldbank.org/INTRANETTRADE/Resources/Topics/Standards/standards_challenges_methodologypaper.pdf |
| Central Asia's Comparative Advantage in International Trade | Kiel Economic Policy Paper | 2006 | http://www.ifw-kiel.de/pub/fruhere-publikationsreihen/kepp/2006/kepp06.pdf |
| [People's Republic of] China SPS Export Discussion Paper. Point 6. Exchange of views on how to tackle trade barriers with [People's Republic of] China | European Commission. SPS MAAC. | 2006 | http://trade.ec.europa.eu/doclib/docs/2006/august/tradoc_129785.pdf |
| Central Asian Pocketbook on Freedom of Expression. Article XIX | OSCE | 2006 | http://www.article19.org/data/files/pdfs/tools/central-asian-pocketbook.pdf |
| Food Safety and Agricultural Health Management in CIS Countries: Completing the Transition | World Bank, Agricultural & Rural Development Department | 2007 | http://siteresources.worldbank.org/INTARD/825826-1111134598204/21422839/FoodSafetyCIS.pdf |
| Cross Border Trade within Central Asia Regional Economic Cooperation | World Bank | 2007 | http://www.carecprogram.org/uploads/docs/Cross-Border-Trade-CAREC.pdf |
| ADB Support for Mongolian/CAREC Transport and Trade Facilitation Initiatives (presentation) | ADB Southeast Asia Department | 2009 | Presentation by Jeff Procak |
| CAREC Transport and Trade Facilitation: Partnership for Prosperity | ADB West and Central Asia Department | 2009 | http://www.adb.org/documents/reports/CAREC-Transpo-Trade-Facilitation/CAREC-Transpo-Trade-Facilitation.pdf |
| Border Regimes and Trade in Central Asia | World Bank | 2009 | Presentation in Brussels by Saumya Mitra |

*continued on next page*

**Appendix 1 Table** *continued*

| Title | Organization | Year | Source |
|---|---|---|---|
| The Role of Trade Facilitation in Central Asia: A Gravity Model. Working Model No. 628 | Levi Economics Institute of Bard College | 2010 | http://www.levyinstitute.org/pubs/wp_628.pdf |
| Action Plan 2010–2015 for Improved Handling of Sanitary and Phytosanitary (SPS) Arrangements in the Greater Mekong Subregion (GMS) Trade | ADB Southeast Asia Department | 2010 | Email from consultant |
| The CAREC Corridors: Performance Measurement and Monitoring (CPMM) Reports | CAREC Federation of Carrier and Forwarder Associations | 2011 | http://cfcfa.net/wp-content/uploads/CPMM-2011Q1-Report-final.pdf |
| EU-Russia Common Spaces Progress Report | EEAS | 2011 | http://eeas.europa.eu/russia/index_en.htm |
| Seminar Highlights—Sanitary and Phytosanitary Measures | Asian Productivity Organization | 2002 | http://www.apo-tokyo.org/publications/files/pjrep-02-ag-ge-sem-09.pdf |

**Organic, Fair-Trade and Halal Products**

| Title | Organization | Year | Source |
|---|---|---|---|
| Halal: An Emerging Food Quality Standard — Similarities of Halal and HACCP | Texas A&M | Not known | http://whr.hdcglobal.com/whr2009/downloads/Halal%20The%20emerging%20food%20quality%20standard.pdf |
| Standardization for Halal | Standards and Quality news (Malaysia) | 2004 | www.sirim.my |
| Documents in Russian | | | |
| Halal Certification | Online news item | 2012 | http://www.tcsbelgelendirme.com/ru/agriculture-and-food/halal-certificate-halal-certification-halal-food |
| Dutch Bid to Ban Halal and Kosher | Online new item | | http://kant.kg/2012-06-20/gollandcy-reshili-zapreshhat-xalyal/ |

**Country-Specific Reports and Other Documents**

| Country | Title | Organization | Year | Source |
|---|---|---|---|---|
| Azerbaijan | Azerbaijani Standards | State Agency on Standardization, Metrology and Patents | 2012 | http://www.worldwidestandards.com/worldwide-standards/bodies/azstand-standards.php |
| | The Steps to Establish An Enabling Legal Environment for a Single Window Facility | State Customs Committee | 2012 | http://www.unescap.org/tid/projects/swi-abasov1.pdf |
| | **Documents in Russian** | | | |
| | Fruit pests | | 2012 | http://www.rosbalt.ru/federal/2012/03/28/962671.html |
| | Food safety | Online news feature | 2012 | http://news.day.az/society/333350.html |
| | Single window | State Customs Committee | 2012 | http://www.customs.gov.az/ru/abr11.html |
| | Border facilities | State Customs Committee | 2012 | Internet |

*continued on next page*

**Appendix 1 Table** *continued*

| | | | | |
|---|---|---|---|---|
| Kyrgyz Republic | Consultant missions to Kyrgyz Republic and Tajikistan on development of action plan and capacity building program to implement the Kyrgyz Republic–Tajikistan Cross-Border Transport Agreement, 5–13 April 2011—Back-to-office-report. Asian Development, Central and West Asian Department | ADB Central & West Asia Department | 2011 | Email from Jeff Procak (with attached Memorandum) |
| | Mission Report. Trade Promotion in Kyrgyzstan—Phase II. 23 to 27 May 2011. ITC/DCP/11/2933. Bishkek, Kyrgyz Republic. International Trade Center | International Trade Center | 2011 | Hard copy from ITC, labeled 'Distribution Restricted' |
| | Mission Report. Trade Promotion in Kyrgyzstan—Phase III. 14 to 18 April 2011. ITC/DCP/11/2933. Bishkek, Kyrgyz Republic | International Trade Center | 2011 | Email from ITC |
| | One Health Project | World Bank | 2011 | Summarized in above reports |
| Kyrgyz Republic, Tajikistan, and Uzbekistan | Inception Report Kyrgyzstan<br>Obsolete Pesticides Technical Study in Kyrgyz Republic,<br>Republic of Tajikistan and the Republic of Uzbekistan<br>World Bank Project 100020592 | World Bank | 2009 | http://obsoletepesticides.net/resources/Inception%20Report%20Kyrgyzstan%20R002-4640777BFF-beb-V02-NL.pdf |
| Mongolia | Draft 'Roadmap' book (Business Analysis) | Logistics and Barcode Division, Mongolian National Chamber of Commerce and Industry | Date unknown | E-mail from Chamber of Commerce |
| PRC | Engaging the Private Sector: EU–[People's Republic of] China<br>Trade Disputes Under the Shadow of WTO Law | Yan Luo | 2007 | European Law Journal, Vol. 13 800–817 |

*continued on next page*

**Appendix 1 Table** *continued*

| | | | | |
|---|---|---|---|---|
| Tajikistan | Institutional, Policy and Legislative Framework of Food Security in Tajikistan | EU/FAO Collaborative Project | 2011 | http://www.fao.org/righttofood/publi08/Tajikistan_report_en.pdf |
| | Tajikistan Standards | Agency of Standardization, Metrology, Certification and Trade Inspection | 2012 | http://www.worldwidestandards.com/worldwide-standards/bodies/tjkstn-standards.php |
| | **Documents in Russian** | | | |
| | EU-Tajikistan Trade Relations | EEAS | | http://eeas.europa.eu/delegations/tajikistan/eu_tajikistan/trade_relation/index_ru.htm |
| | Laboratory Infrastructure Report | ITC | | http://www.taff.tj/fileadmin/taff/upload/pdf/19-10_Kamolov.pdf |
| Turkmenistan | Standards and Certification Development in Turkmenistan | EuropeAid Cooperation Office, Asia Directorate | 2008 | http://www.europahouse-tm.eu/files/Project006en.pdf |

Appendix 2

# Country-Level Assessments of SPS Capacity

## A. CAREC Countries Visited during the Study

### 1. Mongolia

#### a. Trade and Transport

Although the private sector is driving trade facilitation in Mongolia, it is not concerned specifically with SPS. Indeed, according to a National Chamber of Commerce and Industry study ("Road Map," Appendix 1), Mongolia ranked "very poor" globally in logistics, costs, and release times. In particular, at the Zamyn Uud/Erenhot BCP shared by the PRC and Mongolia, delays of up to 3 hours are experienced in customs clearance, an additional 3 hours in waiting time, and a further 9 hours in loading and unloading. However, such delays pale in comparison with delays of 21 hours that can occur at Sukhbataar going into the Russian Federation. Further, the requirements for the issuance of border trade clearances are onerous. Mongolia requires up to 21 signatures for exports—the most in all of Asia—and 10 signatures for imports.

Since Mongolia's food imports come mostly from the PRC, transporting them through the vast distances between the two countries is a formidable challenge. Typically, products are hauled by small trucks within Mongolia, and this journey requires as much as 4–5 days because of poor road conditions. Along these corridors, cross-border trade with the PRC is essentially unregulated and poses a potential source of illegally imported goods that pass into other countries.

#### b. Scientific and Legal Basis for SPS Measures

Certain provisions of Mongolia's Law on Standardization and Conformity Assessment of 2003 are inconsistent with international standards. For example, Articles 16 and 25.2 designate the national standards body (MASM) as the lead organization responsible for undertaking conformity assessments. Moreover, Mongolia's Cabinet is currently deliberating revisions in as many as 5,000 standards to ensure their consistency with global standards.

The basis for food quality and safety in Mongolia is the 1999 Law on Food. Typical of the lingering Soviet influence on legal instruments passed during that period, this law interlinks safety and quality:

> Article 3.1.2 "Food Safety" means a condition where appropriate norms of food hygiene and quality are satisfied.

Codex food standards in Mongolia are similarly applied in this manner. This is to emphasize the important role of product certification as an import barrier, as well as the de facto function of MASM as a regulatory agency. For "risk-based inspections," MASM has confirmed that GASI is responsible for technical aspects, while MASM itself provides verification and certification based on test results. In other words, while GASI merely provides a test certificate, MASM's certificate of conformity effectively becomes a second import permit. Thus, the procedure requires the importer to obtain in advance an import permit from GASI, and to present this import permit at the border. However,

unless this import permit is accompanied with a MASM certificate of comformity, the goods cannot be sold in the open market. To justify the arrangement, authorities point out that testing laboratories should be accredited and it is MASM's responsibility as a national standards body to perform the accreditation. However, the MASM certificate of conformity is not actually an accreditation but rather a simple verification. Indeed, having been constituted at the Cabinet level, GASI asserts its authority to issue import permits.

Mongolia's Customs Law appears to be the legal basis for border controls in the three SPS sectors. In plant health, Mongolia is a signatory to the IPPC. Further, the EPPO has indicated that the government can apply for membership if so inclined.

### c. Border Control Operations: SPS Inspections and Customs Control

Mongolia's GASI is responsible for inspections at BCPs, and has authority over the following aspects of border control: (i) environmental monitoring, (ii) education, (iii) finance, (iv) social protection, (v) agriculture, and (vi) tourism. As provided in Cabinet Resolution No. 20, GASI is empowered to conduct inspection and analysis, and has the authority to decide whether or not a product can enter the country. In the agriculture sector, four divisions are under GASI's operating mandate: (i) plant health, (ii) animal health, (iii) food hygiene, and (iv) standards (technical specifications).

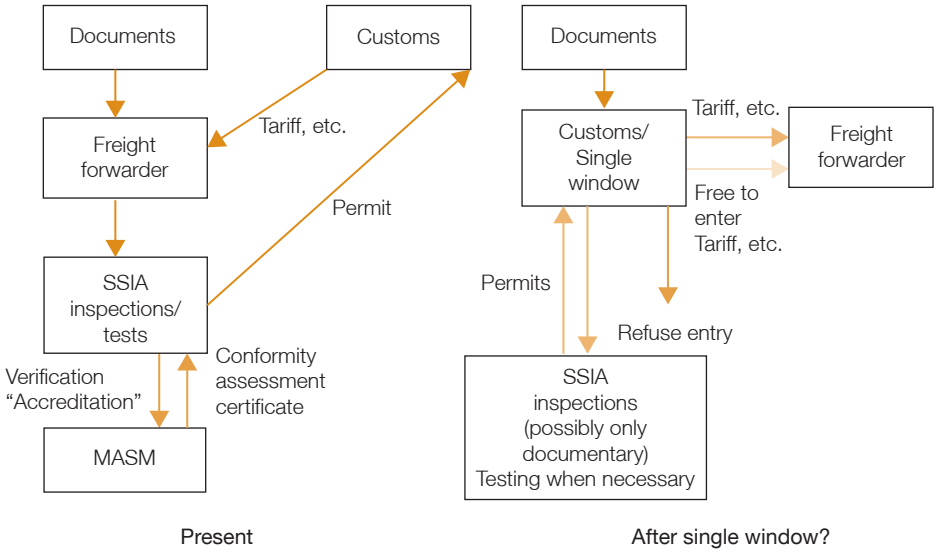
Laboratories at Mongolia's BCPs undertake sampling and investigation at the rate of about 20,000 samples each year. These samples are taken mostly from consigned goods "temporarily warehoused" at an inland terminal and already issued release documents by customs. Still the waiting period for this preliminary customs clearance at BCPs is unduly long, not least because of the length of time it takes to load the consigned goods for transport within Mongolia. Further delays occur pending the release of the results of laboratory testing. The problem is that although the sampling tests are ostensibly done to comply with set standards for the issuance of a MASM certificate of conformity, these tests are not really necessary and cannot even be considered a legitimate form of SPS border control.

Since it draws its authority directly from the Cabinet, GASI has taken the lead responsibility for integrated border management in Mongolia. However, the customs service has taken issue with this stance. Indeed, the customs service has been accused of trying to usurp GASI's lead role. The customs service is well positioned in this regard, as it is the first point of contact both for exports from and for imports into Mongolia, and is collaborating with the National Chamber of Commerce and Industry and GASI on single window development and fine-tuning the customs automated information system. The well-equipped and well-staffed laboratory of the customs service has state-of-the-art procedures for border inspection, but unfortunately not for SPS testing.

For its part, Mongolia's GASI has the potential to streamline border controls and remove unnecessary physical inspections. It can reduce the number of border inspections and tests by applying alert codes linked with both policy and risk criteria to particular products.

Mongolia's National Chamber of Commerce and Industry recognizes the duplication and overlap of responsibilities between the customs service, GASI, and MASM, and the unnecessary or redundant inspection and conformity assessments and permits required under Mongolia's border inspection system. Although driven by the creation of GASI, the current system has not been of much help to the Mongolian government because MASM is a regulatory agency that derives its authority from the outdated Law on Standardization and Conformity Assessment. Ultimately, the key issue is that, irrespective of whether primary border inspections are done by GASI or are delegated to the customs service, as in other countries, Mongolia must identify a source of basic policy when it adopts international standards or risk-based national standards for food imports.

Figure A2.1 **SPS Border Operations in Mongolia**




MASM = Mongolian Agency for Standardization and Metrology, SPS = sanitary and phytosanitary, SSIA = State Specialized Inspection Agency.

Figure A2.1 summarizes SPS border operations in Mongolia at present, as well as the way these operations might be organized under a single window.

## d. Assessment of Laboratory Capacity

There have been disruptions in the operations of GASI's central laboratory due to repeated transfers arising from organizational changes. In 2013, the laboratory will again move to a new building.

### i. Plant Quarantine

The plant quarantine department has a staff of four, and the seeds department, a staff of six. The laboratory, which uses national standards where applicable, has been under the Ministry of Agriculture and Food for the past 40–50 years, but is now in limbo. When the laboratory moves to its new building, its plant quarantine section does not expect to receive any new equipment. The laboratory has rudimentary equipment for rearing and identifying insects and other arthropod pests and fungal diseases, and this equipment mostly dates back to the Soviet period. Expertise in nematology, which is important in assessing the safety of vegetables, is lacking. There are facilities for seed testing (germination and weed contamination), but no modern equipment (ELISA, PCR) for identifying plant pathogens such as bacteria, viruses, and phytoplasmas.

### ii. Food Laboratory

New equipment is due to arrive, once GASI's central laboratory moves into its new building. From then on, it will take over nitrate testing in vegetables and resume pesticide testing.

### iii. Bacteriology

Depending on the inspection to be performed, food bacteria are assessed by total plate count and selective media (for *Salmonella* serotypes, *Escherichia coli*, *Staphylococcus aureus*, *Listeria monocytogenes*, *Campylobacter spp.*, *Enterobacter sakazakii*, and coliforms). There is a Vitek 2

compact analyzer for rapid biochemical profiling, and an automated immune fermenter—a Russian development—for *Salmonella*. Antibiotic residues in poultry are assessed through "instant serological testing."

**iv. Food Chemistry**

Tests are routinely done on imports only, and most of these relate to quality (e.g., alcohol content, beer quality). There is gas chromatography, but only for alcohol. The laboratory cannot test for antibiotic residues, but the bacteriology laboratory can do screening for antibiotics in meat and milk.

### e. Capacity of Personnel and Training Requirements

The ESCAP Technical Barriers Report (referenced in Appendix 3) considers training needs. The following assessment for Mongolia is broadly consistent with indicators from the ESCAP study on which the report is based.

The restructuring of Mongolia's government in 2008 affected the staffing of MOFAT, which has responsibility for border control operations. The department responsible for SPS was downsized; its capacity for interagency coordination was thus reduced. In fact, only one person in the department now works full time on WTO matters. Since 2008, department staff have participated in WTO organic production workshops and ESCAP-funded seminars. The customs service, along with the private sector and relevant government agencies, has indicated the need for specific training in integrated border management and risk management.

The customs service has also signified its need for training in arthropod pest and nematode identification, as well as in modern methods of identifying plant pathogens.

### f. National Notification Authority and Enquiry Points

Although MASM was not even conversant with the role and responsibilities of an SPS enquiry point, it was designated as a TBT enquiry point. But no one in the ministry was assigned to handle that function, and no contact e-mail address was provided. The International Portal on Food Safety, Animal and Plant Health (IPFSAPH), with the e-mail address sunenkh@yahoo.com is, however, listed as the SPS National Notification Authority and as the SPS contact point for Mongolia's MOFAT.

## 2. Kazakhstan

### a. Trade and Transport

While Kazakhstan is not a member of the WTO, it is a member of the Customs Union. The key question then is whether its accession to the WTO will now proceed rapidly, given that, WTO membership is based on measures the Customs Union has adopted or will be adopting—a factor that weighed in Russia's favor.

The single stop approach to border control is important for Kazakhstan's private sector and for its customs service, as it can reduce processing time for border clearance for exports from 5 days to 2. The other priority is complementing the single stop approach with single window facility. However, there have been complaints that progress in this systems upgrade is being impeded by vested interests that will be negatively affected by it.

The passage of the 2010 Law on Food Safety was a major step forward for border inspection management in Kazakhstan, since it clearly placed food quality issues in the realm of SPS principles. Moreover, the law embodies HACCP principles as the primary means of assuring food hygiene.

The above notwithstanding, there exists a perception that the Customs Union "is making things more complicated" (see examples of border inspection enforcement in the country-level case studies below). Indeed, two Customs Union measures are seen to be discriminatory: (i) a list of registered producers of high-risk commodities has been formulated, and (ii) unregistered suppliers may not supply products internationally. Moreover, as shown in the third case study, Kazakhstan does not recognize the EU export certificate. This is clearly a Customs Union issue, and one that needs mutual recognition by the Customs Union and France. However, the need for mutual recognition is overridden by Article 4 on Equivalence of the SPS Agreement, as well as by the same principle in OIE codes.

### Border Controls in Kazakhstan: Case Studies

**Yogurt.** A Kazakhstan company in the Ukraine produces yogurt solely for Kazakhstan. This company was purchased by President, a major French food supply company. Under Customs Union rules, the yogurt produced by the company is no longer allowed through the Russian Federation, even though the company is registered under Kazakhstan law. Hence, the new owner must be recognized in an updated list of products subject to mandatory conformity approval in the Customs Union.

**Meat.** The Kazakhstan Chamber of Commerce recognizes progress in border controls but also points out that the People's Republic of China should provide more information about customs formalities. Inexpensive meat may be bought at the border; in theory this constitutes cross-border trade. However, the meat tends to be sold in the domestic market. There is a need to certify traders involved in this activity.

**Iced Raw Fish.** Customs delays significantly reduce the shelf life of iced raw fish from Normandy, France that is air freighted to Kazakhstan markets. French testing authorities require 24–48 hours to perform express diagnostics on a sample taken onshore from fishing vessels with an export certificate from the European Union. However, Kazakhstan's Ministry of Agriculture requires up to 5–7 days to perform equivalent tests. Four days are required to ship fresh iced fish from France to Kazakhstan via Frankfurt, including 5 hours of air transit time. Iced fresh fish has a maximum shelf life of 20 days. However, the amount of time the Kazakhstan authorities require for testing reduces the shelf life of French fish sold in Kazakhstan from 20 days to 11. Thus, reducing the amount of customs processing time in this case would have a significant positive impact on suppliers of French fish sold in Kazakhstan.

Source: Consultant's interview with the Kazakhstan Chamber of Commerce.

The Union of International Freight Carriers of the Republic of Kazakhstan has indicated that the Russian Federation is adopting modern standards for transport nearly in full. The union is hoping that the same will apply to SPS now that Russia has become a WTO member.

## b. Scientific and Legal Basis for SPS Measures

### i. Standards

*(1) Committee on Standardization and Metrology*

Current relevant legislation regarding standards regulation in Kazakhstan includes: (i) the Law on Technical Regulation of 2004, which is being amended by Parliament, (ii) a draft law amendment that reduces the number of technical regulations, (iii) the Law on Accreditation of 2008, and (iv) the amendment in the Law on Ensuring Uniform Measurements in 2008 that regulates activities in the field of metrology. The Ministry of Agriculture (MOA) has a role in developing these standards under the principle that accreditation is "voluntary" and is accessible to any member of society.

The Customs Union has adopted SPS measures that will facilitate harmonized laws on border inspection management among its member countries. Specific standards become mandatory if they are made part of a technical directive or a piece of approved legislation.

The Ministry of Health (MOH), which has a Committee on Codex Alimentarius, is proceeding to adopt Codex standards in accordance with the Law on Food Safety of 2007.

The decrees maintain a much-reduced list of products requiring certification, such as biologically active additives, infant food, and ready-to-eat food. Certification is provided by accredited bodies. The Committee on Codex Alimentarius is no longer involved in certification.

Overall, there is now a clear distinction between food safety issues and technical regulations, although the committee admits that some relics of the Soviet GOST system remain in these regulations.

The MOA in Kazakhstan is responsible for food safety, veterinary controls, and plant quarantine.

*(2) Regulation of Imports*

Food safety. No agency has authority to conduct routine pesticide residue testing of fruits and vegetables at Kazakhstan's borders, but random testing can be done in domestic markets. Taking a risk-based approach to food safety, the MOA does the sampling and tests the samples at the facilities of an "accredited" laboratory.

The Veterinary Department is responsible for testing for: (i) microbes, (ii) residual pesticides, (iii) heavy metals, and (iv) dioxin in fish.

In July 2010, the MOH handed over responsibility for perishable and agricultural commodities to the MOA. Since then, the MOH's responsibility has been confined to processed foodstuffs and genetically modified oils originating outside the borders of the Customs Union. SPS inspections are performed to determine if goods are safe for consumption. But the customs service has full control of highway BCPs. The MOH has likewise delegated sanitary controls to the customs service in accordance with amendments to the Customs Code. The transition is not complete, as railway, airport, and Caspian seaport BCPs remain the responsibility of MOH.

Plant quarantine. Being a signatory to IPPC as well as a member of EPPO, Kazakhstan has a list of quarantine pests that is based on EPPO's A1 and A2 pest lists. The country is currently doing PRA before formulating a single list of import requirements for plants and plant products. However, since Kazakhstan has been a Customs Union member since 2011, it must perform this PRA in conjunction with the Customs Union. Currently, "international quarantine" applies only outside Customs Union borders, and principally relates to trade with the PRC, the Kyrgyz Republic, and Uzbekistan.

Veterinary matters. The legislation governing veterinary matters is the unreformed Law on Veterinary Science of 2002. However, by means of a normative act, Kazakhstan has adopted a list of internationally recognized diseases based on that of the OIE. Using the lists of other countries as the basis for hazard identification, Kazakhstan detects diseases during border inspection and then notifies the World Animal Health Information Database (WAHID) about all diseases thus detected. As Kazakhstan's capacity for disease surveillance is well established, it can immediately report any outbreaks of listed diseases. Further, an animal health code is currently being developed in accordance with OIE, with risk assessment under way.

## c. Border Control Operations

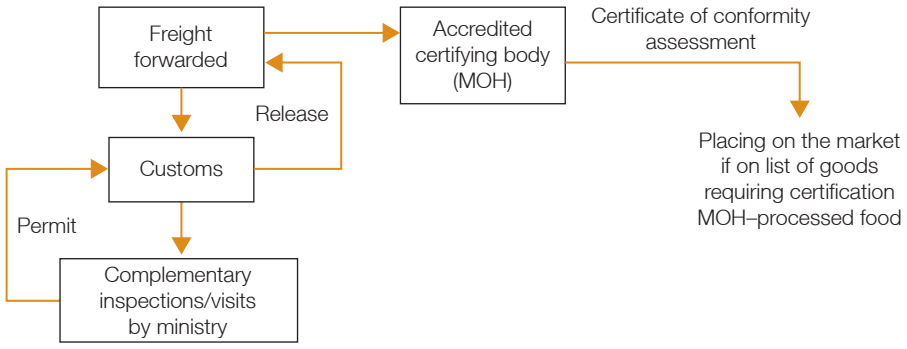
Kazakhstan has adopted the WTO recommendation to give its customs service full authority over SPS-related matters, but the ongoing process of achieving this handover is being hampered by a number of issues. At highway BCPs, the MOA is the SPS authority, with enforcement being handled by MOA specialists, who are seconded personnel working under their own authority. On the other

hand, officials from the MOH work under the authority of the customs service. Moreover, other relevant ministries still operate at railway BCPs, even though Kazakhstan already has a computerized information system that can potentially be linked with databases that report SPS risks.

The Customs service is in overall control of the border inspection process, as it should be. Using documentary controls, it determines if a special license or permit is required for a particular imported or exported item. From 2008–2009 onward, a unified information system called ARGUS, a system compatible with that of the Russian Federation, has been in operation. The Customs service now also has an operational control center that collects data from BCPs and forwards these to relevant agencies.

While the MOH retains sanitary and epidemiological control over accredited laboratories, the MOA can itself conduct visual inspections required by the Customs service. Some goods—processed food items in particular—that require certification before they can be sold in the open market or transported to Customs Union countries are subject to this inspection arrangement. A flow diagram summarizing Kazakhstan's SPS-related import border operations appears in Figure A2.2.

Figure A2.2 **SPS Border Operations in Kazakhstan (Imports)**




MOH = Ministry of Health, SPS = sanitary and phytosanitary.

## d. Assessment by the State Veterinary Laboratory

Virology. Good containment and biosecurity was observed in Kazakhstan's laboratories that are involved in border inspection procedures. For critical diseases, the State Veterinary Laboratory is capable of testing for rabies via the inactivation test, as well as fluorescent microscopy. However, it does not have facilities for administering the OIE test for rabies. The laboratory is also capable of conducting rapid tests for foot-and-mouth disease and avian influenza. In general, it uses ELISA for virology, with some automated functions. Some BCPs or laboratories in oblasts have better equipment for performing tests. In addition, the laboratory has embryo infection facilities for detecting bird viruses, and a carbon dioxide incubator with high-efficiency particulate air filter for detecting infection using bone tissue and brain tissue infection of guinea pigs.

Bacteriology. Generally, the State Veterinary Laboratory uses traditional bacterial culture with selective media plus ELISA.

Molecular biology. The State Veterinary Laboratory has only one PCR machine for testing for viruses and bacteria. Although the laboratory also has a real-time PCR machine, the equipment was under repair at the time of the visit for this study.

Chemistry. The State Veterinary Laboratory has facilities for conducting tests to detect the following contaminants: (i) radionuclides (Caesium 147 and Strontium 90), (ii) antibiotics, by rapid tests and ELISA, (iii) pesticides, by gas chromatography for both organochlorines and organophosphates, and (iv) antibiotics and vitamins, by HPLC, using the same equipment as those in the oblasts.

### e. Capacity of Personnel and Training Requirements

Kazakhstan's State Veterinary Laboratory personnel need advanced training in risk assessment methodology. Some of the training should be sectoral—PRA for plant quarantine (in conjunction with an associated institute) and equivalent training for animal health. Also needed are software and information resources regarding the global distribution of pests and diseases. Previously, the plant quarantine department staff were trained in integrated border management by an expert from Latvia under the auspices of the United Nations Development Programme (UNDP).

### f. National Notification Authority and Enquiry Points

Kazakhstan's Committee on Standardization and Metrology has an information center that was established in July 2000. The national notification authority for SPS, which also serves as an SPS enquiry point, is the Ministry of Trade.

## 3. Kyrgyz Republic

### a. Trade and Transport

The main concern of the Kyrgyz Republic is its trade with Customs Union countries, which have blocked its meat and dairy product exports. Acceptance of these products should be facilitated should the Kyrgyz Republic join the Customs Union. A decree states its intention to do so. However, the adoption of technical regulations on a par with those of the Customs Union would not be WTO compatible, even though the Kyrgyz Republic has been a WTO member since 1998. Much of the outcome of this situation will depend on the Russian Federation's fulfilling its promises to reform its own SPS measures upon WTO accession. According to the Kyrgyz Republic Ministry of Economic Regulation (MER), the government has asked the Russian Federation to review the conditions of the Customs Union before the Kyrgyz Republic decides whether or not to join the Customs Union.

The Kyrgyz Republic imports most of the fruits and vegetables consumed domestically. Currently, 1,700–1,800 trucks serve the country's import supply chain, though a much smaller number of trucks serve the export supply chain, with most of the country's exports going to the Russian Federation. Eighty percent of these vehicles are refrigerated, their freezer vehicle certifications being performed through the Trade Corridor Europe–Caucasus–Asia (TRACECA).

There are long entry delays at Ak-jol, the main BCP with Kazakhstan. These delays, which mostly occur in a no-man's-land before the official border is reached, result from the numerous checkpoints, each of which provides an opportunity for bribery.

While both freight associations and the Chamber of Commerce in the Kyrgyz Republic have called for the implementation of single stop border inspection, this has not materialized. Both parties have accused the government of stalling in this regard, with the Chamber of Commerce blaming the MER for its failure to endorse the draft decree that has been prepared in collaboration with the customs service.

## b. Scientific and Legal Basis for SPS Measures

### i. Standards

In the Kyrgyz Republic, the legal and institutional arrangements relating to border control are still in transition because of the extensive reorganizations in the government. A recent major development is a plan for a single inspection agency to be put in charge of border control. Formally, authority for SPS has been taken away from the Ministry of Agriculture (MOA) and the Ministry of Health (MOH), yet MOH and MOA personnel continue to staff BCPs and holding stations. At present, MER oversees the continuing development of technical regulations, including SPS measures.

### ii. Regulation of Imports

Regarding the regulation of imports, the Kyrgyz Republic's Center for Standardization and Metrology (CSM) lacks the capacity to implement required changes quickly, mainly because it still follows its former GOST-based legal mandate. Compounding this problem is the fact that MER claims that it must approve technical regulations before they are sent to the Cabinet, although it actually has only a coordinating role in addressing issues relating to resolutions (normative acts). However, MOA and MOH have their lost their rule-making powers. (The above matters are confirmed in the ITC report referenced in Appendix 1.) Indeed, the situation in the Kyrgyz Republic echoes a common predicament in WTO member countries— "confusion arises among inspection services as to which regulations apply."[1]

Senior officials of CSM recognize the necessary distinction between technical regulations, on one hand, and WTO/TBT and SPS measures, on the other. However, they admit that they lack guidance regarding how to proceed in developing appropriate regulations, particularly in light of the contradictions between the GOST system and the SPS. Thus, there are no provisions for risk assessment and traceability. The priority is for wider use of HACCP, which does have a legal basis in the Law on the Fundamentals of Technical Regulations of 2004 through provisions on ISO standards. But this law remains unreformed since the Soviet era, although the Kyrgyz Republic is a WTO member. The Law on Standardization of 1996 appears to be ignored.

The CSM no longer has a monopoly on certification. Many private companies provide certification, but few are accredited nationally, let alone internationally. Consequently, the Centre continues to perform certifications. However, most certification requirements are not SPS-related, these being largely unnecessary or inappropriate for border operations.

## c. Border Control Operations

### i. Food Safety

Of the five countries visited, the Kyrgyz Republic has the poorest record in food hygiene (footnote 17). Although not directly relevant to border controls, this record indicates generally inadequate protection for the public from unsafe food or from food that is unfit for human consumption. The responsibilities of MOH regarding the safe importation of food are now restricted to laboratory testing. Although inspections are still performed at inland holding stations, food inspections at BCPs have been delegated to the Customs service. Moreover, regulatory action is limited to removing food from the market or denying the issuance of a certificate of conformity, thus effectively prohibiting its sale in the domestic market. Reform of relevant laws is proving difficult.

### ii. Veterinary Controls

Since independence, the State Veterinary Department has struggled to operate without staff training beyond that received at university and during briefings on legal acts. Yet the department is

[1] World Bank. 2007. Food Safety and Agricultural Health Management in CIS Countries: Completing the Transition. Washington, DC.

responsible for imports at as many as 43 BCPs. Documentary checks are undertaken by veterinary inspectors at the BCPs, while actual inspections are performed at holding stations for imported goods. Meanwhile, the Law on Veterinary of 1998 is undergoing revisions to bring it into compliance with OIE codes and WTO principles.

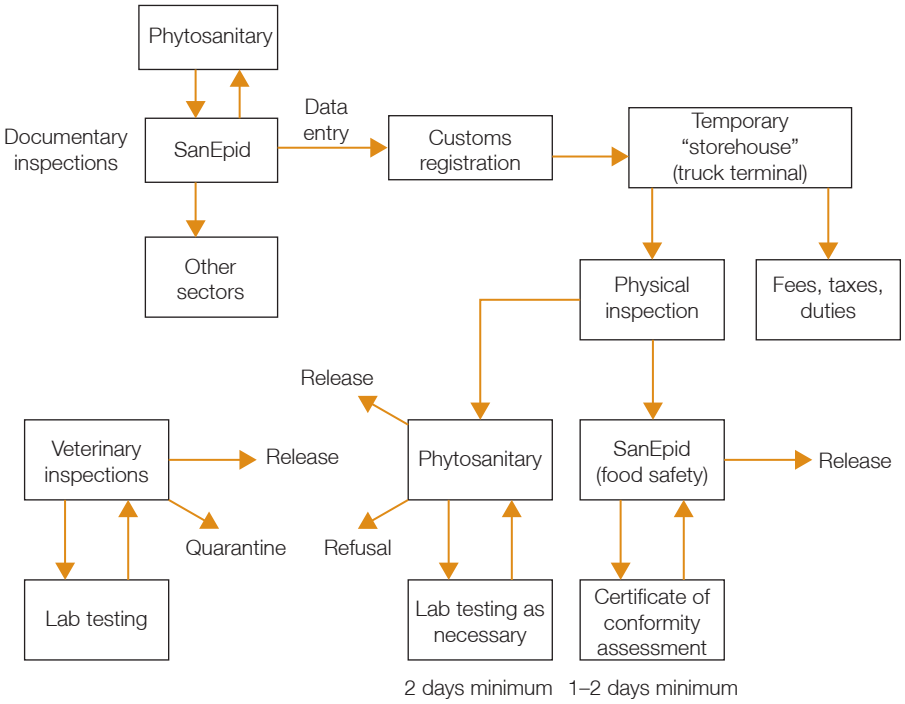
### iii. Plant Health

A Plant Quarantine Department was recently formed, with plant quarantine inspectors stationed at BCPs performing documentary checks, but with actual inspections being performed at inland holding stations. The Law on Plant Quarantine of 1996 needs reform if it is to be consistent with IPPC and WTO standards. However, the department lacks the legal expertise needed to advise the government as to how it should go about this. As a result, the entire concept of quarantine pests remains recognized in law, though specific pests are identified in decrees (normative acts). With its limited information resources, the Plant Quarantine Department relies mainly on a Russian plant protection journal, and is unable to organize pest risk analyses systematically.

### iv. State Customs Department

Although the customs service has the primary responsibility for BCPs, it is not involved in SPS enforcement. This is because, for the export of plant produce, exporters obtain a phytosanitary certificate from MOA and then proceed directly to the relevant BCP, at which the customs service merely performs documentary checks. SPS border control operations in the Kyrgyz Republic are summarized in Figure A2.3.

Figure A2.3 **SPS Border Operations in the Kyrgyz Republic**




SanEpid = sanitary–epidemiological service, SPS = sanitary and phytosanitary.

## d. Assessment of Laboratory Capacity

### i. Food Laboratory of the Center for Standardization

The center issues certificates of conformity assessment for alcohol, bread, juice, and other food and drinks. However, the laboratory does not have the capacity to issue export certificates of food safety (which are especially needed for food of animal origin), as required by importing countries under WTO and Codex regulations. This is because these are risk-based assessments, whose performance requires technology unavailable at this laboratory. While the new technical regulations will enhance export opportunities for Customs Union members, they will still limit potential exports to WTO member countries, unless there is a relevant bilateral agreement in place.

### ii. State Plant Quarantine Laboratory

This laboratory has the capability to perform the following procedures: (i) basic culture procedures and microscopy to identify fungi and insects, (ii) ultraviolet microscopy to investigate specific bacteria, and (iii) seed testing and culture to detect virus symptoms. However, overall, the laboratory lacks equipment for biochemical profiling, PCR, ELISA, and sequencing of bacteria, viruses, phytoplasmas, and cryptic fungi. There is also an admitted lack of expertise in nematology, and this lack is a significant hazard in the production of vegetables, particularly in light of the fact that nematodes are recognized as serious quarantine pests.

### iii. Republican Veterinary Laboratory

This laboratory is adequately equipped for many purposes thanks to support from the United States Biological Threat Reduction Program. The biosecurity standard is satisfactory for infection control, airlocks, and similar protective measures. There is no PCR equipment in the laboratory that can be used for bacteriology, and although ELISA is used to test for antibiotics in meat, dairy, chicken, and honey, it is done solely for screening.

## e. Capacity of Personnel and Training Requirements

The MER is familiar with the WTO SPS Committee, and has attended its workshop to facilitate participation.

While senior customs service officials have undergone training in the single window in Senegal, they need further training to apply SPS concepts and procedures in the local context. Also, a training program in information technology systems has been implemented.

The Veterinary Department has been functioning for the past 20 years without adequate training. However, UNDP-supported training was recently conducted to integrate inspections into the department's functions.

Experts in plant health are needed to assist with legal reform, and the department's own staff require training as well, if they are to work with legal experts in reforming the plant quarantine law. They also need training in surveillance and PRA; information sources and software must be provided to them in this regard.

### i. National Notification Authority and Enquiry Points

The Kyrgyz Republic has already set up its TBT Enquiry Point, and a decree that will place an SPS Enquiry Point within the Center for Standardization is being drafted. Also, the ITC has recommended the establishment of a national notification authority for SPS. Despite the fact that the Kyrgyz Republic is a long-standing WTO member, there has been no notification—whether incoming or outgoing—regarding its membership.

## 4. Uzbekistan

### a. Trade and Transport

Uzbekistan is a major exporter of fruits and vegetables in the CAREC region, where the total annual value of trade in these commodities is equivalent to US$2 billion. In this regard, the country's products compete with cheap fruit and vegetable imports from the PRC, much of which are imported through the Kyrgyz Republic. Uzbekistan is developing the production of citrus, kiwi fruit, and other fruits that are traditionally imported from the PRC, though truly tropical fruits (e.g., bananas) cannot be grown in the country's climate. Uzbekistan is not a WTO member, and the government seems unenthusiastic about accession. Thus, accession negotiations have not been actively pursued for a number of years.

There is frustration in the private sector over the relics of the GOST system, such as holdover requirements regarding the issuance of certificates of conformity. Because the laboratories in Uzbekistan that issue these certificates are not accredited internationally, they are regarded as useless outside the CIS. The Chamber of Commerce is working with the Customs service to resolve border-related issues.

Freight companies in Uzbekistan have been participating in the TRACECA project for refrigerated transport. Because of the high transaction costs in the TRACECA, which allegedly include bribery, the government has developed its own facility for refrigerated transport—the Agency for Automobile and Road Transportation. Since 2008, the country has been a party to the international agreement on the transport of perishable goods. It now has more than 1,000 cold-chain vehicles with certified temperature capability. This certification, which is recognized throughout the CIS except in Tajikistan, means that these trucks will no longer have to be opened at BCPs.

### b. Scientific and Legal Basis for SPS Measures

#### i. Standards

The Law on Standardization of 1993 appears to exemplify laws that are ignored rather than repealed. In Uzbekistan, it is the Law on Technical Regulations of 2010 that governs border inspection standards. However, compliance with them is voluntary unless the standards are embodied in technical regulations, following the practice in the Russian Federation and the Customs Union. It remains to be seen how technical regulations can be made consistent with internationally accepted practice and thus become core standards instead of simply regulations.

#### ii. Regulation of Imports

The Uzbekistan Agency for Standards and Metrology considers the Laws on Certification, Accreditation, and Metrology of 1993 to be the laws that governs the regulation of imports. This law adopted what it refers to as the "2008 EU Directive," which is assumed here to be Regulation (EC) No. 765/2008 of the European Parliament and of the Council of 9 July 2008. This regulation, which repealed Regulation (EEC) No. 339/93, sets out requirements for accreditation and market surveillance relating to the marketing of products, and is thus part of the "New Legislative Framework" for certification in the EU.[2] However, when the Uzbekistan Agency for Standards and Metrology adopted this regulation, it was clearly unaware of a potential conflict with its primary functions and with certification procedures.

[2] European Union. Enterprise and Industry. http://ec.europa.eu/enterprise/policies/single-market-goods/internal-market-for-products/new-legislative-framework/

Cabinet Decree 122 of April 2011 identifies the goods that require certification. The list also divides products into those for which certification is "recommended" and those for which certification is mandatory. The revised list covers the following commodities: (i) baby food, (ii) fresh and processed meat, (iii) dairy products (raw and pasteurized milk), and (iv) special food.

The Law on Technical Regulations of 2009 designates both the Ministry of Agriculture (MOA) and the Ministry of Health (MOH) as the agencies responsible for enforcing compliance with food standards. MOA certifies quality, while MOH inspects and tests under SanPin requirements as a prerequisite for MOA quality certification. A priority program for the agency is adopting HACCP as an approach to food safety management as a means of moving away from end-product certification.

## c. Border Control Operations

### i. State Customs Committee

In Uzbekistan, a Cabinet resolution on the single window has been implemented for exports. During the visit for this study, the system was found to be operating effectively for both imports and exports at the Yallama BCP (Figures 6a and 6b). The Customs code in use follows typical CIS norms, and makes no mention of either risk assessment or risk management. However, there is a new draft Customs code that has a chapter on risk assessment and risk management, including methodology and risk profiling. The Customs service admits that at present, the implementation of risk management is not unified across the various sectors of the database.

SPS risks at BCPs are the responsibility of the Customs service and the authorities for animal health (the State Veterinary Department) and plant health (the State Plant Quarantine Department). Interrelationships between these two agencies must follow established protocols. An automated customs system that coordinates with other government agencies has been implemented to ensure that all other relevant government agencies have access to customs service data and information. The system incorporates all SPS standards and requirements into its database.

For large consignments of goods, customs clearance occurs not at the border but at inland terminals, where inspection and testing is done. However, smaller consignments are cleared at the border, and are denied entry only if there is an alert. This arrangement is in contrast to the customs systems in Azerbaijan and Kazakhstan where alerts do not form part of border controls.

### ii. Food Safety

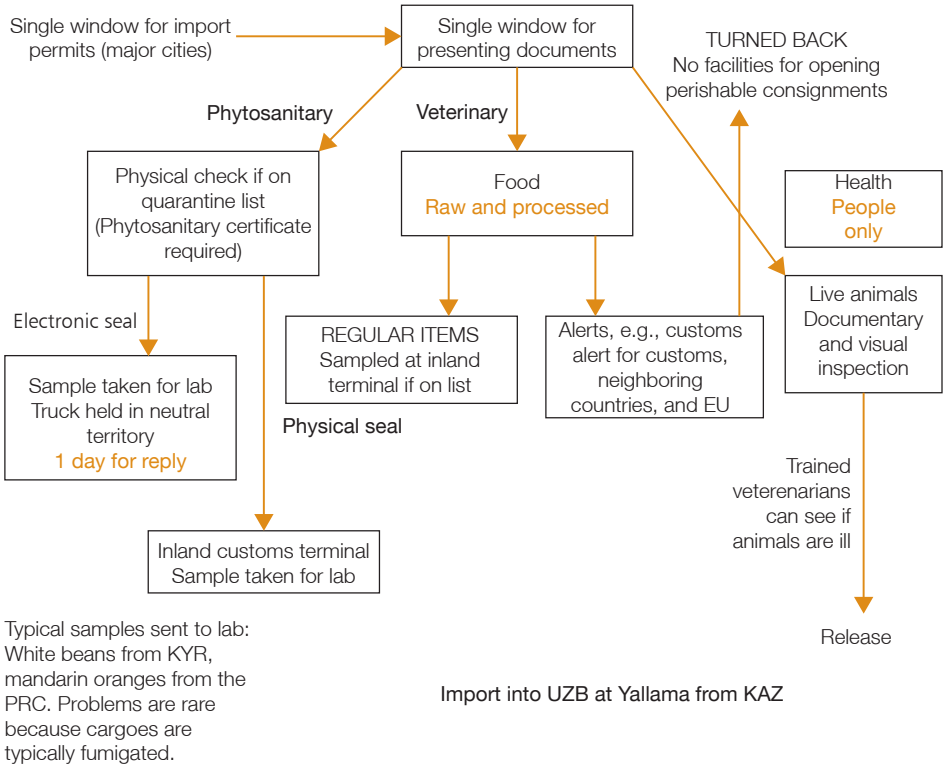
In Uzbekistan, MOH is concerned only with food safety, and not with quality or composition. However, it is not at all involved in food inspection at BCPs. According to the Department of Sanitary and Epidemiological Supervision, MOH does not perform quality checks for conformity with purely technical specifications. Instead, sanitary and epidemiologic tests (following SanPin requirements) are performed on both imports and exports.

An encouraging sign in Uzbekistan is its adoption of the EU's "effective zero" standard for pesticide residues (0.01µg/kg), which has also been adopted by the Codex. SanPin pesticide requirements are being phased out in favor of market sampling, and risk assessment is being carried out by third-party entities—research institutes, for example—under SanPin supervision.

### iii. Plant Quarantine

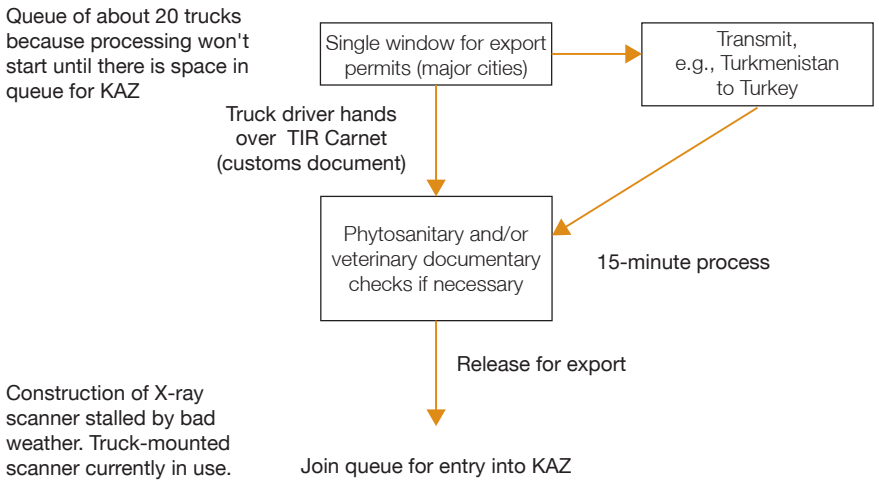
Plant quarantine inspections in Uzbekistan are done at 43 BCPs, including the country's 14 airports, and 14 railway stations. The 1995 Law on Plant Quarantine, as amended in 2007, provides for plant quarantine measures that adhere to IPPC principles. Indeed, Uzbekistan is an enthusiastic and active member of the EPPO. It thus uses the EPPO's A1 and A2 lists of quarantine pests as guidelines for its own national lists, which were last updated in 2008. Uzbekistan is one of the

## Figure A2.4a SPS Border Operations in Uzbekistan (Imports)




PRC = People's Republic of China, EU = European Union, KAZ = Kazakhstan, KYR = Kyrgyz Republic, SPS = sanitary and phytosanitary, UZB = Uzbekistan.

## Figure A2.4b SPS Border Operations in Uzbekistan (Exports)




KAZ = Kazakhstan, SPS = sanitary and phytosanitary.

countries in the region that have separate legal provisions for plant quarantine and international trade on the one hand, and for internal plant protection on the other.

Among the countries visited for this study, Uzbekistan seems to be unique in that it actively applies formal PRA frameworks in specific cases. In 2011, it completed PRA for its cherry exports to the Republic of Korea, and also the required PRA for its sorghum exports to Iran.

As for food safety, the inspection of imported goods is mandatory upon arrival for most plants and plant products. Of the 335 quarantine pests recognized by the IPPC, 10 have been detected in Uzbekistan.

#### iv. Veterinary Issues

A member of the OIE, Uzbekistan follows OIE border inspection codes and guidelines. Its 1993 Law on Veterinary is being revised. The country's agreements with the CIS on veterinary regulations were designed in accordance with the following OIE codes or manuals: (i) the terrestrial animal code, (ii) the aquatic animal code, and (iii) the manual of diagnostic techniques. However, the country lacks the necessary laboratory capacity to fully implement OIE diagnostic guidelines.

Disease outbreaks in Uzbekistan that significantly affect international trade are routinely reported to the OIE's WAHID database. As required to fulfill its reporting obligations, Uzbekistan has adequate capacity for surveillance of such outbreaks, having made it a point to send some of its experts abroad for training. In general, because of Uzbekistan's bilateral agreements with Customs Union and CIS member countries, there are no problems with imports from these areas. For veterinary inspections of animals for breeding, representatives from Uzbekistan take samples from animals at the point of origin. The requirements of Uzbekistan are listed on the EU veterinary certificate, which requires checking and quarantine for 30 days.

### d. Assessment of Laboratory Capacity

#### i. Agency for Standardization and Metrology

This agency, concerned mainly with food quality, clearly distinguishes between safety and quality. Its main laboratory was recently refurbished. Each oblast in Uzbekistan has a testing center. There are 380 testing laboratories in all, 30%–40% of which are privately owned.

#### ii. State Plant Quarantine Laboratory

This laboratory has only rudimentary equipment for identification and diagnosis of pests. However, it has a 5-year program for upgrading its equipment that began in 2012. While other countries in Central Asia rely on FAO or UNDP to fund such programs, Uzbekistan budgeted $5 million from its own resources for the upgrade.

#### iii. Tashkent City Veterinary Laboratory

This laboratory is capable of testing for nitrate in meat and other food products, as well as for milk quality. However, it lacks equipment for risk-based testing, and thus mostly produces attesting that a particular food is "fit for human consumption," meaning that it is sound and has not deteriorated. It has equipment for doing basic culture work, but some of this equipment is old. However, the laboratory is capable of testing for the following pathogens: (i) anthrax, using the precipitation test and microscopy; (ii) brucellosis, using serology and a rapid test with rose Bengal; and (iii) salmonella, using special broth (colors plus serotyping).

### e. Capacity of Personnel and Training Requirements

**i. Chamber of Commerce**

The main challenge identified by this study is the need to increase the level of SPS awareness in the private sector. For this purpose, the Chamber of Commerce in Uzbekistan has requested seminars to be conducted with all customs service personnel in all regions attending. A suitable provider of this training might be the CFCFA.

**ii. Plant Health**

PRA equipment is a major need. Although assistance is being provided to plant health enforcement personnel by Uzbekistan's Institute of Plant Protection, these staff need to adjust fully to international standards.

## 5. People's Republic of China

Within the GMS, the PRC and Thailand are more advanced in SPS capacity and SPS awareness than are Cambodia, the Lao People's Democratic Republic, and Viet Nam. It therefore seems plausible that the PRC and Thailand could provide assistance relating to food standards to these other countries on a bilateral basis, as well as assistance relating to SPS risk assessment and risk management.

### a. Legal Basis for SPS Measures in the PRC

In the PRC, the principal legislation relevant to SPS is shown in Appendix 3. This legislation is also described in the GMS Action Plan for SPS, which is referenced in Appendix 1. Since the GMS project began, the main development has been the passage of the Food Safety Law in 2009. This legal instrument clearly demonstrates PRC's relatively advanced SPS capacity, as can be gleaned from the full English-language text as well as the abstract from it in the FAOLEX (see box below). The law addresses only food safety, basically adopting a farm-to-fork approach, and provides coverage of risk assessment and implementation of HACCP.

**Abstract of the Food Safety Law of the People's Republic of China**

The aim of this Law is to ensure food safety from the very base of the food chain to the way foods are advertised. It covers standards for the use of pesticides, fertilizers, feeding and breeding programmes in the agricultural production of food, to stringent rules on the use of additives in manufactured foods.

The Law provides for the establishment of a Food Safety Commission that will coordinate and oversee the new food supervision apparatus.

The Law further establishes: a food risk monitoring system to monitor food-borne diseases, food contamination and harmful factors in food; a food risk assessment system to conduct risk assessment on the biological, chemical and physical hazards in food and food additives; a set of national safety standards which shall include limits of pesticides residues, use of food additives, nutrient content requirements, labelling requirements, hygienic requirements, etc.

In addition, the Law provides for: obligations of food producers and business operators in carrying out their activities; licensing requirements for food producers and business operators; the implementation of hazard analysis and critical control point system (HACCP) to improve safety management levels; food inspection activities; requirements for the import and export of food; handling of food safety accidents; legal liabilities; etc.

Source: Food and Agriculture Organization of the United Nations.FAOLEX.

### b. Organization of Border Inspections and SPS Testing

In the PRC, the General Administration of Quality Supervision, Inspection, and Quarantine (AQSIQ) is the major SPS-oriented agency that performs inspections relating to food safety, animal health, and plant health. AQSIQ is also involved in risk assessment and risk management. There appears to be some overlap in risk assessment functions between AQSIQ, the Ministry of Agriculture (MOA), and the Ministry of Health (MOH). Nevertheless, MOA and MOH remain the primary source of risk-based policy, and are therefore identifiable as competent authorities for animal and plant health and food safety, respectively. AQSIQ is also a source of legislation.

Table A2.1 summarizes AQSIQ's departmental structure. Note that the Department of Supervision on Inspection appears to be functioning as a customs service. Border inspections are controlled by local authorities, specialized or reference laboratories are decentralized, and routine tests may be performed at border laboratories.

Table A2.1 **Departmental Structure of the General Administration of Quality Supervision Inspection and Quarantine (AQSIQ)**

| Department | Function |
|---|---|
| Department of Legislation | Drafts laws and regulations relating to quality supervision, inspection, and quarantine, and formulates relevant provisions. |
| Department of Inspection and Quarantine Clearance | Studies and formulates provisions and rules concerning entry and exit inspection and quarantine. Issues and marks certificates and organizes their implementation. Administers entry and exit inspection and quarantine at ports. Establishes the list of entry and exit inspection and quarantine categories. |
| Department of Supervision on Animal and Health Quarantine | Studies and formulates provisions and regulations relating to animal and plant entry and exit. Updates the list of prohibited animal and plant material; organizes the implementation of inspection, quarantine, and supervision of entry and exit of animals and plants, as well as animal and plant products. Collects information concerning animal and plant epidemics outside the PRC, and organizes the implementation of risk assessment and emergency precaution measures. |
| Department of Supervision on Inspection | Formulates provisions, regulations, and technical measures relating to import and export commodity inspection. Formulates import and export commodity inspection categories. Organizes the inspection of import and export commodities. Organizes the examination of import licenses for commodities for which import licensing is required. |
| Bureau of Import and Export of Food Safety | Formulates regulations relating to quality supervision, inspection, and quarantine to ensure the safety of imports and exports of food and cosmetics. Maintains a list of import and export food commodities and cosmetics subject to inspection and quarantine. Organizes the inspection and quarantine of imported and exported food products and cosmetics. Collects information relating to food safety, hygiene, and quality outside the PRC. Organizes the implementation of risk assessment relating to the safety of import and export food commodities and the implementation of emergency preventive measures. Administers the investigation of major accidents relating to the safety of imported and exported food commodities. Implements the disposal of food-borne sources of pollution. |

Source: Edited and summarized from the AQSIQ website (http://english.aqsiq.gov.cn/AboutAQSIQ/MajorDepartments/).

Broadly, trade facilitation in the PRC is hindered by indistinct operational relations between AQSIQ and the Customs service at BCPs. While single-window facilities have been developed to process maritime trade, it is unlikely that a national single window will be established to serve all ports of entry. According to AQSIQ, locating the various agencies in a single office facilitates processing through BCPs.

While it is clear that MOH and MOA are the competent authorities as regards food safety and plant and animal health, respectively, AQSIQ seems to perform some of the functions of a competent authority in addition to its functions as a quasi–Customs service. Some overlap between AQSIQ, MOA, and MOH is apparent as regards responsibilities for food safety risk assessments and standard setting.

The responsibility for BCPs has been devolved to local authorities. Further, principal laboratories relating to each specialization are decentralized, and there are local laboratories at BCPs.

### c. Food Standards as the Basis for Import Controls

Officials at the Ministry of Health stated that MOH is responsible for "national standards" relating to both food safety and food packaging and labeling, including special food such as infant formula and food for special nutritional purposes. MOH has acknowledged that MOA is responsible for standards relating to contaminants applicable to fresh food, which are largely the same as those for veterinary medicines and pesticides. However, in the PRC, the concept of standards includes technical regulations (quality standards and specifications). Such a framework is similar to that in the CIS, in that it retains relics of the GOST system (the PRC followed Soviet practice in an earlier era). MOH actively participates in Codex Alimentarius deliberations and in the SPS Committee of WTO, and has a permanent representative at the WTO delegation at Geneva, where AQSIQ and the Ministry of Commerce (MOFCOM) also participate.

According to AQSIQ, the National Food Safety Assessment Center, under the National Food Safety Committee (an agency within MOH), is responsible for food safety risk assessment. The center also formulates national standards. Food-related standards are enforced (i) on farms, by MOA; (ii) in food processing, by AQSIQ; and (iii) in food consumption, by the State Food and Drugs Administration.

### d. Plant and Animal Health

A major trade issue expressed by AQSIQ is the threat presented by fruit flies to biodiversity in native flora and fauna. This is a consequence of imports of fruit into the PRC, including fruit imported from countries in Central Asia. The treatment of fruit pests (apple virus) and potato pests illustrates the PRA approach to pest surveillance, as well as its approach to the management of data obtained for import control.

MOA is responsible for conducting surveillance, for producing lists of pests present within the country, and for using PRA to determine or update quarantine pest lists. Only "high-risk" pests, including several apple viruses, are considered quarantine pests, and one or two pests are taken off the list each year. This particular use of PRA by MOA differs from the pathway-initiated PRA performed by AQSIQ for each commodity that requires an import permit. Scientists in an associated institute assist AQSIQ by doing PRA for that body. No specific examples illustrating the treatment of animal health issues were obtained during the study, but listings and risk assessments of animal disease and zoonosis appear to follow OIE guidelines.

### e. Transparency Provisions under the SPS Agreement and SPS-Related Communications

The PRC has been a member of WTO since 2001. As required under the SPS Agreement, it has the following two information and transparency provisions:

- SPS National Notification Authority: MOFCOM (wtonoti@mofcom.gov.cn).
- SPS Enquiry Point: The Research Center for International Inspection and Quarantine Standards and Technical Regulations, which is under AQSIQ (sps@aqsiq.gov.cn).

## B. CAREC Countries Not Visited during the Study

### 1. Afghanistan

The SPS-related infrastructure of Afghanistan was destroyed during the recent nationwide political turbulence. Because Afghanistan occupies a key position along CAREC corridors, its efforts to rebuild and improve its SPS capacity deserve special attention. Three major agencies of the Ministry of Agriculture are directly involved in SPS: (i) the Plant Protection and Quarantine Directorate (PPQD), (ii) the Animal Health and Livestock Directorate, and (iii) the Quality Control Directorate. The Ministry of Health is also involved, but only indirectly. Old regulations, in force since 1995, govern SPS measures. There being no capacity for risk analysis, the procedures employed are not risk-based. As for border controls, at the moment, only health certificates are issued to importers and exporters.

Afghanistan is drafting new laws for plant protection and quarantine and for animal health. Currently in preparation is the Improved Agricultural Inputs Delivery System, a project that is to provide plant quarantine facilities at all entry points into Afghanistan.

According to PPQD, no international agreement regarding SPS measures exists in Afghanistan. However, WTO-compliant national-level plant protection and quarantine laws have already been finalized.

### 2. Azerbaijan

Azerbaijan is situated at the western end of the CAREC corridors and is separated from Kazakhstan and Turkmenistan by the Caspian Sea. This being the case, it shares no road BCPs with other Central Asian countries. However, it has important BCPs with Georgia at the point at which the Silk Road enters Georgia as it passes toward Turkey. Azerbaijan is relatively prosperous because of its energy resources. Cotton is the major agricultural crop, along with limited production of perishable commodities.

Azerbaijan formerly exported a substantial volume of cut flowers to the Russian Federation.[3] However, the volume of this trade has declined because of Azerbaijan's poor supply chain compared with that of its competitors. According to the World Bank Report on Food Safety in the Commonwealth of Independent States (referenced in Appendix 1), Azerbaijan's ranking as regards domestic food safety is relatively low, being more or less equal to that of the Kyrgyz Republic. However, in this regard, it ranks higher than Turkmenistan and Tajikistan, the latter country ranking the lowest.

[3] The Kiel Institute for the World Economy. 2006. Kiel Economic Policy Papers 6, Central Asia's Comparative in International Trade. Kiel, Germany.

Legislation in Azerbaijan examined during the study gave no indication that the country is departing from its Soviet heritage. However, the WTO Working Party met in February 2012 to resume negotiations on border trade measures. Indeed, along with Armenia and Georgia, Azerbaijan is the only country in the CAREC region to have a partnership agreement with the EU.

The World Bank–funded Azerbaijan's Agricultural Competitiveness Project, which began in 2005. Being a member of the IPPC since 2000 and the EPPO since 2007, Azerbaijan has adopted a law relating to phytosanitary surveillance. This law provides the legal framework for implementing and organizing phytosanitary surveillance throughout the country, as well as for regulating relations between the entities responsible for quarantine and plant protection.

The State Phytosanitary Surveillance Service (SPSS) under the Ministry of Agriculture is responsible for phytosanitary conditions in the country. Consistent with international standards, the SPSS conducts phytosanitary risk analysis for imports subject to quarantine as the basis for the issuance of: (i) import quarantine permits, (ii) authorizations for pesticides, (iii) authorizations for biological preparations, and (iv) agrochemical import permissions. For exports subject to quarantine, physical inspection and laboratory examination are conducted before phytosanitary certificates are issued. Interestingly, the SPSS in Azerbaijan—like its counterpart agencies in other CIS countries—is responsible for plant protection within the country.

Before becoming a WTO member, Azerbaijan put in place a number of bilateral trade agreements, and many more such agreements are now being drafted. As a signatory to the IPPC and a member of the EPPO, Azerbaijan has a total of 26 regulations in force relating to plant health and pesticide management, these being in the form of normative acts. Border measures performed by SPSS are based on predetermined risk criteria—including those for pesticide imports and for the enforcement of phytosanitary measures—and are integrated with the Single Automated Management System of the customs service.

Azerbaijan's Central Toxicological Laboratory and Plant Quarantine Laboratory are accredited by the State Committee for Standardization, and both are preparing for international accreditation under ISO 17025. The State Sanitary and Quarantine Service under the State Customs Committee is responsible for the safety of imported food.

Azerbaijan's customs-related bodies are modernizing the customs system, and are operating in compliance with the principles of the World Customs Organization, the UN Economic Commission for Europe, and other international organizations that address international trade facilitation issues. A single window has been implemented by government decree.

## 3. Pakistan

Pakistan is unique among the CAREC countries in that it is a member of the British Commonwealth, with laws and institutions that reflect the British legal tradition. Legislation relating to plant health includes: (i) the Pakistan Plant Quarantine Act of 1976, (ii) the Agricultural Pesticide Ordinance of 1971, and (iii) the Pakistan Plant Quarantine Rules of 1967. A Phytosanitary Act has been proposed to replace the existing Plant Quarantine Act.

The Department of Plant Protection, the competent authority for plant health, is the designated national plant protection organization. It regulates the country's international trade in agro-commodities through plant quarantine outposts in all seaports, international air terminals, and international borders. Physical inspections are mandatory for imported and exported goods. Laboratory testing is

risk based, and may be performed either at the border or inland. Bilateral agreements and protocols regarding specific commodities have been concluded with many countries.

Having been a WTO member since January 1995, Pakistan passes laws and regulations in accordance with the SPS Agreement and in compliance with the IPPC, OIE, CODEX, and the International Standards for Phytosanitary Measures.

## 4. Tajikistan

Tajikistan, the poorest country in the former Soviet Union, remains the poorest among the CAREC countries. Aluminum is its main resource, and cotton its main crop. Tajikistan has an important place in CAREC corridors because of the borders it shares with Afghanistan, the PRC, the Kyrgyz Republic, Turkmenistan, and Uzbekistan. The country has negotiated a cross-border transport agreement with the Kyrgyz Republic. Tajikistan joined the WTO on 2 March 2013.

Among the CAREC countries, Tajikistan is also ranked the poorest in food hygiene. This is despite the fact that it has a Law on Food Safety that follows modern principles—which clearly sets it apart from food safety laws typical in the CIS. According to the Sanitary and Epidemiological Surveillance Service under the Ministry of Health. Tajikistan has passed laws that adopt or enforce measures needed to protect human, animal, and plant life and health. Included among these laws are (i) the Law on Ensuring Sanitary and Epidemiologic Safety of Population No. 49 of 2003, (ii) the Law on Plant Quarantine No.498 of 2009, (iii) the Law on Population Health Protection No.522 of 2009, and (iv) the Law on Veterinary No.674 of 2010.

## 5. Turkmenistan

Aside from being a major global cotton producer, Turkmenistan has the world's fourth largest natural gas reserves, and has significant oil reserves as well. As regards SPS issues, Turkmenistan appears to be far behind the other CAREC countries in its transition from the former Soviet system. Indeed, it appeared until quite recently to have no interest at all in joining the WTO, and is the only CAREC country that is a non-signatory to the Codex Alimentarius. Along with Afghanistan, Turkmenistan is also a non-signatory to the IPPC.

The country nonetheless occupies a geographically significant position at the western end of the CAREC corridors, being surrounded by Afghanistan, Iran, Kazakhstan, Tajikistan, and Uzbekistan, as well as bordering the Caspian Sea. Most of the country's trade relations appear to be conducted on the basis of bilateral agreements, with Uzbekistan and Iran being its major trading partners.

In keeping with the SPS, in 2009, Turkmenistan passed the Law on Quality and Safety of Food, the Sanitary Code of Turkmenistan, and the Law of Turkmenistan on Plant Quarantine. These laws provide the legal framework for the implementation of SPS measures for food safety, and for protection against the entry of quarantine and other dangerous pests, diseases, and weeds.

Table A2.2 summarizes the SPS status of Afghanistan, Azerbaijan, Pakistan, Tajikistan, and Turkmenistan.

Table A2.2 **Summary of SPS Status in Afghanistan, Azerbaijan, Pakistan, Tajikistan, and Turkmenistan**

| Current CAREC SPS Measures | | | | |
|---|---|---|---|---|
| WTO Members | | WTO Observer Governments | | Neither WTO Member nor Observer |
| **Pakistan** | **Tajikistan** | **Afghanistan** | **Azerbaijan** | **Turkmenistan** |
| Legal | | | | |
| Pakistan Plant Quarantine Act of 1976<br>Agricultural Pesticide Ordinance of 1971<br>Pakistan Plant Quarantine Rules of 1967<br>Proposed Phytosanitary Act of 2012 | Republic of Tajikistan Law on Ensuring Sanitary and Epidemiologic Safety of Population No. 49 of 2003; Law on Plant Quarantine No. 498 of.2009; Law on Population Health Protection No. 522 of 2009; Law on Veterinary No. 674 of 2010; international legal acts recognized by Tajikistan | No international agreements regarding SPS measures in Afghanistan. | Bilateral intergovernmental agreement on plant protection and quarantine currently in effect: Belarus, CIS, Iran, Mauritania, Moldova, Turkey, Ukraine, and Uzbekistan. | Agreement in Plant Quarantine with the CIS countries, Iran, and Russian Federation. |
| (i) Department of Plant Protection also designated as the National Plant Protection Organization is mandated to enhance the phytosanitary capabilities of the country; check pest and disease spread in crops; facilitate trade of agricultural commodities under WTO agreement on SPS.<br>(ii) inspection by Import and Export Department of Plant Protection regulates the country's international trade of agro-commodities through its plant quarantine outposts established in all seaports, international air terminals, dry ports, and international borders | Government SPS Agencies' State Sanitary and Epidemiological Surveillance, Ministry of Health of the Republic of Tajikistan; state phytosanitary surveillance and plant quarantine. | Laws have been finalized, with WTO requirements, and submitted to Ministry of Justice (proposed); Animal Health and Livestock Law drafted | Over 30 draft interdepartmental agreements have been submitted for consideration | Law on Quality and Safety of Food of 2009,<br>Sanitary Code of Turkmenistan of 2009,<br>Law of Turkmenistan on Plant Quarantine of 2009 |

*continued on next page*

**Table A2.2** *continued*

| Current CAREC SPS Measures | | | | |
|---|---|---|---|---|
| WTO Members | | WTO Observer Governments | | Neither WTO Member nor Observer |
| **Pakistan** | **Tajikistan** | **Afghanistan** | **Azerbaijan** | **Turkmenistan** |
| Ongoing agreement with Argentina, the People's Republic of China, Iran, Japan, Jordan, Lebanon, Mauritius, Mexico, Russian Federation, United States of America, and Uzbekistan. | SPS function of the agencies: sanitary and epidemiological surveillance, veterinary inspection, phytosanitary surveillance, and plant quarantine | Three major agencies directly involved in SPS: Plant Protection and Quarantine Directorate, Animal Health and Livestock, and Quality Control | Law on Phytosanitary Surveillance of 2006 | |
| Ongoing revision of Plant Quarantine Act of 1976 in its draft form since 2009; and legislation on food safety authority at provincial level is being drafted | Amendments to the Law on Ensuring Sanitary and Epidemiologic Safety of Population of 2011, Articles 26.1 and 26.5; and ongoing revision of Law on Population Health Protection. | | SPSS under the Ministry of Agriculture is an executive body exercising government supervision over the use of pesticides, biological preparations, and other means of plant protection. | |
| Practice | | | | |
| | SPS practices of the agency: inspection of materials for quarantine, sampling for testing when required.<br><br>SPS facilities of the agency: Phytosanitary and Plant Protection Laboratory, Sanitary Chemical Laboratory, Sanitary Bacteriological Laboratory, National Veterinary Laboratory | SPS practices: usually sampling, inspection, and physical testing are available.<br><br>SPS facilities of the agency: only quarantine networks are available, and physical observation, not lab; and no quarantine equipment | SPS practices: SPSS conducts phytosanitary risk analysis as basis for import quarantine permits; and authorizes the import of pesticides, biological preparations, and agrochemicals, and the information entered into the unified automated system of the State Customs Service for information sharing | State Plant Quarantine Service exercising state sanitary supervision over compliance with sanitary legislation of Turkmenistan<br><br>SPS practices: analyzes SPS risks; recommends measures to counter the spread of plant diseases; and conducts examination, sampling, and laboratory testing |

*continued on next page*

**Table A2.2** *continued*

| Current CAREC SPS Measures | | | | |
|---|---|---|---|---|
| WTO Members | | WTO Observer Governments | | Neither WTO Member nor Observer |
| Pakistan | Tajikistan | Afghanistan | Azerbaijan | Turkmenistan |
| | | | | Maintains records of the spread of quarantine pests and provides information to stakeholders; establishes and abolishes quarantine zones and quarantine regime; and issues phytosanitary certificates and import quarantine permits for products subject to quarantine. |
| Physical inspection: mandatory for import and export articles | Physical inspection; risk-based sanitary inspection of vehicles and food shipments | Nothing has been done on SPS risk assessment at the borders | Exchange of information is based on the Decree No.12 of the President of Azerbaijan of 11 November 2008, on the Introduction of Single-Window Principle into Inspection of Goods and Vehicles Moved through State Border Crossing Points of Azerbaijan Republic | Physical inspection: mandatory physical inspection |
| Laboratory testing: risk-based; may be at border or inland; required for first-time imports | Laboratory testing –risk-based | | | Laboratory testing: mandatory laboratory testing |
| Handling and treatment of perishables: need awareness and to avoid dishonesty like plug in points for cool chain by the transporters during transit | Handling and treatment of perishables –freezer vehicles are checked for temperature regime, availability of compliance certificates, and goods documentation.<br>Measures taken to minimize time in transit of perishables—Use of express testing methods | | | Handling and treatment of perishables: cool/cold chain integrity |

*continued on next page*

**Table A2.2** *continued*

| Current CAREC SPS Measures | | | | |
|---|---|---|---|---|
| WTO Members | | WTO Observer Governments | | Neither WTO Member nor Observer |
| **Pakistan** | **Tajikistan** | **Afghanistan** | **Azerbaijan** | **Turkmenistan** |
| Type of SPS inspections: inspections must start with the crops growing in the field rather than waiting for border inspections, to overcome problems with perishable items in particular; field inspections currently made visually with hand lens or dissecting microscope. | Type of SPS inspections: sanitary or hygienic, phytosanitary, and veterinary | Border procedures: after physical observation, only health certificates are given to importers and exporters | | |
| BCPs with SPS checkpoints: Bhalwal, Chaman, Islamabad, Karachi, Lahore, Peshawar, Quetta, Sialkot, Sust, and Taftan. Only 20% of BCPs have basic equipment for SPS inspections (usually dissecting box, mounted lens, microscope, collecting vials). | | | | SPS facilities: Experimental and Production Center with testing laboratories; and Sanitary and Epidemiological services in Ashgabat and velayats with testing laboratories |

*continued on next page*

**Table A2.2** *continued*

| Current CAREC SPS Measures | | | | |
|---|---|---|---|---|
| WTO Members | | WTO Observer Governments | | Neither WTO Member nor Observer |
| Pakistan | Tajikistan | Afghanistan | Azerbaijan | Turkmenistan |
| Projects | | | | |
| | One Health Central Asia Regional Project financed by the World Bank (2011) | FAO seed improvement project completed; European Commission–funded project: work on plant quarantine law was one of the major activities of this project.<br><br>Improved Agriculture Input Delivery System preparation phase; World Bank–funded 4–year project: provide plant quarantine facilities in all entry points of Afghanistan | Establishment of 2 toxicological laboratories and regional quarantine plant examination laboratories ongoing; plan to establish another 6 regional control toxicological laboratories and 6 regional quarantine plant examination laboratories<br><br>USAID–funded Trade and Investment Reform Program: draft amendments to the Law on Phytosanitary Surveillance submitted to appropriate authorities for consideration. | |

BCP = border crossing point, CAREC = Central Asia Regional Economic Cooperation, SPS = sanitary and phytosanitary, SPSS = State Phytosanitary Surveillance Service (of Azerbaijan) WTO = World Trade Organization.

Source: Country presentation during the CAREC SPS Workshop in Bangkok, 25–26 July 2012.

Appendix 3

# Legislation Relevant to SPS in the CAREC Countries

| Country | Primary | Secondary | Type of Material | Source |
|---|---|---|---|---|
| **Afghanistan** | Law on Municipality | | English text | IPFSAPH[a] (country index) |
| | Law on plant protection and quarantine (final draft) | | | CAREC SPS Workshop |
| **Azerbaijan** | | Decrees relevant to food safety | Russian text | IPFSAPH (country index) |
| | Law on Veterinary Medicine | | Russian text, English abstract | |
| | | Implementing Acts | Russian text, English abstract | |
| | Law on Protection of Public Health | | Russian text, English abstract | |
| | Law on Phytosanitary Surveillance (amendment being drafted) | | English text, abstract | |
| | | Regulations and certificates for phytosanitary control | English text, Abstract | |
| | Law on Standardization | | Russian text, English abstract | |
| **Kazakhstan**[c] | Food Safety Law | | Russian text, English abstract | IPFSAPH (country index) |
| | Law on Technical Regulating | | Russian text | Technical Regulating and Metrology Committee www.memst.kz |
| | | On a single list of products, for which Customs Union establishes mandatory requirements Resolution of CUC of 28.01.11, No. 526 | Russian text | Technical Regulating and Metrology Committee www.tsouz.ru |
| | | Rules on technical regulating, etc.[b] | | |
| | Law on Veterinary | | | IPFSAPH (country index) |
| | Amendment to Law on Veterinary | | Russian text, English abstract | |
| | Law on Plant Quarantine | | Russian text, English abstract | |

*continued on next page*

**Appendix 3 Table** *continued*

| Country | Primary | Secondary | Type of Material | Source |
|---|---|---|---|---|
| | Law on Plant Protection | | Russian text, English abstract | |
| | Law amending various legislative acts (phytosanitary) | | Russian text, English abstract | |
| **Kyrgyz Republic**** | Law on Fundamentals of Technical Regulation | | Unofficial English translation | Reviewed in ESCAP report |
| | Law on Veterinary | | Russian text, English abstract | IPFSAPH (country index) |
| | Amendments to Law on Veterinary | | English text, abstract | |
| | | Veterinary regulations | English text, abstract | |
| | Law on Plant Quarantine | | Russian text, English abstract | |
| | | Gov't Decree of KR N 206<br>On approval of lists of goods imported into the Kyrgyz Republic subject to phytosanitary and sanitary-epidemiological inspection when transported through the state borders of the Kyrgyz Republic | Russian text | http://www.toktom.kg |
| | | Summary of Phytosanitary Regulations | Text in English | EPPO |
| | Law on Flora Protection and Use | | Russian text, English abstract | APH (country index) |
| | Law on Use of Chemicals and Plant Protection | | Russian text, English abstract | |
| | Law on Certification of Goods and Services | | English text, abstract | IPFSAPH (country index) |
| | Law on Standardization | | English text, abstract | |
| **Mongolia** | Implementation of SPS Agreement | | Report prepared for SPS Committee Workshop<br>(G/SPS/GEN/675) | IPFSAPH (country index) |
| | Food Law | | English text, abstract | |
| | Consumer Protection Law | | English text, abstract | |
| | Law on Foreign Trade of Endangered Species | | English text, abstract | |

*continued on next page*

**Appendix 3 Table** *continued*

| Country | Primary | Secondary | Type of Material | Source |
|---|---|---|---|---|
| **Pakistan** | Implementation of SPS Agreement | | Report prepared for SPS Committee Workshop (G/SPS/GEN/661) | IPFSAPH (country index) |
| | Animal Quarantine Ordinance | | Abstract in English | |
| | Plant Quarantine Ordinance | | Abstract in English | |
| | Phytosanitary Act—proposed | | | CAREC SPS Workshop |
| | | Pakistan Plant Quarantine Rules | | |
| | Biosafety Rules | | Abstract in English | IPFSAPH (country index) |
| | Agricultural Pesticide Ordinance | | | CAREC SPS Workshop |
| | | Agricultural Pesticide Amendment Rules | Abstract in English | IPFSAPH (country index) |
| **People's Republic of China** | Decrees, laws and regulations on external trade | | Abstract in English | IPFSAPH (country index) |
| | Food Safety Law | | Text, abstract in English | |
| | | Implementation measures | Texts, abstracts in English | |
| | Provisions of the People's Republic of China on sanitation of food for export1 | | Text, abstract in English | |
| | | Implementing measures | Abstract in English | |
| | Food Hygiene Law of PRC | | Text, abstract in English | |
| | Regulation of Veterinary Drug Administration | | Text, abstract in English | |
| | Law of the People's Republic of China on the entry and exit animal and plant quarantine (Order No. 53 of 1991) | | Text, abstract in English | |
| | | Implementing measures | Abstract in English | |
| | | Animal and plant quarantine regulations | Text, abstract in English | |
| | Regulations of the People's Republic of China on Certification and Accreditation | | Text, abstract in English | |

*continued on next page*

**Appendix 3 Table** *continued*

| Country | Primary | Secondary | Type of Material | Source |
|---|---|---|---|---|
| Tajikistan | Law on Food Safety and Food Quality (superseded below) | | Russian text, English abstract | IPFSAPH (country index) |
| | Law on Food Safety | | | CAREC SPS Workshop |
| | Law on Sanitary and Epidemiologic Safety of the population (superseded below?) | | | |
| | Law on Population Health Protection—under revision | | | |
| | Law on Veterinary | | Russian text, English abstract | IPFSAPH (country index) |
| | Law on Plant Quarantine | | Russian text, English abstract | |
| | Law on Biological Safety | | Russian text, English abstract | |
| | Law on Certification of Produce and Service | | Russian text, English abstract | |
| | Law on Protection of Rights of Consumer | | Russian text, English abstract | |
| Turkmenistan | Law on Food Quality and Safety | | Russian text, English abstract | IPFSAPH (country index) |
| | Amendment to Law on Food Quality and safety | | Russian text, English abstract | |
| | Sanitary Code | | Russian text, English abstract | |
| | Law on administrative liability for trade of foodstuffs with excessive contents of pesticides, nitrates, nitrites and other substances harmful to human health | | Russian text, English abstract | |
| | Law on Veterinary | | Russian text, English abstract | |
| | Law on Plant Quarantine | | Russian text, English abstract | IPFSAPH (country index) |
| | | Rules of External Plant Quarantine | | CAREC SPS Workshop |
| | Law on Certification of Produce and Service | | Russian text, English abstract | IPFSAPH (country index) |
| | Law on Standardization and Metrology | | Russian text, English abstract | |
| Uzbekistan | Law on Quality and Safety of Foodstuffs | | Russian text, English abstract | |

*continued on next page*

**Appendix 3 Table** *continued*

| Country | Primary | Secondary | Type of Material | Source |
|---|---|---|---|---|
| | | Decree on arrangements for market trade of spoiled foodstuffs | | |
| | Law on Protection of Public Health | | | |
| | Law on Quarantine of Plants | | | |
| | Law on protection of agricultural plants against pests, diseases and weeds | | | |
| | | Decree setting up the State Commission on Chemicalization and Plant Protection | | |
| | | Presidential Decree No. PP-272 concerning supply of chemicals used for plant protection to agricultural producers | | |
| | Law on Certification of Products and Services | | | |
| | | Decree on simplification of certification procedures | | |
| | Law on Standardization | | | |
| | | Order No. 340 of the General Director of State Agency for Standardization, Metrology and Certification validating Regulation on certification of foodstuffs. | | |
| | | Order No. 24-P of the Director of the national standardization authority "UZSTANDART" validating the Regulation on inspection of certified produce and services | | |

*continued on next page*

**Appendix 3 Table** *continued*

| Country | Primary | Secondary | Type of Material | Source |
|---|---|---|---|---|
| | | Joint Decree No. 1-P of the National Standardization, Metrology and Certification Agency and No. 8 of the Ministry of Public Health Validating the Regulation on Quality Control of Meat and Dairy Products | | |
| **Russian Federation** | SPS Laws | SanPin regulations | | European Commission/DG Sanco<br>http://ec.europa.eu/food/international/trade/rf_allfoodprod_en.htm |

[a] International Portal for Food Safety, Animal and Plant Health (IPFSAPH). http://www.ipfsaph.org/En/default.jsp
[b] Full list of Normative Acts, etc. on technical regulating is available in the Resource Center.
[c] ITC Report on Food Safety (Appendix 1) includes a comprehensive list of SPS legislation. Information provided by the State Department of Plant Quarantine on Normative Acts and administrative materials is available in the Resource Center.

Appendix 4

# Draft Terms of Reference for the CAREC SPS Working Group

This working group may be made a sub-group of the Central Asia Regional Economic Cooperation (CAREC) Regional Joint Transport and Trade Facilitation Committee (RJC). In that case, the CAREC Sanitary and Phytosanitary (SPS) Working Group would report to the RJC.

**Objective:**

To facilitate discussions and encourage cooperation among CAREC countries in the enforcement of SPS measures for enhancing trade in perishable agricultural commodities.

**Suggested membership:**

- The ministry responsible for foreign trade (as in the case of the Transport and Trade Facilitation Working Group);
- The customs authority;
- The national standards body;
- The competent authorities for food safety, veterinary controls, and plant quarantine;
- The Chamber of Commerce and Industry; and
- Transport organizations and/or ministry responsible for transport.

**Chairperson/Deputy Chairperson:**

To be decided.

**Frequency of meetings/or at request:**

To be decided.

**Tasks/functions:**

- To act as Steering Committee for implementation of the CAREC SPS Work Plan.
- To promote and harmonize the single window and integrated border management.
- To harmonize automated documentation and information systems.
- To standardize import requirements and export certification.
- To serve as a forum for discussing border difficulties.

- To adopt a common position for the SPS Committee and, for WTO members, to rotate attendance.
- To initiate the evaluation of veterinary and plant health capability through the Performance of Veterinary Services tool of OIE and the Phytosanitary Capacity Evaluation under the IPPC, if it has not been done yet.
- To harmonize risk assessment.
- To address laboratory capacity improvement by:
  - Harmonizing diagnostic and analytical methods, including determining whether the molecular methods being used for disease diagnosis meet the standard;
  - Commissioning a detailed review of laboratory capacity and formulation of technical assistance initiatives; and
  - Facilitating exchange of expertise and use of laboratory facilities and/or adopting a regional strategy for laboratories.
- To develop plans for laboratory accreditation and to monitor its progress.
- To coordinate training.
- To act as a clearinghouse for food safety, animal disease, and plant pest alerts.

**Resource persons:**

Resource persons should come from international agencies and can include the following:

- World Organization for Animal Health (OIE)
- Codex Alimentarius
- International Plant Protection Convention (IPPC)
- European and Mediterranean Plant Protection Organization (EPPO)

Appendix 5

# Quarantine Pests for Azerbaijan, Kazakhstan, and the Kyrgyz Republic

## (European and Mediterranean Plant Protection Organization [EPPO] Members)

| Quarantine Pests | KAZ | KYR | AZE | Impact |
|---|---|---|---|---|
| **Insects** | | | | |
| *Agrilus mali* (apple bupestid, yablonnaya zlatka) | qp | qp | qp | F |
| *Aleurocanthus woglumi Ashby* (citrus black fly) | | | - - - | F |
| *Aleurothrixus floccosus Maskell* (woolly white fly) | | | qp | F |
| *Anarsia lineatella Zeller* (peach twig borer) | | | qp | F |
| *Anoplophora glabripennis* (Asian longhorn beetle) | qp | | | T |
| *Anthonomus grandis Boheman* (boll weevil) | | | - - - | Cotton |
| *Bactrocera cucurbitae (Coquillett)* (melon fruit fly) | | | qp | FV |
| *Bactrocera minax (Tetradacus citri)* (Chinese citrus fly) | - - - | | - - - | F |
| *Bemisia tabaco* (whitefly) | qp | qp | qp | FVO |
| *Callosobruchus analis* | | | | G |
| *Callosobruchus chinensis* (Chinese bruchid) | qp | qp | qp | G |
| *Callosobruchus maculatus* (cowpea weevil) | qp | qp | qp | G |
| *Callosobruchus phaseoli* | | | | G |
| *Carposina niponensis* (peach fruit moth) | qp | qp | qp | F |
| *Cacoecimorpha pronubana (Hübner)* (carnation tortrix) | | | qp | O |
| *Caulophilus latinasus* (broad-nosed grain weevil) | | qp | qp | G |
| *Ceratitis capitata* (Mediterranean fruit fly) | qp | qp | qp | FV |
| *Ceroplastes japonicus* (Japanese wax scale) | qp | qp | qp | F |
| *Ceroplastes rusci* (fig wax scale) | qp | | qp | F |
| *Conotrachelus nenuphar* (plum curculio) | - - - | | - - - | F |
| *Dacus ciliatus Loew* (lesser pumpkin fly) | | | qp | FV |
| *Dendroctonus micans* (great spruce bark beetle) | qp | | | T |
| *Dendrolimus sibiricus* (Siberian [silk] moth/caterpillar) | - - - | | | T |
| *Diabrotica virgifera* (western corn rootworm) | qp | qp | qp | Maize |
| *Dialeurodes citri* (citrus whitefly) | qp | qp | qp | F |
| *Earias insulana* (Egyptian bollworm) | | | qp | Cotton |
| *Epitrix cucumeris* (potato flea beetle) | !!! | !!! | !!! | V |
| *Epitrix tuberis* (Tuber flea beetle) | !!! | !!! | !!! | V |

*continued on next page*

**Appendix 5 Table** *continued*

| Quarantine Pests | KAZ | KYR | AZE | Impact |
|---|---|---|---|---|
| *Frankliniella occidentalis* (Western flower thrip) | | - - - | | FVO |
| *Grapholita molesta* (Oriental fruit moth) | qp | qp | qp | F |
| *Graphognathus (= Pantomorus leucoloma)* (white-fringed beetle) | | qp | | T |
| *Icerya purchasi* (cottony cushion scale) | | qp | qp | T |
| *Hyphantria cunea* (fall webworm) | qp | qp | qp | T |
| *Leptinotarsa decemlineata* (Colorado beetle) | | - - - | | V, potato |
| *Liriomyza huidobrensis* (South American leaf miner) | - - - | | | V |
| *Liriomyza sativae* (vegetable leaf miner) | !!! | !!! | !!! | V |
| *Liriomyza trifolii* (American serpentine leaf miner) | - - - | | - - - | V |
| *Lopholeucaspis japonica* (armored scale insect) | - - - | | - - - | F |
| *Lymantria díspar* (gypsy moth) | qp | | qp | T |
| *Monochamus galloprovincialis* | - - - | | | T |
| *Monochamus saltuarius* | - - - | - - - | | T |
| *Monochamus sutor* | - - - | | | T |
| *Monochamus urussovi* | - - - | | | T |
| (longhorn beetle, vectors of *Bursaphelenchus xylophilus*) | !!! | !!! | !!! | T |
| *Myiopardalis pardalin*a (Baluchistan melon fly) | | | | FV |
| *Naupactus leucoloma* (white-fringed weevil) | - - - | | - - - | T |
| *Numonia pyrivorella* (pear fruit moth, pear pyralid) | qp | qp | qp | F |
| *Parasaissetia nigra* (nigra scale) | | | qp | F |
| *Pectinophora gossypiella* (pink bollworm) | qp | qp | qp | Cotton |
| *Platyedra malvella (= Pectinophora malvella)* (hollyhock seed moth) | | | qp | O |
| *Phthorimaea operculella* (potato tuber moth) | qp | qp | qp | Potato |
| *Phyllocnistis citrella* (citrus leaf miner) | qp | qp | qp | F |
| *Popillia japonica* (Japanese beetle) | qp | qp | qp | T |
| *Premnotrypes spp.* (Andean potato weevil) | - - - | | | Potato |
| *Pseudaulacaspis pentagona* (white peach scale) | qp | qp | | F |
| *Pseudococcus calceolariae (P. gahani)* (citriphilous mealy bug) | qp | | qp | F |
| *Pseudococcus citriculus* (citriculus mealy bug) | qp | | qp | F |
| *Pseudococcus comstocki* (comstock mealybug) | | qp | | F |
| *Quadraspidiotus perniciosus* (San Jose scale) | qp | qp | qp | F |
| *Rhagoletis pomonella* (apple maggot) | qp | qp | qp | F |
| *Saissetia oleae* (black olive scale) | | | qp | F |
| *Spodoptera littoralis* (African cotton leafworm) | qp | qp | qp | Cotton |
| *Spodoptera litura* (oriental leafworm moth) | qp | qp | qp | Maize, V |
| *Thrips palmi* (melon thrip) | - - - | | - - - | FV |
| *Trogoderma granarium* (kapra beetle) | qp | qp | qp | G |

*continued on next page*

**Appendix 5 Table** *continued*

| Quarantine Pests | KAZ | KYR | AZE | Impact |
|---|---|---|---|---|
| *Unaspis citri* (citrus snow scale) | - - - | | - - - | F |
| *Unaspis yanonensis* (arrowhead scale) | qp | | qp | F |
| *Viteus vitifoliae* (grapevine phylloxera) | - - - | | - - - | F |
| **Nematodes** | | | | |
| *Anguina tritici (Steinbuch)* Chitwood (see gall nematode, ear cockle nematode) | | | qp | Wheat |
| *Aphelenchoides besseyi Christie* (rice white-tip nematode) | | | - - - | Rice |
| *Bursaphelenchus xylophilus* (pine nematode) | - - - | | - - - | Pine |
| *Ditylenchus destructor Thorne* (potato tuber nematode) | | | qp | Potato |
| *Ditylenchus dipsaci (Kühen) Filipjev* (stem eelworm/nematode) | - - - | | | V |
| *Globodera pallida* (white cyst nematode) | qp | qp | qp | Potato |
| *Globodera rostochiensis* (golden cyst nematode) | qp | qp | qp | Potato |
| *Meloidogyne chitwoodi* (Columbia root-knot nematode) | qp | qp | qp | Potato, V |
| **Bacteria and Phytoplasma** | | | | |
| *Burkholderia caryophylli* (bacterial blight of carnation) | | - - - | - - - | O |
| *Clabivacter michiganensis subsp. michiganensis* (bacterial canker) | - - - | | - - - | Potato |
| *Clavibacter michiganensis subsp. sepedonicus* (potato ring rot) | | | - - - | Potato |
| *Erwinia amylovora* (fireblight) | qp | qp | qp | F |
| *Grapevine flavescence dorée phytoplasma* | - - - | | | F |
| *Pantoea stewartii* (Stewart's wilt of maize) | qp | qp | qp | Maize |
| *Ralstonia solanacearum* (bacterial wilt) | qp | qp | qp | V, potato |
| *Rathayibacter tritici (Clavibacter tritici)* (wheat bacterial mosaic) | qp | qp | | Wheat |
| *Xanthomonas axonopodis pv. citri (Hasse) Vauterin et al.* | | | - - - | F |
| *Xanthomonas axonopodis pv. phaseoli* (bean common blight) | | | - - - | V |
| *Xanthomonas axonopodis pv. vesicatoria* (bacterial spot) | | | - - - | V |
| *Xanthomonas oryzae pv. oryzae* (rice leaf blight) | qp | qp | qp | Rice |
| *Xanthomonas oryzae pv. oryzicola* (rice leaf streak) | qp | qp | qp | Rice |
| *Xylophilus ampelinus* (grapevine blight) | - - - | | | F |
| **Fungi** | | | | |
| *Atropellis pinicola* (branch and trunk canker of pine, pine twig blight) | - - - | | | Pine |
| *Atropellis piniphila* (branch and trunk canker of pine, pine twig blight) | - - - | | | Pine |
| *Ceratocystis fagacearum* (oak wilt) and its putative vectors *Arrhenodes minutus*, *Pseudopityophthorus minutissimus*, and *P. pruinosus*) | - - - | | | T |
| *Cochliobolus carbonum* (northern maize leaf spot) | qp | qp | qp | Maize |
| *Cochliobolus heterostrophus* (southern maize leaf blight) | qp | | qp | Maize |
| *Cryphonectria parasitica* (chestnut blight) | !!! | !!! | !!! | T |

*continued on next page*

**Appendix 5 Table** *continued*

| Quarantine Pests | KAZ | KYR | AZE | Impact |
|---|---|---|---|---|
| *Deuterophoma tracheiphila* (mal secco of citrus) | | | qp | F |
| *Diaporthe helianthi* (sunflower grey stem spot) | | qp | qp | O |
| *Didymella ligulicola (= D. chrysanthemi)* (chrysanthemum ray [flower] blight) | qp | qp | qp | O |
| *Elsinoe fawcetii* (orange sour scab) | | | - - - | F |
| *Glomerella gossypii* (anthracnose, pink boll rot or seedling blight of cotton) | qp | qp | qp | Cotton |
| *Phoma exigua var. foveata* (Foister) Boerema (potato gangrene) | | | qp | Potato |
| *Phomopsis helianthi Muntanola* - Cvetkoviç et al. (sunflower phomopsis disease) | | | qp | Oilseed |
| *Phialophora cinerescens* (phialophora wilt) | | | - - - | O |
| *Phymatotrichopsis omnivore* (Texas root rot) | - - - | | - - - | Cotton |
| *Phytophthora fragariae var. fragariae* (red core of strawberry) | - - - | | | F |
| *Phytophthora fragariae var. rubi* (root rot of raspberry) | - - - | | | F |
| *Puccinia horiana* (white rust of chrysanthemum) | - - - | | - - - | O |
| *Stenocarpella macrospora* (maize dry rot [of ears and stalks]) | qp | qp | qp | Maize |
| *Stencocarpella maydis* (white ear rot, seedling blight of maize) | | - - - | | Maize |
| *Synchytrium endobioticum* (potato wart disease) | qp | qp | qp | Potato |
| *Thecaphora solani* (potato smut) | - - - | | - - - | Potato |
| *Tilletia controversa* (Dwarf bunt) | | | qp | Wheat |
| *Tilletia indica* (Karnal bunt of wheat) | qp | qp | qp | Wheat |
| *Uromyces transversalis* (gladiolus rust) | | | qp | O |
| **Viruses and Virus-like Organisms** | | | | |
| Andean potato mottle virus (*Comovirus*) | | | | Potato |
| Cherry rasp leaf virus (*Nepovirus*) | - - - | | | F |
| Eggplant mosaic virus (Andean potato latent virus) (*Tymovirus*) | - - - | | | V |
| Peach latent mosaic viroid (*Pelamoviroid*) | - - - | | | F |
| Peach rosette mosaic virus (*Nepovirus*) | - - - | | | F |
| Plum pox virus (*Potyvirus*) | - - - | | | F |
| Potato virus T (*Capillovirus*) | - - - | | | F |
| Potato yellowing virus (*Alfamovirus*) | - - - | | | Potato |
| Citrus tristeza virus | | | - - - | F |
| **Plants** | | | | |
| *Acroptilon repens* | qp | qp | qp | |
| *Ambrosia artemisiifolia* | qp | qp | qp | |
| *Ambrosia psilostachya* | qp | qp | qp | |
| *Ambrosia trifida* | - - - | | - - - | |
| *Bidens pilosa* | qp | | | |

*continued on next page*

**Appendix 5 Table** *continued*

| Quarantine Pests | KAZ | KYR | AZE | Impact |
|---|---|---|---|---|
| *Cenchrus pauciflorus Bentham* | | qp | qp | |
| *Cenchrus spinifex (C. pauciflorus)* | qp | | | |
| *Cuscuta spp.* | qp | qp | qp | |
| *Iva axillaris* | | | qp | |
| *Helianthus californicus* | qp | qp | | |
| *Helianthus ciliaris* | qp | qp | | |
| *Ipomoea hederacea* | qp | | | |
| *Ipomoea lacunose* | qp | | | |
| *Iva axillaris* | | qp | qp | |
| *Solanum carolinense* | qp | qp | qp | |
| *Solanum cornutum* | qp | | qp | |
| *Solanum elaeagnifolium* | qp | qp | qp | |
| *Solanum rostratum* | | qp | | |
| *Solanum triflorum* | qp | qp | qp | |
| *Striga spp.* | qp | qp | qp | |

!!! = EPPO A1 and A2 pest absent in all three countries, - - - = EPPO A1 and A2 or other recognized quarantine pest recorded as quarantine pest in 1 or 2 countries, F = fruit trees and bushes, G = cereal grains and pulses, O = flowers, qp = other pest recognized in region as quarantine pest, T = trees and bushes (pest may be present in timber as a commodity), V = vegetables.

Source: European and Mediterranean Plant Protection Organization (EPPO) A1 and A2 Lists of Pests and Lists of Invasive Alien Plants.

Appendix 6

# Program of the CAREC SPS Workshop, Bangkok, 25–26 July 2012

Asian Development Bank
Central Asia Regional Economic Cooperation (CAREC) Program
Workshop on Sanitary and Phytosanitary Measures
25–26 July 2012, Intercontinental Hotel
Bangkok, Thailand

**Final Program**

| | |
|---|---|
| 25 July 2012<br>Wednesday | Participants: About 30 from CAREC member countries |
| 9:00 a.m.–9:20 a.m. | Registration |
| 9:20 a.m.–9:30 a.m. | Welcome Remarks<br>Speaker: Craig Steffensen, Asian Development Bank (ADB) Country Director for Thailand |
| 9:30 a.m.–9:45 a.m. | Opening Remarks<br>Speaker: Ying Qian, Director, Public Management, Financial Sector and Regional Cooperation Division, East Asia Department, ADB<br>Brief introduction on objectives of the workshop, new initiative on SPS and plans for further strengthening regional cooperation. |
| 9:45 a.m.–10:00 a.m. | CAREC 2020 Program<br>Speaker: Ronald A. Butiong, Head, CAREC Unit, Central and West Asia Department, ADB<br>Presentation on CAREC overview, recent developments, and future directions. |
| 10:00 a.m.–10:15 a.m. | Photo Session |
| 10:15 a.m.–10:30 a.m. | Coffee Break |
| 10:30 a.m.–11:30 a.m. | Result of the SPS Assessment of CAREC Countries<br>People's Republic of China<br>Kazakhstan<br>Kyrgyz Republic<br>Mongolia<br>Uzbekistan<br>Speaker: Rob Black, SPS Expert |
| 11:30 a.m.–12:00 p.m. | Questions and Answers/Responses to Questions Received in Advance |
| 12:00 p.m.–1:30 p.m. | LUNCH |
| 1:30 p.m.–2:00 p.m. | World Trade Organization (WTO) SPS Agreement[a]<br>Speaker: Melvin Spreij, Counsellor, Secretary to the Standards and Trade Development Facility (STDF), Agriculture and Commodities Division, WTO |

*continued on next page*

**Appendix 6 Table** *continued*

| | |
|---|---|
| 2:00 p.m.–2:30 p.m. | Questions and Answers |
| 2:30 p.m.–3:00 p.m. | Food and Agriculture Organization<br>of the United Nations (FAO) SPS Experience<br>Speaker: Yongfan Piao, Senior Plant Protection Officer, FAO Regional Office for Asia and the Pacific |
| 3:00 p.m.–3:15 p.m. | Coffee Break |
| 3:15 p.m.–3:30 p.m. | Questions and Answers |
| 3:30 p.m.–4:00 p.m. | Greater Mekong Subregion (GMS) Program SPS Experience<br>Speaker: Sununtar Setboonsarng, Principal Natural Resources and Agriculture Economist, Southeast Asia Environment, Natural Resources and Agriculture Division, Asian Development Bank |
| 4:00 p.m.–4:15 p.m. | Questions and Answers |
| 4:15 p.m.–4:45 p.m. | Future of SPS in CAREC: Best Practices and International Experience: Models for Strengthening Regional Cooperation<br>Speaker: Rob Black, SPS Expert |
| 4:45 p.m.–5:00 p.m. | Questions and Answers |
| 26 June 2012<br>Thursday | Participants: About 30 from CAREC member countries |
| Each country not visited in the SPS assessment will make a 15-minute presentation on the SPS policies and practices in the country; ongoing SPS programs; and plans of the government to resolve SPS issues to facilitate trade. | |
| 9:15 a.m.–9:30 a.m. | SPS in Azerbaijan<br>Speaker: Country representative |
| 9:30 a.m.–9:45 a.m. | SPS in Tajikistan<br>Speaker: Country representative |
| 9:45 a.m.–10:00 a.m. | SPS in Pakistan<br>Speaker: Country representative |
| 10:00 a.m.–10:15 a.m. | SPS in Turkmenistan<br>Speaker: Country representative |
| 10:15 a.m.–10:30 a.m. | SPS in Afghanistan<br>Speaker: Country representative |
| 10:30 a.m.–10:45 a.m. | Coffee Break |
| 10:45 a.m.–11:30 a.m. | Standards and Trade Development Facility (STDF)<br>Speaker: Melvin Spreij, Counsellor, Secretary to the Standards and Trade Development Facility (STDF), Agriculture and Commodities Division, WTO |
| 11:30 a.m.–12:30 p.m. | STDF film: "Trading Safely: Protecting Health, Promoting Development" |
| 12:30 p.m.–2:00 p.m. | Lunch Break |
| 2:00 p.m.–3:15 p.m. | Possible Next Steps to Facilitate Trade through Regional Cooperation<br>Part 1: Modernize Implementation of SPS Measures<br>OPEN FORUM |
| 3:15 p.m.–3:30 p.m. | Coffee Break |

*continued on next page*

**Appendix 6 Table** *continued*

| | |
|---|---|
| 3:30 p.m.–4:15 p.m. | Possible Next Steps to Facilitate Trade through Regional Cooperation<br>Part 2: Identify Investments in SPS to Facilitate Trade<br>OPEN FORUM |
| 4:15 p.m.–5:00 p.m. | Synthesis and Adoption of Next Key Steps |
| 5:00 p.m.–5:15 p.m. | Closing Remarks<br>Speaker: Ying Qian, Director, Public Management, Financial Sector and Regional Cooperation Division, East Asia Department, Asian Development Bank |

[a] Among the 10 participating countries in the CAREC Program, four are members of the World Trade Organization (WTO) (People's Republic of China, Kyrgyz Republic, Mongolia, and Pakistan); five are observer governments (Afghanistan, Azerbaijan, Kazakhstan, Tajikistan, and Uzbekistan); and one (Turkmenistan) is neither a member country nor an observer government.

Kazakhstan, a member of the Customs Union, will be affected by Russia's accession to the WTO. The 8th Ministerial Meeting on 16 December 2011 approved the accession package. Russia has ratified the accession package and submitted the instruments of ratification to the WTO Secretariat. Russia's official membership was expected to be confirmed by 22 August 2012.

Appendix 7

# Minutes of the CAREC SPS Workshop, Bangkok, 25–26 July 2012[1]

## Introduction

The Central Asia Regional Economic Cooperation (CAREC) Senior Officials Meeting in November 2011 identified cooperation on sanitary and phytosanitary (SPS) measures as an area to be addressed under the trade facilitation sector. In this regard, as part of the CAREC Trade and Transport Facilitation Strategy (TTFS), the Asian Development Bank (ADB) engaged a consultant to conduct an assessment of how SPS measures are administered and applied in selected CAREC member countries, namely Mongolia, Kazakhstan, Kyrgyz Republic, Uzbekistan, and the People's Republic of China. The assessment examined the application of SPS measures in the region and the extent to which application of these measures impede or facilitate trade between CAREC countries and with countries outside this region. The consultant reviewed current SPS practices (including risk management systems) of these countries, identified areas for improvement, and recommended ways to address these trade facilitation issues cooperatively so that food safety and public health are ensured and the loss of perishables in transit is reduced substantially.

The ADB organized a workshop in order to (i) share and discuss the results of the consultant's SPS assessment and identify areas in which collective, regional action can yield results from which all countries benefit and to (ii) introduce and familiarize CAREC countries with SPS international and regional best practices. This workshop also provided a venue for CAREC member countries to examine the merits of adopting international SPS standards and investing in SPS-related infrastructure to facilitate trade within the region.

Twenty-eight officials from trade, agriculture, health, and customs agencies of the CAREC countries participated in the workshop together with resource persons from the World Trade Organization (WTO), Food and Agriculture Organisation of the United Nations (FAO), United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), and ADB.

## Summary of Presentations and Issues Raised

Mr. Ying Qian, ADB's Director of the Public Management, Financial Sector, and Regional Cooperation Division, East Asia Department, delivered opening remarks and chaired the workshop. Craig Steffensen, ADB's Country Director for Thailand, welcomed the delegates to Bangkok and provided an overview of the Greater Mekong Subregion (GMS) and CAREC initiatives on regional cooperation.

In his opening remarks, Mr. Qian briefly introduced the objectives of the workshop, the new initiative on SPS measures as an important element of the CAREC trade facilitation program, and ADB's

[1] These minutes given here incorporate general corrections and amendments made by the consultant to the first draft and, later, changes to paragraph 7 following comments received from one of the CAREC countries.

plans to support collective and coordinated efforts for improving implementation of SPS measures throughout the region. Initially, the trade facilitation agenda was focused on customs cooperation, but under the TTFS, CAREC has adopted an integrated trade facilitation agenda to address a wider spectrum of issues, including SPS measures.

Ms. Rose McKenzie and Mr. Ronald Butiong delivered a presentation on the CAREC Program, on recent developments in both physical (infrastructure) and non-physical aspects, and on the key achievements of the trade facilitation sector. They also presented the CAREC 2020 strategy and future directions of the program.

Mr. Rob Black, the SPS expert engaged by ADB, provided a summary of the detailed findings of his SPS assessment as contained in the Consolidated Report he had prepared. The highlights of his presentation are the following:

- SPS plan for CAREC. This initiative, originating from observed delays in the handling of perishable goods at borders along CAREC economic corridors that have been attributed to non-observance of SPS-related measures, aims to streamline and harmonize SPS regulations, procedures, and standards at border-crossing points (BCPs).
- Scope of work. His assessment includes examination of current SPS management systems including risk management, and broad assessment of (i) SPS inspections and risk-based procedures, (ii) related laboratory capacity, and (iii) capacity of staff to perform functions.
- Issues emerging from SPS assessment in Mongolia, Kazakhstan, the Kyrgyz Republic, and Uzbekistan. In his assessment of SPS in these countries, with initial emphasis on border operations, the following issues were identified (i) generally slow implementation of the single window; (ii) lack of a clearly defined competent authority in countries with a unified inspection agency; (iii) unintegrated (uncoordinated) border management; (iv) WTO membership/accession; (v) continuing existence of the GOST system; (vi) nonrisk-based controls; (vii) poor laboratory capacity; and (viii) slow pace of legal reform and poor governance.
- Findings in the People's Republic of China (PRC). The findings include (i) the confirmed existence of a Food Safety Law that includes HACCP, and risk assessment that covers only food safety and not food quality; and (ii) the overlapping of risk assessment functions between the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), the Ministry of Agriculture (MOA), and the Ministry of Health (MOH).
- Conclusions and recommendations. Emanating from the report, the top priorities for trade facilitation in relation to SPS are as follows: (i) adoption of single window for import and export, (ii) a strong policy base and regulatory infrastructure for risk-based controls that can complete the transition from the Soviet system, (iii) coordination of risk-based controls with customs risk management systems, (iv) integration through an automated information system accessible to all agencies (v) adoption of a strategy for a rationalized approach to providing appropriate laboratory infrastructure on a regional or national basis. In the framework of these priorities, recommendations are made for legal reform, partly by creating greater awareness of SPS issues at all levels and sectors of government, among parliamentarians, and in the private sector, and partly by recommending direct action to draft amendments to, or replace outdated laws. In addition, training needs in the technical area should be addressed, covering risk assessment, laboratory techniques, information exchange, and transparency. It is further recommended that countries should apply for membership in the European and Mediterranean Plant Protection Organization (EPPO),

and that CAREC countries should participate in the EU's Rapid Alert System for Food and Feed (RASFF) through the RASFF Window for third countries.

Mr. Black's presentation was followed by an open discussion on the recommendations he made. Overall, participants supported the recommendations. Specific comments raised during the discussions include:

- Pakistan suggested that several recommendations be grouped together into areas of focus; this was done for the roundtable discussion on the second day. Concern was expressed regarding the need for legal reforms, considering that in some countries, legal reforms may require changing the constitution.
- One participant emphasized the need for work on SPS to fit into the overall CAREC program and institutional framework, and to gear the work toward the overall strategic objectives set up in the CAREC framework.
- WTO commented on the need to enhance communication between Customs and SPS agencies. Specifically, if there are national trade facilitation committees, SPS agencies need to be part of them. Alternatively, Customs needs to participate in the SPS national committees, if there are any.
- FAO commented on how the report can contribute to regulatory reform and harmonization of regulations as it is a critical issue that needs to be addressed. Another important issue is the laboratory capacity throughout the region; while there appears to be a need for regional cooperation in this regard, an assessment of national laboratory capacity needs to be done first.
- PRC pointed out that the discussion on technical standards is misleading in the report as those standards are different from SPS measures under the WTO. (It was further clarified by the WTO that, in general terms, issues concerning safety refer to the SPS Agreement while quality issues refer to the TBT Agreement. However, countries need to report regulations to WTO under both agreements.)

Mr. Melvin Spreij, Counselor, Secretary of the Standards and Trade Development Facility (STDF), briefly introduced the WTO, its functions and current members, and the basic principles of nondiscrimination, predictability, and free trade. He also discussed the SPS Agreement; its objective of recognizing the right to protect human, animal, and plant life or health; and some SPS key provisions. He also explained what SPS measures are, and cited some examples for protecting human or animal health, human life, and animal or plant life. The functions of the WTO in SPS were also discussed, in which the focus was on (i) the three standard-setting organizations, namely the CODEX[2] in food safety, OIE[3] in animal health, and IPPC[4] in plant health; (ii) the risk assessment principle embedded in the SPS agreement; (iii) the SPS committee and its functions; and (iv) WTO technical assistance and other initiatives for helping members and even observers to comply with the international standards on SPS measures. Some reflections on SPS measures and the way forward for CAREC countries were also shared, with emphasis on the advantage

[2] Established by FAO and WHO in 1963, the Codex Alimentarius Commission develops harmonized international food standards, guidelines, and codes of practice for protecting the health of consumers, and ensuring fair trade practices as these relate to the food trade. The Commission also promotes coordination of all food standards work undertaken by international governmental and nongovernmental organizations.

[3] World Organization for Animal Health, or *Organisation Mondiale de la Santé Animale* in French.

[4] The International Plant Protection Convention is an international agreement on plant health with 177 current signatories. It aims to protect cultivated and wild plants by preventing the introduction and spread of pests. The Secretariat of the IPPC is provided by the Food and Agriculture Organisation of the United Nations.

of international standards over the GOST[5] system that was inherited from the Soviet Union era, and the urgency to adopt these international standards. In his concluding remarks, he encouraged the CAREC member countries to replace present systems that are not consistent with WTO/SPS principles, to establish SPS strategies and action plans based on proper needs assessment and prioritization, and to develop comprehensive capacity-building programs and projects.

Mr. Yongfan Piao, Senior Plant Protection Officer, shared FAO's experience in SPS through the International Plant Protection Convention (IPPC). After providing a brief overview of IPPC, its purpose, functions, and key principles, he stressed FAO's active participation in the development of international and regional standards for SPS measures, its vibrant role in capacity building of member countries in the implementation of international and regional SPS measures, and its dynamic function in promoting information exchange among its members and other countries in the region.

Ms. Sununtar Setboonsarng of ADB's Southeast Asia Department gave a snapshot of the GMS Regional Cooperation Program focusing on agriculture, food, and forestry (AFF) trade. In her presentation, she cited the growing trends of external and intra-regional trade in GMS, particularly in AFF which is due to much-improved connectivity and economic growth and demand. With this AFF trade growth in the GMS, she pointed out the need to give emphasis to SPS handling that can present obstacles to the tapping of unrealized trade potential. In response to this, the GMS initiated a $36 million regional investment project to upgrade SPS capacities in Cambodia, Lao PDR, and Viet Nam. This project aims to strengthen plant, animal, and food surveillance programs, enhance education and training of SPS specialists, and improve regional cooperation and harmonization. She also discussed the roles of information technology in food safety and trade facilitation, providing the participants a clear picture of existing GMS studies on a food traceability system. She said that the GMS will adopt this system, beginning with two products for each GMS country, as part of the GMS regional program for e-trade.

In his second presentation, Mr. Rob Black presented several best practices as well as international experience in terms of SPS measures that can be models for strengthening regional cooperation in CAREC. He gave credit to Uzbekistan for its firm implementation of SPS measures consistent with international best practices, the existence of its single window and customs automated information systems, its integrated (coordinated) border management, and its clear delineation of roles and responsibilities. He also recognized Kazakhstan's progress towards smoother border operations, and in being the best-equipped for analysis of pesticide and antibiotic residues in food, and the proactive involvement of Mongolia's private sector in SPS. He also provided comprehensive comparisons between the ongoing GMS SPS projects that focus on food safety, and the planned CAREC SPS projects that aim to improve border operations and management so as to facilitate trade. In terms of removing or easing constraints to SPS capacity through international cooperation, the following priority areas were identified and recommended:

- Institutional/Organizational Reform in SPS. The important principle is that not everything needs physical inspection. Once goods are cleared for entry, further "certification" for placing them on the market is unnecessary and contravenes the WTO principle of nondiscrimination, which is to apply the same level of protection to both imported goods and domestic goods. This principle underlies single window implementation and integrated (coordinated) border management. The risk-based import requirements (prohibitions, restrictions with conditions of import) that feed into customs lists, an

[5] Refers to a set of technical standards maintained by the *Euro-Asian Council for Standardization, Metrology and Certification (EASC)*, a regional standards organization operating under the auspices of the Commonwealth of Independent States (CIS).

automated documentary system that "flags" for goods requiring attention, and the clarity as to who the competent authorities are for each SPS area (food safety, veterinary and plant health) also need to be considered.

- Scientific and technical capacity building. In developing SPS standards, a risk-assessment methodology should be used. Risk-based border controls eliminate unnecessary inspection, testing, and certification. Laboratory capacity and laboratory practices standard operating procedures geared to risk-based tests that are accredited by ISO 17025 and ISO 9001 are also important.
- Standards-setting, implementation, and monitoring. There are no "real" standards for animal and plant health in the same sense as food safety standards, in which objective parameters and a defined level of protection provide a yardstick for measuring compliance with regulations.
- Legal reform and better governance. To relax constraints to SPS capacity, it is also imperative to speed up the adoption of new or amended laws and to enhance the technical know-how of scientists and legal experts through training and workshops.

Apart from the recommendations regarding priority areas, he also provided several modalities of international cooperation in SPS that can be adopted by CAREC. These might include the creation of CAREC SPS Working Group; international cooperation with WTO and other donors that focus on SPS; twinning arrangements and bilateral assistance within CAREC that take a cue from the GMS SPS project; and participation in SPS committees such as the SPS National Notification Authority and Enquiry Point, the RASFF, and EPPO. Issues raised in the ensuing discussion included the following:

- The GOST: Even though most CAREC countries are familiar with the WTO SPS Agreement, they continue implementing a parallel GOST system inherited from the Soviet Union era that is inconsistent with modern measures as stipulated by the WTO SPS Agreement. GOST covers both safety and quality, but SPS is limited to ensuring safety while technical regulations relate to the TBT agreement under the WTO. To apply international standards, a gradual transformation from GOST to SPS-consistent measures will be necessary.
- Cross-border cooperation: Afghanistan mentioned that since diseases do not recognize borders, it would be necessary to identify a common agricultural ecosystem and to provide common training pertaining to the particularities of the region.
- Goods and commodities subject to SPS Measures: Pakistan commented that the GMS program is heavily focused on agriculture, but trade in animals and food is also relevant.
- Single window facility: Uzbekistan commented that SPS is very important for the government and that recently, a resolution was passed concerning the establishment of a single window system so that different agencies can work in a concerted manner, and that Uzbekistan signed an international agreement with the PRC on plant protection.

CAREC countries not visited by the SPS consultant did 15-minute presentations on the following: SPS policies and practices prevailing in their respective countries, on-going SPS programs, and future plans of their respective governments to resolve SPS issues to facilitate trade. The highlights of these presentations are as follows:

- Azerbaijan—Ms. Vasilya Salamova, Chief Consultant of State Phytosanitary Surveillance Service under the Ministry of Agriculture, and Mr. Elvin Kuliev, Chief Inspector of the State Sanitary and Quarantine Service under the State Customs Committee, discussed the

SPS practices and existing legal framework for SPS measures in Azerbaijan. Being a member of IPPC since 2000 and of EPPO since 2007, Azerbaijan has adopted a law on phytosanitary surveillance that provides a legal framework for the implementation and organization of phytosanitary surveillance throughout the country, and that regulates relations between the entities operating in the areas of quarantine and plant protection. The State Phytosanitary Surveillance Service (SPSS) under the Ministry of Agriculture, being also the National Plant Protection Organization (NPPO), is responsible for the phytosanitary condition of the country. In line with international standards, SPSS conducts phytosanitary risk analysis for imports subject to quarantine as the basis for issuance of Import Quarantine Permits, Authorizations for Pesticides, Biological Preparations, and Agrochemicals Import Permissions. For exports subject to quarantine, physical inspection and laboratory examination are conducted before issuance of phytosanitary certificates.

- Tajikistan—Mr. Makhmadali Tabarov, Head of the Sanitary and Epidemiological Surveillance Service under the Ministry of Health, announced that Tajikistan is actively working on WTO accession, and that the country is now in compliance with standards set by IPPC, the Codex Alimentarius, and International Health Regulations (2005). He also mentioned that the country has promulgated laws for adopting or enforcing measures necessary for protecting human, animal, or plant life or health, among them the Law on Ensuring Sanitary and Epidemiologic Safety of Population No. 49, the Law on Plant Quarantine No. 498, the Law on Population Health Protection No.522, and the Law on Veterinary No.674.
- Pakistan—Mr. Imtiaz Hussain, Assistant Entomologist (Quarantine) of the Department of Plant Protection, shared the accomplishments of Pakistan in adopting SPS measures, laws, and practices. Being a WTO member since January 1995, Pakistan promulgates laws and regulations in accordance with the SPS Agreement and in compliance with IPPC, OIE, CODEX, and International Standards for Phytosanitary Measures.
- Turkmenistan—Mr. Marat Gulmuradov of the Ministry of Finance enumerated the bilateral agreements of the Republic of Turkmenistan with other countries in the field of plant protection and quarantine. On national laws and regulations, he reported that the Law on Quality and Safety of Food, the Sanitary Code of Turkmenistan, and the Law of Turkmenistan on Plant Quarantine were promulgated in 2009 as the legal framework for implementation of SPS measures for protecting the country against entry of quarantine and other dangerous pests, diseases, and weeds that may cause damage to the country's economy.
- Afghanistan—Mr. Mirwais Khogiani of the Plant Protection and Quarantine Directorate (PPQD) under the Ministry of Agriculture admitted that there is no international agreement in Afghanistan regarding SPS measures. On a national level, plant protection and quarantine laws have been finalized so as to comply with WTO requirements. He also reported that there are three major agencies directly involved in SPS: PPQD, the Animal Health and Livestock Directorate, and the Quality Control Directorate. These agencies control the export and import of agricultural commodities at entry points to the country, but he admitted the absence of SPS risk assessment at the borders due to lack of laboratory facilities and equipment.

Mr. Melvin Spreij provided an overview of the STDF that supports sustainable economic growth, poverty reduction, food security, and environmental protection in member countries through improved SPS capacity; enhancement of SPS awareness, collaboration, and dissemination of good practices; and support and funding of development and implementation projects that promote compliance with international SPS requirements. After his presentation, he showed a film produced by STDF entitled "Trading Safely: Protecting Health, Promoting Development." The 30-minute film

emphasizes the fact that while trade in food products helps raise incomes, they must meet food safety and health standards so the exporting countries can enjoy the full benefit from them. The film features case studies from Belize, Benin, Thailand, and Viet Nam that show how these countries are meeting the challenge.

The ADB consultant who conducted an initial analysis of SPS measures suggested five areas of potential work; upon further review, these were consolidated into the following two major areas of focus: (i) modernizing SPS measures in accordance with international best practice, and (ii) identifying investments in SPS areas for facilitating trade. The general guiding principles in identifying focused areas are that these should come from the trade facilitation prospective; that they are using a phased approach and are targeting low-hanging fruits first; and that they have a practical coordination mechanism consistent with the overall CAREC institutional framework. Two roundtable discussions were organized to discuss each of these areas.

- Modernizing implementation of SPS measures
  - Recognize the WTO SPS Agreement, regardless of WTO accession status
  - Develop a strong policy base and legal/regulatory infrastructure for risk-based controls that can complete the transition from the former Soviet system
  - Eliminate unnecessary inspections and reduce inspection-related and testing-related delays by adopting international food standards (Codex) to replace complex and outdated GOST and SanPin requirements
  - Where standards are inappropriate or inapplicable to achieving the desired level of protection, use risk analysis within a formally constituted system to justify national standards
    - Codex standards mostly applicable to food safety
    - Basing animal and plant health imports on OIE-listed diseases and on recognized quarantine pests in the first instance
    - Basing controls for non-OIE-listed animal diseases (emerging diseases) on risk analysis according to OIE protocols
  - Designate quarantine pests and phytosanitary import requirements using PRA according to standards set under the IPPC
  - Introduce joint customs control based on SPS-based flags at BCPs
  - Mainstream SPS concerns into the agenda of CAREC national transport and trade facilitation bodies.

All delegates voiced their support for detailed measures such as simplifying and harmonizing procedures according to the WTO SPS Agreement, reforming legal and regulatory systems, adopting risk management practices, encouraging improved coordination between Customs and SPS agencies, and other measures aimed at building trust in one another's standards and practices. Delegates also requested considering measures for establishing a regional pest list aimed at improving regional efforts in pest control, and agreements for mutual recognition of SPS certificates. More research and discussion would be needed on the latter two suggestions to determine if they will give value-added to CAREC, for there are various pest lists available, and these are evolving over time. With regard to mutual recognition of SPS certificates at the CAREC level, there are other ways of making this occur, such as claiming the "equivalence" of a partnering country's certificates with those of the host country (as provided by the SPS Agreement).

- Identifying SPS-Related Investments for Facilitating Trade
  - Coordinate/Integrate risk-based controls (import requirements) with customs risk management systems.
  - Develop and introduce a single window facility (an automated information system accessible to relevant agencies that regulate trade) for both imported and exported commodities
  - Rationalize/modernize laboratory infrastructure:
    - Conduct an inventory of laboratory assets in the region;
    - Determine the need for such facilities on a regional basis;
    - Upgrade/modernize designated facilities to allow them to serve regional demand along key CAREC corridors
  - Designate and renovate specialized BCPs for priority handling of perishable commodities and for facilitating their accreditation to ISO 17025
  - Build capacity through training and stakeholder engagement that maximizes the benefits of investment

The delegates supported detailed measures such as incorporating SPS agencies into development of the single window; making related investments at the national and regional level; modernizing and rationalizing laboratory infrastructure regionally; focusing on key BCPs and logistics hubs along CAREC transport and trade corridors; and capacity- building in the form of comprehensive training programs aimed at farmers, inspectors, and policymakers alike.

## Concluding Remarks

Mr. Butiong, as CAREC unit head, agreed with the potential work areas in SPS that were recommended by Mr. Black. Mr. Butiong suggested presenting the results of the workshop and the agreements reached on potential SPS work areas to the CAREC Senior Ofiicials Meeting and Ministerial Conference for their endorsement.

Mr. Qian summarized the proceedings of the 2-day workshop. He recognized the hard work and dedication of the resource persons and the active participation of those who attended the workshop. He also gave assurance that the presentations of the five countries that did not participate in the assessment would be integrated into the final report, as well as the proceedings of the workshop. The results will then be reported to the CAREC Senior Officials Meeting and Ministerial Conference.

**Modernizing Sanitary and Phytosanitary Measures to Facilitate Trade in Agricultural and Food Products**
Report on the Development of an SPS Plan for the CAREC Countries

This project study was initiated by the Asian Development Bank (ADB) as part of the Central Asia Regional Economic Cooperation (CAREC) Transport and Trade Facilitation Strategy. Its objective is to identify areas for improvement in the administration and application of sanitary and phytosanitary (SPS) regulations, procedures, and standards in the CAREC region. It recommends a set of concerted, coordinated measures designed to improve and reduce delays in handling perishable goods in transit (and particularly at border crossing points), ensure that food is safe for consumers, and prevent the spread of pests and diseases among animals and plants. The study is based on an examination of SPS measures as applied in the People's Republic of China, Mongolia, Kazakhstan, the Kyrgyz Republic, and Uzbekistan. The study involved a wide-ranging assessment of current procedures for animal and plant quarantine, veterinary inspection, food safety inspection, and risk analysis and assessment, assessing conformity with internationally accepted standards.

**About the CAREC Program**

The CAREC Program is a proactive facilitator of practical, results-based regional projects and policy initiatives that foster trade expansion and sustainable development. The Program promotes and facilitates regional cooperation in the priority areas of transport, trade facilitation, trade policy, and energy. CAREC is a partnership of 10 countries: Afghanistan, Azerbaijan, the People's Republic of China, Kazakhstan, the Kyrgyz Republic, Mongolia, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan. ADB, the European Bank for Reconstruction and Development, the International Monetary Fund, the Islamic Development Bank, the United Nations Development Programme, and the World Bank support the CAREC Program. ADB serves as the Secretariat.

**About the Asian Development Bank**

ADB's vision is an Asia and Pacific region free of poverty. Its mission is to help its developing member countries reduce poverty and improve the quality of life of their people. Despite the region's many successes, it remains home to two-thirds of the world's poor: 1.7 billion people who live on less than $2 a day, with 828 million struggling on less than $1.25 a day. ADB is committed to reducing poverty through inclusive economic growth, environmentally sustainable growth, and regional integration.

Based in Manila, ADB is owned by 67 members, including 48 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.

Asian Development Bank
6 ADB Avenue, Mandaluyong City
1550 Metro Manila, Philippines
www.adb.org

Printed on recycled paper

Printed in the Philippines