Chapter 11

The dilemma of international food safety standards: Upgrading - a state to state-owned enterprise alliance in the Vietnamese seafood processing industry.

Jakob Lindahl

Introduction

Vietnam, which has embarked at transition from planned to market economy, is an interesting example of a developing country, whose seafood industry is affected by international food safety standards and also participation in the global seafood industry. This article examines the dilemmas faced by Vietnam an example of a developing country that upgrades its seafood processing industry and connected institutions to international food safety standards in order to achieve global competitiveness. Three points are argued in this respect: First, the introduction of international food safety standards means that responsibility moves away from buyers and down the value chain with increased burden on developing country processing companies and their regulatory institutions as a consequence. Second, global rules in the form of WTO's sanitary and phyto sanitary (SPS) regulation weakens nation states' possibilities of undertaking interventionist policies to protect and upgrade the industries. At the same time, nation states are required to improve their regulatory capacities to implement, control and certify standards in the industry. Third, in this limited room for manoeuvre, there is an increased danger of internal polarisation - in the case of Vietnam not least between state and private companies - in terms of upgrading.

Vietnam has only gradually integrated into the world economy since 1986, when the government introduced the *doi moi* (renovation) economic reform. Gradually, progress was made towards achieving macro economic stabilisation, and the economy was opened for the surrounding world with the Law on Foreign Investment in 1987. Vietnam became a member of ASEAN in 1995 and AFTA in 1996, while WTO-membership is still negotiated. Moreover, the legacy of the Vietnam War has been normalised,

as the US lifted its embargo on Vietnam in 1994, and an U.S.-Vietnam Bilateral Trade Agreement (BTA) apparently normalised the two countries trading relations in 2000.

The literature on Vietnam's industrial strategy often emphasises that the country attaches importance to upgrading of selected state-owned enterprises (SOEs) in specific industrial sectors. Foreign direct investment (FDI) is heavily weighted towards joint ventures, of which 90% are with SOEs (see Kokko, 2001; Riedel, 1999). Therefore, non-state[74] enterprises' possibilities of upgrading by integrating in regional/global production networks are limited. Foreign investment is now recognized as a main engine of growth by the Vietnamese government, and the Vietnamese State constitutes its conditions by attracting, selecting, regulating, facilitating or hindering specific investments, which may or may not involve transfer of organizational learning. Still, further industrial upgrading will depend upon the effort Vietnam puts into strengthening its own skills, suppliers etc. to hinder that investments simply create 'islands of static efficiency' (see Lall, 1993a: 742).

A state to state-owned enterprise (S-T-SOEs) alliance has in recent years contributed to a successful upgrading of Vietnam's seafood industry and related institutions to international 'Hazard Analysis and critical control point' (HACCP) standards and the EU-code. Consequently, a strong state involvement and concentration in business groups have resulted in unlevelled playing field with unfair competition for local private companies and also exclusion of foreign investors. This policy is gradually changing, while business groups are slowly restructured and equitized, though still characterised by strong state influence and control (WBVDR , 2001).

With the US's introduction HACCP standards in 1995, new governing rules set the agenda for the international seafood processing industry. Together with the EU-code[75] on food safety, this standard has had decisive impact on the Vietnamese seafood processing industry. They impose international

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[74] The term 'nonstate' is used, first, because it is more 'politically correct' than 'private' in Vietnam. Second, 'private' refers to one of the specific ownership forms, which are commonly applied to the nonstate sector. In English, the terminology of the different ownership forms is not consistent and rather confusing. This study operates with the following ownership forms (see Ronnås, 1998: 1): household enterprise, private enterprise, partnership, co-operative, limited liability company and share holding company.

[75] The decision 91/493/CEE on quality and safety and hygiene of foods.

conditions on Vietnamese players, and thus these become part of a larger globalisation process. At the same time, it can be argued that standards may contribute to the creation of a S-T-SOEs alliance, in Vietnam, where the majority of seafood processing companies are state-owned and hence the industry is strongly embedded in the state. The state is important, since it is a supporting and co-ordinating actor together with intermediary institutions and international donors in the process of upgrading the industry to international food safety standards.

The debate on SPS requirements has shown concern over the importance of developed countries food safety requirements, due to possible barriers for developing countries food exports (FAO, 1999; Henson and Caswell, 1999; OECD, 1999; Oyejide Ogunkola and Bankole, 2000; Wilson and Otsui, 2001; World Bank, 2001). The aim of this paper is therefore to illuminate how global/regional hygiene standards affect upgrading of the Vietnamese seafood processing industry and how the S-T-SOEs alliance in Vietnam facilitates this process and/or imposes new and unforeseen problems?

The paper is organized in five parts. First, it is discussed how the development of new rules governs the international seafood trade. Second, the paper deals with the affect of HACCP/EU-CODE requirements on strategies of linking up to global trade networks. Third, it examines if and how food safety standards have had positive effects on Vietnamese seafood processing companies. Fourth, the negative consequences for Vietnamese seafood processing companies of the new global /regional hygiene standards are examined, and fifth, the paper focuses on the S-T-SOE alliance, discussing its advantages and also disadvantages. The concluding section summarises the main findings - that is successes and also implications for Vietnam in relation to international food safety standards and participation in the global seafood industry.

New rules governing international seafood trade.

In spite of significant research and progress in medicine, science and technology related to food production, food born illness has continued to increase on a global scale. Failures to control such diseases has left the industry and also government regulators lacking the trust of consumers, especially in the European Union (EU) and the United States (US). By the

end of the 1980s, several consuming countries came to the conclusion that classic fish (food) inspection based on the analysis of samples of the final product and on generic hygiene measures was insufficient. HACCP was adopted and governments lead by the US started to shift their regulation to HACCP based systems.[76] Today, approximately 65 percent of total international seafood production are regulated according to HACCP. Of the large markets, only Japan, which accounts for 32 % total seafood market, has not yet applied the system (FAO, 1999).

The HACCP standard defines monitoring and auditing requirements for critical control points in production and sets standard practices for the plant staff to prevent hazards.[77] The standards also delegate responsibility to the operating staff within the company. In this way, the standards are a tool that ensures food safety and focuses on prevention rather than relying on end product testing.

HACCP has created a new governance system in the international seafood trade as countries, which do not implement (and individual companies who do not obtain) it are excluded from access to the largest international markets such as the EU and the US. Moreover, countries and trading blocs have created non-tariff barriers to trade, for instance though food safety standards? A major problem seems to be that standards are easily changed, ambivalent and difficult to understand or meet. To prohibit these types of barriers, WTO agreements are made to ensure that national regulations and trade agreements are based on science and applied evenly to domestic and imported products.

HACCP is defined in the framework of the Codex Alimentarius Commission (Codex), which is the major international body for promoting the health and economic interests of consumers while encouraging fair international trade in food (OECD, 2000). Though attempts to harmonize food safety standards has been made through the SPS Agreement and in the Codex, there is also

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[76] The use of the HACCP concept for food has its origin in the United States space programme in the early 1960s. In order to provide safe food during space flights, it was determined that a preventative system was best in order to minimise the risk of food safety hazards, rather than end product testing (FAO 1999).

[77] HACCP is based on seven principles: (1) conduct hazard analysis and identify preventative measures; (2) identify critical control points (CCP); (3) establish critical limits; (4) monitor each CCP; (5) establish corrective action to be undertaken when a critical limit deviation occurs; (6) establish a record keeping system; (7) establish verification procedures (FAO 1999).

room for national differences, including those that impact and increase costs on producing countries in applying and monitoring the standards (see Murphy and Shleifer, 1997).

An example is the HACCP programme in the United States, which is monitored by the United States Food and Drug Administration (FDA). This programme focuses entirely on maintaining safety - not quality - for seafood. HACCP programmes in other countries often include quality as well as safety standards; e.g. the EU defines HACCP more broadly as part of an overall ISO 9000 quality system. ISO 9000 standardisation is supposed to ensure quality and cost-effective production of consistent products that meet or exceed customer requirements and conformance to regulation (FAO, 1999). Hence, value chains to the US and the EU are fundamentally different.

In the United States, seafood products controlled by HACCP programmes allows for the establishment of a Memorandum of Understanding (MOU) with importing countries. If such a MOU is signed on the basis of "equivalency", processing companies in for instance Vietnam would only need to comply to national HACCP standards. However, until recently no MOUs have been agreed to by the US FDA (FAO, 2000).

Seafood exporters and importers to the United States must implement verification procedures through product specifications or other defined steps to show that the involved products are safe and meet the requirements of the United States seafood HACCP programme. Thus, at the moment, the "equivalency"[78] test burden is on the exporter and the importing agent, while the United States HACCP programme does not directly adopt Codex, making co-ordination of prerequisites more difficult (Caswell and Hooker, 1996).

In Vietnam, this means that one single intermediary, the Swire Group, handles almost all exports of frozen shrimps to the US market. This company inspects the loads of shrimps that arrive at a cold storage warehouse near Ho Chi Minh City, and provides third-party warehouse facilities for chilled and frozen imports and exports. Besides, Vietnam Inspection & Procurement Services offers technical services to seafood

[78] Article 4 Equivalence

buyers and sellers, who rely on the Swire Group's local sourcing knowledge and global selling reach.

In the US, the Swire Group also serves as an intermediary, providing cold storage warehousing for US retailers and importers. One of its most important additional functions is FDA approved inspection of whether products meet HACCP standards - the Swire Group's offers U.S. Department of Agriculture inspection services required for importing and exporting. They work directly with FDA inspectors to schedule and assist inspections, stamp products with authorized USDA approval stamps and stack products as required (Interviews, 2001; http://www.swire.com/).

The European Union version of "equivalency" is different from that of the FDA. To achieve equivalent status with the European Union, the exporting country must demonstrate that its "National Competent Authority" is capable of enforcing the European Commission legislative regulations and ensure that 'safe and wholesome' products are produced and placed in commerce.

The European Commission regulations contain no scheme to develop a MOU type arrangement; thus "equivalency" occurs as defined by specific decisions made by the European Commission approving individual countries and companies within them to export to the European Union. This gives the EU a convenient opportunity to use "equivalency" as a non-tariff trade barrier (Sophonphong and Lima dos Santos 1998).

It could therefore be argued that differences in standards have consequences for companies in Vietnam in at least two ways. First, companies need to apply to different standards for different markets. Second, they need to monitor changes in the EU-code and HACCP standard system, e.g. if product quality requirements change as a consequence of changing consumer habits, labour skills, organisation or technology, it may need to be evaluated according to different international interpretations of HACCP. The managers of Vietnamese seafood processing companies need to be more pro active in EU quality driven value chains than in US chains, where safety and cost are in focus. This tendency to increase demands on state and intermediary institution and seafood processing companies management is intended further intensified in the coming years. When EU will require stronger control of the value chains (traceability). In the US, USDA will require Good Aquaculture Practices (GAP) of exporting countries. According to Mr. Evans from Surefish - a world wide private seafood

inspection and quality consulting company, 'there is no simple solution (for processing companies, red), for these competing demands and this requires some degree of sophisticated management to meet both EU and US requirement' (Evans, 2000).

In Vietnam, the National Fisheries Inspection and Quality Assurance Center (Nafiqacen) of the Ministry of Fisheries verifies and certifies HACCP compliance of fishery and aquaculture products with the requirements of Directive of European community and the FDA. Due to a successful DANIDA supported upgrading, Nafiqacen has achieved the position of "National Competent Authority" with capability to enforce European Commission legislative regulations on HACCP on companies, and ensure 'safe and wholesome products' in Vietnam. Nafiqacen is headquartered in Hanoi and has five provincial offices. Its fishery quality and hygiene assurance programme targets the entire value chain from capture/aquaculture via handling and processing to transportation, export, import and distribution at the Vietnamese market. It carries out inspections and certificates seafood processing companies as its main task. In terms of numbers of Vietnamese companies certified, this has been a successful task: by June 2002, 250 processing companies, of which 68 companies have been accepted as EU exporters, were certified. Also, more than 100 companies had applied HACCP standard eligible for exports to the US market. However, inspection is mainly concentrated on the processing companies and to some degree hatcheries, while it is absent in other nodes of the value chain. In general, many methods to circumvent the standard system exist, which often emphasised in interviews with international buyers. As a consequence of this criticism, Nafiqacen has teamed up with shrimp farmers and local authorities to make and keep shrimp and basa (Catfish) farming areas free of the residue of antibiotics and other chemicals banned by importing countries (Phan, 2003).

However, the consequences of the introduction of the HACCP Standard in 1997 have been must broader than this upgrading at the institutional level. In the next section, the focus is on how companies and other parts of the value chain have been upgraded.

The affect of HACCP/EU-CODE requirements on Vietnamese seafood processing companies and their strategies of linking up to global value chains.

In an ideal world, the positive effects of HACCP systems installed in suppliers' operations, manufacturing and processing plants should reduce costs of raw material inspection, specification and inventory, and other costs associated with inputs (Mazzocco, 1996). Awareness of suppliers' or processors' HACCP systems or knowing customers' needs for tolerances should reduce variability and costs of operations. Transmitting HACCP system requirements to customers or suppliers can also reduce marketing and sales costs. HACCP's preventive focus is seen as more cost effective than testing a product and then destroying it or reworking it (Unnevehr and Jensen, 1996). The costs of implementing HACCP at a given time or place in the processing process are much less than the benefits to be derived. However, in order to measure the costs, Unnevehr and Jensen (1996) argue that marginal benefit-cost analysis must be conducted at the point of each CCP, to determine which are most economically effective to achieve a specified standard of risk reduction. Thus, HACCP can be viewed as a business management tool, although limited research has been done to this date in most industrial food settings, and in particular seafood plants, to estimate its value in this context.

For HACCP to produce these kinds of benefits substantial training of employees is required. Thus, it could be argued that sustainable effects of HACCP systems would require initial and continued investment in human resources and the development and delivery of training programmes for employees. The affect of HACCP introduction on Vietnam's seafood processing industry is analysed in the next section.

Positive effects on Vietnamese seafood processing companies

HACCP/EU-CODE requirements on Vietnamese seafood processing companies have had both positive and negative consequences. The main positive ones can be divided in four different areas: First, Vietnam has increased its seafood export and diversified its markets to include e.g. the US and China. Second, relevant national institutions - that is both certifying and controlling institution as well as business associations - are in a process of successful upgrading. Third, several companies have undergone process upgrading by transforming inputs to outputs more efficiently, by re-

organising the production system and by introducing superior technology. Finally, the introduction has opened opportunities for product upgrading from low valued added blocks of frozen shrimp towards small-scale export of higher value added products.

The annual growth rate of the aqua cultural production in Vietnam was 12.3 per cent over the period of 1996-2000. In same period the annual growth rate on exports has been 20 per cent. In 2002, the value of the total seafood export was US$ 2.02 billion making the industry the third largest export earner in Vietnam. The two most important items were shrimp, whose export represent US$ 979 million, and Catfish with US$ 135 million. Because of the upgrading to HACCP, Vietnam has become the third largest exporter of shrimps to the US with an aqua cultural value of US$ 500 million accounting for 28 per cent of total exports in 2001, while the stricter barriers in the EU code has resulted in a EU market share reduction from 9.6 per cent in 1999 to 6 per cent in 2001. Vietnam's market share in Japan is 26.2 per cent, valued US$ 470 million, while China has seen an enlargement from 12.4 in 1999 to 18. Per cent in 2001. Though there have been both losses and gains for Vietnam, there have been a major overall increase and a strong diversification of markets.

Process upgrading has been the main priority of the majority of companies interviewed. Most companies have reduced processing time, typically from 12 to 6 or 7 hours for 10 tons of shrimp in large SOEs. However, this processing time reduction has not been obtained only by increased efficiency, but also by boosting labour input. Process upgrading is also an issue in firms' relations with foreign buyers. Japanese buyer driven value chains often are characterised by relatively close, long-term co-operation with producers on upgrading in terms of process control, quality management and human resources. In EU and US driven value chains, on the other hand, buyers are much more absents, as HACCP standard and EU code regulate hygiene and also quality in the case of the EU value chain. Vietnamese seafood processing companies are therefore left to the market forces and global webs, and only a few have become core suppliers for international buyers. This is mainly the case for SOEs since the contact is commonly established through the S-T-SOE alliance, while private SME are left to the market forces.

In Vietnam and mainly in SOEs increased efficiency has taken place through new technology input that has resulted in a diversification of machinery suppliers. In the 1980s and start of the 90s almost all machinery came from Japan and Taiwan due to low prices. However, the introduction of the HACCP standard has increased investment in capital intensive machinery, e.g. almost all companies that is managed based on a HACCP plan have invested in new cold storage, IQF freezer, contact freezer, air blast freezer, Vacuum packing machine and air condition in processing rooms. This has also resulted in a diversification in terms of machinery suppliers, who are mainly Danish and American today, while Japan and Taiwan now mainly supply companies who are not certified with HACCP, that is largely small SOE in northern Vietnam and small private companies in the whole country. Yet, only few respondents see a direct connection between HACCP and their new machinery investment, though some respondents articulate that it is an advantage to have well-known equipment developed in HACCP requiring markets, as it provides orders, easier certification and access to capital though ODA. However it is also typical for companies that export to Japan to favour Japanese machinery suppliers, who are often part of the same business group as the buyer, whereas a financial scheme is often included in the contract. Moreover, Japanese buyers often stress that their requirements on cutting and product specifications are not necessarily meet by Danish and US machinery.

Though especially Japanese buyers tend to source increasing amounts of higher value added products from Vietnamese companies as their handling of seafood is improved on account of HACCP, this has also increased producers' costs. While buyers used to buy large volumes of block frozen shrimps for reprocessing from different seafood processing companies, they now tend to require a greater variety in products. Moreover, products are expected supplied in both small and large volumes on shorter lead times and more flexible conditions. Likewise, there is a concentration of suppliers that take part in value chains, which means closer long-term relationship, though still in arm-length trade. Hence, participating Vietnamese seafood processing companies must fulfil many new tasks and invest in cold storage facilities and vacuum packing machinery to keep a large variety of products on stock. These conditions are particularly present, when buyers are supermarkets, as stressed by one respondent:

> We have now 1000 ton storage capacity, but it is too old to keep the quality. The next thing is that we don't have enough production space, because if we work together with the supermarket chain, production and delivery are on a regular and continual basis, and also we have to make sure that supply is available all the time. We can't say to them that "sorry, we've run out of materials" or things like that (...). The supermarket may need weekly shipment, or monthly, and big quantities, e.g. two containers (40 feed) in one shipment...(SPC 1, 2001)

This trend for international buyers to concentrate their supply base and minimise the numbers of traders and thereby their costs, has similarities to what Gerrefi (1996, 1999) describes as full packaging suppliers in the garment industry (see Chapter 5) as a new souring pattern in global value chains.

Negative consequences for Vietnamese seafood processing companies

Food safety requirement affects both production and transaction costs that have different impact on the Vietnamese seafood industry's attempt to be globally and/or regionally competitive. Such costs include adjusting production facilities, co-ordinating flows of production and raw material though supply chains as well as conformity assessment (see also Antle, 1999; Jensen, 2002).

But I will argue that the cost of applying to different standards[79] in the main markets puts additional pressures companies not only in the implementation phase, but also when labour have to adapt to changes in the regulatory framework. Moreover, the technology and training of staff to monitor HACCP standards in institutions as well as in companies are costly.

In 2001-2002, an example of how changing conditions affects Vietnams capability and capacity to adjust to HACCP/EU-CODE standards occurred. Vietnamese[80] shrimps were tested chloramphenicol residues and antibiotics

[79] The SPS agreement does have a quest on transparency (Article 7). It states that member countries are obliged to establish notification points as well as places where it is possible to make enquiry. It aims at providing information to foreign exporters as market information. Moreover, if a country implement SPS measures that differ from international standards, the country is obliged to notify in good time about these changes (Henson *et al* 2000).

[80] Along with shrimps from Thailand and Myanmar.

positive at the EU market. The European Commission confiscated loads of containers for destruction and sent the bill to Vietnam. This case is interesting since it illustrates how Vietnam's regulatory capacity is put under further pressure for three reasons. First, the methodology to detect chloramphenicol in seafood has suddenly been changed.[81] Second, this was especially problematic for the Vietnamese authorities, which do not have the required testing technology. Last, the Vietnamese were especially angry because of the sudden occurrence of the changes. Nafiqacen and the Ministry of Fisheries responded relatively quickly after realising the seriousness for Vietnamese exports to the European markets. An action plan was put in place in at least three steps: Inspection of seafood processing companies in all relevant provinces and cities were increased; and the country were divided in zones with coding to make origin identification possible and minimise problems to specific local sub-regions. Hence, the SPS principle of regionalization (Article 6) could be used to prevent the entire country to become banned for imports to the EU. However, this needs to be negotiated and accepted by each trading partner (see also Jensen, 2002). These sudden changes made it almost impossible for Vietnamese companies to meet the requirements.

It may be argued that HACCP rules mandated across an industry will have different impacts on the industry, depending on its market structure. In general, HACCP rules are likely to impose higher costs on small firms than on large firms. In 2001, Vietnam had 204 exporting seafood processing companies, of which 166 were state or province owned and 38 were under various private sector schemes. With a few exceptions, this division does largely also reflect a division by size with larger SOEs and small and medium sized private companies.

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[81] Previously, the methodology to detect chloramphenicol in shrimp could find the drug down to the 5 parts per billion (ppb) level. Subsequently, Canada and the European Union (EU) have refined their methods to detect even lower levels and have taken action against food products from Thailand and Vietnam found to be contaminated by chloramphenicol. After a few months the EU changed their requirements from 5 parts per billion (ppb) level to 1ppb and further modified the methods to detect 0.3 ppb. The FDA modified its methodology to confirm chloramphenicol levels in shrimp and crayfish to 1ppb and is further modifying the methods to detect 0.3 ppb, which will place the U.S. methodology in line with Canada and the EU. The new methodology for testing for chloramphen icol to the level of 1 ppb will be used to test imported shrimp and crayfish that are suspected to contain chloramphenicol. FDA will detain and refuse entry to any product it identifies and confirms as containing chloramphenicol.

Vietnam's private SMEs face numerous problems, which are reinforced by the requirement for HACCP Standards. The capacity and capability to monitor HACCP standards in SMEs are generally very limited as these companies are often family controlled and has limited professional staff - administrative as well as technical. Access to capital on long-terms is difficult, as there is no free capital market in Vietnam, and SOEs are favoured. Private companies therefore rely on their own social networks, which are often well established as they are mainly owned by local Overseas Chinese, who dominate the seafood trade in some areas in the Mekong Delta. In the last years, a few private banks have started to provide loans, but on higher interest rates.

Larger SOEs tend to have more capacity and capability to monitor HACCP standards among others because the number of professional staff is much larger than in SMEs. Almost all larger SOEs have a technical staff of engineers. But international buyers, donors and also the Ministry of Fishery often point to a general lack of understanding on how important it is to follow the HACCP scheme and to follow-up by daily monitoring routines in these enterprises. International buyers also commonly stress that there is a legacy due to the planned economy among management and technical staff to focus more on quantity than on quality. An example is a Japanese buyer:

> Many companies have HACCP and EU code: they invest in Hardware IQF (...) they like machinery engineering. What I try to say is that they say they have HACCP, but they have no idea of maintenance of the company. So day by day quality is going down (SBC, 1).

As mentioned above, mainly SOEs get the support for a general upgrading programmes and implementation of HACCP, and hence it is striking that the surplus generated is often taken out of the companies rather than re-invested. A possible explanation is that local peoples committees', who use the revenue for other purposes own many of these companies. This reinforces the problems of maintaining SOEs at the level; they have been upgraded to. This partly HACCP driven growth with out re-investment has required larger volumes of raw materials to provide working capital for investment. This has generated increased need for more suitable aqua cultural land followed by distortion of rice field and mangrove areas. Moreover, quest for larger volumes of raw materials have generated a process of large farms with higher capital needs, whereas land has become a speculative item by people, who were not traditionally farmers, but seek the large but risky revenues of

shrimp farming. A process of margnalisation in the rural areas is therefore enforced (see also Wilson, 2002).

Therefore, the S-T-SOE alliance does contain advantages as well as disadvantages. But the actual advantages of a strong institutional backing for upgrading to international standards has left Vietnam vulnerable for international critics from lobbyists, who fear the Vietnamese competition. This is further elaborated in the next section

New forms of entry barrier to EU and US markets?

The last two decades has seen complex trading situations regarding seafood globally (Wessels and Wallström, 1994). Among the changes is expansion to a 200-mile exclusive economic zone by coastal nations, which changed the structure of fish harvesting. Growth in aquaculture world wide also changed trading patterns between nations. An upgrading of some developing countries' seafood processing industries to HACCP standards imposed new competition on the major markets. Conflicts involving tariff and non-tariff barriers have thus increased in scope and intensity. Wessels and Wallström (1994) categorize these into four categories: (1) directed policies that relate directly to seafood markets, (2) concern over seafood product quality and safety, (3) market challenges such as dumping, which give rise to tariffs, and (4) fishery management policies, which conflict with international free trade agreements. The success level of achieving equivalency and reducing non-tariff barriers to seafood trade will depend on how interested trading blocs or countries are in co-operating with each other to reduce barriers.

An example, which is elaborated in the following, shows how Vietnam's interventionist policy to successfully upgrade to international seafood standards puts the country in a dilemma of meeting standards on the one hand, while still facing problems on the other.

The great Catfish War

In the US-Vietnamese disputes over catfish, the US government reacted to what they see as Vietnamese dumping of catfish on the US market. According to the USDA, imports of Vietnamese catfish leapt from 60,000 kg in 1996 to 6.25 million kg in 2001 and typically sold for less than U.S.-raised fillets. While still accounting for less than 4 per cent of all catfish sales, Vietnam has captured about 20 per cent of the US frozen fillet market. Vietnamese Catfish were sold on low prices in high volumes in a market,

where their competitors attempted to create an up-market product, which was heavily marketed by the producer association CFA, who have success in a strategy of branding catfish from a 'poor mans fish' to a up-market delicate. Hence, Vietnamese producers became very vulnerable to anti dumping allegations. However, Vietnamese officials point out that at the same time as the countries export increased, U.S. catfish farmers' production continued to grow from 248 million kg in 1996 to 298 million in 2001. Moreover, according to USDA the price decreased from 76 cent per half kilo in 2000 to 55 cents - five cent under the production cost in December 2001, was not only due to import. Rather, it was due to a general fall in the US economy, large holdings by growers and high stock of processor (Aquacultural outlook March, 2002).

As the SPS agreement has made it difficult for importing countries to impose tariffs, new measures are used, such as labelling. Recently, the US government has prohibited other countries from using the name catfish on the US market, except for the subspecies Ictaluridae.[82] This means that 20 other sub-species, which used to be called catfish on the US market - e.g the Vietnamese 'Mekong catfish' - were prohibited, and Vietnamese producers had to change its name. It is therefore now known as basa, tra and several other names. Moreover, it is not allowed marketed as fish from the catfish family[83] (FDA's "Seafood List," provisions of 21 CFR 102, 2002). The US argues that this is not an import ban, but only a change in labelling.

The US Congress and President approved 107-76 act, which has caused difficulties for Vietnamese tra and basa catfish exports to the US. The US Congress has not passed a law to prohibit the import of "Vietnamese catfish." There is no restriction on the export of fish from Vietnam to the US. This legislation addresses a labelling issue and only affects market names.

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[82] Recently enacted Public Law 107-76, "The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2002" contains the following language: "Sec. 775. None of the funds appropriated or otherwise made available by this Act to the Food and Drug Administration shall be used to allow admission of fish or fishery products labelled wholly or in part as "catfish" unless the products are taxonomically from the family Ictaluridae."

[83] Additionally, coined names should avoid unusual spelling (e.g., Catfish) or splitting of syllables (e.g., Cat Fish) such that the name bears too close a resemblance to the name of another food (FDA's "Seafood List," provisions of 21 CFR 102, 2002).

> However, 'once Congress legislated that Vietnamese catfish were no longer catfish, US trade reps were put in an awkward position. The USTR (the agency that negotiates US trade agreements) said 'if a country did this to a US product, the US industry affected would be unhappy'. For example, a South American nation has brought a case against the European Union (EU) because the EU claims only sardines produced by EU nations are actually sardines, says one U.S. trade representative' (who, because of continuing negotiations with the Vietnamese, didn't want his name divulged). Until recently, the USTR was set to write a third-party brief saying the EU was wrong to claim sardines only come from EU nets, says the trade representative. When the catfish flap was set to boil, the USTR found itself in a sticky situation. It couldn't talk out both sides of its mouth. On one hand, it couldn't claim the EU was wrong for its sardine stance and then stand by while Congress did the same thing with catfish' (Bennet, 2002).

But as Vietnam is not a member of WTO they do not have many channels to present their case.

The CFA lobby attacked Vietnamese products for using the name catfish on the US market and discredited the Vietnamese catfish for being produced in areas polluted by Agent Orange (diocxin), a chemical use by the US military in the Vietnam War. However, the U.S. Embassy in Vietnam stated that there was no evidence that the fish was raised in unsafe conditions (Mccain, 2001). However, CFA filed an anti-dumping case against Vietnam, and on July 24, 2002, the Department of Commerce (DOC) issued a notice Act HR 2646 on the official initiation of antidumping duty investigation on the case. Not only had Vietnam been classified as a non-market[84] economy by making their chances very weak. The strong S-T-SOEs alliance, which was previously considered an advantage in upgrading the industry to international standards, had now become a problem for Vietnam and was used as an argument for filing antidumping duty.

[84] According to McCarty and Kalapesi (2003) 'the non market economy' definition by the US DoC is extremely worrying and full of de facto decisions. They further argue that 'it is not possible that Vietnam's export performance is grounded in subsidies. The only valid generalization is that Vietnam is exploiting its comparative advantage in labour-intensive exports'.

On July 23 2003 the US International Department of commerce ruled that Vietnam is illegally dumping catfish on the US market and imposed tariffs ranging from 37 per cent to 64 per cent on frozen filets. Before the ruling, catfish import duties were only 5 per cent. Vietnam's Association of Seafood Exporters and Processors (VASEP) has argued that Vietnamese catfish exports are cheaper than US products due to cheaper labour and feed costs. According to EIU labour coast in Vietnam are 70 per cent of that in the US. The consequences for Vietnamese catfish producers can be devastating, and the more than 500.000 people living off the catfish will this year export only half of the previous year, according to MOF.

After the Catfish ruling, Vietnam fear for a new anti dumping case against its shrimp export valued US$ 467 million, that is ten times larger than the catfish export. According to American Seafood Distributors Association, Southern Shrimp Alliance has now voted to pursue trade action against a number of shrimp producing countries, among others Vietnam (Stevens, 2003; Thuy, 2003; London, 2003). American chamber of commerce in Hanoi chairman Tony Foster expresses worry over this as:

> 'The premises of the catfish decision is that Vietnam is a non-market economy and once that determination is made the catfish is presumably going to be made for shrimp... as the government is so involved in the economic production that there isn't a fair price being accorded to the product' (Asian Pacific Programs, 2003).

In Vietnam, the catfish case is seen as a clear violation of trust and also of the recently signed BTA between the two countries. However according to the US embassy in Vietnam, the US-Vietnam BTA does not prohibit either Vietnam or the U.S. from setting rules to ensure products traded are safe and properly labelled (US embassy 2001). The catfish case also shows how difficult it is for the Vietnamese seafood processing industry to understand foreign markets and also the mechanism in trade disputes, as expressed by VASEP general secretary Dr Dung:

> 'Our error in the past few years was to focus too much on the US market. The BTA agreement makes us look through rose spectacles and forget the ill-fated side of that giant market. We should have studied the market thoroughly and know the rules of the game better' (Lam, 2003).

Moreover, although strong efforts have been made to upgrade the Vietnamese seafood processing industry to international HACCP standards, the industry lacks understanding of marketing. The response by Vietnamese representatives in the value chain, ranging from breeding, farming, processing and trading, is to organize themselves in The Viet Nam "basa" and "tra" (Viet Nam catfish) Club. Both breeders and exporters have agreed to strengthen co-operation in trading with a fixed minimum price for products to avoid dumping of prices and to co-ordinate their marketing strategies.

Conclusion

The introduction of HACCP/EU-CODE has lead to an upgrading of the handling of the shrimps in the production line in Vietnamese seafood processing companies. As a result, the technology and the buildings have been upgraded. However, since upgrading to these standards requires large amounts of capital (the cost of two standards, two applications etc.), upgrading has mainly happened in Vietnam's SOEs at the expense of the private sector. But since being a manager of a SOE has been regarded as a rank rather than a job, SOEs have difficulties in controlling standardisation processes. The efforts to live up to HACCP/EU-CODE standards, has resulted in limited upgrading of organisational structure, supply management and marketing strategies, whereas former SOEs business strategies has often been continued rather than upgraded.

Western consumer pressures for safe food make it unrealistic for this paper to argue that the introduction of new rules governing international seafood trade is not acceptable. Furthermore, standards do not necessary hinder developing countries like Vietnam from participating in global trade, but do to some extent enhance their competitiveness. But differences between international standards expose companies to high costs and other difficulties, and hence achieving 'equivalency' would enhance their competitiveness. However, as shown in the catfish case, applying to international standards like HACCP regulated under SPS agreement also confront the sector with new technical measures such as labelling requirements. This puts pressure on governments and institutional intermediaries with responsibility for implementing and regulating the compliance of the standards. But most importantly, it marginalizes especially privately owned seafood companies in Vietnam, as these do not benefit from what has here been termed the S-T-SOEs alliance.

Global rules in the form of WTOs SPS regulation, arguably weaken nation states' possibilities of undertaking interventionists state policies, while at the same time requires state to improve their regulatory capacity. Effective institutional organisation is a key factor in response to SPS regulation. If no actions are taken to increase regulatory capacities to coordinated and controlled compliance and assessing conformity to SPS regulation, regulation will be left to the market forces. This will generate a process of marginalization of both countries and individual companies, as these are excluded from main markets that require compliance to SPS regulation. Additionally, the lack of a 'equivalency' concept on standards like HACCP adds further costs on LDC and LDC companies because of the need of motoring changes. Both institutions and individual firms needs a sophisticated form of management a capacity which can not be expected to be present in many LDC. Within countries, winners and loser are created as standards act to re-enforce strengths and weaknesses at the company level and within the value chain. Size matters as SPS is challenging the technical and the human resource capability, but also the financial strength of companies. Moreover, preference of standards coincides with significant downward pressure in the chain to undertake increasing numbers of tasks outsourced from buyers, and hence increasing the economic burden on LDC companies. Countries that have the capacity to upgrade their institutions and individual firms to international SPS regulation do have the opportunity to link up and gain OEM status with increased value added production as a result. However, what appears to be Vietnam's advantage of a strong institutional backing for upgrading to international standards, has left the country vulnerable to international critics. The U.S. International Trade Commission stated that Vietnam is illegally dumping catfish on the American market - an outcome some fear may start a landslide of trade sanctions against other Vietnamese seafood exports such as shrimps. The power game to control and set rules remains present even when countries have upgraded to SPS regulation, whereas these countries' newly received competitiveness require insight in interpreting end-markets e.g. to avoid conflicts with strong local producers.

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