

Chapter 10

Value Chain Development: Case Study of Viet Nam's Fishery Export

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October 2018

This chapter should be cited as

Ongkittikul, S and N. Thongphat (2018), 'Value Chain Development: Case Study of Viet Nam's Fishery Export', in Gross, Jeremy and P.S. Intal, Jr. (eds.), *Reducing Unnecessary Regulatory Burdens in ASEAN: Country Studies*, Jakarta: ERIA, pp.265-291.

CHAPTER 10

Value Chain Development: Case Study of Viet Nam's Fishery Exports

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[1] Introduction

Since 1986, Viet Nam has undertaken various market-oriented reforms to promote the development of its economy, including the agricultural sector. Amongst the key measures for inducing agricultural development are policy efforts to facilitate domestic and foreign trade of key agricultural products, thereby deepening the links between production premises and markets for such products. For decades, agriculture has increasingly contributed to Viet Nam's direct and indirect trade. Fishery products are amongst its key agricultural outputs for exports. The continuous growth of fishery exports has led into the rapid expansion of domestic aquaculture production and, in recent years, induced imports of fishery products for domestic processing. In turn, the extent of connectivity within the supply chain of fishery products is a critical factor. Reducing unnecessary regulatory burdens (RURB) then becomes important since it can help enhance connectivity and reduce inefficiency in operations along the supply chain.

Reducing unnecessary regulatory burdens fits Viet Nam's broader agenda for structural reforms. The country has acknowledged the need for institutional reforms, especially at the microeconomic level, to enhance efficiency. The RURB is instrumental in doing so. As an example, Viet Nam has embarked, together with other Asia-Pacific Economic Cooperation member economies, on RURB alongside other instruments (regulatory impact assessment, ex-post evaluation, public consultation, and international regulatory cooperation). The commitments for regulatory coherence under the Trans-Pacific Partnership also

make way for good regulatory practices, including RURB, to enable the smooth performance of firms.

This chapter reviews the present regulatory issues and burdens related to the supply chain for fishery exports in Viet Nam, adopting the participatory approach to analyse regulatory impediments to efficient flows of products from import and/or production to the final export channel. All other factors that might potentially affect the fishery supply chain, such as underdevelopment of infrastructure and changes in aquaculture conditions, form no part of the research.

The focus of this study is threefold. First, the authors assess the potential regulatory burdens on importers and exporters of fishery products via the trading-across-borders indicators of the World Bank (World Bank, 2016b). Second, the authors consider regulatory issues that may hamper efforts to start businesses in the fishery sector. Third, several regulatory issues are drawn out from analyses and interviews with fishery producers.

To achieve the above objectives, this chapter combines methodologies. First, the literature review draws on secondary statistical inputs from relevant studies, reports, and legal documents on regulatory issues of the fishery supply chain. Second, the authors adopt the RURB framework to find possible regulatory issues and burdens, connecting them with stakeholders, fine-tuning the analysis, and presenting recommendations to the appropriate regulators. In almost all cases, regulations in Viet Nam do not include statements of objectives. As such, the authors rely on consultations with regulators and business associations to understand what those objectives are.

The remainder of this chapter is structured as follows: Section 2 provides a brief overview of the overall business environment and the fishery sector in Viet Nam. Section 3 presents the key findings from the research and interactions with regulators and businesses in the fishery sector. Section 4 draws out key recommendations on how to alleviate unnecessary regulatory burdens on businesses.

[2] Background Information

2.1 | Assessment of Business Environment

In 2014, the Government of Viet Nam issued Resolution No. 19/NQ-CP, marking an important breakthrough in initiating action to significantly reduce compliance costs and facilitate business activities.¹ This resolution deepened the simplification of administrative procedures as per Program 30,² but was aligned with international assessment (i.e. the World Bank rankings on doing business). The resolution was updated in 2015 and 2016. In 2016, Resolution 19 set out to improve the doing-business indicators of Viet Nam by the end of 2017 to at least equal the average of the Association of Southeast Asian Nations (ASEAN).³

Following Resolution 19/NQ-CP in 2014, the government has relied more on the doing-business indicators, which are sourced from the annual surveys conducted by the World Bank and the International Finance Corporation, to measure the relative attractiveness of Viet Nam's business environment. Now on its 13th series, this annual survey analyses and presents quantitative indicators in the following areas:

- Starting a business
- Dealing with construction permits
- Employing workers (since 2014, getting electricity)
- Registering property
- Getting credit
- Protecting investors (since 2014, protecting minority investors)
- Paying taxes
- Trading across borders
- Enforcing contracts
- Closing a business (since 2014, resolving insolvency)

¹ For details on implementation of Resolution No. 19/NQ-CP, see Ministry of Planning and Investment (2015, 2016).

² Since 2007, Viet Nam has started to implement Project 30 (under Decision 30/QD-TTg of the Prime Minister, dated 10 January 2007) with several key objectives for 2007–2010: (i) to simplify at least 30% of administrative procedures and reduce administrative costs by at least 30%; (ii) to harmonise domestic regulatory system with international commitments (especially the World Trade Organization); (iii) to set up the first unified national database for administrative procedures; and (iv) to improve Viet Nam's competitiveness, boost investment, and increase productivity (for more details, see Vo and Nguyen 2016).

³ Malaysia, Philippines, Singapore, and Thailand.

Table 1 shows the trading-across-borders indicators⁴ for Viet Nam's exports from 2005 to 2016. Overall, Viet Nam ranked 93rd out of 190 surveyed economies in 2016, an improvement compared to 2015 (99th out of 189 surveyed economies). The number (at 5) of documents is unchanged over time. The costs and time to export slowly improved before 2015. In 2016, the time to comply with documentary requirements for exports was shortened from 83 hours (in 2015) to 50 hours. However, the time to comply with border procedures rose slightly, while the costs of both border and documentary compliance stayed unchanged in 2016.

Table 1: Indicators of Exports in Viet Nam, 2005–2016

Year	Time to Export: Border Compliance (hours)	Cost to Export: Border Compliance (US\$)	Time to Export: Documentary Compliance (hours)	Cost to Export: Documentary Compliance (US\$)	Time to Export (days) (Old Methodology)	Cost to Export (US\$ per container) (Old Methodology)
2005	N/A	N/A	N/A	N/A	24	468
2006	N/A	N/A	N/A	N/A	24	468
2007	N/A	N/A	N/A	N/A	24	468
2008	N/A	N/A	N/A	N/A	24	533
2009	N/A	N/A	N/A	N/A	22	555
2010	N/A	N/A	N/A	N/A	22	555
2011	N/A	N/A	N/A	N/A	22	580
2012	N/A	N/A	N/A	N/A	21	610
2013	N/A	N/A	N/A	N/A	21	610
2014	57	309	83	139	N/A	N/A
2015	57	309	83	139	N/A	N/A
2016	58	309	50	139	N/A	N/A

N/A = not applicable.

Source: World Bank, 2016b.

Table 2 shows the trading-across-borders indicators for Viet Nam's imports from 2005 to 2016. The number (at 8) of documents is unchanged over time. Unlike exports, the costs and time to import decreased over 2008–2013. In 2014–2015, nonetheless, the costs and time to import hardly improved. Like exports, the time for documentary compliance for imports was shortened drastically from 106 hours in 2015 to 76 hours in 2016.

⁴ For details on methodology and computation of Trading Across Border indicators, see: <http://www.doingbusiness.org/methodology/trading-across-borders> (accessed 3 March 2017).

Table 2: Indicators of Imports in Viet Nam, 2005–2016

Year	Time to Import: Border Compliance (hours)	Cost to Import: Border Compliance (US\$)	Time to Import: Documentary Compliance (hours)	Cost to Import: Documentary Compliance (US\$)	Time to Import (days) (Old Methodology)	Cost to Import (US\$ per container) (Old Methodology)
2005	N/A	N/A	N/A	N/A	23	586
2006	N/A	N/A	N/A	N/A	23	586
2007	N/A	N/A	N/A	N/A	23	586
2008	N/A	N/A	N/A	N/A	23	606
2009	N/A	N/A	N/A	N/A	21	645
2010	N/A	N/A	N/A	N/A	21	645
2011	N/A	N/A	N/A	N/A	21	670
2012	N/A	N/A	N/A	N/A	21	600
2013	N/A	N/A	N/A	N/A	21	600
2014	64	268	106	183	N/A	N/A
2015	64	268	106	183	N/A	N/A
2016	62	392	76	183	N/A	N/A

N/A = not applicable.

Source: World Bank, 2016b.

From 2011 to 2015, Viet Nam tried to establish the National Single Window (NSW) to facilitate trade across borders in line with ASEAN's integration agenda to establish the ASEAN Single Window. By September 2015, nine ministries with dozens of procedures were connected to NSW. Viet Nam then set to reduce the time for completing procedures in NSW by 15%–30% by the end of 2016 (compared to the baseline at the end of 2015), and by another 15% in 2017. Viet Nam was also the fifth country to get connected to ASW, after Indonesia, Malaysia, Singapore, and Thailand (in the later stage). With more ministries and procedures connected to NSW from 2016 onwards, Viet Nam is expected to significantly reduce the time and costs for trading across borders. With around eight million lodged forms of traded goods by the end of October 2016, the savings in dossier preparation via NSW were approximately US\$600 million (Phuong, 2016).

The remaining issues related to the trading-across-borders indicator lie mainly in the stages prior to or after customs clearance. In particular, various types of licences and specialised certificates are currently regulated in various legal documents. Some shortcomings still prevail in terms of capacity, division of

function and time in testing and checking quality of imported goods, sanitary and phytosanitary measures, foods safety and sanitation, etc.

Table 3 shows the component indicators on starting a business in Viet Nam from 2003 to 2016. The documented time to start a business was drastically shortened from 62 days in 2003 to 20 days in 2015. The associated costs also fell from 31.9% of income per capita to 4.9% over the same period. In particular, Viet Nam set out the minimum paid-in capital of 0%, which relaxed the requirements for setting up a business. The main impediments to setting up businesses now lie in the sector-specific conditions stipulated by different authorities, although these are on track to be simplified following the amended Enterprise Law and the Investment Law (both promulgated in November 2014, and took effect in July 2015). Although more slowly, the procedures for starting a business were also simplified in 2015 (Table 3). In 2016, however, Viet Nam saw mixed progress in starting a business as the number of procedures was reduced to nine, the cost was cut to 4.6% of income per capita, and the time to start a business lengthened to 24 days.

Table 3: Starting-a-Business Indicators, Viet Nam, 2003–2016

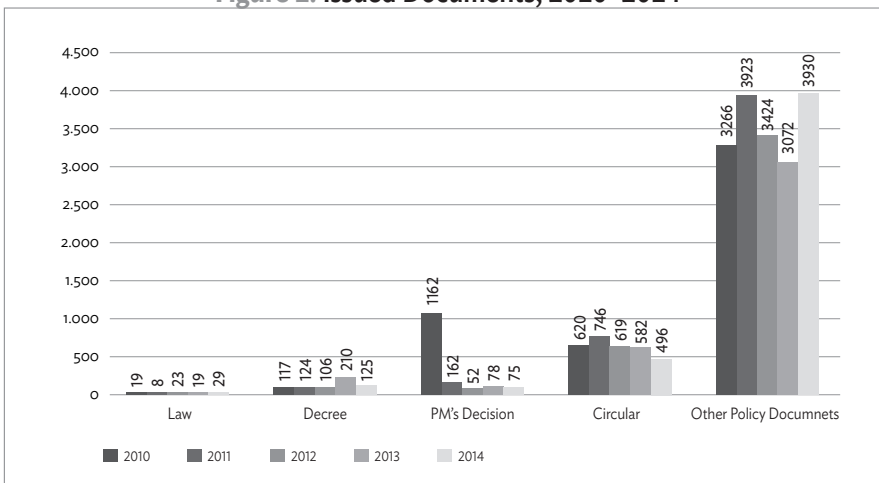
Year	Time to Export: Border Compliance (hours)	Cost to Export: Border Compliance (US\$)	Time to Export (days) (Old Methodology)	Cost to Export (US\$ per container) (Old Methodology)
2003	12	62	31.9	0
2004	11	48	30.6	0
2005	11	42	27.6	0
2006	11	47	24.3	0
2007	11	37	20	0
2008	11	37	16.8	0
2009	11	37	13.3	0
2010	10	36	12.1	0
2011	10	36	10.7	0
2012	10	32	8.8	0
2013	10	34	7.7	0
2014	10	34	5.3	0
2015	10	20	4.9	0
2016	9	24	4.6	0

Source: World Bank, 2016d.

More importantly, the ‘positive list’ approach, rather than the ‘negative list’ used in the amended Investment Law and the Enterprise Law, still dominates the contents of other laws and their guiding documents. Such documents set out thousands of different business conditions, creating significant barriers for market entry in certain sectors while increasing inequality and business costs.

The Central Institute for Economic Management has reviewed business conditions stipulated in various regulations issued by various ministries. Out of the 5,850 business conditions, more than 3,000 were introduced in circular-level documents. All these conditions were automatically abolished on 1 July 2016 per the amended Investment Law in 2014. In October 2016, Viet Nam drafted a new law to amend various articles of the existing laws related to investment and business activities, which required reviews of existing business conditions proposed to be abolished. Nevertheless, the business conditions were only reviewed from the legal documents that had already been issued by ministries, excluding those being drafted. The risk was substantial given the large number of documents issued in 2010–2014 (Figure 1).

Figure 1: Issued Documents, 2010–2014



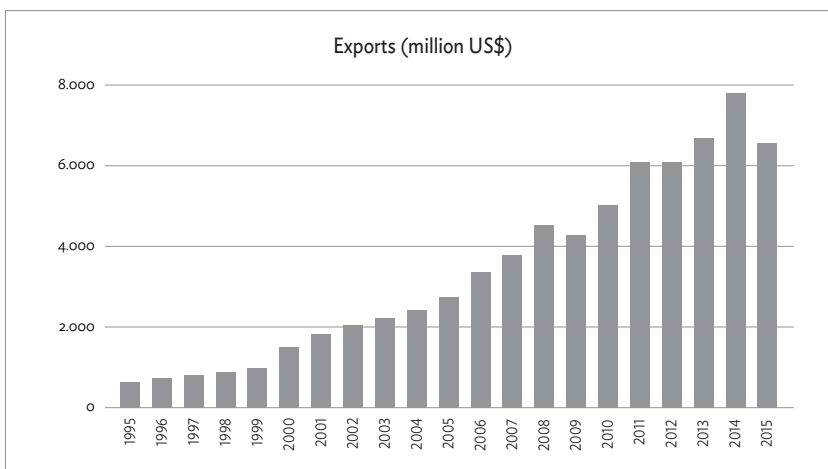
PM = Prime Minister.

Source: Central Institute for Economic Management, 2015.

2.2 | Overview of the Fishery Sector

The value of fishery exports rose almost continuously from US\$621 million in 1995 to over US\$7.8 billion in 2014. Over 1995–2014, exports of fishery products went up on average by 14.3% per annum, slower than that of total exports, which grew by 18.9% per annum. Accordingly, the share of fishery in Viet Nam's total exports increased from 10.2% in 2000 to 12.1% in 2002, then decreased continuously to 5.2% in 2014. The key markets for Viet Nam's fishery exports have been the United States (US), the European Union (EU), and Japan. It was only in 2015 that fishery exports fell in absolute term to US\$6.5 billion, largely due to the smaller world demand and lower export prices.

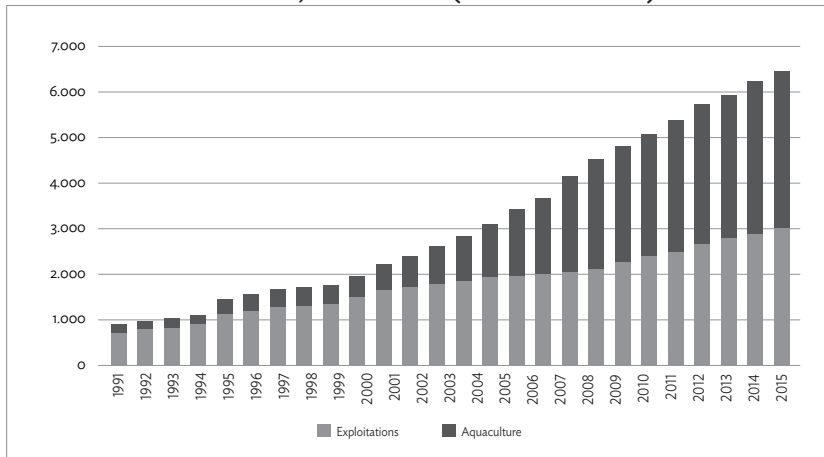
Figure 2: Exports of Fishery Products, 1995–2015



Source: General Statistics Office (2016a).

The rapid growth of fishery exports was largely due to Viet Nam's favourable conditions for the sector. Viet Nam has a long coastal line (about 3,260 km), with diverse and complicated river networks. Viet Nam can exploit both fresh-water and marine-water fishery resources and other aquaculture activities. Overall fishery output increased continuously from 890,000 tonnes in 1990 to over 6.5 million tonnes in 2015, i.e. 8.3% on average per annum. In particular, aquaculture output rose from 162,000 tonnes in 1990 to above 3.5 million tonnes in 2015. Accordingly, the share of aquaculture in gross fishery output climbed from 18.2% to 53.6% in the same period.

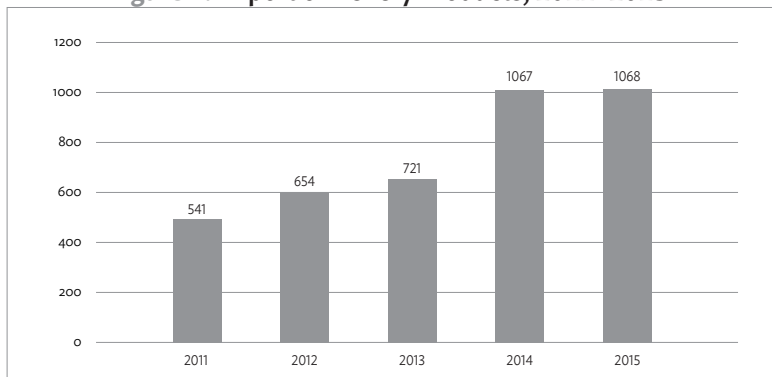
Figure 3: Output of Fishery Exploitation and Aquaculture Activities, 1995–2015 (thousand tonnes)



Source: General Statistics Office (2016a).

Even so, it should be noted that the inputs of fishery products (especially those under Chapter 03 of the Harmonized System classification) have recently been insufficient to meet demand in Viet Nam. Interviews with fishery business representatives indicate two reasons for the insufficiency. First, consumers in Viet Nam have enjoyed higher incomes and are more willing to pay for fishery products. Second, the production scale of fishery products has been rapidly expanded to meet export demand, thereby requiring more inputs. Accordingly, since 2011, Viet Nam has started to import fishery products, most of which are unprocessed. The value of fishery imports almost doubled from US\$540 million in 2011 to almost US\$1.1 billion in 2014 (Figure 4). Still, Viet Nam remains a net exporter of fishery, with the trade surplus of fishery products reaching almost US\$6.7 billion in 2014.

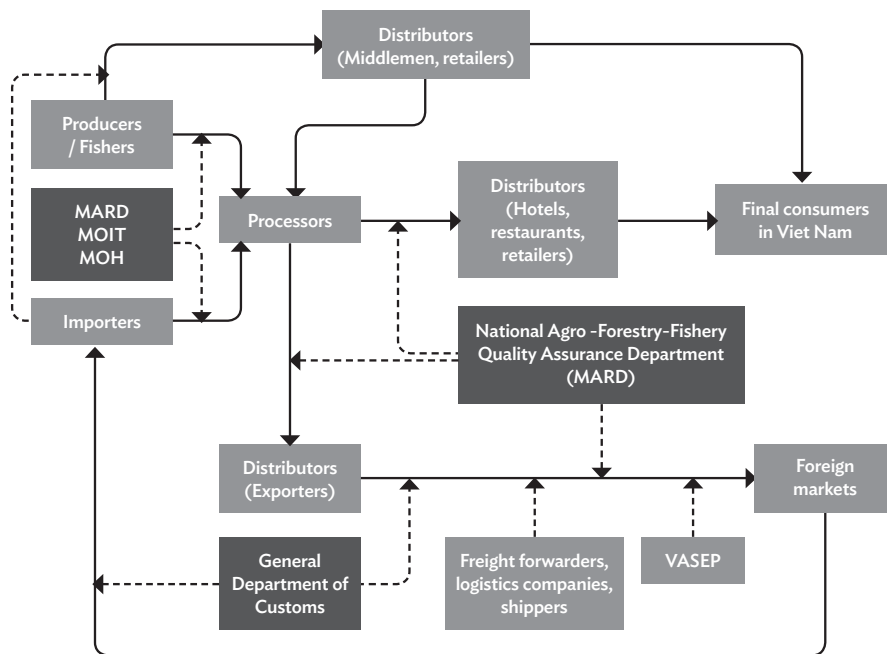
Figure 4: Import of Fishery Products, 2011–2015



Source: General Department of Customs, 2012, 2013, 2014, 2015, 2016a, b, c.

Figure 5 shows the general supply chain of fishery products in Viet Nam. Produced or exploited products may reach processors directly in some areas and, after some processing, be distributed to final consumers via distributors such as hotels, restaurants, and retailers. Less directly, the farmers or fishers may sell their products to local traders. Some largely small-scaled local traders then sell the acquired output to final consumers who then do the processing or cooking themselves. Alternatively, the traders may sell raw fishery products to local processors. After processing, the products may be distributed to final consumers via traders and exporters. In this respect, the final consumers may include both domestic and foreign customers.

Figure 5: Supply Chain of Fishery Products



MARD = Ministry of Agriculture and Rural Development; MOH = Ministry of Health; MOIT = Ministry of Industry and Trade; VASEP = Vietnam Association of Seafood Exporters and Producers.

Note: The solid lines refer to supply relationships; the dashes indicate regulatory effects.

Source: Vo, Nguyen, and Dinh, 2013.

Some regulatory agencies, led by the Ministry of Agriculture and Rural Development (MARD), are in the supply chain of fishery products. Apart from other responsibilities, MARD is in charge of issues related to (i) planning the production, processing, and distribution of fishery products; (ii) technical requirements on producers and traders of fishery products; (iii) technical requirements on imported and exported products (mostly sanitary and phytosanitary measures); (iv) coordination with the Ministry of Finance to identify tariff on fishery products; and (v) international regulatory cooperation (including mutual recognition agreements). In particular, the National Agro-Forestry-Fishery Quality Assurance Department, directly under MARD, is mainly responsible over quality control and related regulations over the production and distribution of fishery products.

The Ministry of Industry and Trade (MOIT) assumes general responsibility of (i) exports, imports, and domestic trade of fishery products; and (ii) other technical requirements (other than sanitary and phytosanitary measures) of producers and traders. The Ministry of Health is in charge of issues and regulations over food safety and sanitation, which requires coordination with MARD and MOIT. The Ministry of Finance sets out the tariff and other customs- and tax-related regulations on trade, including that of fishery products.

The General Department of Customs, apart from implementing tariff and customs policies, also promulgates and enforces regulations over customs procedures. The Ministry of Planning and Investment regulates starting businesses (including those in processing and trading of fishery products) in coordination with other agencies (especially MARD). Lastly, the State Bank of Vietnam decides on the policy to control supply of foreign currency loans by

commercial banks, which affects the activities of fishery importers and their downstream stakeholders.

Table 4 lists the regulatory agencies and stakeholders that are relevant to the fishery value chain. For simplification, the value chain is hypothetically broken into three major stages: (i) imports; (ii) production and/or processing; and (iii) exports.

Table 4: Regulatory Agencies and Stakeholders

	Importers	Producers	Exporters
Regulatory agencies (including line authorities)	<ul style="list-style-type: none"> • MARD (National Agro-Forestry-Fishery Quality Assurance Control) • Ministry of Health • MOIT 	<ul style="list-style-type: none"> • MARD (National Agro-Forestry-Fishery Quality Assurance Control) • Ministry of Health • MOIT • Ministry of Planning and Investment 	<ul style="list-style-type: none"> • MARD (National Agro-Forestry-Fishery Quality Assurance Control) • Ministry of Health • MOIT
Business stakeholders	<ul style="list-style-type: none"> • Fishery importers • Logistic service providers • Employees • Testing and laboratory 	<ul style="list-style-type: none"> • Fishery producers • Employees • Testing and laboratory • Trainers • Quality certification 	<ul style="list-style-type: none"> • Fishery exporters • Logistic service providers • Employee • Testing and laboratory

MARD = Ministry of Agriculture and Rural Development, MOIT = Ministry of Industry and Trade.

Source: Authors' compilation from Luat Viet Nam database.

Some regulations, which might have implications for the fishery supply chain, are at various levels, covering laws, ordinances, decrees, prime minister's decisions, ministerial decisions, and ministerial and inter-ministerial circulars. The regulations can also be horizontal and sector-specific, with the former regulating the general registration of businesses, transport requirements, minimum wages, and social insurance fees, amongst others; and the latter setting out the registration requirements for fishery firms (in operations and/or imports and/or exports), quality control, labour certification requirements, transport

Table 5: Laws and Ordinances with Potential Implications for Fishery Value Chain

No.	Title of Law/Ordinance	Major Adjustments
1.	Commercial Law	General regulations over management of trade (including exports, imports, and domestic trade of fishery products)
2.	Law on Product Quality	Regulations that enforce the management of product quality and standards
3.	Law on Food Safety	Regulations that ensure the safety and sanitation of food products, including those from fishery
4.	Law on Phytosanitary Protection	Regulations on the use of phytosanitary measures against imports of food products (including fishery products)
5.	Customs Law	Regulations on customs procedures and practices, which may increase burden to import and export activities
6.	Law on Environmental Protection	Regulations that enforce higher standards of environmental protection during production and processing (including of fishery products)
7.	Labour Code	Regulations on minimum wage for employees
8.	Ordinance on Management of Breeds of Animal	Regulations on protecting the diversity of animal breeds (including fishery)
9.	Ordinance on Anti-Dumping	Regulations on the identification and settlement of anti-dumping practices by exporters to Viet Nam (including exporters of fishery products)
10.	Ordinance on Safeguarding Measures	Regulations on safeguard measures that Viet Nam may take against a partner country's products, following their act on Viet Nam's exported products (including fishery products)
11.	Ordinance on Veterinary Medicines	Regulations on the use of veterinary medicines which may affect aquaculture activities and processing activities of fishery products
12.	Ordinance on Anti-Subsidy	Regulations on the use of countervailing measures in the presence of excessive subsidy by other countries on their exports to Viet Nam (including exports of fishery)
13.	Ordinance on Foreign Exchange Management	Regulations on the supply of foreign currency (including foreign currency loans, which is considered important to fishery importers)

Source: Authors' compilation.

requirements, and non-tariff measures on imports and/or exports, amongst others. The main laws and ordinances that have implications for the fishery value chain are listed in Table 5.

[3] Findings

Regulatory burdens are divided into four groups, depending on their occurrence along the fishery value chain: (i) imports of fishery products; (ii) starting-up of businesses in fishery production and/or processing; (iii) existing fishery producers; and (iv) exports of fishery products.

3.1 | Regulatory Burdens on Importers of Fishery Products

3.1.1 Testing Requirement on Imported Fishery Products

Fishery products are subject to sanitary and phytosanitary requirements, the key objective of which is, as claimed, to ensure conformance with quality standards of imported products regardless of whether they are consumed in Viet Nam or exported to another country. For years, the regulators have been ensuring food safety in the domestic market and, facing the difficulty in observing the production/exploitation process overseas, agree it would be reasonable to impose the testing requirement on imports of fishery products.

However, various ports lack adequate testing facilities for fishery products that enter Viet Nam. Samples of fishery products have to be sent to major cities for testing, after which testing results will be issued. This takes time and causes burden on importers. This issue is acknowledged by more than two-thirds of the interviewed enterprises. For some enterprises, the testing requirement is relevant to ensure that all inputs meet the same bar in terms of quality and to help protect producers and/or exporters against the risk of an entity importing poor-quality products. Other enterprises consider the costs of getting test results as reasonable.

Business representatives, regulators, and other stakeholders have discussed options to reduce the unnecessary burdens related to the testing requirement. The first option involves efforts to improve the effectiveness of the existing testing requirement by investing in laboratory and testing facilities in major port cities. This option can, arguably, help retain quality control over imported fishery products. The costs, however, can be significant. This measure can be accompanied by improved information exchange, and information and communication technology infrastructure in major ports. Interviewed enterprises support this option. The regulators also indicate a positive response to the option, albeit with substantial doubt about the capability to seek funding from the state.

Alternatively, the testing requirement could be removed. Given the consumers' profound concern over food safety in Viet Nam, as well as compliance with sanitary and phytosanitary requirements in export markets, all regulators and

more than half of the interviewed enterprises reject the applicability of this option.

The final option is to improve management approach with respect to the risk profile of importers, i.e. those with good compliance should be subject to less frequent testing of imported products. As customs procedures have already been improved under the commitments towards trade liberalisation and facilitation, most regulators do not view it as essential in going further with a relaxed management approach for fishery importers. The enterprises support this approach and emphasise its complementarity to investment in testing facilities in major ports. Some enterprises, however, have expressed concern about whether the process would be transparent, fair, and justifiable to the whole group of fishery importers.

3.1.2 Quality Standards on Imported Fishery Inputs

From the business representatives' perspective, the regulators are seen as applying excessively high standards on the quality of imported fishery inputs. Circular 48/2013/TT-BNNPTNT (on checking and certifying food safety for fishery exports) requires that imported inputs for fishery exports be exploited, transported by EU-coded vessels, or certified by relevant EU authorities to meet its equivalent standard. As the key objectives, this regulation helps set out a threshold for the quality of fishery inputs that might be subsequently used for exporting to major markets (including the EU), and creates a habit of fishery importers in Viet Nam ahead of new-generation free trade agreements such as the Trans-Pacific Partnership and the EU-Viet Nam Free Trade Agreement.

Two issues, however, are raised by businesses. First, adopting the EU standard is only viable in the long run, and it might not be appropriate to require existing importers (and producers) to adjust quickly to this. Complying with the regulation is no easy task. Very few vessels for exploiting fishery products in importing sources can readily or quickly meet the standards. Meanwhile, approaching relevant EU authorities for certification of meeting the equivalent standard is also costly for firms. Even other exporters of fishery products to the EU such as Thailand do not impose similarly restrictive measures. This issue was raised in the Report of Government Resolution 19 in June 2015. Nonetheless, up to October 2016, no change was made to Circular 48/2013/TT-BNNPTNT.

Second, this was also a case of poor communication between regulators and fishery importers during the drafting of the regulation. Had there been appropriate consultation with businesses, the regulators could have designed a feasible roadmap for adopting such standards and/or permitted more effective preparation by businesses.

The regulators and businesses agree that enforcement of these quality standards remains essential. More effective implementation of the policy is needed. As such, improving consultation with businesses prior to imposing new binding quality standards is considered important to leverage their awareness and to identify relevant supporting measures and technical assistance to ensure compliance with the regulation.

3.1.3 Labelling Requirement in Vietnamese for Imported Fishery Inputs for Export-oriented Production

Item 1, Article 5 of the Inter-ministerial Circular No. 34/2014/TTLT-BYT-BNNPTNT-BCT on product labelling specifies that ‘the label [in Vietnamese] must include information on: ..the dossier Number of Announcement of Technical Compliance Certification or dossier Number on Announcing Certification of Compliance with Food Safety Requirements, ..’. From the regulators’ perspective, this regulation may help ensure that buyers have information on conformance of imported fishery inputs with Vietnamese quality standards.

In 2015, some importers of fishery products were fined for not complying with the requirement to append additional product labels in Vietnamese. However, most imported fishery products serve the export-oriented production and could not get the dossier number in either case. Meanwhile, Article 10 of Decree No. 89/2006/ND-CP stipulates that the labelling requirement is only applicable on imported products for domestic consumption (not export-oriented production). In addition, importers of fishery products already had to comply with food safety requirements at the border (i.e. sanitary and phytosanitary measures), and the requirement on additional conformance is claimed to merely add to the costs to firms without additional information values to customers.

Regulators and businesses have proposed several options to address the issue. In one option, the regulators would carefully review and harmonise the labelling requirement, an option that would take time, as the process has to follow careful procedures. Some time, however, could be saved with efforts to consult businesses. The regulators admit that such reviews and harmonisation would be necessary, although the timing is to be determined given their other duties. Enterprises view public consultation as essential during reviews and harmonisation of the labelling requirement. The other option is to abolish the labelling requirement, subject to a concrete regulatory impact assessment. Nevertheless, regulators are uncertain about the need to remove this requirement, while only a third of the businesses see it as meaningful.

3.1.4 Zero Grace Period for Payment of Import Duties

Prior to July 2013, fishery importers enjoyed a grace period of 275 days to pay the import duties. Since July 2013, however, this privilege has only been applicable to those that import materials to support their direct exports. For payment of import duties, importers must comply with the grace period of 0 days, instead of 275 days as before, if they do not engage in direct exports. Thus, importers of fishery inputs could only enjoy the grace period of 275 days if they have their own production premises for exporting fishery products. From the regulators' point of view, this horizontal regulation might serve the objectives of (i) discouraging imports that compete with local products by increasing import-related costs; and (ii) increasing the time value of collected taxes.

Many producers of fishery products in Viet Nam, however, do not engage in direct imports for their production but instead buy direct from fishery importers. Accordingly, importers reselling to producers are no longer entitled to the 275-day grace period, which effectively increases the costs of export-oriented production. In this regard, the interviewed enterprises claim that the preferential treatment on import duties has failed to help the fishery sector, even though it was designed with such a purpose.

The discussions gave rise to two options to address this issue. First, the regulators could consider applying the 275-day grace period of duty payment for fishery imports. The regulators do not see this as a major boost for fishery value chain. One regulator pointed out that exempting the fishery sector from such

change could place the sector – perceivably under support – under the focus of investigation in other major markets (such as the United States and the EU). Fishery importers, on the other hand, claim that this option is essential. Second, concerned regulators who might reduce the grace period of duty payment for all sectors could reduce the value of grace period for fishery imports. Nonetheless, the regulators would be concerned that the scope of impact of such option could be wide since some export-oriented sectors in Viet Nam are currently using imported inputs.

3.2 | Regulatory Burdens on Starting a Business in Fishery Production and/or Processing

3.2.1 Registration of Fishery Producers and/or Processors

The necessity of imposing conditions in registering firms that produce and/or process fishery products is debatable. First, owners and direct producers of food products (including fishery products) are required by MARD authorities to train on food safety. Regulators deem such training as essential in leveraging and harmonising the understanding of owners and/or producers of the regulations and techniques to ensure food safety. Yet, this condition is considered by business to be of little importance since all fishery producers recognise the importance of having a good knowledge of food safety. Meanwhile, the training on food safety is often seen as too simplistic as it fails to capture new developments in food processing technology.

Second, the regulations require that owners possess certificates of good health issued by health institutions. Again, regulators offer little justification for this condition, which is seen by firms as adding no significant value to their operations.

Third, producers and/or owners must have environmental impact assessment reports of new production premises that should contain solutions for waste treatment and approved by the provincial departments of natural resources and environment. From the regulators' viewpoint, such reports are important

to ensure that firms have foreseen possible environmental impacts and have preparatory measures to address such impacts. Interviewed enterprises, however, contend that this condition adds to their paperwork on building new production premises. Meanwhile, the practice of developing environmental impact assessment reports is not yet popular in Viet Nam. In this regard, the requirement has a good objective (to ensure minimum adverse environmental impacts), yet the designation and enforcement fail to help realise such an objective.

Fourth, producers and/or processors are required to have at least one manager or technical staff with tertiary qualifications specialising in food processing technology, fishery processing, biology, or biochemistry. The regulators want to ensure that firms have the capacity to manage processing chains and related technical issues. Given the large investment in the fishery production line, however, the firms argue that they would need eligible staff to ensure smooth and efficient operations. From this perspective, having such a condition increases the paperwork of the firms upon registering themselves.

More generally, the interviewed businesses emphasise the absence of rigorous consultation during establishment of the above conditions. During the amendment of the Enterprise Law and the Investment Law in 2014, the fishery producers proposed the removal of these conditions to simplify business registration.

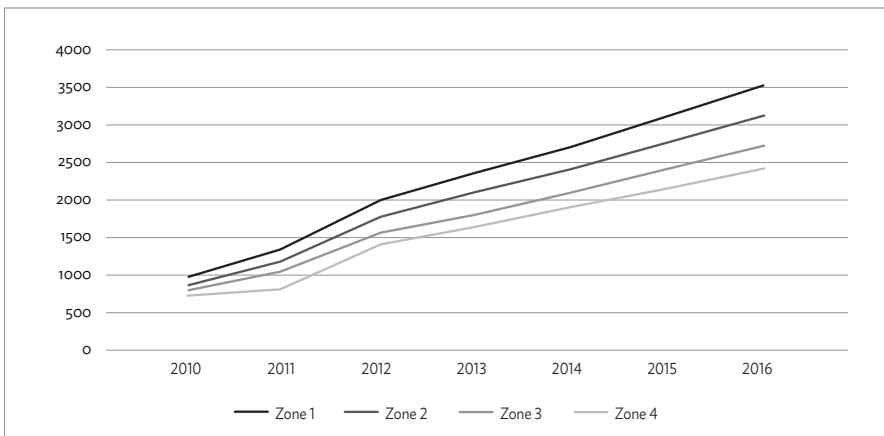
3.3 | Regulatory Burdens on Operations of Existing Fishery Producers

3.3.1 Successive Increases in Minimum Wage

Viet Nam has been implementing a national roadmap to increase the minimum wage. This has been justified by the need to ensure workers' livelihood after high inflation from 2008 to 2014. The extent of a minimum wage increase is subject to the increase in consumer prices, and consultation with the relevant authorities (i.e. Ministry of Labour, the Invalids and Social Affairs; Confederation of Labour; Vietnam Chamber of Commerce and Industry).

Nonetheless, the roadmap to increase the minimum wage is costly for fishery producers and/or processors who rely on large amount of labour. In 2016, the minimum wage was set to increase by 12.4%, notwithstanding consensus forecast of inflation of roughly 4% and a low inflation rate for 2015 (0.6%). The benefit to workers was not meaningful, since the effective wage did not increase in line with the increase in the minimum wage. The scheduled pace of increase in 2016 was also larger than that promised (10%) by the Vietnam Chamber of Commerce and Industry, the representative of the business community. More importantly, the actual increase in the minimum wage was more administrative, and generally exceeded the pace of productivity improvement. For fishery processors, the burden from increasing the minimum wage can be significant since contributions to social insurance, health insurance, and trade union fees are calculated as fractions of the minimum wage.

Figure 6: Minimum Wage in Different Zones, 2010–2016
(D thousand)



Note: The zone classification is stipulated each year by the government to reflect comparison of costs of living across different localities.

The latest zone classification is stipulated under Decree 153/2016/ND-CP dated 14 November 2016.

Source: Trang, 2016.

The discussion then shows that the issue can be addressed via two solutions. First, Viet Nam should consider rescheduling the minimum wage increase. That is, the wage should not be expected to increase on an annual basis but only after cumulative inflation exceeds a certain threshold. Consultation with labour-intensive enterprises, including fishery producers, is needed. Second, the regulators should establish rules for increases of the minimum wage that would

equal a certain fraction of inflation. Again, consultation with labour-intensive enterprises is essential.

3.3.2 Requirements on Food Safety

Given the importance of the fishery sector, it is understandable that Viet Nam has strict requirements on food safety, including the checking and monitoring of these requirements. All the interviewed enterprises and regulators agree with the need for strict requirements, since any noncompliance by an individual firm could quickly threaten the whole industry. However, the degree of strictness of the requirements is overwhelming.

Decree 36/2014/ND-CP presents a typical case, where the maximum ice-glazing ratio of 10% and maximum water content of 83% are required on *pangasius* products.⁵ The justification for this requirement is to improve the quality of pangasius products while helping screen the technical capacity of fishery processors. Most fishery processors, however, have already upgraded their production capacity and the new requirement means additional investment is needed. Meanwhile, even though *pangasius* products mainly serve exports, the importing countries are yet to enforce this restrictive requirement. The requirement then effectively presents a regulatory cost for exporters. In addition, Decree 36/2014/ND-CP did not go through a good consultation process.

In another example, NAFIQAD's fee for testing (for food safety) is claimed by fishery producers to be excessively high. The previous fee of D3.9 million per batch was raised to D8.125 million per batch in 2016. This fee is high and uncompetitive relative to other private testing facilities. Again, this presents a case of inadequate consultation beforehand between NAFIQAD and fishery producers.

Finally, since late 2015, raising pangasius has been required to meet Vietnam Good Agricultural Practices (VietGAP). VietGAP, however, is not recognised by

⁵ *Pangasius* refers to the species of fish which is popular in Southeast Asia. There are 13 species of the Pangasiidae family (Tra family) with Vietnamese names, but only 12 belong to the *Pangasius* family. *Pangasianodon hypophthalmus*; *Pangasius hypophthalmus* (Tra) and *Pangasius bocourti* (Basa) are major products for export-oriented processing in Viet Nam. Source: Vietnam Association of Seafood Exporters and Producers.

most key markets. Thus, the benefits to firms with a certificate of compliance from VietGAP may only occur in the medium or long run when or if recognition of key markets is achieved. In the short term, VietGAP's requirement should be advisory rather than compulsory to reduce the investment burden to firms.

3.3.3 Association of Food Safety Checks as a Requirement for Duty Drawback

Notwithstanding the priority to develop the fishery sector, the preferential treatment is sometimes not implemented effectively. An example is the duty drawback scheme that refunds import duties on materials if these are used for export-oriented production. This scheme is also applicable for the fishery sector. Decree 83/2013/ND-CP requires that the export-oriented fishery firms be subject to onsite checking for food safety before a tax refund. However, onsite checking can take a long time. Besides, the business community thinks that checking for food safety should be separated from the procedure for duty drawback, and that eligibility for it should come from other conditions and not the satisfaction of food safety requirement in production. This issue is included in this sub-section since it affects operations of firms irrespective of the scale and timing of their export activities.

3.4 | Regulatory Burdens on Exporters of Fishery Products

3.4.1 Quality Control of Fishery Exports

According to the regulators, testing fishery exports for food safety is essential to minimise the issues of export product quality which might undermine the reputation of Viet Nam's fishery sector. However, designing a separate requirement for testing fishery exports for food safety (as per Circular No. 48/2013/TT-BNNPTNT of MARD) might be too burdensome for firms. It should be noted that food safety is already a requirement at both import and production and/or processing stages. Requiring tests for food safety before export, even though the producers and/or processors are subject to similar periodic tests, increases the compliance costs for firms.

In another aspect, regulatory burdens might also result from the administrative behaviour of regulators. Hypothetically, if the regulators reduce actions towards quality control of fishery exports, the products are still subject to similar requirements in the importing countries. Accordingly, removing the test for food safety on fishery exports should be beneficial.

This issue receives little consensus between regulators and businesses. Although fishery exporters appreciate the removal of this requirement, they also understand the rationale for such tests (which have been in place for years). The approach of the regulators is, however, more extreme since they fear that any incidence with a single exporter concerning product quality could cease support for all other exporters in the same market.

3.4.2 Requirement to Register Exports

Under Decree No. 36/2014/ND-CP, exporters of pangasius products are required to register batches of exports with the Vietnam Association of Seafood Exporters and Producers (VASEP). From the perspective of exporters, this registration is unnecessary since all details related to customers, quantity, and price, amongst others, are already submitted to the customs agency. This requirement adds paperwork and could cause additional burden to firms should there be delays on the part of VASEP.

Regulators justify that registration with VASEP serves to increase transparency and helps avoid dumping activities by its members. However, details related to export contracts are held in confidence and only the customs agency has the statutory power to receive those details. Requiring firms to register their export batch does not help in realising the stated objective. Moreover, such a requirement goes against the principle of market competition since disclosing information (without discipline) may weaken a firm's competitiveness. Even VASEP does not want this responsibility since it creates additional administrative burden and weakens the confidence between itself and its members.

[4] Recommendations

As Viet Nam strengthens its efforts for structural reforms and creates a more enabling business environment, identifying and reducing unnecessary regulatory burdens on business activities continue to be an important priority. The priority is even more vital for business activities within supply chains of key export products, of which fishery constitutes a major category. Within its limited scope, this chapter can only show that unnecessary regulatory burdens exist and are diverse along the fishery supply chain in Viet Nam, although the relative seriousness of such burdens is subject to the purview of business representatives and regulators. Therefore, while horizontal efforts (preferably unilateral) to improve the overall business environment are still essential, the recommendations below should also be considered for implementation.

The first group of recommendations serves to reduce unnecessary regulatory burdens on fishery imports. Based on the findings, the authors suggest that Viet Nam should:

- a. improve the management approach with respect to risk profile of importers;
- b. give incentive to the establishment of more laboratory and testing facilities near main ports and/or international gateways of agricultural products (especially fishery products);
- c. develop an electronic platform to enhance information exchange and cooperation in government management of trade (especially for fishery products);
- d. encourage the better implementation of information and communication technology in customs clearance procedures and government management;
- e. remove the labelling requirement in Vietnamese;
- f. apply a grace period of 275 days to importers of fishery materials that serve export-oriented production even if such importers are not engaged in direct exports; and
- g. set-up a consultation process between regulators and importers before drafting regulations to ensure viability and minimal compliance costs for business.

To alleviate the regulatory burdens on starting new businesses in fishery production and/or processing, the regulators should consider abolishing all the conditions listed in sub-section 3.2 and newly emerging conditions identified by future RURB-based attempts, where appropriate.

Other efforts should relieve fishery producers and/or processors of regulatory burdens through (i) serious and intensive consultation with the fishery enterprises on the agenda for increasing the minimum wage; (ii) evidence-based consultation with fishery producers and/or processors on the ice-glazing ratio and water content of pangasius; (iii) removal of requirement for food safety test before duty drawback; and (iv) communication of policy objectives to businesses, even in the drafting process.

Finally, fishery exporters would benefit from Viet Nam's efforts to (i) gradually simplify the requirement of food safety on fishery exports; (ii) standardise and harmonise its standards at least with regional partners; and (iii) remove the requirement of registering batch of fishery exports with VASEP.

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