



*Technical Report*

# **Streamlining DA SPS Administration: Integrative Report**

**by Cesar Virata and Associates (CVAI)**

**Prepared for**

**Undersecretary Segfredo Serrano  
Department of Agriculture  
Republic of the Philippines**

**Submitted for review to**

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# Preface

This report is the result of technical assistance provided by the Economic Modernization through Efficient Reforms and Governance Enhancement (EMERGE) Activity, under contract with the CARANA Corporation, Nathan Associates Inc. and The Peoples Group (TRG) to the United States Agency for International Development, Manila, Philippines (USAID/Philippines) (Contract No. AFP-I-00-00-03-00020 Delivery Order 800). The EMERGE Activity is intended to contribute towards the Government of the Republic of the Philippines (GRP) Medium Term Philippine Development Plan (MTPDP) and USAID/Philippines' Strategic Objective 2, "Investment Climate Less Constrained by Corruption and Poor Governance." The purpose of the activity is to provide technical assistance to support economic policy reforms that will cause sustainable economic growth and enhance the competitiveness of the Philippine economy by augmenting the efforts of Philippine pro-reform partners and stakeholders.

Aware that the administration of Sanitary and Phytosanitary (SPS) regulations in the Department of Agriculture (DA) is characterized by several dysfunctions at the legal, organizational and procedural levels, DA Undersecretary Segfredo Serrano requested technical assistance (TA) from USAID's Economic Modernization through Efficient Reforms and Governance Enhancement (EMERGE) Project to help streamline DA SPS administration. In response, EMERGE commissioned Cesar Virata and Associates (CVAI) to mobilize a team of six experts, one each in agricultural policy, legislative matters, organizational development, systems, institutional reform, and communication (Ms. Beulah de la Pena, Atty. Elizabeth Macaibay, Ms. Irene Villapando, Mr. Gerry Gazmen, Ms. Marinella Castillo and Mr. Benedicto Rayco), to provide the TA.

The Project Team was tasked to work with an interagency SPS Task Force consisting of selected DA officials on the diagnostics module of the TA. This module has the following outputs: 1) A Report on SPS Regulations and their Importance to Trade, 2) A Report on The Legal Parameters in the Administration of SPS Systems, 3) A Report on The Organizational System for Sanitary and Phytosanitary Administration, 4) A Report on The Business Processes in SPS, 5) A Report on Change Management, and 6) a summary, Integrative Report. (The DA has requested that the Report on Change Management not be distributed or released to the public.)

The views expressed and opinions contained in this publication are those of the authors and are not necessarily those of USAID, the GRP, EMERGE or the authors' parent organization.

**STREAMLINING  
DA SPS  
ADMINISTRATION:  
INTEGRATIVE REPORT**

**March 2006**

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## ACRONYMS

AO	Administrative Order
ASEAN	Association of Southeast Asian Nations
BAFPS	Bureau of Agriculture and Fisheries Product Standards
BAI	Bureau of Animal Industry
BAS	Bureau of Agricultural Statistics
BFAD	Bureau of Food and Drugs
BFAR	Bureau of Fisheries and Aquatic Resources
BPI	Bureau of Plant Industry
BPS	Bureau of Product Standards
CODEX	Codex Alimentarius Commission
DA	Department of Agriculture
EMERGE	Economic Modernization through Efficient Reforms and Governance Enhancement
FAO	Food and Agriculture Organization
FDC	Food Development Center
IPPC	International Plant Protection Convention
IRR	Implementing Rules and Regulations
NMIS	National Meat Inspection Service
NPAL	National Pesticide Analytical Laboratory
PCA	Philippine Coconut Authority
PD	Presidential Decree
PQS	Plant Quarantine Services
RA	Republic Act
SPS	Sanitary and Phyto-sanitary
USAID	United States Agency for International Development
WTO	World Trade Organization

## 1. Introduction

### 1.2. Background

The Medium Term Philippine Development Plan (MTPDP) mandates the Department of Agriculture (DA) to rationalize and streamline quarantine and other trade regulations, collectively known as SPS measures, so that these effectively address safety requirements while remaining facilitative of trade. In the DA itself, the administration of SPS is shared by several agencies including the Bureaus of Plant Industry (BPI), Animal Industry (BAI), Fisheries and Aquatic Resources (BFAR), and Agriculture and Fisheries Product Standards (BAFPS) as well as the National Meat Inspection Service (NMIS). Also involved are commodity-development agencies – Philippine Coconut Authority (PCA), Sugar Regulatory Administration (SRA), National Food Authority (NFA), Fiber Industry and Development Authority (FIDA), National Tobacco Administration (NTA), Cotton Development Authority (CODA), and Fertilizer and Pesticide Authority (FPA). Aware that the administration of SPS in the DA is characterized by several dysfunctions at the legal, organizational and procedural levels, the DA, through Undersecretary Segfredo Serrano, requested for technical assistance (TA) from international donor agencies, including the USAID's Economic Modernization through Efficient Reforms and Governance Enhancement (EMERGE) Project to streamline DA SPS administration. In response, EMERGE commissioned Cesar Virata and Associates (CVAI) to mobilize a team of six experts, one each in agricultural policy, legislative matters, organizational development, systems, institutional reform, and communication, that will provide the DA such technical assistance.

The objectives of the TA are:

1. to formulate a consistent and adequate legal and administrative policy framework for SPS regulations to be effective and supportive of business;
2. to develop transparent, firm-neutral, and simplified processes for enforcing SPS measures effectively; and
3. to institutionalize effective and sustainable organizational, technical, and funding arrangements for SPS enforcement.

The TA is broken down into three phases, which are as follows:

1. a *diagnostic module*, which will identify the most trade-important SPS measures and document and assess the current legal, organizational, procedural, and technical arrangements and resources for implementing these measures. This phase will highlight the various weaknesses of the present systems and recommend areas for improvement. This phase will also include an identification of the various stakeholders and their respective interests in the most important SPS measures.
2. a *re-design module*, which will see the development of streamlined procedures, more efficient organizational set-up, sustainable funding modes,

more effective technical processes and a cohesive legal framework for SPS enforcement. It will also explore and develop, as appropriate, IT-based systems as well as risk-management and Bureau of Customs (BOC) interface elements in the SPS enforcement processes. It will also draft a change management plan meant to reduce the adjustment problems of reforming SPS processes and arrangements. This phase shall rely heavily on consultations with the various stakeholders.

3. an *installation module*, which will provide assistance in the training and orientation of implementors and other stakeholders, in the drafting of administrative issuances, in the installation of the IT systems, in the setting up of new organizations and in putting together other inputs to adopt the changes envisioned and developed in the re-design module.

### **1.3. Scope of Current TA**

The Project Team was tasked to work with an inter-agency SPS Task Force consisting of selected DA officials on the diagnostics module of the TA. It was agreed that the TA would focus on four agencies – the BPI, BAI, NMIS and BAFPS, as a microcosm of DA SPS administration – to make the activity manageable. This module has the following outputs:

1. A Report on SPS Regulations and their Importance to Trade,
2. A Report on The Legal Parameters in the Administration of SPS Systems,
3. A Report on The Organizational System for Sanitary and Phytosanitary Administration,
4. A Report on The Business Processes in SPS, and
5. A Report on Change Management

This report integrates the above-stated outputs of the diagnostics.

### **1.4 Methodology**

The diagnostic studies relied on documents gathered from the agencies, consultations with the agency officials, interviews of the people actually doing the various SPS functions, including those in field stations, and consultations with representatives of business sectors that are affected by SPS regulations. The team visited the main offices involved in SPS but did not visit the inspection areas and did not observe first hand the conduct of regulatory enforcement.

## **2. SPS and Trade**

### **2.1. Definition of SPS**

Sanitary (animal and human health) and phyto-sanitary (SPS) measures are regulations that aim (1) to protect plant and animal health and (2) to ensure food safety. Among these regulations are product standards, process standards, packaging and labeling rules, and quarantine rules or those governing the transport of agricultural products.



## 2.2. *SPS International Affiliations*

The Philippines is a member of several international institutions that are concerned with the use of SPS. These institutions are the World Trade Organization (WTO), the Codex Alimentarius Commission (CODEX), the Office International des Epizooties (OIE) [a.k.a. World Animal Health Organization], and the International Plant Protection Convention (IPPC).

The General Agreement on Tariffs and Trade (GATT) 1994, which created the WTO, also includes an Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). The latter recognizes the right of Member Countries to take measures necessary for the protection of human, animal and plant life or health, provided that these are not disguised restrictions on international trade and do not discriminate across countries. While encouraging harmonization with international standards developed under the CODEX, OIE and IPPC, it accepts the concepts of equivalence of different measures as well as regional differences. Thus SPS measures that are different or more restrictive than international norms may be enforced by Member Countries but such measures must be based on scientific justification and risk assessment and circulated or made known to other Member Countries reasonably well before implementation.

The CODEX is an inter-governmental body that develops standards for food safety. It is open to members of the Food and Agriculture Organization (FAO) of the United Nations (UN) and/or World Health Organization (WHO) The BAFPS officially represents the country in this body.

The IPPC, meanwhile, aims to secure common and effective action to prevent the spread and introduction of pests in plant and plant products and to promote appropriate measures for their control. It was last amended in 1997 to align with the SPS Agreement. It has approved and adopted some 24 International Standards for Phytosanitary Measures (ISPMs). The country is represented in the IPPC by the BPI.

The OIE is an intergovernmental organization working to ensure transparency in the global animal disease situation, to collect, analyze and disseminate veterinary scientific information, to provide expertise and encourage international solidarity in the control of animal diseases, and to safeguard world trade by publishing health standards for international trade in animals and animal products. The OIE recognizes the BAI as the country's representative.

At the regional front, the Philippines is a member of the Association of South East Asian Nations (ASEAN) and thus participates in the latter's initiative to establish an ASEAN Free Trade Area (AFTA). Under this initiative, the countries agreed to reduce all tariffs to a maximum 3%; eliminate non-tariff barriers and quantitative restrictions; harmonize customs nomenclature, valuation, and procedures; and develop a common standard for product certification. To date, the following have been completed: (a) ASEAN scheme for the accreditation of halal food establishments; (b) harmonization of the maximum residue levels (MRLs) of pesticides covering 36 pesticides, 50 vegetables, 22 fruits and 9 cash crops; (c) standardization of procedures for the registration of animal vaccines such as canine parvovirus vaccine; and (d) accreditation of livestock establishments for livestock production and pig and chicken

slaughter. The agreed procedures are contained in several manuals, among them the Manual of ASEAN Standards for Animal Vaccines, Manual of ASEAN Rules and Procedures for the Registration of Animal Vaccines, Manual of ASEAN Standards for Good Manufacturing Practices for Animal Vaccines, and Manual of ASEAN Accreditation Criteria for Animal Vaccine Testing Laboratories. These publications also include the Manual of ASEAN Code of Practice for the Commercial Storage, Transportation and Handling of Animal Vaccine, Protocol for Accreditation of Animal Vaccines Testing Laboratories in ASEAN Member Countries and Guidance on Registration of Animal Vaccines.

The ASEAN Strategic and Action Plan (2005-2010) for the agriculture sector spells out additional activities on SPS, including:

1. harmonization of phytosanitary measures for cut flower, citrus, mango, durian and banana;
2. strengthening of national frameworks for pest risk analysis;
3. biosecurity planning;
4. harmonization of MRLs for additional pesticides;
5. establishment of an ASEAN Genetically Modified Food Testing Network; and
6. establishment of ASEAN harmonized standards for mango, pineapple, durian, papaya, pomelo, rambutan and mandarin.

### **2.3. Trade Relevance of SPS**

The international and regional concern with SPS administration is clearly based on its impact on trade. A country's set of SPS measures generally controls trade on the imports side to prevent the entry or spread of unwanted pests, diseases and unsafe food; and facilitates trade on the exports side by ensuring that products meet the SPS requirements of trading partners.

In the Philippines, some 21,366 million dollars of agricultural imports from 1995 to 2004 are products clearly subject to some form of SPS measure by the agencies under study. This figure comes up to 66% of the 32,291 million-dollar total agricultural imports for the period. The BAI and NMIS have SPS measures on 9,632 million dollars worth of imports while the BPI has SPS measures on a bigger 15,009 million dollars worth of imports. For exports, the agencies under study plus the Food Development Center had some form of domestic SPS support measure for products with imports of about 6,435 million dollars or 75% of agricultural exports from 1995 to 2004. However, since some domestic export support measures are destination-specific and some are not even compulsory, the value of exports actually covered by these SPS measures could be much lower.

SPS measures will be assuming even greater importance as trade is expected to accelerate. Agricultural imports, growing in real terms at a sluggish annual rate of 1.50% from 1995 to 1998 and 0.42% from 1998 to 2001, increased heartily at 5.92% per year from 2001 to 2004. Agricultural exports, declining at the annual rate of 8.17% and 5.40% over the periods 1995 to 1998 and 1998 to 2001, respectively; grew by an impressive 18.59% per year from 2001 to 2004.

### **3. Mandates and Functions on SPS**

There are a myriad of legal issuances on SPS in the Philippines. The more significant among these are:

1. Act No. 3639 creating the BAI and tasking it with adoption and enforcement of sanitary measures;
2. The Plant Quarantine Law of 1978, Presidential Decree (PD) No. 1433 creating the Plant Quarantine Services (PQS) in the BPI and tasking it with overseeing the enforcement of plant quarantine measures;
3. The Revised Administrative Code of 1987, Executive Order (EO) No. 292 tasking the BAI with the adoption and handling of SPS measures (referred in the Code as quarantine laws, rules and regulations) for livestock, poultry and dairy; the BPI, for agricultural crops; the Bureau of Fisheries and Aquatic Resources (BFAR), for fishery and aquatic resources; the National Meat Inspection Commission (NMIC), for animals for slaughter, carcasses and meat establishments; while giving the regional offices of the DA, the duty and responsibility to implement and enforce plant and animal quarantine laws, rules and regulations within their respective administrative region;
4. Livestock and Poultry Feeds Act, Republic Act (RA) No. 1556, placing the oversight of feeds and feeding stuffs under the coverage of the BAI;
5. Animal Welfare Act of 1998 giving the BAI the power to supervise and regulate the establishment and operations of all facilities utilized for breeding, maintaining, keeping, treating or training of all animals and the Committee on Animal Welfare the mandate to issue the necessary rules and regulations for the implementation Act including the setting up of safety and sanitary standards;
6. Agriculture and Fisheries Modernization Act (AFMA) of 1997, RA 8435, creating the BAFPS and mandating it to formulate and enforce standards of quality of agricultural and fisheries products and to conduct inspection of places where the products are found;
7. Department of Agriculture Administrative Order (AO) No. 17, series of 1998 as amended by AO No. 1, series of 2000 providing for the establishment of the BAFPS and, instead of tasking it with standards enforcement, giving it the power to “recommend to the Secretary the designation of appropriate agencies empowered to enforce the regulatory provisions of RA 8435, consistent with existing laws;”
8. RA 9296, dated May 12, 2004, renaming the NMIC as NMIS and making it the sole national controlling authority on all matters pertaining to meat and meat product inspection and meat hygiene;
9. The Fisheries Code providing for the reconstitution of the BFAR as a line bureau under the DA tasked to implement an inspection system for import and

export of fishery/aquatic products and fish processing establishments consistent with international standards to ensure product quality and safety;

10. Coconut Preservation Act of 1995, RA 8048, tasking the Philippine Coconut Authority (PCA) to look into disease infestation in coconut trees;
11. PD 1144, dated May 30, 1977, empowering the Fertilizer and Pesticide Authority (FPA) establish and implement regulations governing import and export of fertilizer and fertilizer inputs;
12. PD 1208 giving the Abaca Industry Development Authority (FIDA) the mandate to regulate research, production, processing and marketing of abaca in both the domestic and international markets;
13. Local Government Code of 1991, RA 7160, devolving to the local government units (LGUs) particularly the cities and provinces the function and responsibility for the prevention and control of plant and animal pests and disease;
14. RA 7227 creating the Subic Special Economic and Freeport Zone and empowering the Subic Bay Metropolitan Authority (SBMA) to establish rules and procedures necessary to carry out human, animal, plant health and quarantine laws and regulations within the zone;
15. Consumer Act of the Philippines, R.A. 7394 passed in 1992, tasking the Department of Health (DOH) with ensuring consumer product quality and safety of food, defined to mean any substance, whether processed, semi-processed or raw; and the DA with ensuring consumer product quality and safety of agricultural products; and
16. Executive Order No. 430, passed in 1990, creating the National Committee on Biosafety of the Philippines and tasking the same to formulate and review national policies and guidelines on biosafety for the protection of public health; supervise the implementation of the same; and develop working arrangements with the government quarantine services and institutions in the evaluation, monitoring and review of projects vis-à-vis adherence to national policies and guidelines on biosafety.

With all these legal issuances, it is clear that the SPS function in the country is shared by a number of government agencies, committees, and units. It is as clear that the respective mandates for SPS of these entities stem from separate legal issuances that are at times reinforcing but in many instances providing overlapping jurisdictions over specific SPS functions and areas. While some laws provide for some centralization of SPS powers -- with the BAFPS, the DA bureaus, and NMIS -- other laws provide for decentralization to LGUs and the SBMA. Still others provide for fragmentation by product to specialized commodity agencies. Other laws also mandate non-DA central agencies, e.g. the DOH and the National Committee on Biosafety, with SPS powers.

#### 4. Organization for SPS in the DA

In the DA, the bulk of the SPS function is the responsibility of five agencies – the BAFPS, the BAI, the BPI, the NMIS and the BFAR<sup>1</sup>.

By agency, the delineation of responsibilities is by product group, by SPS concern -- animal health, plant health and food safety -- and by SPS function -- development vs. enforcement. The distribution is shown in table 1 below.

Table 1  
Distribution of SPS Functions

Function	BAFPS	BAI	BPI	NMIS
<b>Product Group</b>				
Plant and plant products	✓		✓	
Animal and animal products	✓	✓		
Fish and aquatic products	✓			
Meat and meat products	✓			✓
<b>SPS Concern</b>				
Animal health		✓		
Plant health			✓	
Food safety	✓			✓
<b>SPS Component</b>				
<b>Development</b>				
Products standards	✓			✓
Process standard	✓			✓
Risk assessment		✓	✓	✓
<b>Enforcement</b>				
		✓	✓	✓

Among these agencies, not one is charged with food safety enforcement for plant and plant products. For meat safety, the NMIS is charged with SPS development and enforcement. The BAFPS, concerned with food safety of plant based products as part of its quality standards development for all agricultural and fishery products, has not been administratively empowered to undertake enforcement. The DA in general has the mandate for food safety under the Consumer Code but the same is not connected to the BPI's SPS regulations.

##### 4.1. Organizational Structure

The SPS agencies covered by this study have different scopes of mandate relative to SPS. The BPI and BAI are concerned with overall development in their respective sectors so SPS concerns co-exist with other regulatory and development concerns such as research, extension, and input production. The NMIS and BAFPS, on the other hand, are more focused agencies with NMIS largely dealing with regulatory functions and the BAFPS dealing mostly with product standards development.

The agencies report to different DA undersecretaries (**Figure 1**). The BPI is under the supervision of the Undersecretary for Operations. The BAI and the NMIS report to the Undersecretary of Fisheries and Livestock, and the BAFPS, to the Undersecretary for Policy, Planning, Research and Regulation. The field personnel in

<sup>1</sup> Following discussions will exclude BFAR as the agency is not included in the scope of the study.

quarantine stations, technically supervised by the BPI and the BAI, are under the administrative supervision of the Regional Field Unit (RFU) Directors who, in turn, report to Undersecretary for Operations.

The distribution of functions by division is generally clear across all the agencies. It is mostly based on task theme – e.g. the division doing imports regulations is separate from the one doing laboratory testing -- except that the BAI also delineated the tasks by product – e.g., the division handling imports regulation for feeds is separate from the division doing the same for live animals. The divisions and their respective tasks are shown in Table 2.

The BPI has two divisions involved in SPS – the Plant Quarantine Service (PQS) and the Laboratory Services Division (LSD). Being a staff bureau, the BPI's enforcement of quarantine measures is assisted by PQS stations and regional laboratories administratively under the DA RFUs. However, its pesticide residue monitoring on raw fruits and vegetables is done by a national laboratory – the National Pesticide Analysis Laboratories (NPAL) -- and satellite laboratories directly under the agency.

The BAI has seven divisions involved in SPS but two of these are *ad-hoc* arrangements in that these were created by the DA without DBM approved plantilla. Another unit was created from a project assisted by the FAO. These units -- the National Veterinary Quarantine Services (NVQS), the Animal Welfare Division, and the Philippine Animal Health Center -- are thus staffed by personnel holding plantilla positions of the other divisions. Like the BPI, the BAI does its enforcement in the field through veterinary quarantine stations manned by personnel administratively under the RFUs.

The BAFPS, created in 1998 by the AFMA, operated without plantilla positions up to mid 2005, when the DBM finally approved its staffing pattern. Functionally, its work is divided into major areas – standards development, laboratory services and technical support.

The NMIS is in transition, organized from NMIC by RA 9296 in 2005. It is supposed to operate with six divisions in the central office complemented by the regional technical operation centers directly under its administrative control. This is not very different from the current set-up.

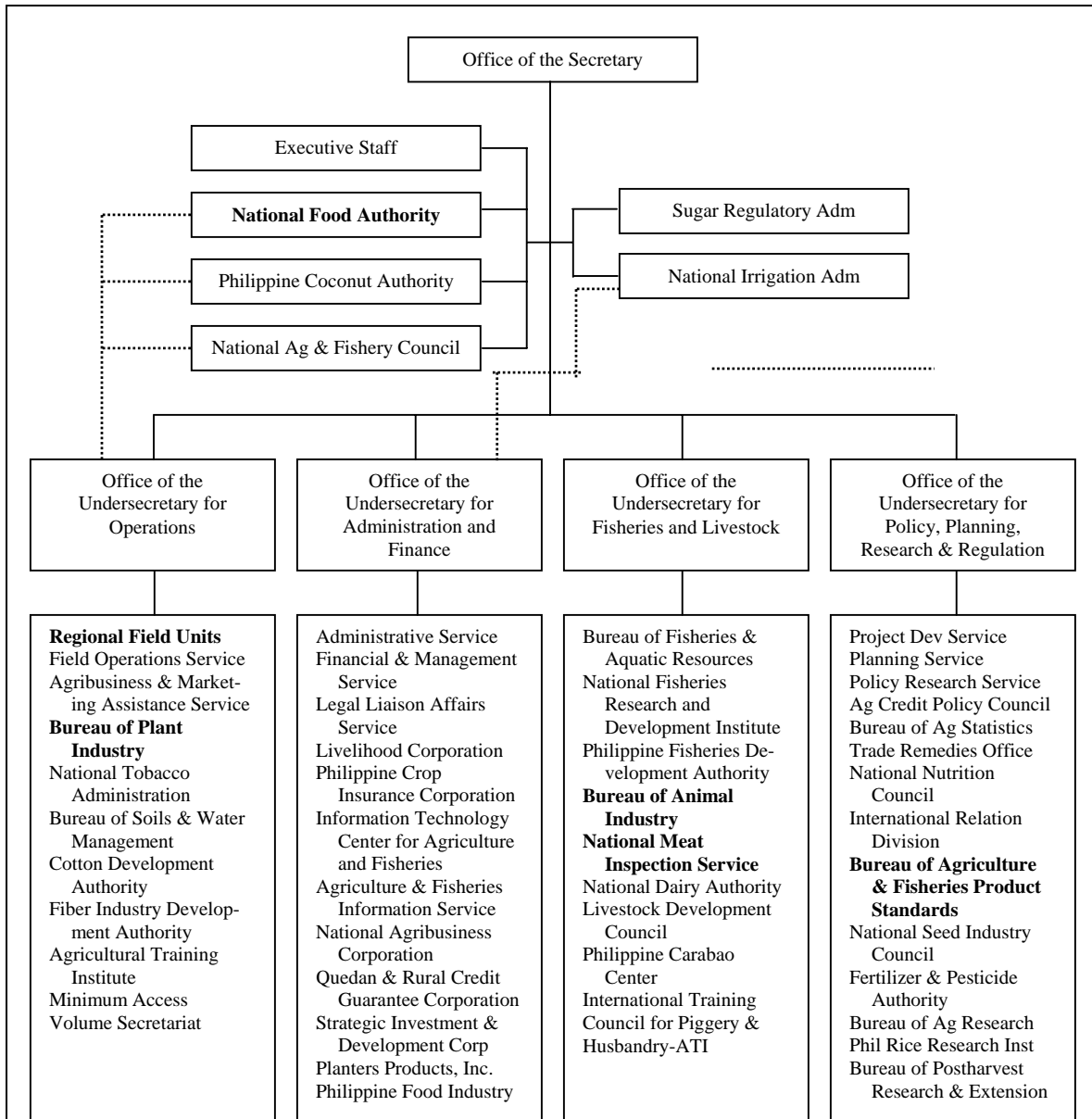


Figure 1. Organizational chart, Department of Agriculture

Note: Based on SO No. 331, s 2001.

Table 2  
Divisions and Functions in SPS

Agency/Division	Function
<b>BPI</b>	
Plant Quarantine Service (PQS), Central Office	<ul style="list-style-type: none"> <li>o Implement plant quarantine rules and regulations to prevent the introduction of foreign pests and further spread of such quarantine pests that are already present in the country;</li> <li>o Facilitate safe trade of plants and plant products;</li> <li>o Plan, formulate and review programs, bilateral and multilateral agreements and other plant quarantine instruments;</li> <li>o Represent the office in international and regional I on plant quarantine and related matters.</li> </ul>
Operations	<ul style="list-style-type: none"> <li>o Issue import permits, domestic permits and phytosanitary certificates;</li> <li>o Undertake surveillance of proposed pest free areas;</li> <li>o Establish Pest Free Areas (PFA) and Areas of Low Pest Prevalence (ALPP);</li> <li>o Conduct Pest Risk Analysis (PRA);</li> <li>o Accredite importers and quarantine treatment service providers;</li> <li>o Maintain International Phytosanitary Portal;</li> <li>o Undertake phytosanitary capacity evaluation;</li> <li>o Supervise and the export program;</li> <li>o Implement AO No. 8</li> </ul>
Support to International Cooperation and Agreements	<ul style="list-style-type: none"> <li>o Act as Secretariat to the Plant Quarantine Board;</li> <li>o Monitor, verify, evaluate rules and regulations issued to make these consistent with international agreements;</li> <li>o Participate in bilateral, multilateral and international quarantine agreement negotiations;</li> <li>o Responsible for compliance to obligations under the IPPC and APPC/SPs pest categorization, pest reporting, etc.</li> </ul>
Support to PQS Stations	<ul style="list-style-type: none"> <li>o Provide plant quarantine technical support services;</li> <li>o Undertake plant quarantine special projects;</li> <li>o Undertake consultations on plant quarantine matters;</li> <li>o Perform other functions related to training, data gathering and data processing.</li> </ul>
PQS in ports, airports, etc	<ul style="list-style-type: none"> <li>o Undertake phytosanitary inspection;</li> <li>o Issue phytosanitary certificates, carrier clearance, commodity clearance and domestic quarantine permits;</li> <li>o Undertake grow-in and post entry monitoring;</li> <li>o Maintain PFAs/ALPPs;</li> <li>o Monitor quarantine-accredited entities.</li> </ul>



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Agency/Division	Function
Laboratory Services Division	<ul style="list-style-type: none"> <li>o Characterize agricultural crops and their by-products;</li> <li>o Undertake crop utilization and product development;</li> <li>o Monitor pesticide formulated products, pesticide residues and other contaminants in food.</li> </ul>
National Pesticide Analytical Laboratory (NPAL)	<ul style="list-style-type: none"> <li>o Monitor the level of pesticide residues in local, exportable and imported agricultural crops;</li> <li>o Monitors pesticide formulated products for quality, stability and label guarantee;</li> <li>o Provide analytical services for formulated products and residues in commodities;</li> <li>o Generate data used in establishing the maximum residue level.</li> </ul>
Satellite Pesticide Analytical Laboratories	<ul style="list-style-type: none"> <li>o All of the above except the provision of analytical services for formulated products;</li> <li>o Provide analytical services for residues in commodities</li> <li>o Determine pesticide residues in agricultural crops in order to protect local and international consumers from any health hazards;</li>   <li>o Check the indiscriminate use and application of pesticide in food crops and other agricultural products;</li> <li>o Determine pesticide degradation on different crops in order to establish 'waiting times';</li> <li>o Determine and evaluate practices on the use of pesticides.</li> </ul>
<b>BAI</b>	
Laboratory Services Division	<ul style="list-style-type: none"> <li>o Provide support to regulatory activities through quality control tests, chemical analysis, drug assay and production of laboratory animals, bacterial and viral vaccines, pharmaceuticals and diagnostic antigens.</li> </ul>
Animal Feeds Standard Division	<ul style="list-style-type: none"> <li>o Register, accredit, and issue permits for animal feeds, ingredients, veterinary drugs and products;</li> <li>o Inspect and evaluate activities as well as product standardization</li> </ul>
Marketing Development Division	<ul style="list-style-type: none"> <li>o Accredit meat handlers and transport carriers;</li> </ul>
Animal Health Division	<ul style="list-style-type: none"> <li>o Control domestic movement of animals</li> </ul>

Agency/Division	Function
National Veterinary Quarantine Services (NVQS)	<ul style="list-style-type: none"> <li>o Issue Veterinary Quarantine Certificate and other permits related to international trade;</li> <li>o Control movement of animals/animal products/by-products for import/export;</li> <li>o Accredite domestic importers/ exporters and establishments in other countries that export to the Philippines;</li> <li>o Formulate policies, rules and procedures pertaining to international movement of animals/ animal products/by products;</li> <li>o Establish system of surveillance of foreign animal diseases;</li> <li>o Establish international quarantine stations.</li> </ul>
Philippine Animal Health Center (PAHC)	<ul style="list-style-type: none"> <li>o Provide diagnostic laboratory services in support of regulation activities</li> </ul>
Animal Health Division	<ul style="list-style-type: none"> <li>o Register animal facilities --- aviary, animal control facility, circus/carnival animal show, hog/poultry farms, veterinary hospital/clinic, etc</li> </ul>
<b>NMIS</b>	
Plant Operation and Inspection Division	<ul style="list-style-type: none"> <li>o Undertake technical supervision of meat plant operations</li> <li>o Manage the GMP and HACCP programs</li> <li>o Undertake certification of local transport for meat and meat products</li> </ul>
Accreditation, Registration and Enforcement Division	<ul style="list-style-type: none"> <li>o Formulate and implement policies and guidelines for the accreditation of facilities for processing (dressing plants, slaughterhouse, etc), cold storage and transport (meat delivery vans)</li> <li>o Undertake surveillance of the movement of meat and meat products at times of disease outbreak</li> </ul>
Meat Import/Export Inspection and Assistance	<ul style="list-style-type: none"> <li>o Undertake inspection of imported meat and meat products;</li> <li>o Evaluate establishments of exporting countries for disease, residues and contamination;</li> <li>o Recommend certification of export products</li> </ul>
Laboratory Services Division	<ul style="list-style-type: none"> <li>o Provide support to inspection activities;</li> <li>o Undertake routine monitoring for quality and safety of meat all stages of production, distribution and sale.</li> </ul>
Regional Technical Operation Centers	<ul style="list-style-type: none"> <li>o Perform the same functions and undertakes activities at the field level.</li> </ul>

Agency/Division	Function
<b>BAFPS</b>	
Standards Development Division	<ul style="list-style-type: none"> <li>o Formulate and/or modify national standards;</li> <li>o Participate in the development of international standards and harmonization of established international standards with national standards;</li> <li>o Participate in international deliberations and fora on safety and quality of agriculture and fishery products;</li> <li>o Facilitate consultative meetings and public hearings on the establishment of national standards;</li> <li>o Serve as Philippine focal point for Codex-related matters.</li> </ul>
Laboratory Services Division	<ul style="list-style-type: none"> <li>o Coordinate with laboratories of other agencies with standard enforcement functions on laboratory requirements for testing and method of validation;</li> <li>o Conduct tests and analysis of raw, primary- and secondary-processed agriculture and fishery products for standards development;</li> <li>o Conduct research on the safety level for human consumption of additives, contaminants and other deleterious substances used or added in raw, primary- and secondary-processed agriculture and fishery products;</li> <li>o Conduct laboratory analysis or evaluation on SPS notifications where no international standards, guidelines or recommendations exist;</li> <li>o Collaborate with relevant agencies including those under the DTI, DOST and DOH on laboratory accreditation and certification of small and medium enterprises;</li> <li>o Provide inputs to the Standards Development Division with respect formulation or revision of national standards.</li> </ul>
Technical Services Division	<ul style="list-style-type: none"> <li>o Implement programs that support consumer protection and safety and heightens awareness to quality assurance systems;</li> <li>o Conduct inspection and certification of handling and processing plants, storage facilities, abattoirs and public and private markets;</li> <li>o Enforce and disseminate information on standard requirements for preservation, packaging, labeling, importation, exportation, marketing distribution and advertising of agriculture and fisheries products;</li> <li>o Undertakes studies on areas not covered by the other divisions such as on non-food agriculture and fishery products, TBT issues, etc.</li> </ul>

#### **4.2. Staffing**

The staffing for SPS in the agencies studied is practically nil compared to DA's reported 37,000 personnel of which more than 25% percent are in the Office of the Secretary and the Bureaus. A total of 287 personnel, with 29 percent located in Manila and the rest in the regions and selected key cities, man the BPI's offices and facilities in SPS. In the BAI, 178 personnel (40 percent of total workforce of 447) are in the seven divisions involved in SPS. The NMIS has 343 people occupying plantilla positions of its predecessor, the NMIC; while the BAFPS now has 21 personnel assisted by 22 on-call experts.

Most personnel in SPS work have the proper technical background but there are cases of mismatch between work and personnel. In the BAI, majority of the employees holding supervisory positions are veterinarians or holders of a master's degree. In the BAFPS, the very limited number of technical staff has the appropriate educational background and training, some with post-graduate qualifications. However, there are plant quarantine officers whose educational backgrounds are not in any way close or related to agriculture and that some fumigators or inspectors have very little knowledge of correct and appropriate fumigation practices.

There is, moreover, little uniformity or pattern in the staffing of field stations, at least for the BPI which provided data. As mentioned earlier, these stations are only technically supervised by the BAI or BPI; administratively under the RFUs the personnel are assigned by the DA Regional Directors. The position names as well as the number of support staff differ across stations and satellites with no discernable pattern. The designated heads of the PQS hold positions of Agricultural Center Chief III, Agriculturist I, or Agricultural Technical II. At least one PQS head holds a position lower than positions held by several staff he supervises.

#### **4.3. Laboratories**

Each of the agencies maintains laboratory facilities, which altogether represent substantial resources for SPS. The BPI has the National Pesticide Analysis Laboratory with 5 satellites across the country. The NPAL is the only laboratory that has the capability and responsibility to analyze pesticide residues in agricultural crops and is acknowledged as the most modern pesticide analytical laboratory in ASEAN.

The BAI operates and maintains four types of laboratory: (a) mycotoxin laboratory for quality assurance for mycotoxin in feeds and feed materials; (b) veterinary biologics standardization laboratory for quality assurance for safety, potency and efficacy of locally manufactured and imported veterinary biologics; (c) a central animal feed analysis laboratory for quality assurance for compliance with manufacturer's declared standard of locally produced and imported feeds and feedstuff; and (d) drug assay laboratory for quality assurance for conformity to specifications in the label claim of locally produced and imported antibiotics and vitamins raw materials, veterinary drugs, veterinary vitamins and antibiotic premixes.

In the meantime, the NMIS has central and regional laboratories capable of: (a) product evaluation (organoleptic or sensory evaluation, physical characteristics and pH test); (b) microbiology examination (standard plate count, coliform count, bacterial count identification, sterility test and aerobic bacterial isolation); (c) parasitology for the presence of meat parasites; and (d) necropsy. The central laboratory is also capable of (e) screening test for antibiotic residue and (e) biotechnology

Despite these numbers, laboratory capacity and maintenance remains wanting. Only 17 of the BPI's 102 PQS stations nationwide have provisions for laboratory facilities and only four of these -- the Central Office Biotechnology Laboratory, the PQS laboratory at Central Office and at the South Harbor, and the Post Entry Laboratory in Los Banos --- appear to be technically-equipped in both facilities and personnel. The other laboratories, including the one located at the one-stop-service center (for exports) in Manila are either non-operational or minimally used due to lack of or non-functional equipment and lack of personnel. The other agencies report a persistent lack of laboratory supplies like reagents.

#### **4.4. *Fees Collection and Revenue Generation***

The agencies generate revenues through the collection of fees on the various services related to accreditation, inspection and licensing.

The BPI is able to retain and use its collections from quarantine services, reported at about P6 million to P8 million a year under a Revolving Fund of the National Plant Quarantine Service which, as provided for in PD 1433, is 'to augment all existing appropriations therefore.' However, according to BPI officers, the retained collections had not been utilized as intended in PD 1433. Moreover, the BPI reverts to the National Treasury (NT) collections of the pesticide analysis laboratories totaling about P2 million a year.

The BAI collects about P60 million a year but reverts all fees collections to the NT. The NMIS, collecting some P62 million annually, is allowed to retain at least 50% of its collections, beginning in 2006. The BAFPS, as standard setting body not involved in enforcement, has no revenues.

An issue on fees collection is the lack of standardization in the fees and other charges imposed for inspection, certification and laboratory testing across agencies and locations. Particularly for fumigation inspection services, charges are higher in Metro Manila, prompting exporters to lodge their request for inspection in a PQS station closest to Manila.

Another issue is DA AO No. 1, series of 2000, which provides that quarantine personnel are entitled to payment, by the client, of overtime and reimbursable expenses (meals, transportation, lodging, etc), following prescribed rates and procedures. This is a system-related issue that affects personnel and organizing arrangements.

#### **4.5. Practices**

Delegation of authority is commonly practiced at the higher level of the organizational hierarchy. The organizational charts show that span of command of the head of office varies from narrow for that of the BAFPS, wide for those of the NMIS and BAI, and very wide for that of the BPI. Delegation is also practiced at the lower level, but this appears to pose problems that are associated with low quality of service. Specification of authority by level in the hierarchy is present in all agencies, but these are either not in use or not updated.

The creation of informal organizations such as ad hoc groups, committees, task forces is a common practice especially in activities that require inter-agency collaboration. Particularly for the BAFPS, inter-agency technical working groups support the standard development process.

All agencies are clearly able to build alliances with local and international partner organizations in government and the private sector, and use the network of contacts in the exchange of information. Reported alliances established by agencies are with partners in countries that are also major trading partners such as the USA, Canada, Japan and Australia.

The gathering of client-feedback independent of consultations with organizations that have established ties with the agency is not practiced.

#### **4.6. Effectiveness**

It is difficult to measure the effectiveness of the regulatory functions performed by the agencies. The present planning and monitoring system focuses on the identification of targets and monitoring of accomplishments for physical outputs and does not include monitoring and evaluation for results.

For plant quarantine services, the indicators are: (a) number of PQC's issued for imports; (b) number of PC's issued for exports; and (c) number of domestic PQPs issued. From 2003 to 2004, the accomplishment for all indicators went up by between 16 percent (for number of PQC's issued) to 123 percent. In both years, the accomplishments exceeded the targets by a hundred-fold, except in the number of PC's issued in 2003. It appears that the poor performance in the number of PC's issued in 2003 prompted the drastic downward adjustment in the 2004 target.

For the BAI, the accomplishments in regulation exceeded targets by more than three times for local import permits in 2003, and by close to four times in 2004.

## **5. SPS Components and Activities**

The SPS function has the following components: development, enforcement, and information dissemination.

### **5.1. *Development***

SPS development involves setting the rules for SPS enforcement. It includes product standards setting, process standards setting, risk assessment, and protocol formulation. In the DA, the BAFPS undertakes most of the standards development work, concentrating on product quality standards. The NMIS sets the standards for meat. The other agencies also do some SPS development work, namely risk assessment in relation to new imports and import sources and the formulation of protocols or agreements with trading partners.

### **5.2. *Enforcement***

SPS enforcement ensures that the conduct of business follows SPS rules. It broadly includes registration, accreditation, and inspection, which includes laboratory testing. It also includes the issuance of domestic transport permits, import permits, export clearances as well as sanitary and phyto-sanitary certificates for exports. Enforcement is done by the NMIS, BAI and BPI, as shown in Tables 3 - 5. The BAFPS also does enforcement monitoring on the product standards it develops.

Enforcement activities can be grouped as border, pre-border, and post-border, depending on the direction of trade – import or export. Pre-border measures on exports and post-border measures on imports form part of domestic measures. The pre-border activities on imports include accreditation and inspection of source, accreditation of importer, issuance of import permit, and requirement of sanitary and phytosanitary certificate from exporting country. The border activities include inspection of passengers, products and vessels at the points of entry as well as quarantine and inspection at the farms for livestock, nurseries for planting materials, and cold storage for meat. The domestic measures include accreditation, routine inspection, registration of products and establishments, and issuance of permit to transport products. The pre-border activities for exports are accreditation of exporter, inspection of product or its treatment, and issuance of export clearance, phytosanitary certificate and veterinary health certificate.

### **5.3. *Information Dissemination***

Information dissemination is undertaken together with development and enforcement. It involves activities to promote, track, and inform the government, industry stakeholders, and the community of SPS measures, issuances, alerts, and other relevant documentation. The agencies generally publish new measures in newspapers of national circulation and in the web, except the BAFPS, which only does the latter. For all agencies, the accessibility to current regulations is an issue both for enforcers and clients as these are contained in separate AOs and other issuances and there is no system to have these organized, summarized, and annotated.

Table 3  
BPI SPS Enforcement Measures

Product	On Importation	On Exportation	On Domestic Trade
Plant & plant products	Accreditation of importers of fresh fruit and vegetables only	No accreditation of exporters	Accreditation of plant nursery operators
	Issuance of Import Permit	Issuance of export clearance	Issuance of Permit for Domestic Transport of Plant & Plant Product/ Domestic Plant Quarantine Permit
	Issuance of Plant Quarantine Certificate (PQC)	Issuance of Phytosanitary Certificate (PC)	
	For regulated materials, issuance of Biosafety Permit for --- Propagation (if intended for commercial use), Field Test (if intended for field test), Direct Use (if intended for direct use as seed or food)	Issuance of Convention for International Trade of Endangered Species for wild plants only	
	Issuance of Import Clearance		
All including wood packaging materials		Accreditation of quarantine treatment service providers such as fumigators of wood packaging materials	
		Issuance of Fumigation Certificate	
Big birds and small animals	Issuance of Import Permit for Potential Agricultural Pests		



Table 4  
BAI SPS Enforcement Measures

Product	On Importation	On Exportation	On Domestic Trade
Live animals only	Issuance of Veterinary Quarantine Certificate (VQC)	Issuance of Veterinary Health Certificate (VHC)	Issuance of Shipment Permit
Meat & meat products only	Accreditation of meat & meat product importers through the issuance of a Certificate of Accreditation	No equivalent accreditation for meat & meat product exporters	
	Issuance of VQC	Issuance of International Veterinary Certificate	
Live animals and meat & meat products	Joint BAI-NMIS accreditation of foreign meat establishments through the issuance of a DA Administrative Order		
Animal feeds	Issuance of license to operate as importer/indenter		Issuance of license to operate as manufacturer, supplier, distributor or retailer
	Issuance of Import Permit		Registration of animal feeds
Veterinary drugs & products	Issuance of Import Permit		
	Issuance of license to operate as importer or indenter		Issuance of license to operate as manufacturer, supplier, distributor or retailer
			Issuance of Certificate of Product Registration
Veterinary biological products	License to operate as importer		License to operate as manufacturer
	Issuance of Import Permit		Registration of product
Animal facilities			Registration of animal facilities
Meat handlers	Licensing through the issuance of a Certificate of Registration		
Transport carriers	Registration and accreditation		
Laboratories			Accreditation of government and non-government veterinary diagnostic laboratories (AO No. 27, 2004)

Table 5  
BAI SPS Enforcement Measures

Product	On Importation	On Exportation	On Domestic Trade
For meat and meat products	Inspection of imported meat and meat products through the issuance of Imported Meat Inspection Certificate (IMIC);		
For meat plants/establishments	Joint NMIS-BAI accreditation of foreign meat establishments through the issuance of a DA Administrative Order	Accreditation of Exporting meat plant as "AAA"	Accreditation of meat plants through the issuance of a Certificate of Accreditation
			Good Manufacturing Practice (GMP) and Hazard Analysis Critical Control Point (HACCP) certification through the issuance of GMP/HACCP Certificate
For meat vans	Accreditation of meat delivery van through the issuance of Meat Delivery Van sticker		

## 6. SPS Processes

### 6.1. Standards Development

With the creation of the BAFPS and the recent reorganization of the NMIS, standards development is fast becoming an established process in SPS development at the DA. However, the standards developed by both agencies go beyond ensuring product safety, an SPS objective, and include promoting product quality which is voluntary by nature. Thus, the agencies tasked with SPS enforcement are unable to use these standards to impose mandatory product safety compliance.

## **6.2. Risk Assessment**

The practice of risk assessment (RA), undertaken by all agencies, is spotty. Among the few established processes is import risk assessment with respect to FMD for meat, which is done together by the BAI and the NMIS. Imports of meat from countries with FMD are supposed to be banned but because of private sector demand, the BAI and NMIS jointly accredit regions and specific plants in countries with FMD. The process involves inspecting the system from the farm to the meat plant which justifies whether, and under what conditions, the region or plant is accredited to export to the Philippines.

Otherwise, all agencies usually opt to adopt international standards<sup>2</sup> to avoid undertaking risk assessment whose results may be questioned by trading partners. The RA process is supposed to be structured, science-based, guided by a risk analysis handbook, undertaken by a panel of experts (if required), and uses both quantitative and qualitative methods of analysis. The BPI and BAI admit to an “informal” process; i.e., with no norms, handbook, or outside experts and little quantitative analysis and documentation. Thus, these agencies expressed concern that their systems are not at par with those of the international community. All agencies expressed the need for improving the RA process, especially in quantitative analysis, and for developing a handbook for risk analysis.

A specific source of difficulty in risk assessment is the lack of databases on local pest and disease conditions. Using international databases, as is currently done, is inadequate because these contain information only on well-known pests and diseases for traditional commodities.

## **6.3. Issuance of Import Permit**

The BPI and the BAI both issue import permits. Established importers that do routine importation generally have no problems with the BPI and BAI’s process for issuing import permits, except for feeds and feed ingredients. For the latter products, the issuance of an import permit has the classic elements of a process bottleneck consisting of eight steps, involving six high-level signatories – four division chiefs, the BAI director, and the DA Secretary -- and including desk top inspection of monthly reports submitted by the feed establishment.

For non-routine imports and new importers, the BAI and BPI’s process for issuing import permits is hampered by (a) disorganized information on requirements such as documents to be submitted and on the applicable pre- and post-entry import conditions or required treatments specific to the product and the source and (b) difficulties in the conduct of risk assessment and exporter certification, should this be required.

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<sup>2</sup> Three international institutions develop international standards – the CODEX on food, the OIE on animal products, and the IPPC on plant products. The Philippines and other Member countries may or may not adopt the standards following the SPS Agreement.

#### **6.4. *Inspection at the Border***

Only the BPI and BAI are present at the border points of entry to inspect products for plant/animal health purposes before these are allowed in. After entry, imported meat is directed to accredited cold storage facilities for NMIS inspection, livestock are sent to the importers' farms for one month quarantine and observation, and imported seed is quarantined at the nurseries until laboratory testing is completed.

Several issues are identified with the border inspection process:

1. The interface between the Bureau of Customs (BOC) and the DA quarantine stations at the ports is poor leaving much opportunity for the entry of agricultural products that by-pass quarantine inspection. The administrative process at the ports is such that SPS enforcement generally happens only if the customs officials direct the subject importers to go through the SPS enforcer or if the enforcer is there at the time the shipment arrives for inspection.
2. Products are generally allowed entry after favorable sensory and documents evaluation but before the completion of laboratory tests. Post-entry quarantine required for livestock and seed can only contain the spread but not the entry of pests and diseases. For other products, without post-entry quarantine, recall and tracing is a problem when laboratory results are adverse.
3. Particularly for plant and plant products, except seed, the laboratory analysis process, while mandatory, practically becomes moot and academic after product release because there is no effective tracing and recall system. In the meantime, the laboratories are swamped with unfinished work hampered by (a) unavailable method validation process for pesticide-crop or pest-crop combinations, (b) poor condition of the instrument, since instrument performance is not always predictable even with adequate maintenance, (c) sequence of arrival of samples in the laboratory under the first come-first served system, and (d) unavailability of chemicals/reagents, and supplies.
4. For meat, current rules allow release from cold storage before the completion of laboratory testing. Still, although there are tracing systems that can be used for recall, the process is being amended because recall can be difficult.
5. Inspection of postal mail is hardly done and there is no surveillance at the wharfs and depots, which could allow the entry of unwanted and unsafe products.

#### **6.5. *Issuance of Export Clearances and Certificates***

The BAI, BPI and NMIS issue export clearances that are generally required by importing countries. These are the International Veterinary Certificate (IVC) for animal and animal products, the Commodity Clearance (CC) for animal by-products, the Phytosanitary Certificate (PC) for plants and parts of plants, the Commodity Clearance (CC) for plant by-products, and the Official Meat Inspection Certificate (OMIC) for meat and meat products. Depending on the requirements of the importing

country, some product inspection or product treatment inspection is done on the goods to be exported.

The analysis of the processes attendant to this activity shows the following:

1. There is a lack of clarity in the BPI rules, procedures, and process flows for the export clearance of plants and plant products, fueling private sector speculation that the rules and requirements, especially with respect to treatment requirements, are arbitrarily interpreted.
2. Treatment inspection, specific to wood packaging, is an apparent bottleneck. With the recent implementation of international norms requiring BPI certification as to the treatment of wood packaging materials for both agricultural and non-agricultural products, exporters complain that there are not enough inspectors at the BPI to handle the heavy demand for treatment inspection. This situation is conducive to improprieties in the inspection scheduling, especially since the inspectors are allowed to collect from the client overtime pay and reimbursement for meal and transport expenses.
3. Like the process for issuing import permits, the issuance of export clearances and certificates is not a problem for routine exports. However, non-routine exports and new exporters experience difficulties because of inadequate or disorganized information on requirements such as documents to be submitted and testing, treatment and other requirements of importing countries with respect to the Philippines. Should import risk analysis be undertaken by the importing country to accredit the Philippines for the particular product, Philippine participation is limited by lack of capacity to negotiate lacking sophistication in risk analysis.

#### **6.6. *Registration and Accreditation of Importers, Exporters, and Establishments***

The BPI accredits importers for fruits, vegetables, onion, garlic, coffee and white potato; in the process inspecting storage and treatment facilities. The BAI, for its part, accredits importers and exporters of livestock and meat, in the process inspecting farms, meat establishments and cold storage facilities. It also accredits livestock transporters; and registers and routinely (regular and spot) inspects feed, feedstuff and veterinary drugs establishments and products. The NMIC, meanwhile, accredits and routinely inspects meat establishment -- plants, vans, and cold storage facilities.

The main issue in the BPI accreditation process is the lack of organized and accessible information on requirements. That for the BAI accreditation process for livestock and meat importers and exporters is the delays in required farm inspection due to lack of field inspector. On the other hand, for the BAI accreditation of feeds and feed establishments and products, the issue is the stringent (numerous, lengthy, and rigid) registration and inspection processes, such as the registration and annual renewals for products and establishments, new product registration and brand name approval, and routine testing for ingredients. For the accreditation of meat establishments involved in imports and exports, the dual and separate inspection and certification by the NMIS and by the BAI is the main issue.

A common theme in the accreditation and inspection processes is the absence of a risk-based approach in ensuring compliance. Everyone is considered high-risk, non-compliant, and in need of regulation. This places a great burden on a process and its resources. If a determination of relative risks is made, then low-risk elements could be treated differently from the high-risk. This would free up resources and, perhaps, increase the detection of violations. Moreover, if the incentive for compliance is attractive enough, i.e. shortened inspection time, waiver of routine lab analysis in favor of random audits, longer validity of accreditation, and less cost, it may outweigh the desire for non-compliance and, eventually, reduce the incidence of violations.

## **7. Other Country Models**

A study of the DA's SPS administration system would not be comprehensive if it were not compared with those of other countries, especially those that have international reputation for efficiency.

### **7.1. Singapore**

The SPS function of Singapore is basically lodged in the Agri-food and Veterinary Authority (AVA) under the Ministry of National Development (MND). As a food importing country, Singapore has a three-pronged approach in achieving fresh food safety and adequacy. These are (a) an integrated system of accreditation, inspection and testing, (b) diversification in external sources of farm products, and (c) achieving some degree of self-sufficiency by promoting modern and intensive farming systems. Specific to food safety, it has a comprehensive and internationally recognized veterinary public health system that involves:

1. review of production system and practices at source;
2. inspection and accreditation of source farms, abattoirs and food establishments;
3. identification of consignments of primary produce to trace sources;
4. inspection of primary product at the points of entry;
5. pre- and post-slaughter inspection at local abattoirs;
6. laboratory tests on livestock, fresh and chilled meat and fish, vegetables, fruits and eggs; and
7. surveillance of high-risk products based on history of violation of safety standards.

The AVA works with the Veterinary Public Health Laboratory, which undertakes the laboratory analysis of primary produce and monitors food quality.

### **7.2. New Zealand**

New Zealand is a major agricultural producer and exporter. New Zealand's Ministry of Agriculture and Food has three units concerned with SPS. One of these units is the New Zealand Food Safety Authority (NZFSA), a semi-autonomous organization that deals with food safety to protect the population and to facilitate market access for its food exports. It works through nine groups, five of which do

standard setting, one negotiates market access for New Zealand's food products, one provides the certification and verification to ensure that products meet the standards agreed with importers, and another does standards compliance review, investigation, and prosecution.

The two other units concerned with SPS for New Zealand are Biosecurity New Zealand and MAF Quarantine Service, both of which are tasked with border protection against unwanted imports. The first agency is tasked with "whole of system" leadership in biosecurity including developing standards and transport conditions for bringing in risk goods. The latter is an operational unit whose primary role is to prevent the entry of unwanted pests and diseases. It implements a system to effectively prevent the entry of risk material, in accordance with standards set by Biosecurity New Zealand, including inspection and clearance services for incoming passengers, cargo, vessels, aircraft as well as post-entry quarantine of agricultural goods.

## **8. Summary of Issues**

The issues on SPS administration in the DA can be summarized or categorized into three: fragmentation and overlaps, capabilities, and transparency and accountability.

### **8.1. Fragmentation and Overlaps**

#### *8.1.1. Sanitary and Phyto-sanitary (SPS) Mandates for government units overlap.*

The BPI, BAI, NMIS, BAFPS, various commodity specific agencies of the DA, Bureau of Food and Drug (BFAD), Department of Health (DOH), Local Government Units (LGUs) and Special Economic Zones have intersecting and overlapping mandates on SPS. Various laws mandate the enforcement of SPS by the central agencies alongside laws that mandate devolution - to LGUs -- and regionalization -- economic zones and autonomous regions which are allowed to impose their own regulations on SPS. Overlaps are apparent among DA agencies, between DA agencies and other central agencies, and between central agencies and LGUs and economic zones.

#### *8.1.2. There is no SPS policy framework.*

The SPS mandates of the various agencies stem from multiple and separate legal issuances that each tackle only specific areas of SPS work. There is no definitive policy framework that will uniformly provide the context for and guide the work of the various involved agencies. This lack of a policy framework gives rise to the other issues of fragmentation in the function.

#### *8.1.3. The SPS function is fragmented, having been distributed to agencies by component, product, concern, and physical area.*

The BPI is focused on plant protection; the BAI, on animal protection; the NMIS, on meat safety; and the BAFPS, on food safety as part of product quality. The BPI is concerned with plants and plant products; the BAI, with animals and animal

products; the NMIS, with meat; and the BAFPS, with all unprocessed and primary- and secondary-processed agriculture products. The BAI and BPI are concerned primarily with SPS enforcement while the BAFPS and NMIS have both development and enforcement functions. If mandated devolution and regionalization are implemented, i.e. if local executives and special zone officials opt to wield their mandated powers on SPS, the function will be further fragmented by physical area. Moreover, there are special laws which put specific agricultural products within the jurisdiction of other agencies: fertilizer and pesticides with the Fertilizer and Pesticide Authority (FPA); fibers with the Fiber Development Authority (FDA); cotton with the Cotton Development Authority (CODA); coconut with the Philippine Coconut Authority (PCA).

*8.1.4. There is no DA agency for plant-based food safety enforcement.*

There is no DA agency responsible for the enforcement of SPS measures relating to food safety, other than on meat. The BFAD and the DOH are responsible for food safety but their focus is on processed food and they are not at the ports. While the importation of all plant-based products passes through the BPI PQS, its mandate is explicit only on protecting plants against pests and diseases and silent on protecting people's health. Thus, while animal feeds and desiccated coconut for export are checked for aflatoxin by the BAI and the PCA, respectively, imports of peanuts are not checked. Meanwhile, although the BAFPS, by law, has the mandate to develop and enforce product standards in general, it does not have the capacity to do enforcement and the DA Administrative Order (AO) implementing the law does not provide for its enforcement power.

*8.1.5. Responsibility for some sectors intersect/converge.*

The BPI and the BAI both inspect imported plant-based feed ingredients -- the former for plant safety and the latter for feed quality. The same agencies both issue import permits for small animals that could be plant pests. In the meantime, the BAI and the NMIS both look at meat for domestic transport, import and export -- the former for animal disease and the latter for food safety. The BAI and the NMIS have taken effort to streamline processes where both are involved. While this is laudable, more efficiency gains can be achieved if some resource (manpower) sharing is done at the areas of convergence. For example, inspection can be facilitated if one inspector looks at both animal health and food safety, instead of a BAI inspector and an NMIS inspector checking the same meat or establishment separately.

*8.1.6. Within agencies, responsibilities are generally spread out over several divisions by thematic area, product, service or mix.*

The SPS functions of the agencies are generally based on a combination of independent and separate legal issuances that sometimes include the creation of specific implementing units in the agencies. As a result, the SPS functions of these agencies gradually expanded over time, and are currently spread out over several units -- distributed mostly by thematic area but also by product or service -- with little balance and rationale in the work distribution. For the private sector, doing business with the agencies could involve several divisions.



*8.1.7. There is a lack of continuity in SPS components, namely: development, enforcement, and information dissemination.*

Most BAFPS outputs, including important product safety standards, are not translated into enforcement measures. For example the pesticide maximum residue limits it established as product standards for apples, okra, etc. are not translated into regulations governing imports, basically because there is no agency concerned with food safety of plant-based products. Another basic issue preventing continuity between BAFPS-established standards and BPI or BAI SPS enforcement is that the BAFPS focuses on quality standards, while enforcement has to be limited to safety standards. Quality standards are by nature voluntary, not mandatory. If the BAFPS differentiates between safety and quality aspects in its product standards, the agencies tasked with SPS enforcement can make safety components mandatory.

*8.1.7. The technical and administrative supervision over field units is handled by different organizations.*

SPS enforcers at the field, while administratively under the RFUs, are technically supervised by the central agencies BPI and BAI. This could affect the function as the central agencies are forced to rely on whomever the RFU assigns to the job, while RFUs assign people more on the basis of their own respective priorities and less on the specific need of the central agencies.

*8.1.8. SPS enforcement measures are uneven across products.*

The SPS regulation on plants is basically confined to the usual pre-border and border measures, i.e., accreditation of importer, inspection, issuance of import permit, requirement of phyto-sanitary certificate, and routine inspection at the port of entry, both domestic and international; and to the post-border measure of quarantine of planting material in a nursery. In contrast, for animals, meat, feed and biologics, there is a host of pre-border (or domestic) registration, accreditation and routine inspection requirements for establishments and products involved in imports, exports, processing and domestic trading. There are also the post-border measures such as the 30-day quarantine for imported live animals and the inspection of use of imported meat. Moreover, there are still the usual border measures plus pre-shipment inspection for imports. Feed establishments, in particular feel that the heavy regulations are onerous to business.

*8.1.9. There is no locus of leadership in DA SPS management.*

Responsibility for the supervision of the four SPS implementing agencies under study is dispersed among three undersecretaries, not to mention other DA agencies which perform SPS functions such as the Bureau of Fisheries and Aquatic Resources (BFAR) and the Fertilizer and Pesticide Authority (FPA).

## 8.2. *Capabilities*

### 8.2.1. *Procedures on SPS development are fairly established on product standards and process standards but weak in risk assessment.*

The BAFPS and NMIS follow well-established products standards development procedures and process enhancement (HACCP, GMP) protocols, respectively. But the application of risk assessment in all agencies falls below international standards. The inputs, procedures, and outputs in risk assessment are not well-defined and documented making the process indeterminate and vulnerable to political and industry pressure. Risk assessment is also hampered by the lack of national pest and disease databases, the development of which is impossible with poor support for domestic pest and disease surveillance and monitoring.

### 8.2.2. *Laboratories abound but are mostly poorly equipped or supported, and their use is not maximized in the SPS process.*

For meat, feeds, and imported plant products, laboratory testing is routinely done but analysis results are not data-based, precluding analysis that may prove useful for process improvements, risk assessment, and risk management. Moreover, while laboratories support exports, functioning laboratories are located generally in Metro Manila where export samples need to be sent. Another issue is that plant and meat imports without obvious problems get released before the results of mandatory laboratory tests are out. Finally, while the BPI NPAL monitors pesticide residues in products in the domestic market, it, and the BPI in general, does not have enforcement powers on pesticide residue compliance, and food safety compliance in general.

### 8.2.3. *SPS border enforcement is leaky.*

The absence of specific arrangements for the DA SPS enforcers and customs officials to work together allows plenty of room for shipments to complete the customs paper work with an amenable customs official and by-pass the SPS officers. In this regard, there has been some agreement between the BOC and the DA SPS agencies to share information on shipment arrivals but this has not been implemented.

Moreover, laboratory testing, while done as part of imports inspection at the port of entry, is in most cases finished only after the product had been released from the port. The release is done to facilitate business for products assumed wholesome based on sensory evaluation, and to prevent product deterioration due to ports conditions. However, should adverse findings result from the testing, recall and/or containment is hampered by insufficient domestic recall and tracing systems.

Finally, there is no surveillance in some border entry points, like wharfs, plane depots, and even mail.

### 8.2.4. *Operational risk management is not formally practiced.*

Operational risk management barely exists. If it does, it is not based on formal data and analysis. Instead, the enforcers rely on experience to discriminate among types of clients, ports of entry, and product origins in the inspection process.

Otherwise, the requirements and processes for the consistently compliant clients or reliable sources are the same as for new and frequently non-compliant clients and unreliable sources. Substantial resources used to check on compliant clients and reliable sources would have been better used for checking on the less-responsible clients and more risky sources.

*8.2.5. Revenue generation and budget support is disparate.*

The BAI, BPI and NMIS charge fees for accreditation, registration and inspection services. It is important that a portion of the fees be actually used to continuously improve services paid for by clients. The BAI collects about P60 million annually which it reverts back to the Government Treasury. The BPI has been allowed to use part of the collection of fees, but it is not clear how much is actually used as support for the services subject to fees. The NMIS, meanwhile, is given the mandate to use a portion of its collection by next year.

*8.2.6. Planning and evaluation is weak, there are no efficiency measures, and low priority is given for process improvement.*

The systems for planning and monitoring of the SPS units do not allow for the evaluation of the attainment of objectives and effects on clients. A wealth of data has been accumulated over years of implementing a wide range of regulatory measures. If analyzed, these data could provide management with useful feedback information on the results of regulations as well as on procedures that require enhancement, or on specific regulations that are no longer necessary.

**8.3. Transparency and Accountability**

*8.3.1. The manner of charging inspection costs is inappropriate and could affect work priorities setting.*

The units and personnel involved in inspection processes are allowed to directly collect from the client reimbursements for certain costs, like transportation, meal and overtime pay. This arrangement immediately creates a financial relationship between inspector and client, which could lead to issues of impropriety.

*8.3.2. Process documentation in SPS enforcement is lacking or not updated.*

The NMIS and BAI both have basic documentation of the processes involved in SPS enforcement but the various documents need updating, completion and organizing. The BPI has no readily available documents explaining its enforcement processes. Absent, incomplete, disorganized, and inaccessible documentation allow discretion and differences in practice among enforcers. Complete and regularly updated documentation of enforcement processes also lends transparency to SPS administration and reduces time and effort required on the part of private business.

8.3.3. *The Processes on information dissemination are inadequate.*

Information dissemination, especially among enforcers, is spotty and inadequate. Administrative orders and other such issuances involving SPS measures are mostly sent out to enforcers by fax as is, with little annotation or explanatory notes. Where some training or briefing is conducted, only one representative per region is included, and this representative is expected to undertake echo seminars for their colleagues in the regions. Without standard training materials, the echo seminars vary widely.

**9. Recommendations: Elements of a Reform Package**

**9.1. Policy**

Develop a coherent, clearly defined policy framework accepted and understood by both regulators and stakeholders alike to provide “the rules of the game” for SPS regulators and send unambiguous signals to the private sector and the general public about the government’s objectives and methods with respect to the performance of its SPS function.

**9.2. Organization**

1. Create a single SPS enforcement/export support agency doing import, export, and domestic regulations for plant/animal health and food safety (consolidated BPI, BAI, NMIS quarantine services) with a reasonable number of strategically located, centrally-controlled satellite offices.
2. Create a separate SPS development agency doing protocols formulation, standard setting, risk assessment, and process improvement (BAFPS absorbing appropriate BPI, BAI, NMIS technical staff in risk assessment).
3. Devolve to LGUs the responsibility for enforcing selected domestic measures, such as the quarantine of animals on farm, quarantine of planting materials in nursery, surveillance, monitoring and control of pests and diseases, inspection of food processing facilities that trade in the local market, and surveillance in wharfs provided that the implementation of the function conforms with the technical guidelines issued by the SPS development agency.
4. Task the RFUs to assist in the enforcement monitoring of measures implemented by LGUs, conduct of studies related to risk assessment, and conduct of public consultations related to standards development. The RFUs could also be asked to assist in information dissemination and continuing training/orientation of LGU enforcers.

**9.3. Capabilities**

1. Institute a reliable system of SPS information dissemination and continuing SPS training/orientation of all SPS enforcers. This can be done by the development agency in cooperation with the enforcement agency and the RFUs.

2. Support SPS enforcement and development with adequately-equipped reference laboratories and maximize use of private laboratories in enforcement through accreditation. Existing government laboratories should be rationalized to minimize redundancies and inefficiencies, and allow easy and even access across sectors and areas.
3. Arrange to retain a portion of funds generated in SPS enforcement for use in service improvements.

#### **9.4. Legal**

1. Draft and advocate a law to officially adopt an SPS policy framework, create development and enforcement agencies and mandates, and resolve issues on devolution, regionalization, responsibility for food safety on plant products, and scheme for retention of revenues.
2. Codify existing administrative issuances on SPS enforcement to reduce confusion and improve information access and transparency.

#### **9.5. Processes**

1. Effectively link SPS components by encouraging the SPS development agency to discriminate between food safety and product quality in standard setting and mandate the other agency with food safety enforcement.
2. Prepare, update, and organize process flows and protocols for use of SPS enforcers. Improve information dissemination, storage and retrieval systems for enforcers and clients.
3. Streamline process flows to reduce time and costs of administration, including minimizing the number of signatures required for clearances and decentralizing some of the inspection.
4. Improve border enforcement. Equip SPS enforcers at the ports with information on shipment arrivals, through resources and systems that would allow sharing of BOC information. Expand inspection and surveillance to include other modes of entry like mail, and thru wharfs and depots. Use more sophisticated surveillance and detection equipment in the ports. Explore the use of laboratory kits to bring testing on site.
5. Improve and formalize systems for risk assessment, and enforcement monitoring for system improvement. Adopt operational risk management to reduce regulation effort on good performers and systems for traceability of key internationally traded products
6. Support the development of a national databases on plant and animal pests and diseases to support risk assessment.
7. Improve information dissemination and client feedback systems.

## 9.6. *Change Management*

1. Immediately place all SPS implementing units under the supervision of one undersecretary or assistant secretary as appropriate. He/she would be primarily responsible for spearheading and managing the SPS change process if and when the reform package is approved for implementation by the DA Secretary.
2. Ensure that the reform package can be demonstrated to result in reduced transaction costs on the part of private business. The quality of the package itself would be the principal tool for encouraging key players within the bureaucracy and outside of it to “buy into” the SPS reform process.
3. Incorporate in the reform package measures which could mitigate the destabilizing impacts of organizational change on individual SPS staff and agencies inasmuch as the prospect of these disruptive effects would be a potential disincentive to reform, aside from creating organization-wide anxiety and stress. The following adjustment measures should form part of a change management plan aimed at making the change to new SPS organizational, procedural, and legal arrangements viable and durable over the longer term:
  - (a) Re-orientation of SPS implementors on the development objectives and policy framework governing the administration of SPS regulations; on how individually and as a group, their efficient and purposive performance in the workplace contributes to the growth of agriculture and the economy; on how the principles of transparency and accountability underpinning the code of ethics for governance and public service are translated into their daily routines on the job.
  - (b) Development of viable staff career paths and re-training of staff to be deployed to positions with job descriptions different from those of their previous positions;
  - (c) Identification of possible fund sources to support voluntary early retirement of personnel;
  - (d) Development of a low key, unobtrusive communication strategy and plan designed to keep stakeholders and the general public abreast with developments regarding the DA’s SPS change initiative, consolidate support, and help restore confidence in the DA; and
  - (e) Definition of a mechanism within the DA for implementing SPS administration reforms, including hands-on management of the change process by an appropriate DA officer designated by and accountable to the Secretary for implementation of the SPS reform package.