



# TRADE FACILITATION

## RATE Summary

This document presents the findings of the Regional Agricultural Trade Environment (RATE) assessment conducted in the ASEAN region in 2012 by the Maximizing Agricultural Revenue through Knowledge, Enterprise Development, and Trade (MARKET) Project.



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## Regional Agricultural Trade Environment (RATE) Summary

USAID Maximizing Agricultural Revenue through Knowledge, Enterprise  
Development and Trade (MARKET) Project

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*On the cover: A port near Haiphong, Vietnam*  
*Photo credits: Nathan Associates Inc.*

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## In Brief

# TRADE FACILITATION

### **Why Trade Facilitation?**

Efficient facilitation of trade in food and other agricultural products promises myriad benefits including improved food security, more export income, increased access to productivity advancements, and nutritionally varied diets. Because many foods are highly perishable, they require efficient trade regimes and border crossings. Food security is enhanced when cross-border flows of food cargo are “facilitated” to minimize time spent in trade and thereby reduce physical losses and costs. Moreover, there is enormous potential for growth in regionally produced agriculture and food products in ASEAN to help achieve harmonization objectives for trade in goods.

### **ASEAN's Approach**

The ASEAN Economic Community will establish the ten Member States as a single market and production base. The ASEAN Free Trade Area, with its Common Effective Preferential Tariff scheme (1992), is implemented under the ASEAN Trade in Goods Agreement (2009).

Recognizing the importance of coordinated activity, Member States agreed in 2005 to establish an ASEAN Single Window (ASW) and signed a protocol the following year to establish and implement the ASW. The protocol defined the ASW as “the environment where National Single Windows of Member Countries operate and integrate,” and recognized national single windows as systems with a single point of submission of trade data.

### **Regional Findings**

The influence of international and regional trade has led ASEAN Member States to increasingly bring their core customs laws, regulations, and operating procedures into harmony with one another. The fulfillment of national single window commitments is critical to the achievement of the ASW. The ASW/NSW framework makes paperless clearance in ASEAN a possible, though still distant, objective.

Domestic enterprises that trade in agricultural products are particularly harmed by the persistence of corruption among many border agencies in ASEAN. Application of risk management techniques can help reduce corruption at borders. The private sector is eager to add its perspective on domestic and regional reforms to trade facilitation.

### **Opportunities for ASEAN**

- Coordinate streamlining of regional trade facilitation with harmonization of food safety standards.
- Continue region-wide harmonization of customs laws, particularly as they address risk-management in facilitating movement of agricultural products.
- Develop and implement an anticorruption plan for cross-border trade of agricultural products.

### **Opportunities for Member States**

- Join the Revised Kyoto Convention.
- Promote risk-management in border processes.
- Strengthen efforts to counter border fraud and informal trade.
- Take serious action against corruption at the border.
- Strengthen national single windows and exchange of electronic data through the ASW, including health certificates, phytosanitary and veterinary certificates, and lab analysis certificates.

## AT ISSUE: IMPROVING BORDER OPERATIONS IN SUPPORT OF SAFE AND EFFICIENT AGRICULTURAL TRADE

Members of the Association of Southeast Asian Nations (ASEAN) have long acknowledged that facilitating trade in food and other agricultural products promises myriad benefits. These benefits include increased income through exports, access to productivity advancements, and nutritionally varied diets, all of which contribute to food security. Major trade policy developments affecting food trade in the region have come by way of the ASEAN Free Trade Area (AFTA), established in 1987, and the need to conform to requirements of the World Trade Organization (WTO). (As of February 2013, all ASEAN Member States belong to the WTO.) Member states have also been implementing their commitments to trade facilitation, which pertains to procedures and controls governing the movement of goods across borders. Responsible for trade facilitation are customs agencies and other border control authorities—including those with jurisdiction over food, agriculture, public health, the environment, intellectual property, and others—as well as “behind the border” agencies that develop standards for trade in certain products.<sup>1</sup>

Trade is an excellent buffer for domestic fluctuations in food supply. There is no global food shortage: the problem is regional or local and one of moving food, often across borders, from surplus production areas to deficit ones coupled with affordability. World output of a given food commodity is far less variable than output in individual countries. Thus increased trade integration holds considerable potential to stabilize food prices, boost returns to farmers and reduce the prices faced by consumers.

—World Bank, *Global Monitoring Report 2012*

. As food systems increasingly rely on trade—to supply homogenized commodities such as grains and oilseeds for publicly managed bulk markets, and to supply processed, branded, and high-value food products for commercially owned supermarkets—the private sector is demanding transparent and efficient trade facilitation. Perishable foods must be handled efficiently and quickly at border crossings. Seed, plantings, fertilizers, pesticides, and farm equipment also require fast and predictable treatment at the border. In all cases, trade is easier and cheaper if trade facilitation systems (such as the ASEAN Single Window, discussed below) can initiate shipment processing long before goods arrive at the border.

Inefficiencies in trade facilitation can drive up costs, incurring margins as high as 15 percent above trade transaction value.<sup>2</sup> In addition to tariffs and duties, costs include the value of time in transit, freight and storage charges, and costs associated with the search for information about trade regulations, filing of paperwork, correcting errors, and inconsistent treatment at borders by customs and food-inspection authorities. Reducing inefficiencies can boost investment, government revenue, and economic growth and eliminating costs that do not produce benefits lowers the cost of food without reducing farmer income.

## Elements of a Comprehensive Food Trade Facilitation Regime

- Simplified trade laws and regulations
- Easy access to tariffs, laws, regulations, and pertinent guidance, including through national trade repositories
- Competent, knowledgeable institutions with trained professionals to implement and oversee food trade
- Implementation of harmonized standards (e.g., tariff nomenclature, certificate of origin and customs paperwork) and common systems for sharing trade information
- Conformity assessment systems to certify food safety and animal/plant health inspection/audit practices and facilities (laboratories)
- Mutual recognition of trade partners' inspection practices and testing facilities
- Easy access to certified third-party conformity assessment organizations (farm and factory audit organizations) for foreign food supplier verification
- Authorized food importer programs
- Risk-based health and safety inspections of cargo arrivals
- Efficient ports and the transport modes into and out of them, as well as of trade logistics in and around border crossings.

To gauge the efficiency of trade regimes, analysts use tools such as the World Bank's Logistics Performance Index (LPI) and *Doing Business* reports from the International Finance Corporation (IFC). Based on a survey of freight forwarders worldwide, the LPI ranks countries' logistics performance on such criteria as efficiency of customs clearance, quality of trade- and transport-related infrastructure, ease of arranging competitively priced shipments, quality of logistics services, ability to track and trace consignments, and how often shipments reach consignees on schedule.<sup>3</sup> Seven out of 10 ASEAN Member

States (Singapore, Malaysia, Thailand, Bahrain, Philippines, Vietnam, and Thailand) were comfortably in the top half of the 155 countries ranked in 2012.<sup>4</sup> IFC's *Doing Business* reports track the average time and cost (excluding tariffs) for cargo shipments in transit assuming a standard 20-foot, full container of goods. The nine ASEAN Member States surveyed by *Doing Business* (all but Burma) require 50 percent more documents and their cargo takes 60 percent more time to export and import than in OECD countries (although estimated costs per shipment are lower than the OECD average). Still, all but Laos and Cambodia rank in the top half. In fact, the region fares very well on "Trading across Borders," thanks to improved trade facilitation services in ASEAN in recent years (see table below).



**A poster in a Vietnamese Extension Office illustrates the importance of regional trade.**

### ASEAN Rankings in World Bank's Doing Business Report 2013: Trading Across Borders

|                   | Export |                     |      | Import              |      |      | Cost<br>(US\$/<br>container) |
|-------------------|--------|---------------------|------|---------------------|------|------|------------------------------|
|                   | Rank   | No. of<br>Documents | Days | No. of<br>Documents | Days |      |                              |
| Singapore         | 1      | 4                   | 5    | 456                 | 4    | 4    | 439                          |
| Malaysia          | 11     | 5                   | 11   | 435                 | 6    | 8    | 420                          |
| Thailand          | 20     | 5                   | 14   | 585                 | 5    | 13   | 750                          |
| Indonesia         | 37     | 4                   | 17   | 644                 | 7    | 23   | 660                          |
| Brunei Darussalam | 40     | 6                   | 19   | 680                 | 6    | 15   | 745                          |
| Philippines       | 53     | 7                   | 15   | 585                 | 8    | 14   | 660                          |
| Vietnam           | 74     | 6                   | 21   | 610                 | 8    | 21   | 600                          |
| Cambodia          | 118    | 9                   | 22   | 755                 | 10   | 26   | 900                          |
| Lao PDR           | 160    | 10                  | 26   | 2,140               | 10   | 26   | 2,125                        |
| ASEAN-9 Average   |        | 6.2                 | 16.7 | 765.6               | 7.1  | 16.7 | 811.0                        |
| OECD Average      |        | 4.3                 | 10.5 | 1013.7              | 5.0  | 10.3 | 1067.0                       |

SOURCE: *World Bank, Doing Business in 2013(2012)*.

## WHAT IS ASEAN'S CURRENT APPROACH TO TRADE FACILITATION?

ASEAN recognizes the relationship between trade and economic growth, and has set milestones to integrate economically, facilitate trade, and promote food security. These actions span a number of sectoral ministerial bodies, as summarized below, and represent a generally unified political commitment and harmonized approach to achieving an integrated regional market.

The vision of an integrated ASEAN Community is to be realized by December 2015. This vision was originally expressed in the 1992 Framework Agreement on Enhancing ASEAN Economic Cooperation, which was amended in 1995 and then reaffirmed in 1997. As described in the ASEAN Economic Blueprint (2007), the ASEAN Economic Community (AEC) will establish the ten Member States as a single market and production base, and make the ASEAN economic region competitive in world markets. The ASEAN Free Trade Area (AFTA), with its Common Effective Preferential Tariff (CEPT) scheme (1992), was implemented under the ASEAN Trade in Goods Agreement (ATIGA) (2009). ATIGA foresees the elimination of import duties on products traded among Member States in two rounds: by 2010 for the ASEAN-6 and by 2015 (with flexibility to 2018) for Cambodia, Burma, Lao PDR, and Vietnam.

ASEAN's goal is to eliminate import duties or reduce tariffs to 5 percent or less for traded products, with some exceptions. According to the Protocol to Provide Special Consideration for Rice and Sugar (2007),<sup>5</sup> a Member State may, in exceptional cases, request a waiver from ATIGA obligations, as reviewed and approved by the AFTA Council. Member states have also agreed on a harmonized tariff nomenclature and signed the Framework Agreement on Facilitating Goods in Transit (1998) to harmonize the transit transport system.

## Responsibility for Facilitation of Trade in Agricultural Products in ASEAN

| <b>Sectoral Ministerial Body</b>                    | <b>Area of Responsibility</b>   |
|---|---|
| AFTA Council  | Oversees the AFTA, which has lowered intraregional tariffs through the CEPT scheme.   |
| ASEAN Economic Ministers                            | Supports development of trade facilitation in cooperation with related initiatives in ASEAN and East Asia, such as the Asian Development Bank-Greater Mekong Sub-region (ADB-GMS) programs, the Master Plan on ASEAN Connectivity, the Comprehensive Asian Development Plan, and the Asia Cargo Highway Initiative. |
| ASEAN Ministerial Meeting on Agriculture & Forestry | Supports ASEAN Integrated Food Security Framework & Strategic Plan of Action with commitment to promote markets and trade; food safety standards; animal/plant health standards; and consideration of trade facilitation in sector working groups.  |
| ASEAN Transport Ministers Meeting                   | Addresses harmonization of cross-border transport mechanisms, including trucks, ships, and rail.  |

Recognizing the importance of coordinated activity in realizing the AFTA vision, Member States signed the ASEAN Single Window (ASW) agreement in 2005 and then signed a protocol to establish and implement the ASW. The protocol defines the ASW as “the environment where National Single Windows (NSWs) of Member Countries operate and integrate.” NSWs are systems that provide a single point of submission for trade documentation and information, synchronous processing of data and information, and a single decision point for customs clearance and release of cargo. With USAID’s support, ASW Gateway software has been installed, NSWs and the ASW Gateway are being integrated, and data exchanges between and among seven Member States via the ASW Gateway are being tested.

ASEAN Member States aim to implement the full ASW architecture in 2013-2014, with full roll-out envisioned for 2015. The ASW experience—which has included consensus-building and harmonized implementation at the regional and country level—has provided lessons on how ASEAN can meet other commitments to regional trade harmonization. In particular, the private sector has welcomed opportunities to discuss its perspectives on how best the ASW can be implemented, and has engaged in dialogue with ASW implementers about the scope and functions of the project.<sup>6</sup>

The lead agency for border trade in most products is the national customs authority, usually situated in ministries of finance. For many years, including in the context of the ASW, ASEAN customs authorities have worked together to strengthen and harmonize practices at borders. The ASEAN Directors-General of Customs endorsed the Strategic Plan of Customs Development 2011-2015 for the integration and modernization of ASEAN customs for establishment of the AEC by 2015.

**Five working groups support the Meeting of the ASEAN Directors General of Customs by providing guidance on policy and strategy:**

1. Coordinating Committee on Customs
2. Customs Procedures and Trade Facilitation Working Group
3. Customs Enforcement and Compliance Working Group
4. Customs Capacity Building Working Group
5. ASW Steering Committee.

## TRADE FACILITATION IN ASEAN: HIGHLIGHTS FROM THE RATE ASSESSMENT

RATE reviewed four aspects of trade facilitation in ASEAN: legal framework, implementing institutions, supporting institutions, and social dynamics.<sup>7</sup> Questions centered on the presence of formal legal and institutional frameworks in Member States and the relationship between border authorities and traders. To a significant extent, the RATE findings represent the perspective of private-sector actors—ranging from small traders to multinational companies—on how efficiently and transparently agricultural goods may cross Member State borders.

### **Building on Experience: Integration of International and Regional Best Practice into Domestic Trade Law and Policy**

A number of external forces have impelled reform of basic laws affecting customs and trade in ASEAN. These forces include WTO requirements, advances in trade facilitation encouraged by ASEAN and Asia-Pacific Economic Cooperation (APEC),<sup>8</sup> and the ASW initiative. Member States that started reform from positions of strength—in institutional capacity and human resources, demand for goods, and willingness to engage the private sector—have tended to make rapid progress toward simple, predictable, and efficient trade facilitation systems.

#### **Thailand**

Thailand's main customs legislation, the Customs Act, dates to 1926, but has been amended many times, including to reflect WTO principles. In the past, amendments to Thai laws and regulations were not well publicized, with private traders often having little notice or information about changes that would affect them. In 2011, the Thai Customs Department committed to “always conducting public hearings to listen to public comments and concerns, particularly on sensitive or controversial issues” when enacting or amending laws and regulations.<sup>9</sup> A major concern about the Thai Customs Act is that it gives the Customs Department Director General the authority and discretion to increase the customs value of imports. Responding to complaints about this, the government proposed reforms of customs laws and regulations, including removal of this discretion, to the Thai Parliament in 2011. Since the change of government in August 2011, however, the proposed reforms have stalled and, as of January 2013, have not been reintroduced. Perhaps reflecting the uncertainty of its customs environment, Thailand is the only ASEAN Member State that has fallen in the *Doing Business* ranks on “Trading across Borders” since 2010. Still, on that measure, the country ranks third highest in ASEAN.<sup>10</sup>

#### **Malaysia**

Although Malaysia's main law addressing cross-border trade in goods—the Customs Act—dates to 1967, the country has made a concentrated effort to implement a legal and regulatory framework that supports effective logistics, customs, and other trade facilitation functions. Certain areas of trade facilitation, including health inspections and quarantines, have moved away from the customs authority and into the jurisdiction of other ministries. In 2012, the new Malaysian Quarantine and Inspection Service (MAQIS) began to handle issues of food safety, quarantine, and other health inspections at the borders. In addition, in its 10th Malaysia Plan, the government committed to reducing transaction costs arising from customs procedures and logistics. The government further aims to promote use of information technology in the provision of cross-border customs and logistics services and has announced plans to review regulations and procedures pertaining to trade.

## Vietnam

Vietnam's Law on Customs 2001 (amended 2005) moved customs to a risk-based system of inspection. Inspections are conducted on the basis of an assessment of the good owners' compliance and of the risk of a breach of the law. Vietnam's progress can be attributed to its conscientious matching of procedural guidance—from the WCO's Revised Kyoto Convention, the WTO, APEC, and the ASW initiative—to priorities for implementation, as well as to various sources of funds, internal and external.

### The Revised Kyoto Convention: Three ASEAN Member States are Signatories

In June 1999, 114 customs administrations attending the World Customs Organization's 94th Session adopted the International Convention on the Simplification and Harmonization of Customs Procedures, known as the Revised Kyoto Convention (RKC). It came into force on February 3, 2006, three months after India became the 40 signatory to the Protocol of Amendment.

The RKC establishes key components of modern customs law and is an excellent basis on which to facilitate trade, ensure economic growth, and improve the security of the international trade system. The WCO Revised Kyoto Convention discusses all modern elements of customs:

- Standards, procedures, and practices
- Continuous improvement mentality
- Maximum use of information and communications technology
- Customs/trade partnerships
- Pre-arrival information
- Risk management techniques

- Automated systems
- Targeted examinations
- Coordinated interventions
- Information on customs requirements, such as laws, rules and regulations
- Systems of appeals

The convention pays particular attention to the principles for trade facilitation in customs as follows:

- Simplifying formalities and procedures
- Standardizing documents used in international trade and transport
- Using risk management techniques and information technology in customs
- Moving from transaction-based controls to audit-based controls
- Introducing legal frameworks for trade facilitation.

Three ASEAN Member States are signatories to the RKC: Vietnam (2008), Malaysia (2008), and the Philippines (2010).

SOURCE: OECD, *Trade and Customs, the International Legal Framework* (2011).

## Laos

Laos was ranked 160 out of 185 countries on the “Trading across Borders” indicator, making it the lowest ranked among ASEAN Member States surveyed for *Doing Business in 2013*. Still, the time to import or export and the number of documents required continues to fall. In 2012, exports took 26 days, down from 66 in 2006, and the number of documents fell from 11 to 10. In 2008, Laos established a National Trade Facilitation Secretariat and in July 2011 approved the National Trade Facilitation Strategy and Action Plan. The proposed implementation structure includes an NSW, clear responsibilities for lead agencies, and predefined performance indicators. Customs reform and modernization has progressed with the completion of the ASYCUDA prototype in mid-2011, the start of parallel pilot operations in October 2011, and deployment of ASYCUDA at Thanaleng in January 2012. In December 2011, the Customs Law was revised to introduce innovations in keeping with WTO and WCO best practices. Laos now faces the same challenge faced by Cambodia and Vietnam after they joined the WTO: building the capacity of implementing and supporting institutions (e.g., Trade Facilitation Secretariat, Customs, traders, universities, lawyers, business associations).



**A new bridge across the Mekong in Pakse, Laos built to facilitate trade with Thailand.**

## Cambodia

After joining the WTO in 2004, Cambodia enacted a new Customs Law in 2007. Pursuant to the law, the government has encouraged the use of a single administrative document system and one-stop service mechanism to facilitate trade and risk management, although implementation of an NSW has not gathered much momentum. As of 2005, the government committed to integrating its NSW processes into the ASW. Under the one-stop-service mechanism, there is to be only one inspection by the interministerial body, while customs operations are more facilitative, imposing less bureaucracy and paperwork on investors. In 2009, customs launched Automatic System for Customs Data (ASYCUDA) operations at the Sihanoukville Autonomous Port, Phnom Penh International Airport, the Phnom Penh Dry Port, and the Exports Office and Excise Department, to facilitate customs procedures as part of one-stop service implementation.

Thus, the influences of international and regional trade, along with significant donor guidance and support, have led several ASEAN Member States to bring their core customs laws, regulations, and operating procedures into harmony with one another. Steady improvement of most domestic legal frameworks is a promising basis for continued growth in regional trade.

## National Single Windows: Strengthening Coordination at National Level as a Prerequisite to ASW Success

In 2010, a report by the U.S. International Trade Commission stated that the ASEAN Single Window activity represents the “most visible effort to facilitate trade among [ASEAN] members” and that, “by enabling the rapid exchange of standardized data among members’ Customs agencies, it has the potential to bolster trade and support the emergence of intraregional supply chains.” The report noted that “development of the ASW has proceeded slowly,”<sup>11</sup> but development has since gained momentum and the ASW is an “emerging ASEAN success story” as documented in October 2012 by an independent review of the AEC Blueprint.<sup>12</sup>

### Cambodia Trade Facilitation and Competitiveness project (2005-2012): A “Moderately Successful” Effort to Strengthen Conditions for Trade Facilitation and Investment

Customs automation (ASYCUDA World) in Cambodia has benefited traders by reducing and making more predictable the times for clearing declarations and releasing goods, simplifying trade documents, and making border processes more consistent and transparent.

- The number of documents required to clear imports has fallen to 10, down from 44 in 2005 and 15 in 2009.
- The share of declarations processed through “ASYCUDA Automated System” rose to nearly 100 percent by July 2012 compared to the target objective of 80+ percent (the baseline was 29 percent).
- The time required for customs to clear a shipment fell from 6.5 days in 2004 to 5.1 days in 2012.
- The share of shipments selected for physical inspection (secondary inspection) at the port of Sihanoukville fell to 14.2 percent by July 2012.
- Cambodia jumped 28 places in the Logistics Performance Index in 2012, making it the 12th fastest reformer in the world in two years and a star performer among low-income countries (9th place).
- One small setback was the failure to computerize the Certification of Origin under the Ministry of Commerce, a setback rooted in a lack of compliant and responsive bids during procurement.

SOURCE: World Bank, Implementation Status & Results, Cambodia Trade Facilitation and Competitiveness (October 2012).

Indeed, reconciling the different levels of Member State commitment to the ASW, as well as varying domestic capacities to absorb and implement changes, is an enormous challenge. On the basis of comments of traders, the RATE assessment observes that protracted implementation of the ASW can be attributed largely to problems implementing NSWs. All Member States accept the concept of NSWs, but managing the sharing of information among multiple border agencies has proven difficult in practice. Leadership and staff in agencies addressing diverse matters such as customs, public health, food safety, and national security must be willing to cooperate and able to share capacity and resources in integrating border functions. Agencies need professional skills in resource and project management, information technology, human resource management, interagency communications, data oversight, and more.

As of 2013, Singapore is the only ASEAN Member State with a fully operational NSW. Brunei, Indonesia, Malaysia, the Philippines, and Thailand have partially completed their NSWs, while Vietnam is in the early stages of development in concert with its participation in the ASW. Cambodia, Laos, and Burma have made considerably less progress in coordinating and integrating border functions among national agencies.



**Packing coffee for shipment. The faster it clears customs, the less it costs the trader.**

### **Malaysia**

Malaysia's solid reputation for trade facilitation is due in significant part to its ability to coordinate border agencies. A National Trade Facilitation Council helps coordinate major issues while trade in agricultural products is regulated mainly by the

- Ministry of Agriculture and Agro-based Industry, which is responsible for the agri-food sector including crops, livestock, and fisheries;

- Ministry of Plantation Industries and Commodities, which is responsible for the development of the plantation and the commodities subsectors including pepper, coca, palm oil, rubber, timber, and tobacco; and the
- Ministry of Rural and Regional Development, which is responsible for raising the incomes of rural residents.

Special committees, such as the Economic Planning Unit, ensure ministry coordination. Other related ministries include the Ministry of Health for food safety, the Ministry of Domestic Trade, Co-operatives and Consumerism for food prices, and the Ministry of Natural Resources for the environment. Drawing on the resources of several ministries, the new Malaysian Quarantine and Inspection Service (MAQIS) will be the single stop for goods that must be processed for health, quarantine, and other food safety and quality purposes of food safety and quality. Malaysia's NSW initiative has endeavoured to coordinate and streamline how documents relating to each agency are transmitted during import and export. However, a new NSW model is now being put into place that will more closely integrate border agencies.

### ***Indonesia***

Indonesia started work on its NSW in 2007. The goal is to reduce the time and cost for exporting and importing through “a single submission of data and information, single and synchronous processing, and single decision-making for Customs clearance and release of cargoes.”<sup>13</sup> Indonesia’s NSW “operates well on paper,” according to RATE private-sector interviewees, “but not in practice.” A common complaint is that traders must routinely submit paper copies of trade documents to customs and other agencies, notwithstanding the simultaneous electronic entry of the same information into Indonesia’s information management systems. Though requirements to submit hard copy documents are being reduced, and traders can easily look up tariffs and regulations in Bahasa on the National Trade Repository, international traders have called for a fully paperless electronic clearance through a single application and single approval system.<sup>14</sup> Traders are especially concerned about the heavy restrictions on the entry of food products into Indonesia. Indonesia’s food safety agency must grant import approval for every shipment of processed food, food raw materials, food additives, processing aids, and food ingredients. For seeds and plants, SPS and plant health certificates from the country of origin must be presented. Registration of food products is generally conducted by a local agent or importer, but the time and cost of the process—as long as nine months—typically takes longer than the mandated time of 45 days. As noted in 2011 by the European Chamber of Commerce in Indonesia, a license to import a food item for a specified period of time (i.e., one year) should be sufficient to protect the health and safety of Indonesia’s consumers.<sup>15</sup>

### ***Thailand***

In Thailand, 35 agencies signed a memorandum of understanding for implementation of the NSW. Progress in achieving shared processes and use of technology is communicated to traders and other stakeholders through an NSW website. Still, as of 2013, a number of functions have not yet been streamlined to take advantage of shared information. For example, commodities entering Thailand must pass through customs *before* they are inspected for quarantine issues, resulting in duties being charged to importers even if the commodity is ultimately rejected. Several agencies are involved in import quarantine control and in general they work well together. However, communication is not always seamless between the agencies, according to traders.

## **Philippines**

In the Philippines, about 40 agencies are involved directly or indirectly in the NSW, including with respect to the issuance of import and export licenses, permits, and clearance to bring products into the country. The introduction of “e2m”, an electronic platform based on ASYCUDA, has raised hopes for a single, internet-based interface with border agencies. Reports of corruption and other irregularities in customs processing persist, including assertions of undue and costly delays, irregularities in valuation (e.g., use of reference prices rather than declared transaction values), 100% inspection and testing of some products, and customs officials seeking unrecorded “fees.”

Implementing an NSW is complex, requiring consensus-building and long-range planning among agencies, consultation with the private sector, a commitment to cooperate, and the capacity and resources to set up new systems. In spite of certain growing pains and complaints, a great deal has been achieved. The vast majority of the 100 or so licenses required by Indonesia’s Ministry of Trade are now solely electronic, a change that involved tremendous political will. (One outstanding issue is that smaller traders often do not know enough to benefit from the changes). In the Philippines, most permits and licenses pertaining to cross-border trade are now fully electronic. In Thailand, every document required by Thai Customs is now submitted and processed in electronic format. As determined by a survey conducted as part of a mid-term review by a private think tank on the ASEAN Economic Blueprint, “The private sector in ASEAN has been noticing favorably the improvements in customs and import/export clearance in many [ASEAN Member States] in recent years.”<sup>16</sup>

Indeed, Member States that are advanced in trade facilitation should share lessons learned, particularly as they relate to agricultural and food products, with officials across ASEAN who are charged with building NSWs. As ASEAN begins harmonizing laws on food safety and food security, this information should be routinely communicated to implementers of NSW systems and the ASW initiative.

### **How Trade Facilitation Relates to Other RATE Topics**

*Infrastructure.* The quality of roads, bridges, ports and even access to information technology may significantly impact the time and cost of trade across borders.

*Intellectual Property.* Failure to provide adequate and effective protection of intellectual property rights is a non-tariff trade barrier. Domestic enterprises need intellectual property protection to compete in foreign markets, and infringing goods, or goods in infringing packaging, may be refused entry to foreign markets.

*Nontariff Barriers.* Where certain trade facilitation measures are regarded as unduly burdensome, they can amount to NTBs that nations in trading relationships strive to prevent.

*Transparency and Accountability.* ASEAN has worked vigilantly in recent years to bring greater transparency and accountability to trade facilitation processes.

*Food Security.* Promoting and facilitating trade in food and other agricultural may improve food security, export-based income, access to productivity advancements, and diets.

## **Integration of Risk Management into Border Systems**

Truly facilitative environments systematically identify, assess, plan for, and communicate risk. Risk management is rooted in a legal and regulatory framework allows customs and other agencies to move from total control of each shipment’s documents and goods to a data-driven process of selecting cargo for inspection. To run a risk management program, an agency must be committed to using best practices, be able to store information about traders and shipments, and be able to use that information to judge risk. Once a risk management system is in place and functioning well, many more shipments cross borders

quickly, often with no inspection and minimal formal requirements; processes become more transparent; and opportunities for bribe solicitation and payment decrease.

Risk management has positive implications for trade in agricultural products. For example, risk management ensures that imported foods presenting particular risks to health and safety are scrutinized as necessary while foods that meet international safety standards are permitted to move more quickly. The integration of risk management procedures into NSWs especially helps reduce the time perishable items spend at the border.

Officials in ASEAN Member States are well aware of the benefits of risk management, and risk management is being instituted at a number of border crossings. The commitment of Vietnam, Malaysia, and the Philippines to the RKC represents a significant stake in risk management, and these Member States are poised to learn from one another and share lessons with others.

### **Indonesia**

With international assistance, Indonesia has been strengthening its risk management procedures for several years. Its NSW initiative has improved aspects of automation and bolstered efforts to manage risk. Risk management, however, is

fragmented among agencies, each of which has its own electronic system. Its NSW, therefore, is not yet useful in identifying, analyzing, or managing risk and interagency coordination is largely by means of face-to-face meetings. The food safety authority (BPOM) is integrating risk



***Simple and expeditious border procedures are especially important to small farmers who do their own exporting.***

management into its practices, but integration is impeded or undermined by bureaucratic requirements for hard copy documents and other procedures.<sup>17</sup> As noted by the World Bank,

Imports of empty containers clear in less than half the time needed for full containers, showing that most of the delay is caused by border control and inspection procedures as opposed to inadequate infrastructure. Burdensome and unclear administrative procedures contribute to import delays and invite corruption, undermining the competitiveness of industries that use imported components.<sup>18</sup>

### ***Malaysia***

Malaysia's customs authority does not have a dedicated risk management unit, but reportedly exercises risk management in all activities. The other agencies that work at the borders do not apply risk management. And though Malaysia gets high marks for trade facilitation, some traders believe that authorities should trust risk management more and further reduce the number of containers undergoing full inspection. Importers assert that there are not enough scanners at the ports. On this last point, however, Malaysia compares favorably to its neighbors.

### ***Thailand***

Thailand established a risk management unit in its customs authority in June 1999. Customs officers attend training events and seminars and the profiling system is continually being improved. Decisions to conduct physical inspections do not depend exclusively on the profiling system. The inspection rate is also driven by compliance levels and risk levels associated with each product. Risk management systems and x-raying of containers have reduced inspections of imported and exported goods. To guide risk management, Thailand uses the International Standards for Phytosanitary Measures, developed under the International Plant Protection Convention by the FAO. Stakeholders interviewed by the RATE team did not voice any concerns about export delays or other customs matters.

### ***Vietnam***

In *Doing Business in 2012*, the World Bank highlighted Vietnam for risk-based border inspections. For several years, the country's customs authority has operated "red," "yellow," and "green" lines for import, which set inspection requirements based on perceived risk. According to the Ministry of Finance, in 2011, the customs branch launched a modernization program, under which the time for goods examination and clearance will be shortened to bring them to average times in the region's four advanced economies—Indonesia, Thailand, Malaysia, and the Philippines.

### **Report from Private Sector: Persistent Corruption at Certain Borders**

A recurring theme in the RATE assessment for most Member States is the persistence of corruption. Conditions for trading across borders have improved markedly but processes are marred by petty corruption. Traders report that representatives of many different border agencies as well as the police routinely demand "informal fees." Corruption takes many forms. Importers or customs brokers may have to pay a bribe to secure a normal or trouble-free release. Or they may try to pay less in duty, taxes, and fees than law-abiding competitors, or try to pay nothing by circumventing procedures entirely. Or traders bribe officials so they can use customs channels for illicit purposes (e.g., moving everything from drugs to spoiled, expired, or otherwise prohibited food products).<sup>19</sup>

Freight forwarders in Cambodia report that all documents filed with customs must be accompanied by a facilitation fee—and that fees have gone up since enactment of the Anti-Corruption Law in 2012. One importer of food ingredients has calculated that bringing one container into the port at Phnom Penh and then transporting it to his manufacturing facility costs \$480. Only \$50 is for a legitimate fee; all the rest is paid “under the table” to local and national government officials encountered *en route*.

Malaysia’s border agencies have worked diligently to institute integrity standards. The customs agency has a code of conduct, customs officers receive training on professional integrity, “client charters” defining rules of operation are posted publicly, and customs officers and other border officials must pledge integrity. Malaysia’s Institute of Integrity was established in 2005 to “ensure a successful implementation of the National Integrity Plan (PIN).” The PIN has a number of goals, among them to “minimize corruption, malpractice and abuse of powers; to strengthen the effectiveness of public-service delivery systems and to overcome bureaucratic red tape; and to improve good governance and promote business ethics.” Most private companies that use the services of border agencies say that doing so is generally straightforward and free of corruption. Others say that customs is not yet free of official corruption.

Trade facilitation systems present a great opportunity for ASEAN and ASEAN Member States to advance integrity, promote transparency and predictability, and combat corruption. With respect to trade in agricultural products, border agencies should be encouraged to share their experience with integrity, transparency, and anticorruption measures for the benefit of regional counterparts.

### **Consulting Stakeholders: Public-private Consultation on Border Reform**

ASEAN’S ambitious approach to trade facilitation springs from the need for continued private sector growth grounded in trade. To be effective, government’s response to private sector needs should be driven by sustained public-private consultation. The RATE study team observed that private traders share their views with the government by many means. The most important lesson, however, is that one-off consultations are not enough: consultation must be regular and supported by public access to information on the status of reforms and free discussion in the press and other venues.

### **Indonesia**

As in many economies, the private sector in Indonesia does not speak with one voice on agricultural trade. Multinationals are eager to see Indonesia comply with international trade commitments and promote these interests accordingly. Domestic firms support the promotion of exports, but are less committed to a simple and nondiscriminatory system for imports of agricultural goods. In fact, domestic firms wield significant influence over government actors such that policies they support are increasingly subject to challenge before the WTO.<sup>20</sup> The private sector also influences agricultural trade policy on a regular and meaningful basis. General business associations include several foreign chambers of commerce and the Indonesian Chamber of Commerce and Industry (KADIN), as well as many associations representing the interests of producers and exporters of coffee, cocoa, palm oil, rubber, fish, meat, and flowers. Larger companies consider the government accessible, but those engaged in international trade are often stymied by the government’s protectionist stance. Agribusiness associations have reportedly had some success in having export taxes reduced although such taxes persist

### **Laos**

In Laos, communication between agribusiness associations and trade facilitation authorities is not sufficient. The largest industrial producers have access to lawmakers and can influence government, but organizations representing small enterprises lack the capacity and resources to advocate on behalf of their members.

### **Malaysia**

In Malaysia the relationship between associations of importers and exports, and private-sector associations generally, and the Ministry of International Trade and Industry, including the customs authority, are robust. A wide variety of active private sector associations lobby on behalf of their own interests.

### **Thailand**

Communication between traders and trade facilitation authorities in Thailand is open and regular. Some trade associations communicate regularly with the Board of Investment, which provides tax incentives. Associations inform members of trade opportunities, support members' participation in trade shows, and keep members informed about quality standards. In 2011, the Thai Seed Trade Association protested a regulation from the 1999 Plant Variety Protection Law on the usage of wild and domestic seed varieties for commercial development. The regulation was suspended. The Food and Agribusiness Committee of the American Chamber of Commerce represents multinational and Thai agribusinesses and monitors policies on food production and trade, commenting on laws and regulations as required to the Thai government. The Thai Fresh Fruit and Vegetable Association has been working with the government to meet EU standards. The Palm Oil Association communicates with the government on palm oil policies.

### **Cambodia**

Thanks in part to the support of donor agencies such as USAID, Cambodia's private sector is increasingly connected and active in trade facilitation. From 2008-2012, USAID's Micro-Small-Medium-sized Enterprise project helped firms understand their business issues and then communicate that understanding to government representatives. As a result, organizations representing small, domestic traders are increasingly well organized and participate in the national Government Private Sector Forum and similar provincial forums. Local activities have reportedly led to more responsive government activity, but representatives of small and mid-sized firms say that their influence at the national level is very limited relative to large companies.

## **OPPORTUNITIES FOR ACTION**

There are many pathways to change in ASEAN and its Member States. Reforms can be advanced by a single, visionary champion or by a groundswell of influential stakeholders. Some reforms take root after many years, while others happen quickly once empowered people act quickly and decisively in a way that reflects public demand and best practice. In most cases, a "big idea"—including the type often promoted by the World Bank or the World Customs Organization—can be broken down into many smaller tasks that can be executed by a variety of public and private actors. Accordingly, the Opportunities for Action set forth below are multifaceted. They may be viewed as a foundation for regional or domestic policy development, as a resource for private sector initiatives, as a benchmark for tracking change, as a

reference for academic instruction, and, most immediately, as a “jumping off point” for stakeholder discussion and consensus-building.

## **Opportunities for ASEAN and Regional Entities**

### ***Coordinate Streamlining of Trade Facilitation and Harmonization of Food Safety Standards***

ASEAN is devoting substantial resources to developing the ASW and harmonizing regional and domestic food safety standards with each other and with international standards. Standards harmonization is proving to be very challenging and involves at least four ministerial groups—the ASEAN Economic Ministers, ministers of agriculture and forestry, health ministers, and ministers of science and technology. Coordinating with ASEAN sectoral groups that oversee advances in regional trade facilitation, such as ASW development, would support standards harmonization. After all, the standards and information on a trader’s compliance with them will be vital at NSWs. Coordinating activities could include the following:

- Each quarter, have ASW and food standards harmonization representatives brief each other on progress (e.g., exchanging regulatory or commercial documents pertaining to food standards).
- Disseminate details on ASW implementation and food standards harmonization and invite comment from stakeholders in regional trade in agri-food products (e.g., make use of ASEAN, NGO, university, or private-sector websites).
- Have ASW and food standards implementers commit formally to Good Regulatory Practice and regulatory impact assessment as they pertain to the integration of harmonized food standards and ASW/NSW platforms.
- Promote regular consultation with private sector associations on how food standards harmonization can and should affect ASW implementation.
- Benchmark and monitor standards harmonization and integration of standards into ASW protocols.

### ***Continue Region-wide Harmonization of Customs Laws, Particularly as They Address Risk Management in Facilitation of Agricultural Products***

Most ASEAN Member States have strengthened domestic law pertaining to trade facilitation, particularly customs laws, so that laws reflect best practice set forth by WTO agreements and WCO guidelines, including the RKC. Reforms are not complete, however, and differences between the advanced and nascent frameworks are stark (e.g., compare Singapore and Malaysia with Burma and Cambodia). In addition, simply passing a law or regulation does not ensure reform. To further strengthen the legal and institutional environment for trade facilitation, ASEAN and Member States can do the following:

- Encourage dialogue between policymakers and traders about how risk management can facilitate trade in agricultural products. Integrate Member States’ best practices into domestic laws as they are reformed or updated.
- Analyze experience with and best practices in “Known/Trusted Trader” programs (also known as Authorized Economic Operator programs), particularly as they have affected traders of agricultural and food products.

- Encourage the private sector to raise awareness of gaps in customs laws among policymakers and implementers.
- Identify and support regional champions of regional trade in agricultural products, including private sector associations that support reform efforts.

### ***Develop and Implement an Anticorruption Plan for Cross-border Trade of Agricultural Products***

ASEAN's goals in combatting corruption are spelled out in Section A of the 2009 ASEAN Political Security Blueprint, under which all members are encouraged to take action. Most Member States have improved conditions for transparency and accountability—passing anticorruption laws, posting bureaucratic fees and “zero-tolerance for bribes” notices, setting requirements for financial disclosure by public officials, and holding regulators to professional standards. Still, petty corruption is endemic at border crossings, blocking ASEAN’s expressed goal of achieving free flowing food markets and trade. Regional actors could work together to promote a frank regional discussion of border corruption and its potential solutions. Activities could include the following:

- Sponsor regional anticorruption activities, such as “no bribe” border initiatives launched and publicized by associations of traders, commodity stakeholders, and food companies.
- Make anticorruption an aspect of national or regional certifications of trade professionals, such as customs brokers and freight-forwarders.
- Conduct regional discussions of the potential for a “trade ombudsman,” an official charged with receiving public complaints about trade practices at the national or regional level.

### **Opportunities for Member States**

#### ***Join Revised Kyoto Convention***

The RKC is the international blueprint for trade facilitation. Its provisions outline principles for customs practices and provide a basis for implementing regulations once a legal framework is in place. Joining the convention signals to investors and trading partners that a country is committed to trade facilitation. Before a country joins, however, reformers must understand the border process described in the convention, agency officials must understand new goals for their organizations, and managers must understand how to develop and implement trade facilitation processes. Training in all these areas is readily available through donors and international experts. The steps for joining the RKC are consistent with ASEAN’s trade facilitation initiatives, including implementation of the ASW. Member states that join the RKC will be well prepared thereby to realize ASW goals.

#### ***Promote Risk Management in Border Processes***

Risk management helps officials strike the proper balance between trade facilitation and import control. Customs agencies across ASEAN are instituting risk management, with food products arguably subject to the least rigorous approaches, but resistance is strong, particularly where border officials personally benefit from delaying or inspecting imports. Regardless, a major objective for low-risk goods is immediate release upon verification and payment of electronic declarations. Success indicators include increase in paperless releases, decrease in number of inspections, and increases in discrepant findings

during the inspection process. Here, postclearance audits (PCAs) are useful. In the context of NSWs especially, they provide an in-depth view of transactions or clients and a means for gauging compliance. Member states can improve trade facilitation by using PCAs to identify candidates for immediate or expedited clearance. To strengthen risk management and PCA regimes Member States can do the following:

- Use risk management techniques to identity high-volume compliant traders whose goods are eligible for immediate release on arrival; and use random, system-generated inspections to periodically verify compliance.
- Direct at least 50 percent of customs' audit workload at high-volume clients until a substantial portion of the workload has been reviewed.
- Reward compliant traders with fast-track clearance to give other traders an incentive to follow rules and regulations.
- Through formal and informal channels, promote interaction among third-party audit firms, between government and third-party audit firms, and between private firms and third-party audit firms.
- Encourage stakeholders engaged in auditing to share information about auditing standards and procedures and to integrate mechanisms for mutual recognition among firms so that food exporters aren't subject to multiple audits.

### ***Strengthen Efforts to Counter Border Fraud and Informal Trade***

At many land borders, informal trade in basic food products is rampant and unchecked. This trade undercuts the ability of legal traders to compete in the local market, hurts national revenue collection, and threatens public health. All border control agencies should be helping to curb smuggling of food products, especially products that present health risks. The following steps can be taken to counter or discourage informal trade:

- In each region, identify high-risk locations and commodities and conduct threat assessments, then prioritize national anti-fraud actions.
- Develop intelligence channels and plan to allocate resources to them.
- Seek the assistance of experienced fraud investigators and strategic planners in assessing threats.
- Make monitoring and evaluation integral to any plans to counter informal trade so resource allocation can be adjusted as needed.

### ***Take Serious Action against Corruption at the Border***

Most ASEAN Member States have taken steps to ensure transparency and accountability—passing anticorruption legislation, posting bureaucratic fees and “zero-tolerance for bribes” notices, requiring financial disclosure by public officials, and requiring regulators to meet professional standards. Petty corruption persists, however, particularly in the poorest states. In the agricultural arena, Member States can curb corruption by doing the following:

- Tap into anticorruption resources offered by international donors, such as the ADB, the World Bank, and USAID. The transparent practices encouraged by these groups are intended to reduce poverty, which correlates directly with high rates of corruption.
- Give national anticorruption authorities full independent enforcement authority.
- Set examples for eradicating corruption in border agencies that have the most power over small traders.
- Require all border offices to post fees and timetables for provision for service.
- Support independent offices of ombudsmen or inspectors general.
- Support anticorruption activities sponsored by the private sector, such as “no bribe” initiatives launched and publicized by local traders.

## Endnotes

<sup>1</sup> This paper discusses trade facilitation chiefly in terms of activity at the border; other RATE papers detail “behind the border” activity.

<sup>2</sup> Engman, Michael. 2005. “The Economic Impact of Trade Facilitation.” *OECD Trade Policy Working Papers*, No. 21. Paris: OECD Publishing.

<sup>3</sup> See TradingEconomics.com (last accessed February 19, 2013).

<sup>4</sup> World Bank, “Connecting to Compete: Trade Logistics in the Global Economy” (2012).

<sup>5</sup> ASEAN has long recognized the political sensitivity of certain basic commodities, especially those pertaining to food security and self-sufficiency. The Rice and Sugar Protocol was preceded by the Protocol on the Special Arrangement for Sensitive and Highly Sensitive Products (Singapore, 1999), as amended by the First Protocol to Amend the Protocol on Special Arrangement for Sensitive and Highly Sensitive Products (Jakarta 2004), and outlined in the Protocol Regarding the Implementation of the CEPT Scheme Temporary Exclusion List (Singapore 2000).

<sup>6</sup> United States International Trade Commission, ASEAN: Regional Trends in Economic Integration, Export Competitiveness, and Inbound Investment for Selected Industries (2010).

<sup>7</sup> For a full description of the methodology, see the RATE methodology document.

<sup>8</sup> See APEC, Trade Facilitation Action Plan (2002). All ASEAN Member States except for Burma, Cambodia and Laos are members of APEC.

<sup>9</sup> Thailand’s Comments in The 2011 National Trade Estimate Report (NTE) for the incoming 2012 NTE Report Submitted to the United States Trade Representatives (September 2011).

<sup>10</sup> World Bank, *Doing Business in 2013* (2012).

<sup>11</sup> United States International Trade Commission, ASEAN: Regional Trends in Economic Integration, Export Competitiveness, and Inbound Investment for Selected Industries (2010).

<sup>12</sup> Economic Research Institute for ASEAN and East Asia (ERIA), *Mid-Term Review of the Implementation of AEC Blueprint* (October 2012) (Executive Summary) at 27.

13 Indonesia National Single Window Blueprint (Minister of Finance Decree KEP-08/KET.NSW/08/2007).

14 European Business Chamber of Commerce in Indonesia, Position Papers, “National Single Window” at 53-59 (2011).

15 Id. at 58.

16 ERIA, *Mid-Term Review of the Implementation of AEC Blueprint*, at 7.

17 European Business Chamber of Commerce in Indonesia, at 57.

18 World Bank, Trade Development in Indonesia (2011).

19 USAID/SEA CLIR-Trade, Regional Report (Trade Facilitation) (2007).

20 See Office of the U.S. Trade Representative, United States Challenges Indonesia’s Import Restrictions on Horticultural Products, Animals and Animal Products (January 10, 2013).