

Training of Trainers

Enhancing Capacity on

Trade Policies and Negotiations

Session 7: TBT and SPS in RTAs

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Presentation Structure

- **Global context**
- **Rising trends of NTMs**
- **Regional context**
 - **Efforts to address them**
 - **Trade patterns**
- **Lao PDR exports to AMS**
- **Lessons learnt**

Global Rules

- **The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and the Agreement on Technical Barriers to Trade (TBT) are part of Uruguay Round Agreement**
- **Article XX(b) of GATT**
- **Can apply to fulfill legitimate objectives**
- **Minimising negative trade effects or not to create ‘unnecessary obstacle to trade’**

Some terms and issues

- **Transparency**
- **Harmonisation**
- **Equivalence**
- **Regionalization**
- **Accreditation Bodies**
- **Conformity Assessment Body (CAB)**
- **International standards vrs domestic standards**
 - Food safety – FAO/WHO/Codex Alimentarius
 - Animal Health – World Organisation for Animal Health
 - Plant Health – International Plant Protection Convention (IPPC) based at FAO

DISCUSSION POINTS



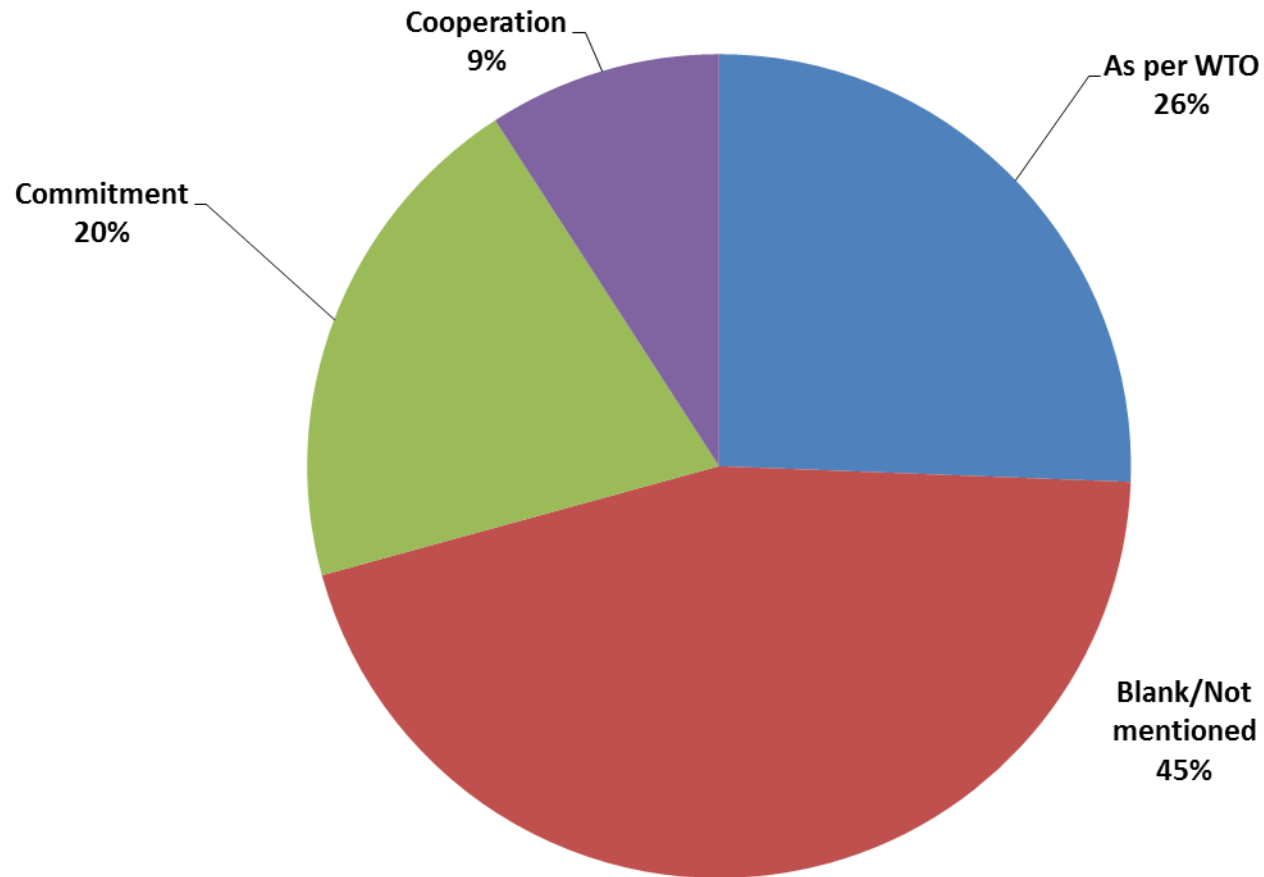
- **How many of you have experienced :**
 - **Formulating TBT regulations**
 - **Notification to WTO**
 - **Negotiated or discussed in WTO, Geneva or FTAs**
- **What problems have you faced?**

Provisions in FTAs

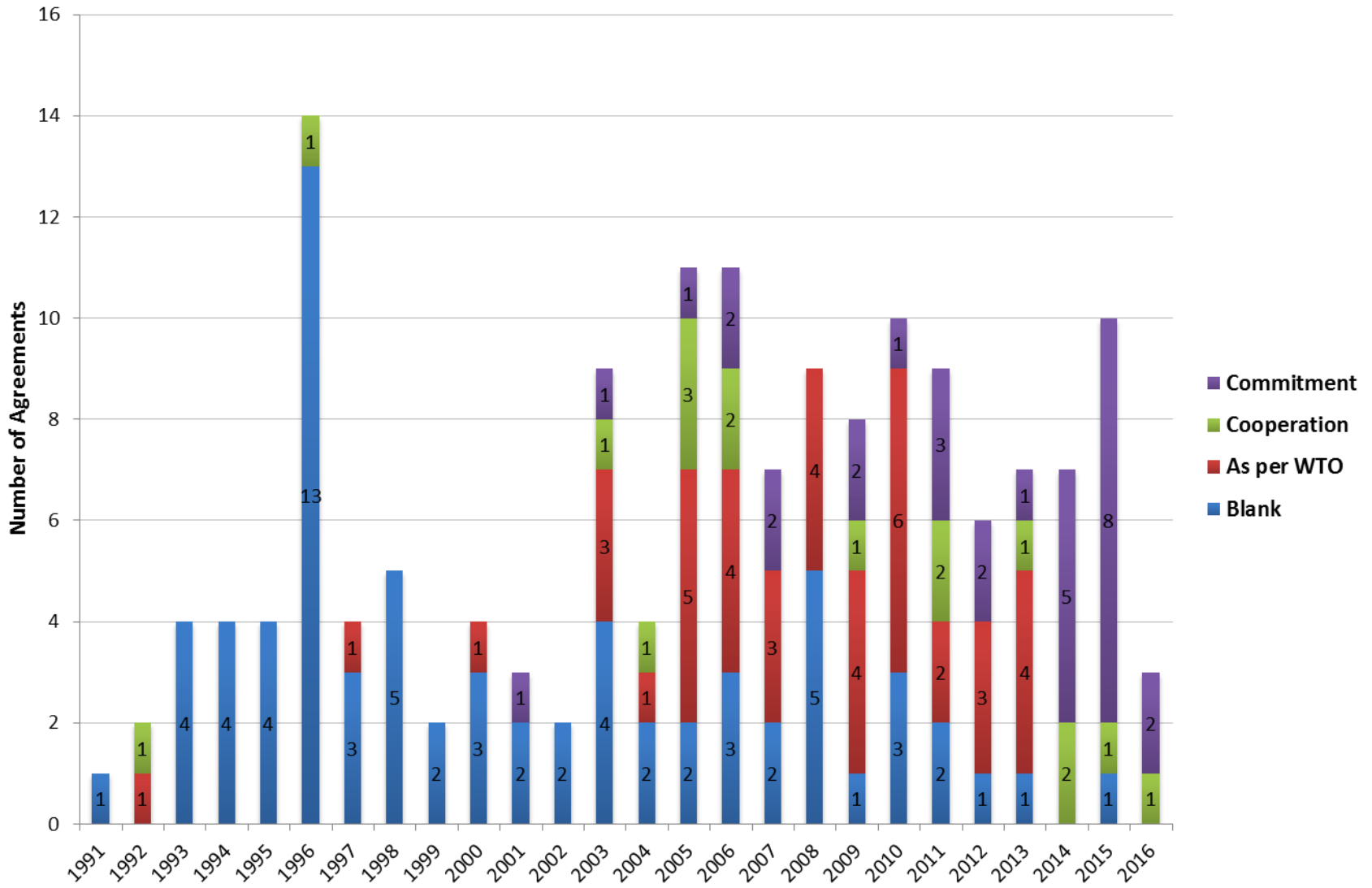
NTMs in FTAs

- **Mostly WTO rights and obligations are retained.**
- **SPS and TBT are dealt separately, with conditionalities in SPS more cumbersome.**
- **Mostly cooperation agreements(not subject to dispute), advance sharing of information, consultation and prompt resolution of disputes.**
- **Sometimes technical assistance provisions.**

SPS and TBT provisions in AP Agreements (in force) December 2016(164)



SPS and TBT provisions in AP Agreements (in force) 1991-2016



NTM Provisions: Examples

- **Singapore Australia FTA:**
 - Australia allowed ‘accredited exporters’ of Singapore with reduced imports control.
- **Thailand Australia FTA:**
 - Standing Expert Group constituted for equivalence and fast-track resolution of disputes.
- **China New Zealand FTA:**
 - Joint Committee established.

NTM Provisions: Example (2)

- **MERCOSUR:**

- **Decision 6/93:** Own agreement on SPS measures (harmonisation, equivalence etc.). Once these provisions got incorporated in WTO SPSA – they were dropped.
- **Decision 60/99:** Principles and other issues relating to equivalence agreements were specifically built in.

NTM Provisions: Example (3)

- **ASEAN (ATIGA):**
 - **WTO provisions retained.**
 - **Provisions for negotiation of sectoral equivalence, cooperation in developing international standards, harmonisation.**
 - **ASEAN Consultative Committee on Standard Conformance (ACCSQ): 3 WGs and 8 Product WG established.**
 - **Assessment results for Prepared Foodstuff.**
 - **MRA on recognition of conformance.**

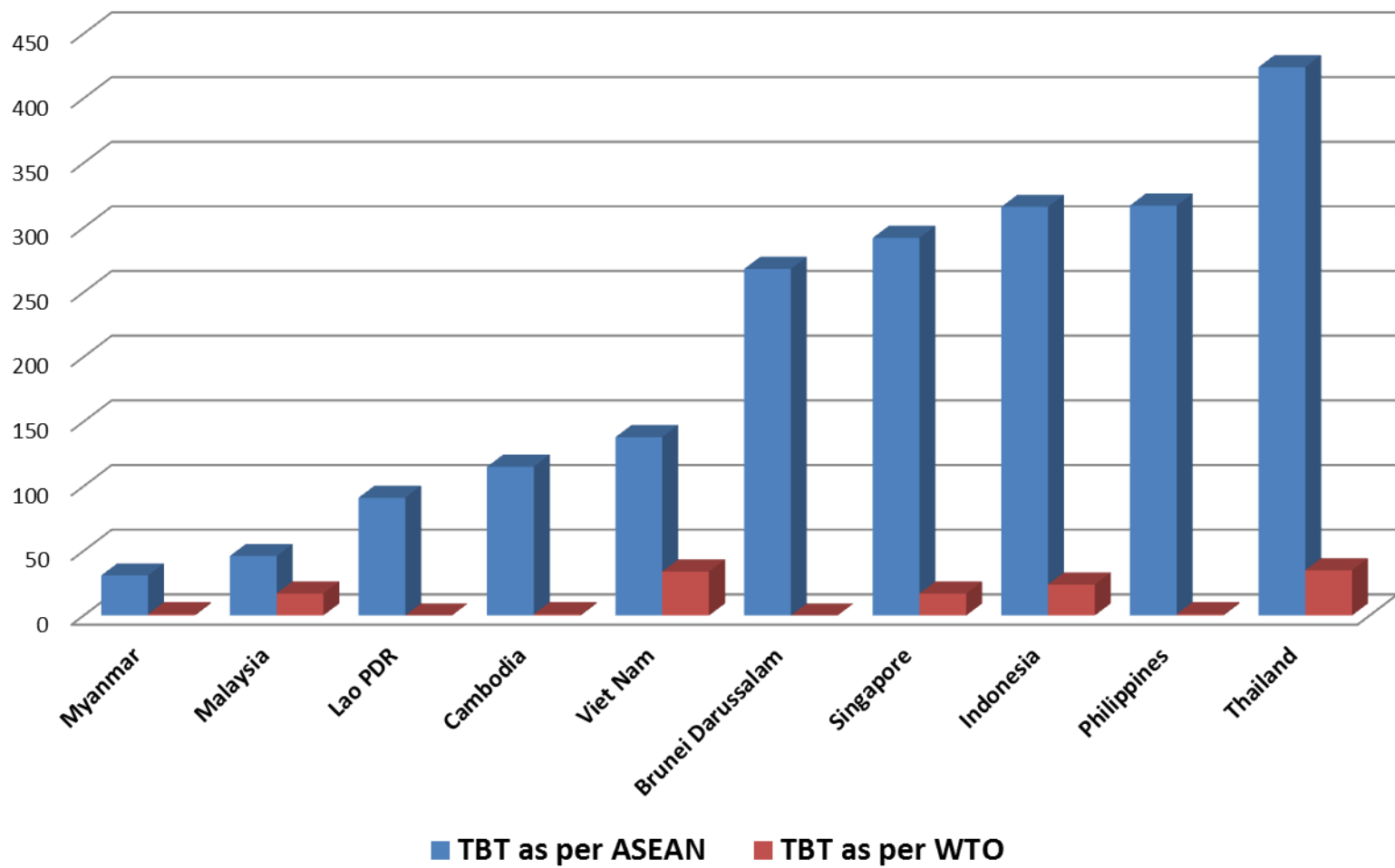
Business (trade) process analysis findings among South/Southeast Asian Countries

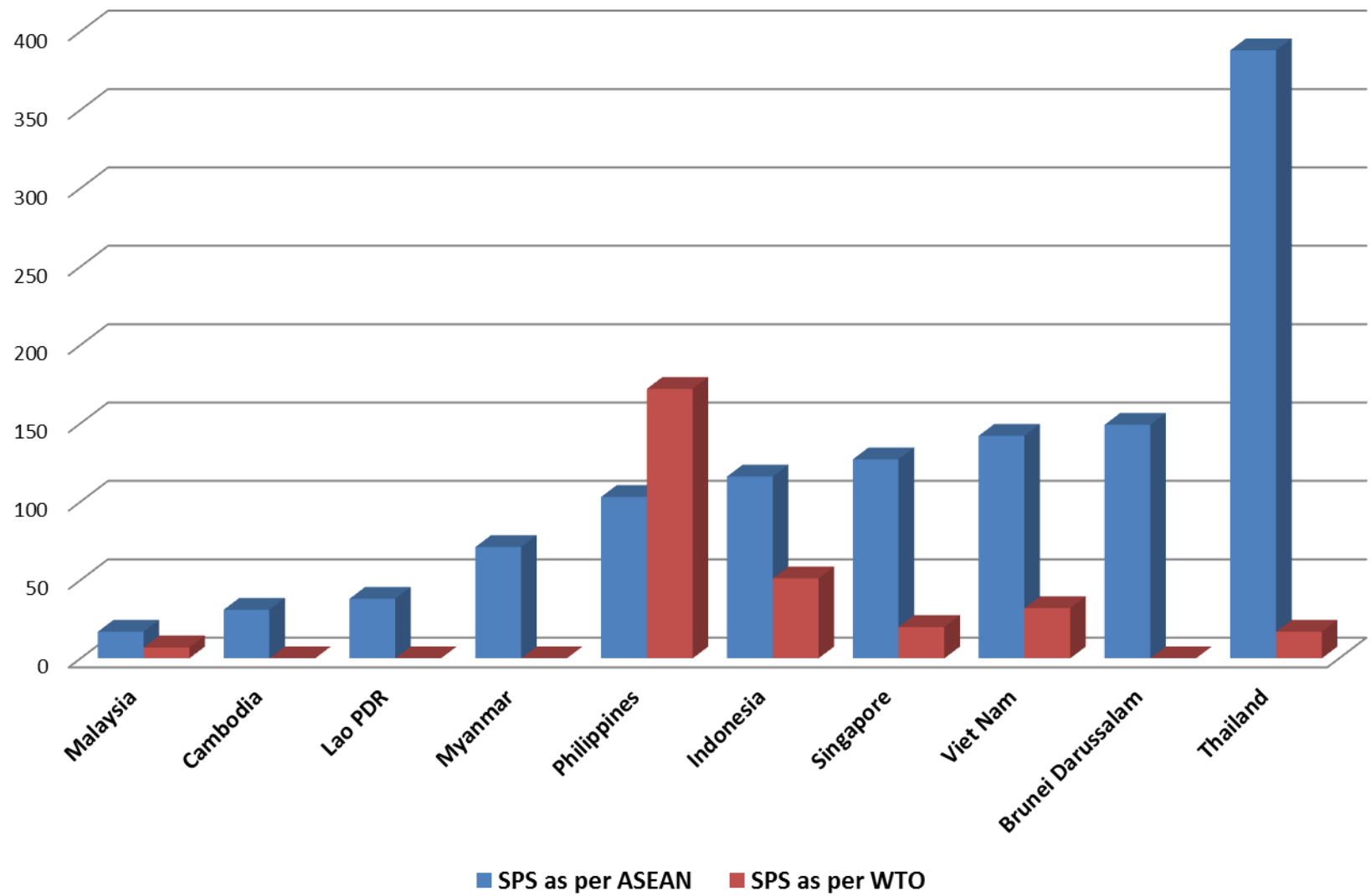
	Cambodia (Maize/Cassava export to China)*	Lao PDR (Maize export to Thailand)*	Myanmar (Rice export via Yangon port)*	Bangladesh (Jute bag export to India)*	Thailand (rice export to Europe)*
Number of days	19/20	16	19-23	10	12
Cost	USD 1250 -1360	USD 735	USD 425		USD 700
Number of actors involved	15	11	20	15	15

* source: ESCAP BPA Study Reports available at:
http://unnex.unescap.org/tools/business_process.asp

Obtaining Phytosanitary Certificates for agro-food products in South and Southeast Asian Countries*

	Bangladesh	Cambodia	Lao PDR	Myanmar	Nepal
Number of Days Required	4 days	2-5 days	At least 2 days	1-2 days	0.5 day
Documents Required	<ul style="list-style-type: none"> (i) Proforma invoice (ii) packing list, (iii) oil content certificate, (iv) COO 	<ul style="list-style-type: none"> (i) Phyto sanitary certificate application (ii) Commercial invoice (iii) Packing lists (iv) Release container, (v) Fumigation certificate 	<ul style="list-style-type: none"> (i) Packing list, (ii) Import license, (iii) Commercial contract among importer and exporter; (iv) Request for import of animal feed; (v) Pro-forma invoice; 	<ul style="list-style-type: none"> (i) Shipping instructions (ii) National Registration Card (iii) Sealed case file from Customs head office <ul style="list-style-type: none"> ○ Export Declaration ○ Export License ○ Invoice ○ Packing list 	<ul style="list-style-type: none"> (i) Letter from Customs to Food Quarantine Office (ii) Commercial Invoice (iii) Packing List (iv) Customs Declaration Form (v) Sample
Stakeholders Involved	<ul style="list-style-type: none"> • Exporter (or representative) • Department of Agricultural Extension (DAE) • Clearing and Forwarding (C&F) Agent 	<ul style="list-style-type: none"> • Exporter • MAFF/GDA 	<ul style="list-style-type: none"> • Exporter or representative • Vientiane Capital Agriculture Division - Agriculture Quarantine Section 	<ul style="list-style-type: none"> • Ministry of agriculture • Exporter 	<ul style="list-style-type: none"> • Clearing agent • Food Quarantine Office • Customs Office





ASEAN

ASEAN Economic Community

- **ASEAN (ATIGA):**
 - **WTO provisions retained**
 - **Provisions for negotiation of sectoral equivalence, cooperation in developing international standards, harmonisation**
- **ASEAN Economic Community by 2015**
- **Free flow of goods through:**
 - i. **Elimination of Tariffs**
 - ii. **Elimination of Non-Tariff Barriers**
 - iii. **Simple Rules of Origin (ROO)**
 - iv. **Trade Facilitation**
 - v. **Customs Integration**
 - vi. **ASEAN Single Window**
 - vii. **Standards & Technical Barriers to Trade**

Standards & Technical Regulations

- **ASEAN Consultative Committee on Standards & Conformance (ACCSQ)** was established in 1992. Aim was to implement mutual recognition arrangements (MRAs) of test reports, certifications & conformity and harmonise national standards, technical regulations & conformity assessment requirements. ACCSQ is supported by 3 working groups (WGs) and 8 product working groups (PWGs).
- **ASEAN Framework Agreement on Mutual Recognition Arrangements** was signed in 1998 – to develop sectoral MRAs and cooperative activities to facilitate elimination of TBT within ASEAN.
- **ASEAN has Guideline on Standards and Conformance (2005)** which aims to provide guiding principles for the implementation in the areas of standards and conformance in regulated and non-regulated sectors, for accelerating the integration towards AEC.

Working Groups

- Working Group on Standards and Mutual Recognition Agreements
- Working Group on Accreditation and Conformity Assessment
- Working Group on Legal Metrology
- the desired outcome is “one standard, one test, one certificate accepted everywhere”

20 Priority Products

Air-conditioners	Refrigerators
Monitors & Keyboard	Motors & Generators
Inductors	Loudspeakers
Video Apparatus	Telephones
Radio	Television
Parts of TV and Radio	Capacitors
Resistors	Printed Circuits
Switches	Cathode Ray Tubes
Diodes	Mounted Piezo-electric crystal
Rubber condoms	Medical Gloves
<i>Harmonisation as per ISO, ITU and IEC standards completed in 2003.</i>	

ASEAN Arrangements (MRAs)

- **Memorandum of Understanding on Standstill and Rollback on Non-Tariff Barriers among ASEAN countries (1987)**
- **The Memorandum of Understanding on Standards and Quality (1996)**
- **ASEAN Framework Agreement on Mutual Recognition Arrangements (1998)**
- **ASEAN Telecommunication Regulators' Council Sectoral MRA (1998)**
- **ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment (2002)**
- **Agreement on the ASEAN Harmonized Cosmetic Regulatory Scheme (2003)**
- **Agreement on the ASEAN Harmonized Electrical and Electronic Equipment (EEE) Regulatory Regime (2005)**
- **Pharmaceutical Good Manufacturing Practice (GMP) MRA (2009)**

Harmonization in ASEAN agriculture products

- Codex:
 - General Standards for Labelling of prepackaged foods, Food additives.
 - Guidelines on Claims and Nutrition labelling
- IPPC:
 - International Standards for Phytosanitary Measures (ISPMs)
- World Organization for Animal Health:
 - Guidelines for disease reporting; import-export risk analysis; and surveillance section.

Harmonization in ASEAN agriculture products

A. Codex

- i) Codex General Standards for the Labelling of Prepackaged Foods,
- ii) Codex General Standard for the Labeling of Food Additives;
- iii) Codex General Guidelines on Claims
- iv) Codex Guidelines on Nutrition Labelling.

B. International Plant Protection Convention (IPPC)

Standards Number:

- No. 6 (1997) - Guidelines for surveillance
- No. 7 (2011) - Phytosanitary Certification System
- No. 10 (1999) - Requirements for the establishment of pest free places of production and pest free production sites
- No. 12 (2011) - Phytosanitary Certificates
- No. 13 (2001) - Guidelines for the notification of non-compliance and emergency action
- No. 15 (2002) - Guidelines for regulating wood packaging material in international trade
- No. 17 (2002) - Pest reporting
- No. 19 (2003) - Guidelines on lists of

regulated pests

- No. 20 (2004) - Guidelines for a phytosanitary import regulatory system
- No. 23 (2005) - Guidelines for inspection
- No. 24 (2005) - Guidelines for the determination and recognition of equivalence of phytosanitary measures
- No. 25 (2006) - Consignments in transit
- No. 28 (2009) - Phytosanitary treatment for regulated pests
- No. 31 (2008) - Methodologies for sampling consignments

C. World Organization for Animal Health (OIE)

Harmonization of OIE Guidelines for disease reporting (Section 1.1-1.5), import-export risk analysis (Section 3.1), surveillance section (Section 3.4)

Benefits of MRAs

- **MRAs set the groundwork for regulatory coherence in ASEAN for them to harmonise their national standards with the international standards.**
- **Prepares them for regional collaboration in meeting international standards which ultimately helps in looking for the international markets.**
- **Supports the regional integration for free flow of goods.**

ASEAN:Lessons Learnt

- **Strong political commitment and top level support is essential to meet the goals on standards and technical regulations.**
- **Collaboration and commitment by regulators and CABs are essential.**
- **Members at various stages of development – brings challenges in consensus building.**
- **Technical assistance become important.**
- **ASEAN initiated dialogues with its dialogue partners – Japan, EU, USA etc.**
- **The basis for harmonisation – international standards.**

SAARC

SAARC: SAFTA

- **Article 3(d) - free movement of goods, between countries through, inter alia, the elimination of tariffs, para-tariffs and non- tariff restrictions on the movement of goods and any other equivalent measures.**
- **6(c) Arrangements relating to non-tariff measures.**
- **8(a) Harmonisation of standards, reciprocal recognition of tests and accreditation of listing laboratories of contracting states and certification of procedures.**

SAARC

- **Agreement on the Establishment of South Asian Regional Standards Organisation (SARSO) (August 2008).**
- **SAARC Agreement on Multilateral Arrangement on Recognition of Conformity Assessment (November 2011).**
- **SAARC Agreement on Implementation of Regional Standards (November 2011).**

SAARC

- **The Agreement on the Establishment of South Asian Regional Standards Organisation(SARSO) entered into force with effect from 25 August 2011 after ratification by all member States of SAARC.**
- **SARSO Sectoral Technical Committees (STCs) discussing harmonisation of standards on Refined sugar, biscuits, instant noodles, black tea, vanaspati, skimmed milk powder on food and agricultural products.**

SAARC: Lessons Learnt

- Focus is on exporting to India and how to reduce the transaction cost (Trade facilitating effect) and not real regional integration.
- However, the solution lies on trade policy and not mainly on trade facilitation (CAP, Equivalence, Regionalisation, Harmonisation).
- Prioritization of items of regional export interest, especially in the context of SPS and TBT measures is lacking.
- Institution building:
 - Laboratory and testing equipments
 - National Accredited Bodies for these items/sectors
 - Conformity Assessment Bodies
- Capacity building and technical assistance

ASEAN and SAARC

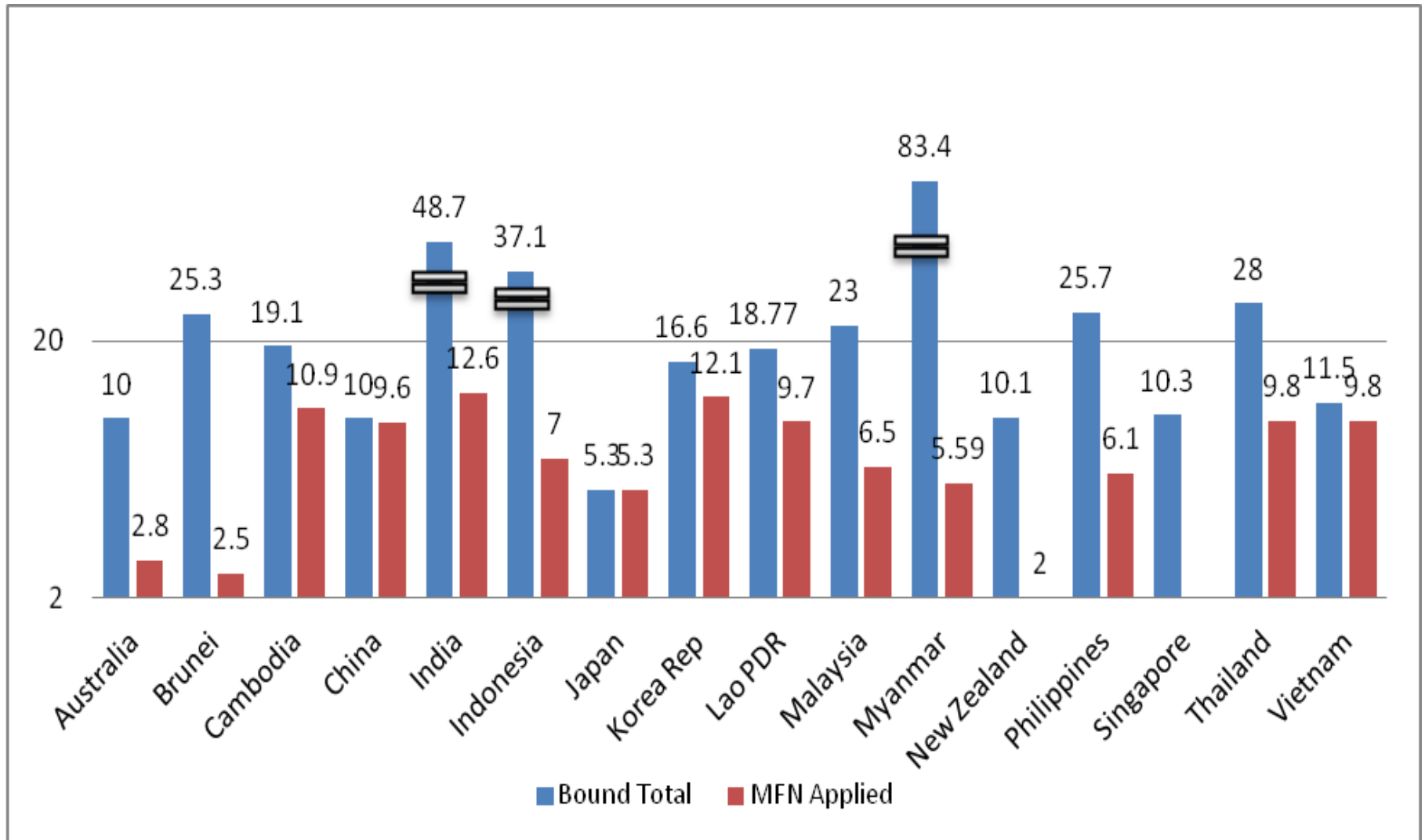
- **No effort for setting up regional standards and then taking them up for setting international standards.**
- **No effort taken for equivalence or regionalisation.**
- **Lack preparedness for driving the agenda for setting international standards.**
- **Not using very actively the STCs in WTO – perhaps a collective effort in Geneva is needed.**

Way Forward

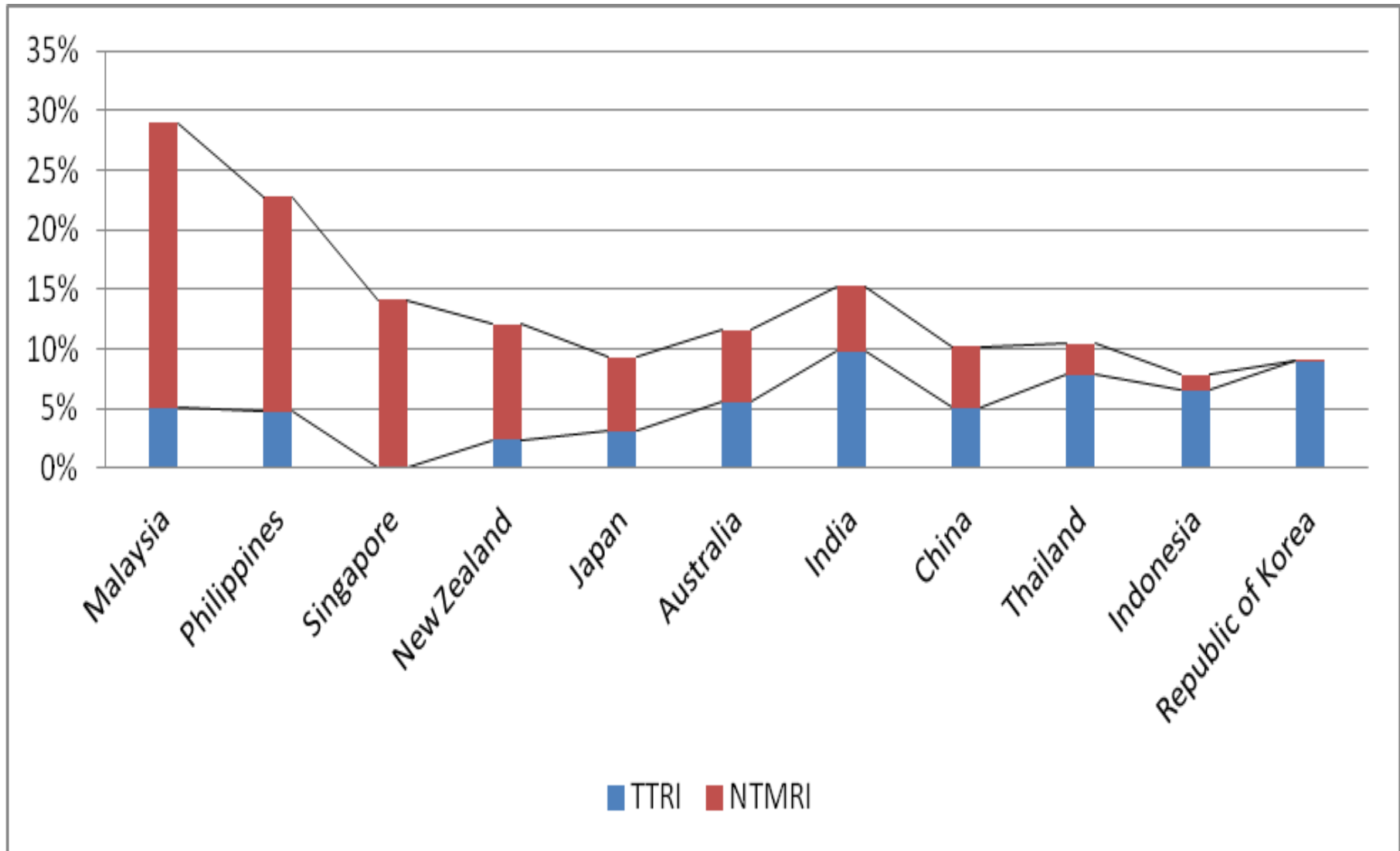
- **Consider conducting studies and identify items:**
 - **Non sensitive: supplier's declaration scheme may be initiated.**
 - **Least sensitive: Accredited exporters scheme**
 - **Sensitive: CAB**
- **Explore Regionalization and Equivalence provisions.**

RCEP

Tariff profile of RCEP countries



TTRI and NTMRI profile of RCEP countries (WB 2009)



Removal of non-tariff trade cost for RCEP

- Study on “Regional Comprehensive Economic Partnership (RCEP) FTA: Reducing Trade Cost through Removal of Non-Tariff Measures” – available at [http://www.akes.or.kr/akes/downfile/17.2.3%20%20Ratna%20and%20Huang%20\(213-242\).pdf](http://www.akes.or.kr/akes/downfile/17.2.3%20%20Ratna%20and%20Huang%20(213-242).pdf)
- Using gravity model estimated the effect of removal of tariff and non tariff trade cost by using ESCAP-WB trade cost database.
- Found that full removal of non-tariff trade cost will increase intra RCEP trade by 55% with potential of US \$ 1.3 billion export growth.
- Process of harmonisation, CAP, MRA are important.

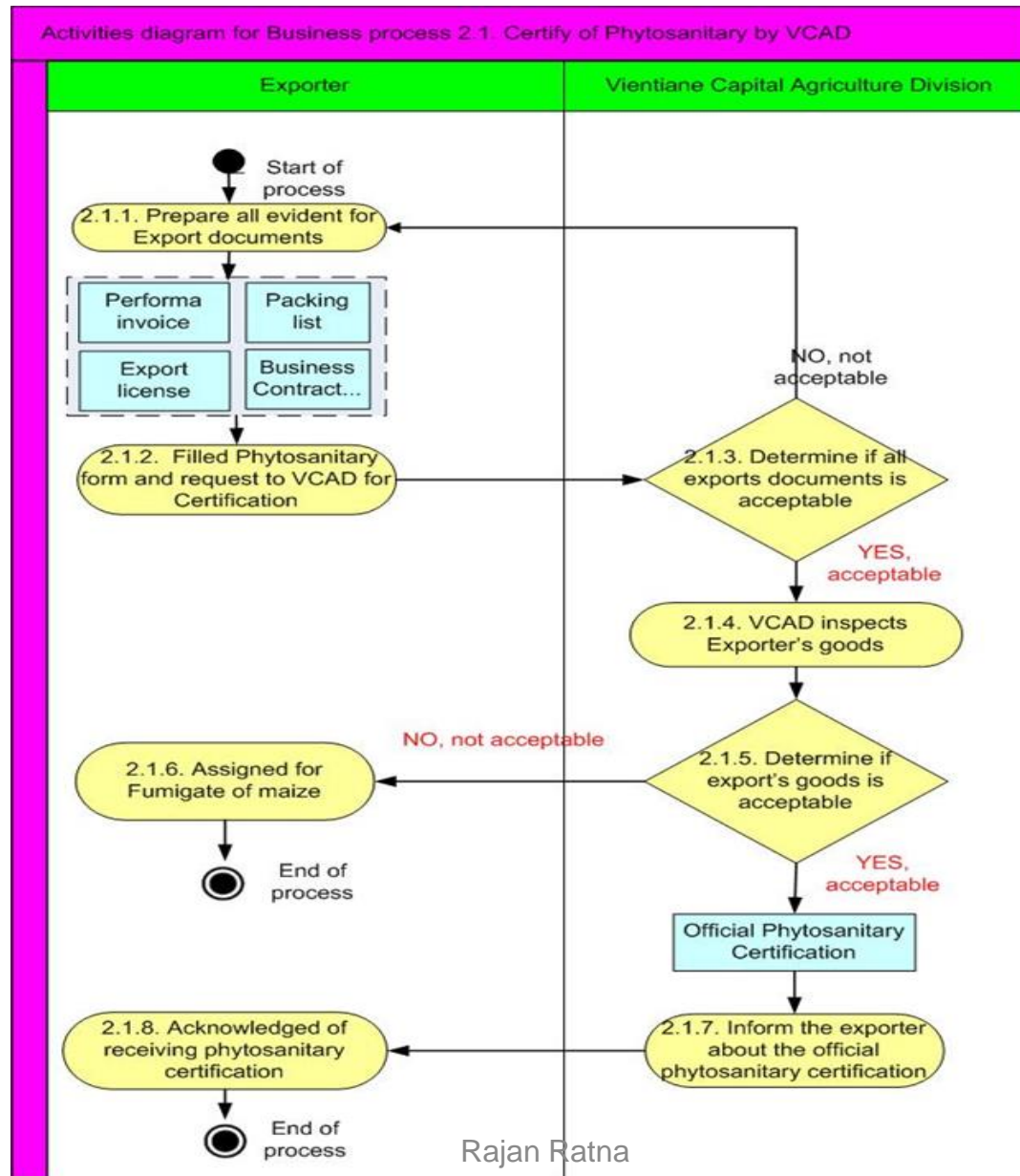


Case of Lao PDR

Lao PDR's Maize Export to Thailand : Obtaining Phytosanitary and Fumigation Certificates

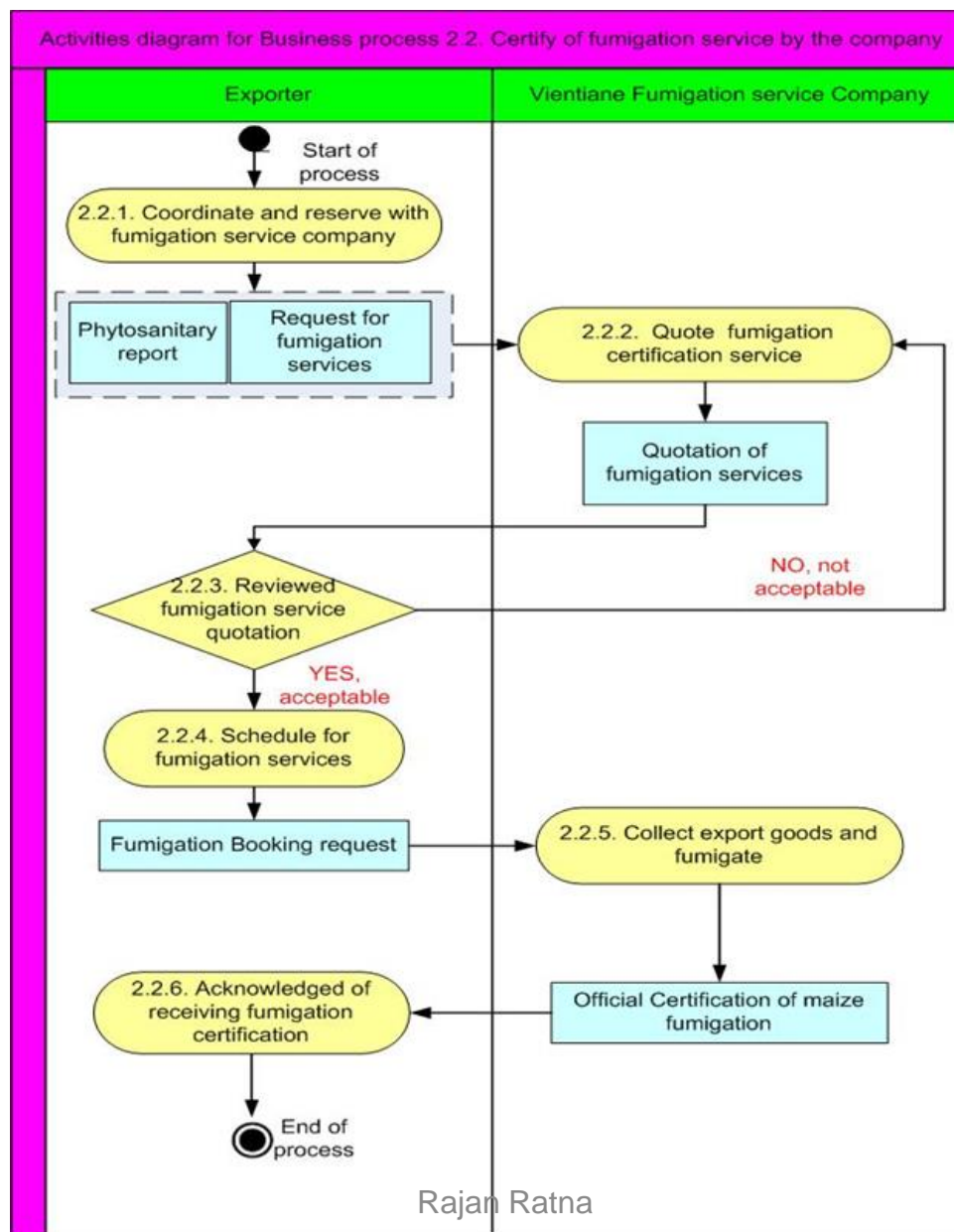
- **Number of days taken to complete these two processes: 4 Days**
- **Documents Required : 8**
 - (i) Phytosanitary request form (ii) Proforma invoice, (iii) Packing list, (iv) Export license, (v) Business contract between importer and exporter, (vi) Business license, (vii) Phytosanitary report, (viii) Request for fumigation services
- **Cost : About 75% of total cost for these two processes**

Lao PDR's Maize Export to Thailand : Process for Obtaining Phyto Sanitary Certificate



Source:
http://unnnext.unescap.org/tools/business_process.asp

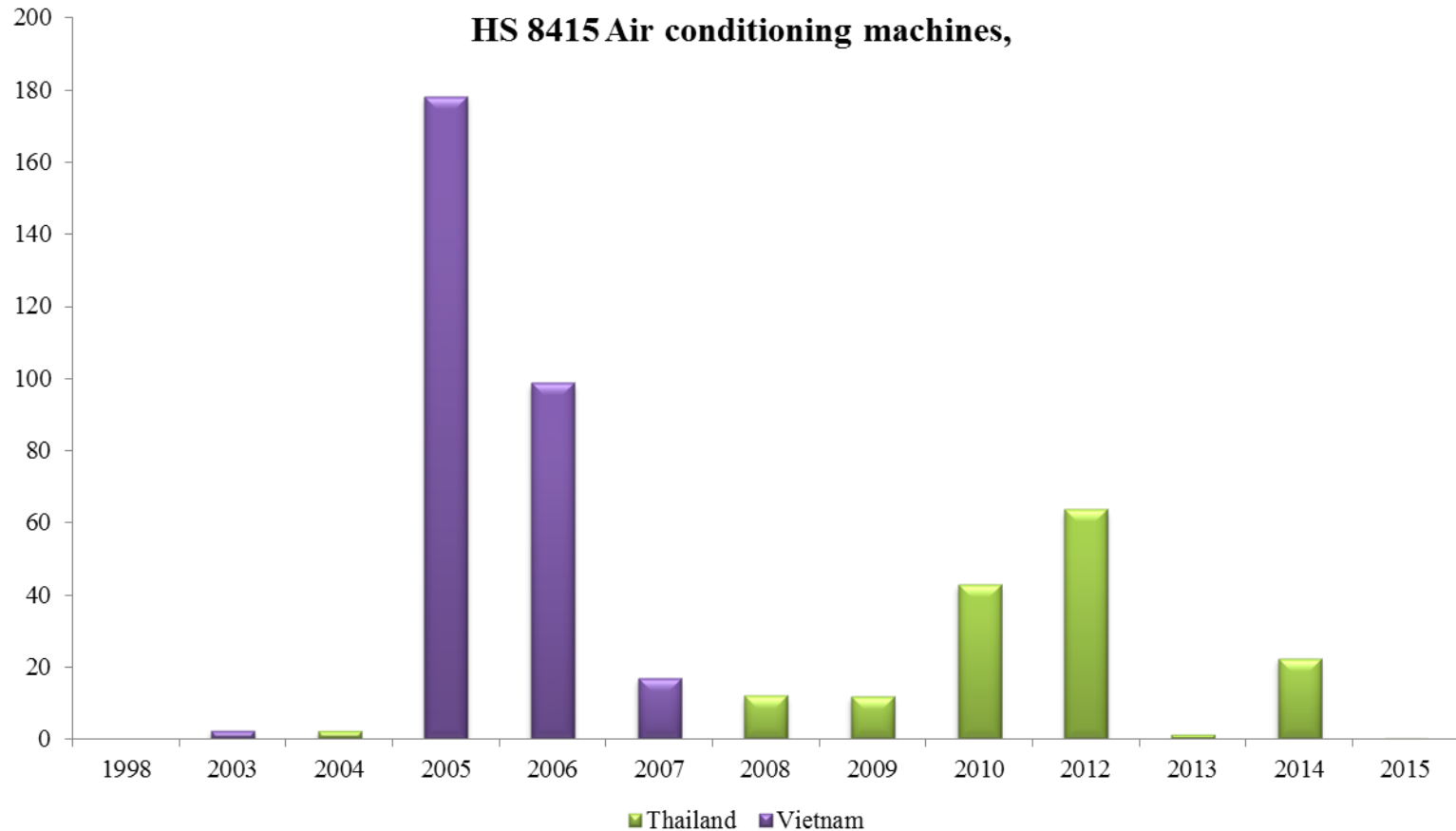
Lao PDR's Maize Export to Thailand : Process for Obtaining Completing Fumigation



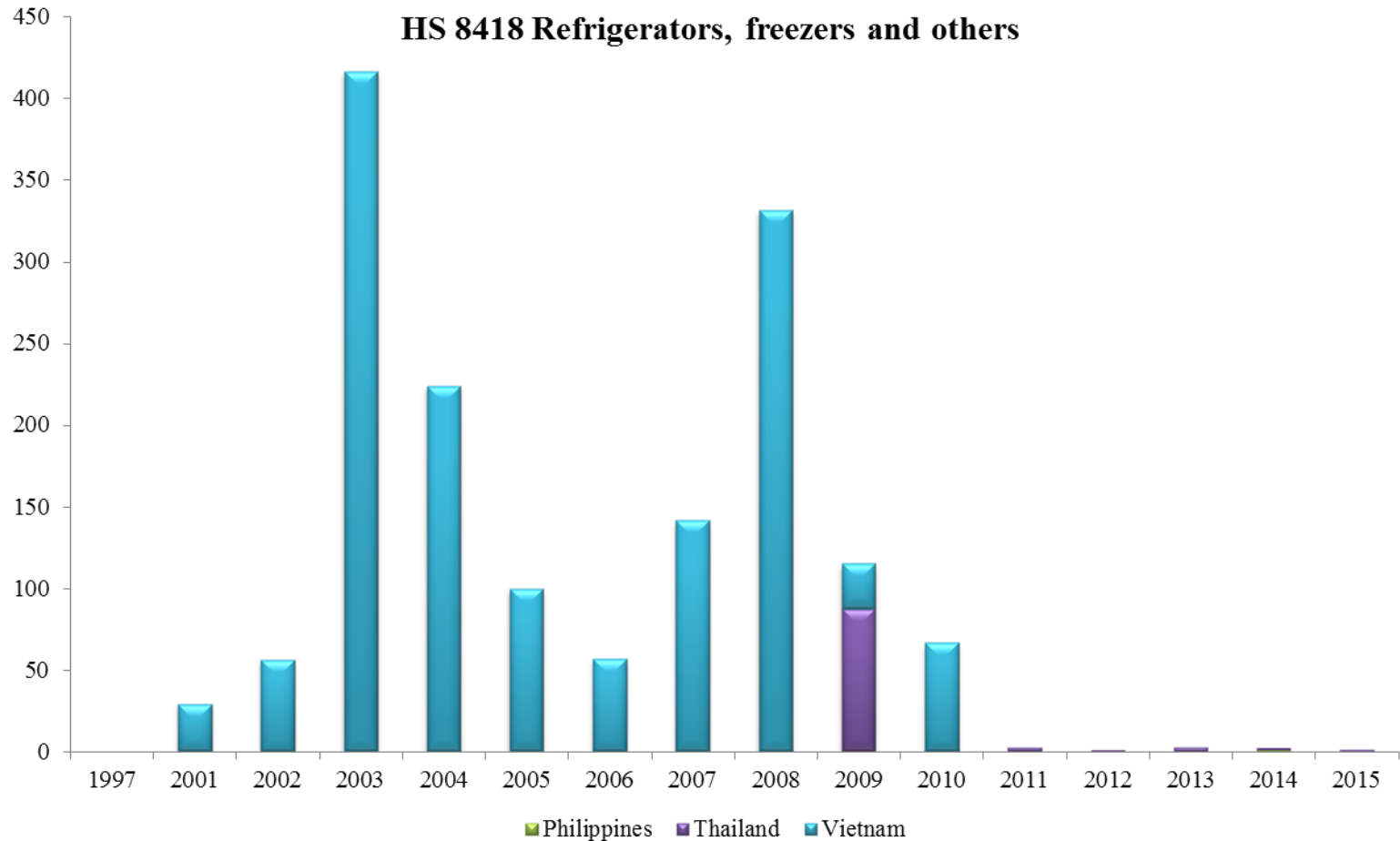
Case Study

- **Few products were selected at 4 digit HS level out of 20 products where harmonisation took place in ASEAN.**
- **Selection – highest growth in global imports from 1997 to 2015.**
- **Major exporters from ASEAN were identified.**
- **Patterns of exports of Lao PDR to AMS - pre and post harmonisation were analysed.**

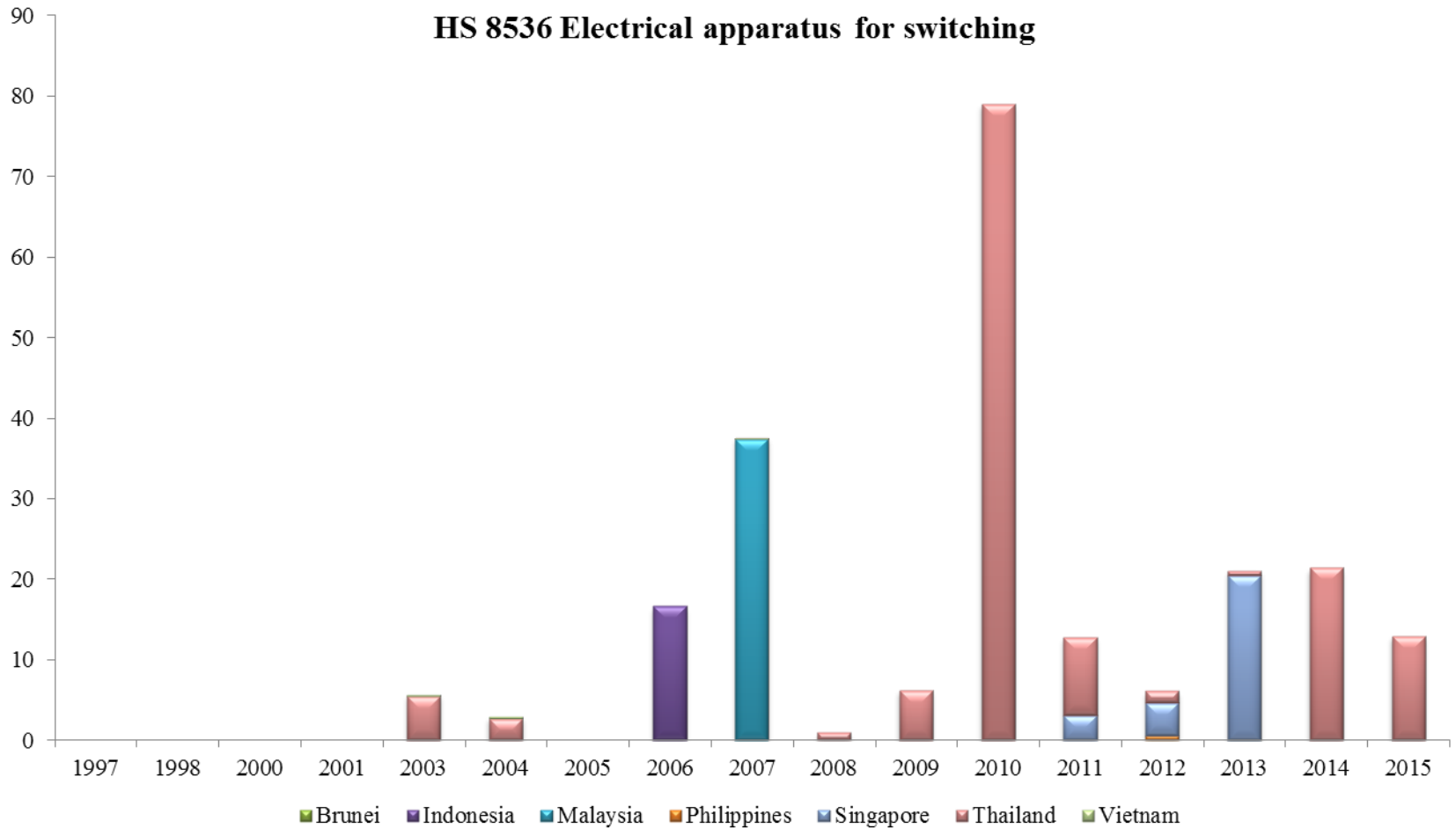
AMS imports from Lao PDR (Thousand US \$)



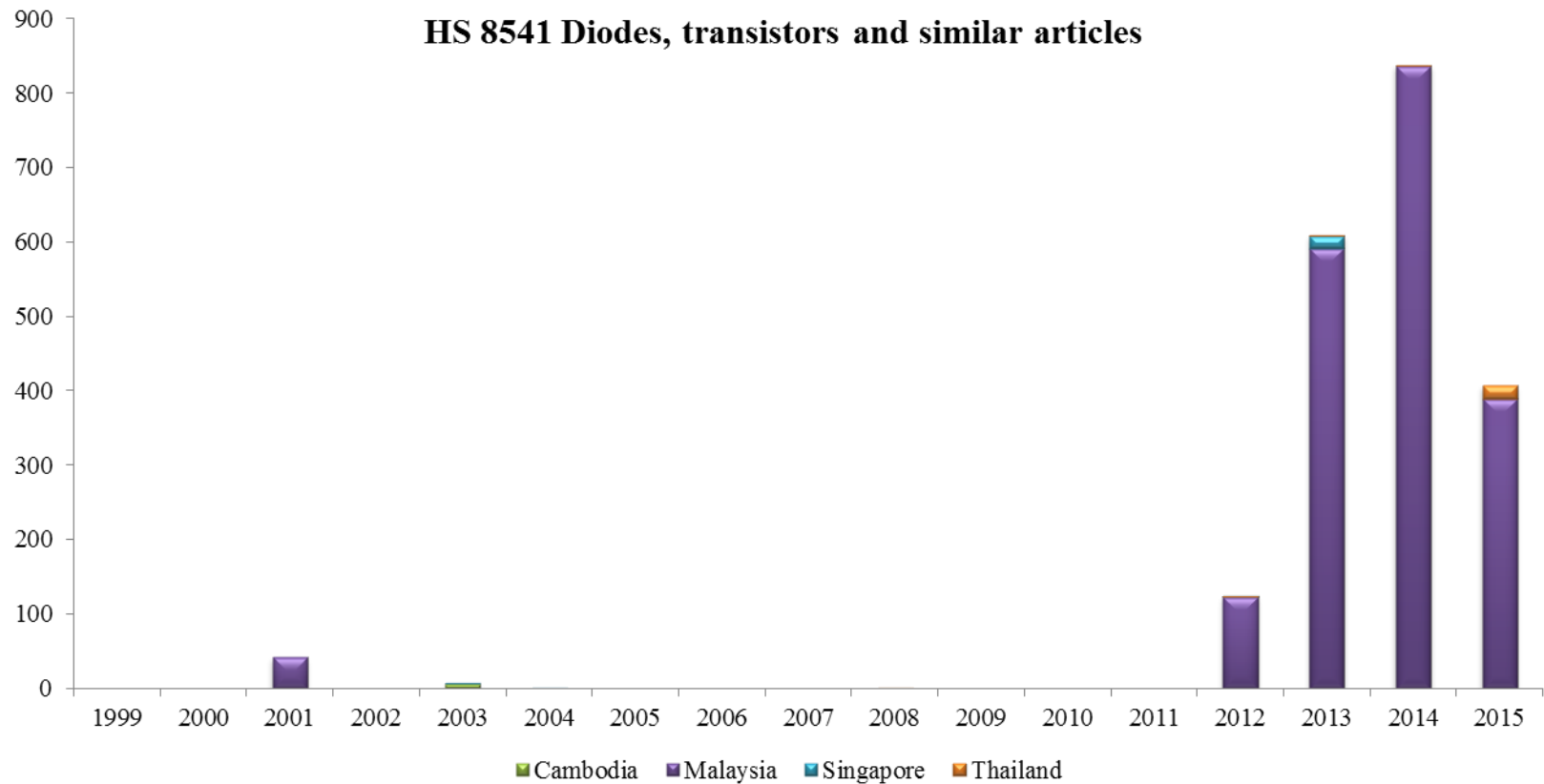
AMS imports from Lao PDR (Thousand US \$)



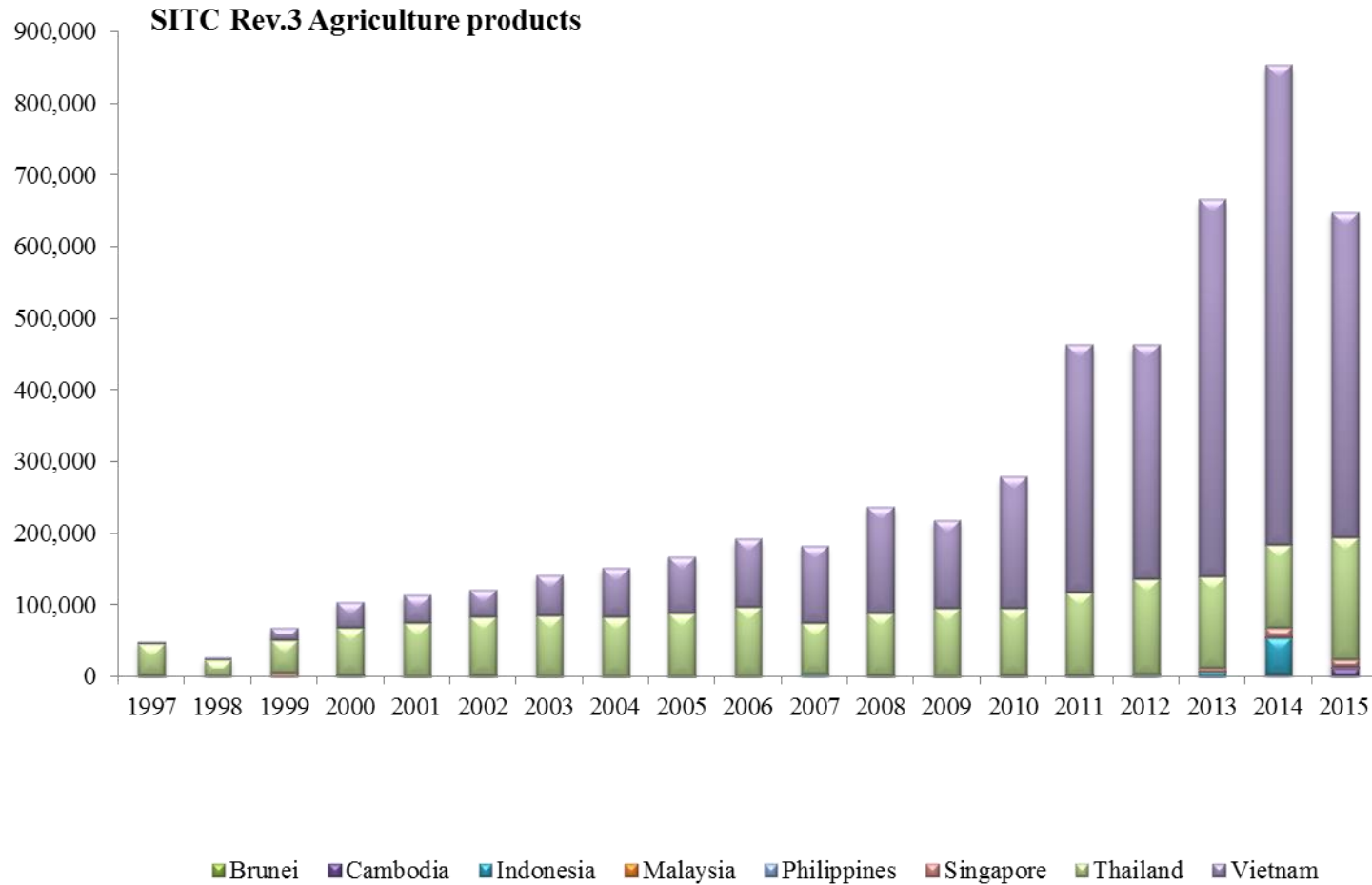
AMS imports from Lao PDR (Thousand US \$)



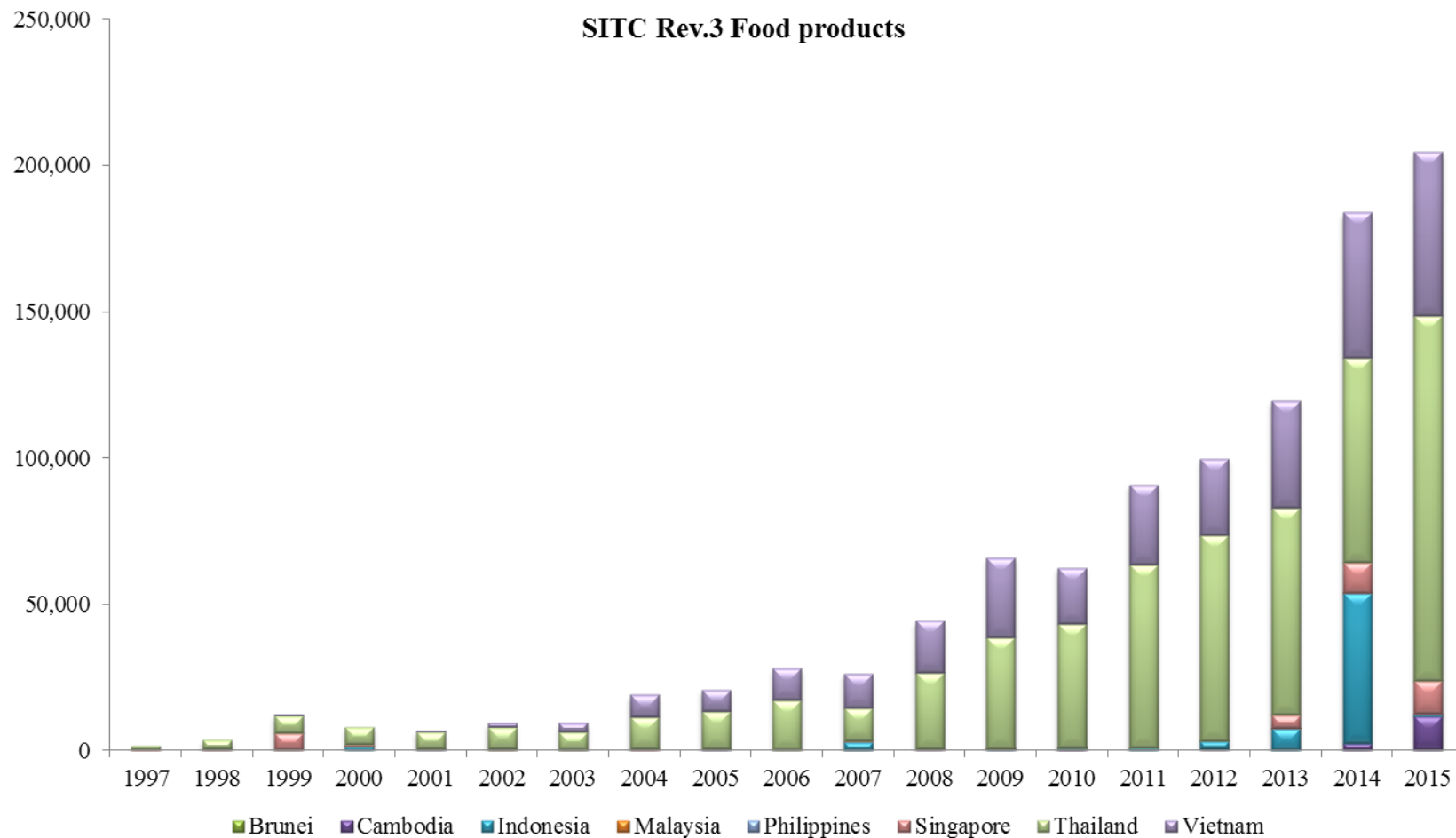
AMS imports from Lao PDR (Thousand US \$)



AMS imports from Lao PDR (Thousand US \$)



AMS imports from Lao PDR (Thousand US \$)



Discussions

- **Do you think Lao PDR has gained?**
- **What went right?**
- **What went wrong?**
- **What needs to be done?**

Way forward

- **Study and identify items**
 - Non sensitive: supplier's declaration
 - Least sensitive: Accredited exporters
 - Sensitive: CAB
- **Explore Regionalization provisions**
- **Build infrastructure – Labs, NABs, CABs.**
- **Then only look for:**
 - Harmonisation
 - Equivalence

SORRY!

