Vanuatu

Import Monitoring Assessment
This assessment was prepared for UNICEF Pacific by Arthur V. Faerua in collaboration with the Ministry of Trade, Commerce and Tourism, Department of Trade and Industries and National Codex Committee in Vanuatu.

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List of abbreviations

ACP African, Caribbean and Pacific
ASYCUDA Automated Systems for Customs Data
CIRD Customs and Inland Revenue Department
DARD Department of Agriculture and Rural Development
DOPH Department of Public Health
DOTI Department of Trade and Industries
DQLD Department of Quarantine and Livestock Development
EPA Economic Partnership Agreement
FIC Forum Island Country
GDP gross domestic product
IATA International Air Transport Association
ISO International Organization for Standardization
MSG Melanesian Spearhead Group
NGO non-governmental organization
PICTA Pacific Island Countries Trade Agreement
SPS sanitary and phytosanitary
WTO World Trade Organization
Executive summary

As the volume of imports to Vanuatu increases, ensuring the safety and quality of imported products has become an increasingly urgent challenge. This study was undertaken to identify opportunities to improve Vanuatu's import monitoring system in order to better protect children and women from unsafe imports. The study focused on several products that are imported in large quantities and can affect health and safety: infant formula and baby food, iodised salt, vitamin supplements for pregnant women, children's toys, and DVDs and magazines.

The import system

Most of Vanuatu's imports arrive by sea. Goods arriving in Vanuatu go through varying degrees of scrutiny as they clear customs, depending on the type of product, information given by the importer, and the track record of the importer, exporter and country of origin. Products may be cleared after the initial self-assessment, required to go through a more thorough document check, or subject to physical inspection. Once they clear customs and enter the Vanuatu economy, they are no longer tracked or monitored.

Private and public officials with responsibility for processing imports into Vanuatu include port stevedores, air cargo handlers, customs brokers, and officers of the Customs and Inland Revenue Department and Department of Quarantine and Livestock Development. Their responsibilities are for the most part limited to ensuring the safe handling and accurate recording of imports; except in cases that present an obvious problem or hazard, there is little emphasis on assessing the safety and health aspects of imports.

Several Vanuatu laws have the potential to affect imports, including those governing food, pharmaceuticals, public health, and censorship; but most are 10 to 15 years old, they are not well coordinated, and not all of them are enforced. Administrative policies that could support better import monitoring include those on sanitary-phytosanitary issues (an area in which Vanuatu already partially adheres to World Trade Organization standards), encouragement of breastfeeding, protection of children, food safety and nutrition. But to be truly effective, these laws and policies require more investment in infrastructure, personnel and other resources.

The Customs Department uses a computerized system known as the Automated Systems for Customs Data (ASYCUDA) to assess the risk level of imported products. It can flag problem products or importers for increased scrutiny, and it stores records of past imports. The Quarantine Department can inspect shipments of dairy or other high-risk foods if they are flagged by ASYCUDA, but such an inspection is not routine.

In addition to customs and quarantine officials, staff from the Ministry of Health, Department of Public Health and Environmental Health Unit can be called in to investigate products that appear to present a hazard or other problem. Once an item clears customs and enters the Vanuatu market, it is not tracked or monitored.

Problems

Port Vila was recently labelled the slowest port in the Pacific. Even with the limited monitoring that occurs now, imported goods move slowly, reducing their shelf life in Vanuatu stores. Agencies that oversee the import process don’t always have the equipment, personnel and training they need to do the job. Vanuatu ports also suffer from lack of storage space and insufficient security.

Information currently required on import documents is simply not sufficient to enable port officials to make accurate calls on the safety and quality of imported items. Import controls focus primarily on whether a shipment is correctly documented and is not on any list of prohibited or questionable items. While private and public officials are empowered to require inspection of a shipment that triggers their concern, there are insufficient routine controls.

Products that are completely legal, such as vitamin supplements and infant formula, can cause harm if used incorrectly. The National Breastfeeding Policy strongly discourages all use of infant formula, but does not outlaw it. While good practice demands that vendors counsel customers on the correct use of these products, such advice is not legally required and is not always given. A similar issue arguably exists with the sale of entertainment media such as DVDs and magazines with violent or...
sexually explicit content without warning to the customer or without limiting access by under-age customers.

Products imported into Vanuatu are legally required to be labelled in English, French and Bislama, but this requirement is rarely honoured and poorly enforced.

The lack of a tracking system for imported items once they enter Vanuatu makes it difficult to institute a recall if a product is found to be defective or dangerous. There is also a lack of clarity on the procedures for a recall and on which government agency should be in charge of it. There is no clear and well publicized process for making complaints about defective or dangerous products, either within most Vanuatu shops or at the government level.

**Recommendations**

There is a strong need in the departments that oversee imports for better equipment, including greater laboratory testing capacity, and more and better trained personnel.

ASYCUDA’s potential is still underutilized; it could be configured to include more information on health and safety factors. Setting this up – and setting procedures for responding to issues discovered in this way – will require extensive planning and cooperation between different government departments, especially Customs and Quarantine.

ASYCUDA could also link to information about recalled products worldwide to help prevent Vanuatu consumers from suffering from problems already identified elsewhere. In general, Vanuatu should seek better coordination with regional and international import monitoring authorities.

Import requirements should include additional safety elements such as a requirement for health certification where appropriate from the country of origin and stricter limits on children’s products.

Products such as vitamins and baby foods that are currently only lightly regulated could, because of their potential to harm if misused, be subject to stricter regulation, such as licensing of importers and requirements for pre-sale advice to potential consumers.

A better domestic tracking system – or even more detailed information about products leaving the import system for sale in Vanuatu – could greatly assist future recalls. For customers who discover health hazards and other defects in products they have purchased, complaints procedures should be improved, both in stores and within government oversight agencies.

Laws that are already on the books – such as those governing food labelling and censorship of media products – should be better enforced. Vanuatu could also greatly benefit from an up-to-date consumer law and the establishment of an agency to enforce it.

Whatever improvements are made to Vanuatu’s import monitoring system, their effectiveness will largely depend on improved information-sharing and coordination between the government departments charged with ensuring that Vanuatu’s consumers, especially the most vulnerable, have access to safe, healthy and reliable imported products.
Introduction

This report presents the results of the Vanuatu Import Monitoring Study, the purpose of which was to analyse the current import monitoring system, particularly in order to protect children and women from unsafe imports, and to help the Government of Vanuatu determine priorities for action. This introduction explains the rationale for the study and the methodology employed and provides an overview of import activities in Vanuatu.

Rationale for the study

Economic globalization is felt by many Pacific Island countries. The push towards regional economic integration and free trade is driven by the rationales of economy of scale, increased economic efficiency through improved competitiveness by specialization of traded goods, reduction of costs by improving communications, cutting red tape, simplifying customs rules, and reducing favouritism and corruption. Multilateral trade rules are meant to protect the poorest and weakest countries, according to the principle “Between the weak and the strong, it is freedom which oppresses and the law which sets free.”

Pacific Island countries including Vanuatu have responded to this wave of trade liberalization through a collective regional approach. In the Pacific Plan (2005), 'increased sustainable trade (including services) and investment' was highlighted as one of the main areas to promote economic growth, which is one of the four pillars of the plan. Forum Island Country (FIC) trade ministers formed the Pacific Island Countries Trade Agreement (PICTA) in 2001, based on the belief that "an expansion of trading links will bring economic and social benefits and improve the living standards of all the people of the Pacific region." PICTA excludes Australia and New Zealand and currently covers trade in goods only; an extension to trade in services is under negotiation. To complement PICTA, the Pacific Agreement on Closer Economic Relations was formed to allow application of a reciprocal free trade arrangement between the FICs and Australia and New Zealand.

In addition to these inter- and intra-regional arrangements on free trade, FICs are also negotiating an Economic Partnership Agreement (EPA) with the European Commission. The EPA will replace the Cotonou Agreement – which aimed to integrate the African, Caribbean and Pacific (ACP) states into the world economy by strengthening their production, supply and trading capacity, but whose tariff preferences were found to contradict the World Trade Organization’s (WTO’s) ‘Generalized Scheme of Preferences Enabling Clause’. The EPA will adopt WTO-compatible trading arrangements, without non-reciprocal trade preferences and based on a partnership for development driven by three principles: trade liberalization (ACP countries will gradually open their markets to European products in a flexible way), regional integration (EPAs will build on and deepen the ACP regional integration initiative) and differentiation in accordance with the level of development (with special attention for least developed countries).

Other trade agreements include the South Pacific Regional Trade and Economic Co-operation Agreement, a non-reciprocal arrangement between Australia and New Zealand on the one hand and the FICs on the other. It came into force on 1 January 1981; FIC members include Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The Melanesian Spearhead Group (MSG)
Trade Agreement came into effect on 22 July 1993; members are Papua New Guinea, Solomon Islands, Vanuatu and Fiji.

In addition to these layers of trade liberalization and regional integration, the Vanuatu Government also faces pressure from the global society to join the WTO. In 2001, Vanuatu withdrew its bid for accession to the WTO, considering that it was premature to act without understanding the full implications of membership.

Recent scandals related to the recall of lead-painted toys exported from the People’s Republic of China, as well as the deaths caused by the mismanagement of infant formula in China, alerted the world to the importance of establishing and implementing rigorous monitoring standards, policies and systems to properly control the quality of imported items.

Despite those events, however, the majority of the debates at the Forum trade ministers’ meeting and elsewhere in the Pacific tend to focus on how to operationalize and better monitor trade facilitation programmes, agreeing on the rules that ensure free access to the FICs’ markets while minimizing the potential negative impact on local markets and on the government budget caused by the large loss of government revenue from import tariffs. The term ‘safeguard measures’ is used, but only in the context of protecting domestic industries or markets, not the consumers. Examples include the threat to food security, impact on employment, particularly on producers of the goods and services that compete with imports, and further privatization of services particularly in the health and education sectors, which could further hinder universal access to basic social services.

However, the Government of Vanuatu, in particular the Ministry of Trade, Commerce and Tourism and its Department of Trade and Industries (DOTI), are also concerned about the impact of trade liberalization on the welfare of Vanuatu families and children. Concerns include the impact on health of exposure to potentially hazardous consumer goods and the dumping of cheaper but lower quality foods, the impact on access to and quality of generic drugs, and the risk of exposing children and young people to potentially hazardous media such as pornographic or violent literature and videos.

This study does not look at the impact on various domestic markets such as labour, agriculture and social sector markets, which has implications at the macro-level for national employment, food security and universal access to social services. Rather, it focuses on the policies and administrative measures and monitoring and evaluation systems, including quality control, that exist in the country, identifying gaps and recommending options to the whole of Government for protecting children and families from potentially hazardous imports.

The study focused on the following products, which are imported into Vanuatu in large quantities and have great risk implications for the safety, health and welfare of children and women in Vanuatu:

- Infant formula
- Baby food
- Iodised salt
- Children’s toys
- Vitamin supplements for pregnant women
- DVDs (movies, video games, multimedia)
- Magazines

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6 Currently, Fiji, Papua New Guinea and Solomon Islands are the only FICs that are members of WTO. Samoa, Tonga and Vanuatu have been considering and negotiating accession.

7 Pacific Regional Trade and Economic Cooperation: Joint baseline and gap analysis (submitted by Nathan Associates to the Pacific Islands Forum Secretariat, 2007) pointed out that Vanuatu, Fiji, Papua New Guinea and Samoa each stand to lose upwards of US$10 million annually in tariff revenues currently collected on imports from Australia and New Zealand. Vanuatu’s tariff revenues make up 27.1 per cent of its total revenues.

8 The impact of trade liberalization on Pacific women was also investigated during a recent study (United Nations Development Programme, ‘Globalization and Trade and the Impact on Pacific Women’, technical paper for the 9th Triennial Conference of Pacific Women and 2nd Pacific Ministerial Meeting on Women, August 2004, Nadi, Fiji Islands). The study highlighted both positive and negative impacts from the perspectives of consumption, economic activity (for example, rising poverty and inequality), employment, government services, and environment.

9 The Vanuatu government considers that one of the reasons for this is the lack of adequate resources for quality testing.
Methodology

A study of this nature has never been undertaken in Vanuatu. Commentators and researchers have analysed international trade, import trends, commodities trade and other similar topics, but no study has focused on the system within which imports take place. The study used various methods, both desk-based and field-based, to obtain information:

- **Desk review:** This review aimed to collect as much information as possible in Port Vila on the import environment, including existing laws, procedures and administrative guidelines. It also reviewed existing literature in Vanuatu on the subject, such as policies, reports, programmes and documents from non-governmental organizations (NGOs), other organisations working in the field and private-sector stakeholders.

- **Review of laws:** Laws and regulations play an important role in determining the level of control and monitoring that a country can exert on trade. Therefore, the study reviewed how those laws operate and what effect they have on the products of interest to the study. Most national laws are available electronically, but other laws, especially at the local level, were not readily available to the public and required more effort to access.

- **Site visits:** Visits were made to airports, wharves, laboratories, shops, warehouses, storage areas, and ships – all the locations through which the import process flows. These visits helped put findings in perspective and clarified the practical context of the import system, making it possible to see things from the point of view of the users of the import system.

- **Product sample audit:** A sample audit on the import process for the products of interest was proposed by UNICEF. It was conducted at Vanuatu’s ports of entry, Port Vila and Santo. The audit aimed to verify whether the processes in the field conform to import-related standards, guidelines, laws and regulations. Each step of the import process was examined from the perspectives of effectiveness and adherence to the monitoring and control mechanisms.

- **Interviews and consultations:** Making personal contact with officers, agencies, business people, customs agents and private-sector stakeholders was a difficult yet essential part of the study. This made it possible to collect raw information, viewpoints, comments about how the import system is working, and the first-hand experiences of people in the industry, and to examine whether theory is actually put into practice with regards to monitoring and controlling imports.

- **Seminars and workshops:** These collective exercises were useful in validating the findings of the study. Workshops were held in Santo and Vila and were attended by staff from the various government agencies and offices involved with imports as well as by private-sector stakeholders.

Organization of the report

In addition to outlining the rationale for the study and its methodology, this section provides some background on Vanuatu’s import sector. The following section describes Vanuatu’s import system in more detail. Next, the report reviews import-related laws, regulations and policies and identifies the functions they have in regards to import monitoring and control. It then provides an overview of the institutions and agencies, both private and governmental, that are involved in regulating imports in Vanuatu, and assesses the effectiveness of the quality controls they apply.

The next section analyses the import monitoring process from initiation to consumption, with a particular focus on the quality control function. This is followed by a discussion of a sample audit performed for this study, and a stage-by-stage review of the gaps and shortfalls identified in the import system and recommendations for its improvement, followed by concluding remarks.

Imports into Vanuatu

Most available data on imports in Vanuatu are not specific to the products that are the focus of this study. Rather, they describe general trends such as annual volume and countries of origin. The agencies and organisations participating in this study were unable to provide more specific data on imports, even though they have the information within their systems, as there are few mechanisms for collating those
data into a format that can be used by a study. This report focuses on the years 2006, 2007 and 2008 and draws on statistics reported in the Reserve Bank of Vanuatu’s *Quarterly Economic Review*.

Figure 1 shows the composition of imports that enter Vanuatu. Its rather general categories represent the full range of products that Vanuatu imports. The products of special interest to this study fall in several of these categories. For example, infant formula may be covered under the ‘food and live animals’ or ‘miscellaneous’ category; imports in both categories increased during the three years under study. Figure 2 shows imports by country of consignment. Imports into Vanuatu are proportionately high given the size of the population and the average individual consumption of imported goods.

**Figure 1: Imports for home consumption, 2006–2008, in millions of vatu**

![Figure 1: Imports for home consumption, 2006–2008, in millions of vatu](source)

**Figure 2: Imports by country of consignment, in millions of vatu**

![Figure 2: Imports by country of consignment, in millions of vatu](source)

The Reserve Bank of Vanuatu confirmed in 2005 that 75 per cent of Vanuatu’s gross domestic product (GDP) comes from international trade, which is principally imports, which are four to five times
greater than exports. This was a sudden jump from 2003, when the GDP growth rate was just above 0 per cent, with a quick increase to a 5 per cent growth rate in 2004. The value of exports, on the other hand, has been relatively constant – 2,705 million vatu in 2004, 2,911 million vatu in 2005 and 3,652 million vatu in 2006. In 2008, the total exports for Vanuatu were 3,568 million vatu. These figures show that the most influential factor for GDP growth rate in Vanuatu is the import trade. The gradual rise in level of imports into Vanuatu may be explained by four factors that have been highlighted by the Reserve Bank of Vanuatu as being unique to Vanuatu:

1. Vanuatu has seen increased domestic spending and therefore increased spending by consumers, mainly due to a sudden increase in cash flow liquidity within the economy.

2. The effective exchange rate, which is an indicator of the strength of the Vanuatu vatu. Interestingly, even though there was a depreciation in the vatu, which makes imported goods less competitive against domestic goods, this had no effect on the level of imports entering Vanuatu. The depreciation of the currency increased the vatu value of the imports.

3. Decreases and readjustments in import tariffs on imported products. These are in accordance with the free trade agreements signed by Vanuatu and also an overall adaptation of WTO tariff regimes as a precondition to accession.

4. Increased energy consumption in urban areas. This corresponds to an increase in fuel imports.

A high number of imports come from Australia and New Zealand, usually including dairy products, milk powder and infant formula. Products originating from China are not categorised in the data; this may be explained by the fact that distributors in Australia, Hong Kong and Singapore buy Chinese-manufactured products and then sell them to Vanuatu importers, so that the origin of the product is listed as a country other than China.

Not all the countries that export to Vanuatu have entered into a bilateral or multilateral trade agreement with Vanuatu. Apart from the Melanesian Spearhead Group countries, the rest trade openly with Vanuatu and benefit from its reduced tariff regime. This contributes to the increased volume of trade described above. It indicates the increasing risk associated with the open-market theory that has driven Vanuatu to date. At present, this seems to create a regulation-free environment, with little or no proper regulation or enforcement applied to the products covered by this study.

Vanuatu import data have several important limitations. For example, for the years under study (2006–2008), it is not clear whether imported goods entered through Port Vila or Santo. This information could be provided by the Customs and Inland Revenue Department (CIRD) under its Automated Systems for Customs Data (ASYCUDA). It is also difficult to capture information on the quantity of goods being imported, mainly due to the formats in which import data are recorded. ASYCUDA does not provide disaggregated data that could be useful to the public or to government institutions in decision making. The National Statistics Office also does not provide disaggregated data on the goods that are the focus of this study.

Agencies and institutions involved in the import process record various types of information; however, this has not been analysed for policy decision-making or made available to the public. It is recommended that institutions and agencies involved in the import system in Vanuatu should identify the core data required in order to better protect the Vanuatu people from risks associated with imports, and record and analyse those data in a timely manner. Data that are collected should be provided to the National Statistics Office for collation and publication.

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12 It is likely that at least 75 per cent of imported goods come through the international port of entry of Port Vila, given the amount of import activity there.
Vanuatu’s import system

Figure 3 describes the general process of imports. In reality, steps may sometimes occur in a different order. This process will be further elaborated in later sections.
Stage 1: Arrival of goods

From exporter to port of entry: The carrier

Most imported products entering Vanuatu are transported by sea and arrive at one of two main international ports of entry in Vanuatu, Port Vila on Efate Island and Luganville on Santo Island, as evident by the number of containers and packages that stevedoring agencies there handle daily and weekly. Fewer imports arrive in Vanuatu by air, given the high cost of air cargo traffic and the limited number of aircraft that service Vanuatu. Vanuatu has yet to receive cargo planes. Staff at Vanuatu Terminal Services, a certified cargo handler working in both Port Vila and Santo, as well as stevedoring agencies confirmed these facts.

Arrival at the port of entry: The cargo manifest and tally sheet

Upon a shipment’s arrival, a shipping agent or aircraft agent offloads the imported goods and hands them over to the control of a stevedore or the cargo shed. A check is conducted to ensure that imports that are supposed to arrive have arrived and are left in the storage pending clearance.

The movement of cargo ships and operation of wharves are determined by technical, maritime and commercial factors, so imported goods do not always arrive at the expected time. Vanuatu’s ports lack efficiency in processing imports. As a recent Asian Development Bank study reported, “Port Vila also has the slowest turnaround time [among the main ports in the Pacific]: 17 days compared to 3 days in Port Moresby.”13 The longer imported goods spend in transit, the less their remaining shelf life; delays have a direct impact on quality. An importer in Santo recalled an incident in which he had imported noodles from a supplier in Asia, and by the time he received the noodles container and prepared it for retail sale, there was only one month left before the expiry date. As a result, he sought a refund from the supplier and also sold the noodles at a reduced price prior to the expiry date.

The relevant question for this study is how much responsibility the port stevedore and the air cargo handler have for monitoring and controlling the quality or safety of imported goods. Both the port stevedore and cargo handler are governed by laws and regulations that require them to handle goods in a safe and appropriate manner so as to retain their condition. For example, when milk powder, baby food or any dairy products arrive in Vanuatu, the port stevedore and the cargo handler both have to ensure that the product is what is stated on the cargo manifest and tally sheet and that the packaging is not damaged or stored in an area that is exposed to rain, sun, moisture or human damage. They are not required to check the safety and health aspects of the imported products; this is considered beyond their jurisdiction and capacity as handlers. Cargo handlers may hold back or request inspection of any item that they suspect is dangerous or has insufficient documentation. They also carry a list of items that are not allowed into Vanuatu. However, none of the products covered in this study, including potentially pornographic videos or magazines, appear on the list.

The document trail: Disclosure of the nature of imports

The arrival of goods is also an important stage from the perspective of documentation. It is important that the importer (also referred to as consignee) is prepared to receive the goods. In the normal procedure, a consignee must have an official document proving the existence of the imported products as well as their ownership. Transport, administrative, commercial and insurance documents are required, including a certificate of origin, packing list, bill of lading, invoice and insurance contract. The bill of lading, invoice and insurance documents are evidence of a contract, and if they are valid, the consignee has the right to claim ownership of the items, which then become the responsibility of the consignee.

A bill of lading (for items shipped by sea) or an airway bill (for items shipped by air) allows the customs broker to engage in clearance. It lists the items to be imported, along with their values and volumes, and indicates that they are being carried into Vanuatu, will arrive on a certain date and belong to a particular consignee.

Imports must also be accompanied by permits and licenses. Usually, CIRD and ASYCUDA flag products that require a permit or license for import. This usually applies to dairy products, especially liquid milk, eggs, frozen meats, cheese, yoghurt and other high-risk foods. The Department of

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Quarantine and Livestock Development (DQLD) has a responsibility to issue and approve these permits. This process creates another opportunity for control and monitoring to take place. DQLD is one government agency that is well equipped to undertake checks and controls on all imported foods, and so their input in this stage is critical.

Goods arrival is the most critical stage in ensuring monitoring and control of imported goods, including food. CIRD and ASYCUDA may detect an unsafe or high-risk product based on the information submitted. The bill of lading, certificate of origin and invoice reveal the nature of imports to the customs broker and therefore present further opportunities to enforce full disclosure of their nature. It is at this stage, more than others, that a significant part of monitoring and control can be achieved, because importers are obligated by law to fully disclose the nature of the goods they intend to import into Vanuatu.

**Stage 2: Documentation**

Since the creation of customs as a border control measure for the purpose of collecting revenue on people and goods entering a country, customs brokers and agents have existed. They are qualified and experienced in processing the clearance of imports and are delegated or contracted by importers. Clearance of imports may be done prior to their arrival in Vanuatu, but this step is still considered stage 2, as the customs clearance is normally begun after the goods arrive at a port of entry.

**Customs brokers and agents**

Customs brokers’ and agents’ role is to process a customs clearance by filling out forms and electronically declaring imported items on behalf of the importer. The customs brokers and agents use ASYCUDA, an automated system for declaring vital information. This information is then processed and an assessment of the overall declaration is produced. The input of the declared information alerts CIRD that a consignment is entering Vanuatu; CIRD must then decide whether or not the items are allowed to be imported and, if they are, what the import duty is. Customs brokers and agents serve as go-betweens for the importer and CIRD.

In Vanuatu, customs brokers and agents are regulated under the Customs Act No. 15 of 1999 and are licensed by CIRD. Their work is also regulated by the Import Duties Act, which outlines the various tariffs for imported products. They are accountable to the CIRD, and any breach or improper conduct is dealt with by that authority. There are 23 customs brokers and agents in Vanuatu, the majority of whom are based in Port Vila with a small number in Santo. The customs brokers consulted during this study confirmed that they are bound by law in their work, especially by the Customs Act. One of their binding duties is to disclose the full details of goods being cleared and not make any false declaration. In order to manage this crucial task, CIRD has adopted ASYCUDA, and has trained and equipped customs brokers to work with it. ASYCUDA is the core tool for monitoring and controlling imports. Its potential is vast, but it is not being realised, mainly due to human resource capacity limits and lack of coordination between agencies.

There are 92 non-customs brokers in Vanuatu. These are entities, usually big import-oriented businesses, that have acquired ASYCUDA and received training on its use and are able to clear their goods without the help of a customs broker. They can only clear their own goods and not those of others. This practice simplifies the customs clearance process and helps Vanuatu import more efficiently. However, this also raises the point that not only customs agents but also non-customs brokers and large import businesses play a critical role in ensuring that unsafe imports do not enter the Vanuatu market, and proper regulation and enforcement are required to minimize this risk.

**The self-assessment**

Self-assessment is an ASYCUDA-specific function. When customs brokers complete the electronic clearing process on ASYCUDA, the system then allows them to make an assessment of the information that they provided. This is called a self-assessment because it is done, not by CIRD and ASYCUDA, but by the brokers themselves. The result of the assessment indicates how the goods will be processed for clearance. There are three options: the green, yellow and red lanes.

The self-assessment is useful because it sends an early warning to the customs brokers on any further information needed for their declaration. It also indicates to CIRD that there is a declaration and allows CIRD staff to prepare for the goods arriving for clearance. This mechanism is a good form...
of risk management. For example, a yellow or red lane result will indicate to CIRD officers at the wharf or airport that the imports in question are of a certain nature and will require close attention.

At this stage, government agencies such as DQLD, the Department of Agriculture and Rural Development (DARD) and the Department of Public Health (DOPH) are not yet actively involved in the process. These agencies will come into play at later stages if necessary.

**Stage 3: Clearance**

Vanuatu is one of 90 countries using the ASYCUDA computer program, designed to facilitate clearance of imports and exports. As mentioned earlier, based on the initial self-assessment, all imports are placed in one of three ‘lanes’ – green, yellow or red – for clearance.

**The green lane**

When all required data are input into ASYCUDA, the system will assess the request for customs clearance by importers and customs brokers acting on their behalf. An assessment indicating the green lane signifies that the items being imported have been cleared by ASYCUDA. Once a shipment has received a ‘green lane’ assessment, the customs broker or importer can proceed directly to the wharf or airport, pay the relevant charges and receive the imports.

A ‘green lane’ result indicates that the imported items are not prohibited or restricted from entering the country and are suitable for import. Nonetheless, a customs officer or quarantine officer may request inspection if he or she suspects that the imports pose a risk to the public.

**The yellow lane**

A ‘yellow lane’ assessment indicates that the items being imported have been cleared by ASYCUDA, but a further inspection of the import documents is necessary. This usually occurs when the information submitted by the customs broker or importer is not consistent – for example, the quantity, value or contents are not listed accurately. If a particular importer has a track record of under-reporting or mis-reporting, ASYCUDA, which stores past records, will automatically flag the declaration for the yellow lane.

In such cases, the bill of lading or airway bill, invoices, permits and licenses are inspected. In most cases, as confirmed by CIRD, the inspection is done by customs officers, who then input the results into the ASYCUDA system. In most cases, the imported goods are then routed to the green lane. A quarantine officer or health officer may also be required to inspect the documents at this stage if the imports are foods, to see if the goods meet food safety requirements and were given the necessary approvals from their country of origin.

If further problems or discrepancies exist or a breach is identified, the goods and items will be routed to the red lane for a physical inspection.

**The red lane**

A ‘red lane’ assessment indicates that the items being imported need to be physically inspected. This often occurs with food products imported in large quantities such as rice, flour, sugar or milk. The physical inspection is done by a customs officer and, if necessary, quarantine and health officers. For food products, a quarantine officer is always present, as these officers are equipped to conduct inspections for safety of foods and food-borne illnesses and also to implement sanitary and phytosanitary (SPS) measures. The WTO’s Sanitary and Phytosanitary Measures Agreement means that WTO members can protect human, animal or plant life or health by applying measures to manage the risks associated with imports. These measures usually take the form of quarantine or food safety requirements. (This will be discussed in more detail in the next section of this report, which covers import-related laws and policies.) Although Vanuatu has not formally adopted the SPS agreement, many of its trading partners have done so, therefore, Vanuatu also has to adopt SPS measures to trade with those countries. CIRD has confirmed that for the purposes of controlling and monitoring food safety, all supermarkets and large importers are automatically classified in the red lane.

Usually, once all customs, quarantine and health checks are successfully completed, imports are routed to the green lane to allow importers to receive them. All documents are checked by customs officers; they are only checked by quarantine officers if the goods being imported fall under their jurisdiction. The checking of documents is a duty posed by law, and customs officers are trained to
perform such tasks for border control and goods clearance. Quarantine officers also have the duty to check documents and ascertain the nature of goods. This task is a part of routine monitoring and control. However, there are gaps in the current system. For example, documents are not required to disclose health and safety aspects for any imports other than foods. Also, for DVDs and other media products, documents are not required to reveal their contents and nature. The customs officers often take the documents at face value and do their checks on that basis.

All imported products that are routed to the red lane and remain in that category are confiscated, or destroyed if they are perishable. The destruction of food products that remained in the red lane is usually conducted by trained quarantine officers. Some confiscated items are kept as evidence in the event that legal proceedings are undertaken. The role of quarantine officers in this context is governed by legislation, which will be discussed in more detail in the next section. All items confiscated or destroyed are documented for the purposes of insurance claims by the importer.

Customs clearance is supported by a legal requirement and also carries penalties. Different agencies often cooperate to complete the process of clearance, but essentially, the clearance process is a single block of activity.

**Stage 4: Payment of fees**

After clearance, the import process enters a commercial phase. Importing is also a service, and governments often delegate it to a service provider, such as a stevedore or a cargo handler. In addition to costs associated with handing the imports, the Government also charges fees for the work that government officers such as customs and quarantine officers carry out to clear imports.

In Vanuatu, the following fees have to be paid before a customs broker or an importer can claim imports:

- **Handling fee**: This is a fee for the service provided in taking goods from the plane or ship to a storage area. For surface cargo, this is paid to Ifira Wharf & Stevedoring; for air cargo, it is usually paid to Vanuatu Terminal Services.

- **Storage fee**: This is paid to the person responsible for storing imports while they await clearance. If a green lane clearance is achieved prior to the goods arriving in Vanuatu, this fee is usually avoided. Goods are often stored in the holding areas of the wharf or the airport for several days while awaiting clearance. These services become chargeable to the consignee after two days at the wharf and after three days at the airport.

- **Import document fee**: This is paid for the airway bill or the bill of lading, a key document required to start the import clearance process. For an airway bill, the fee is paid to Air Vanuatu Cargo. For surface cargo, it is paid to the person who acts as agent of the ship carrier that transported the cargo to Vanuatu.

- **Customs fee**: This is paid to Customs for carrying out document approval, inspection and other duties.

- **Government taxes and duties**: Any other tax or duty payable on the imports must also be paid before the cargo is released. When goods attract a high tax or duty, the CIRD allows the importer to use a bonded warehouse facility to hold the goods while they are sold.

These fees are an integral part of the import process. They do not offer much opportunity for monitoring and control of the imports as they are strictly financial in nature.

**Stage 5: Release and collection of goods**

Upon the payment of all fees and completion of the clearance process, the stevedore or cargo handler is obliged to release the imported items. This discharge may also impose a further examination by customs or quarantine officers. Goods collection is usually done by the importer or the customs broker, and the stevedore and cargo handler ensure safe delivery after the delivery docket is signed.

Goods collection marks another turning point in the import process. At this stage, the importer finally receives the imported items and has full physical control of them. Usually, once the goods are collected, no further efforts are made by authorities at the port of entry to monitor or control them.
Stage 6: Distribution of goods

Once the goods are in his or her possession, the importer – who may also be a wholesaler, retailer or distributor – will offer the products for sale. Imported food products are usually made available for purchase in a shop, supermarket or wholesale outlet.

At this stage, the scope of control and monitoring changes, because food safety, public health, food sale and other similar laws become applicable. Even though these laws are effective, importers have the right to sell their products. In Vanuatu, it is only when food poisoning, food contamination, or products beyond their expiry date are found that the authorities are alerted.

Another form of control and monitoring is the regular inspection that authorised officers conduct at all food establishments. Importers are still subject to control measures at this stage and can face penalties if they sell a product that causes harm to human health.

Stage 7: Purchase and consumption

‘The customer is always right’ is an old adage, but it reflects the fact that when consumers complete the import process by buying and consuming an imported product, they assume that the product is suitable for human consumption.

Consumers usually only discover the hazards of foods after their consumption. This is also true for pharmaceuticals, toys, DVDs and magazines. Once they are purchased, they are in the consumer’s domain and cannot be monitored or controlled unless the consumer makes a complaint, for example to the Public Health Department. Consumer protection legislation and regulations are the one form of control and monitoring that exists at this stage, but this requires further formal support from government authorities.

Findings

The import system is quite complicated. Importing of goods is a process in which certain steps are followed for checks and permissions in order to progress towards the final destination. During this process, multiple officials carry out different functions. Government authorities act according to laws and regulations in certifying different parts of the process and ensuring that the system operates appropriately. There are also technicians who examine the content and quality of the imports, which is essential to achieve effective control.

This study’s analysis of the import process in Vanuatu led to the following findings:

1. Clearance of customs can be done prior to the arrival of imported goods, and ASYCUDA provides early warning on high-risk items.

2. The first stage, arrival of goods, is the most critical stage in ensuring monitoring and control. A bill of lading, certificate of origin and invoice reveal the nature of imports to a customs broker and thus present further opportunities to enforce full disclosure of the nature of goods. A significant part of monitoring and control can be achieved because importers are obligated by law to disclose the full nature of the goods they intend to import into Vanuatu.

3. Several agencies are involved in the import process, but not everyone has a mandate or role in controlling the safety aspects of imports. Custom agents have overall jurisdiction at the port of entry to investigate the imports, but the health risk or protection aspect is rarely considered unless it is flagged by regulations and monitored by ASYCUDA. Quarantine and food authorities play a critical role in ensuring the health aspect of food imports, particularly in relation to SPS measures. Supermarkets and large importers are by default required to submit their imports to physical inspection.

4. Port Vila has the slowest turnaround time among the main ports in the Pacific, which points to a lack of efficiency in processing imports. This results in a short shelf life for imported products, in particular food items.

5. Vanuatu’s 23 customs agents and brokers, registered and licensed by the CIRD, are for the most part based in Port Vila and charge commercial rates for their services.
6. The country’s 92 non-customs brokers are businesses with frequent bulk imports who have had the ASYCUDA system installed and whose staff have been trained by CIRD to use it. They are limited to processing their own imports.

7. Both customs and non-customs brokers play a critical role in ensuring that unsafe imports do not enter the Vanuatu market. Proper regulation and enforcement as well as awareness-raising are required to minimize the risk.

8. After imported products undergo all required procedures for clearance and leave the port of entry, little is done by the authorities to monitor the imports.

9. The DOPH deals with consumer complaints about contamination of imports. Consumer protection laws and regulations are the one form of control and monitoring that exists at this stage; it needs formal support from government authorities.

Issues and recommendations

The goods arrival and clearance stage presents the best opportunity to monitor unsafe imports. Once imports are in the hands of importers, there is little opportunity to further monitor them. The ASYCUDA system and customs officials do not focus on the safety or quality of imports, and there is a gap in the existing mechanisms to prevent the entry of unsafe imports into Vanuatu. Non-customs brokers play a significant role in the import process. There is only weak awareness among authorities and the public regarding how to deal with contaminated imports found by consumers.

Therefore, the following recommendations are made:

1. The existing early warning system, ASYCUDA, should be strengthened to incorporate a safety category, which could link with a database of recalled products worldwide to prevent them from entering Vanuatu.

2. Collaboration with non-customs brokers should be increased to help protect consumers from unsafe imports.

3. Proper authority and clear channels should be set up to receive consumer complaints, and those channels should be well publicized.

The following two sections provide an overview of the laws, regulations and policies that govern or could govern imports and the institutions and agencies involved in enforcing them.
Laws and regulations for imports

Legislation, subsidiary legislation, local by-laws and other legal instruments have a central role in shaping the way an import system works, especially because they create provisions that control goods, set standards for those goods, create powers of monitoring and control, set up procedures for controls and checks, and ensure penalties.

Vanuatu has laws in place that affect the import regime. These laws cover general areas, specific products, and specific industries and agencies. Most of them were enacted more than 10 to 15 years ago. They often exist independently of one another and do not provide a systematic approach to import monitoring and control.

For example, the Customs Act sets out various mandates of the Customs Division to control the border. This Act applies to any products, including foods, that are imported or exported. The Business License Act No. 19 of 1998 supplements the Customs Act by requiring certain businesses to import goods. Subsidiary regulations such as the Municipalities Act of 1992 and 2000 provide hygiene quality standards for food vendors. The first two are related to the import process generally, and the latter two are related to quality control of food, particularly targeting the suppliers.

The following discussion groups those laws based on the product categories to which they are most relevant, and examines how they work, their effectiveness, and whether their application has a child-friendly outcome. The laws discussed here were selected from a host of laws relating to imports.

Infant formula, baby foods and iodized salt

The Animal Importation and Quarantine Act of 1988 and the Food Act of 1993 provide general protection on food safety. The former is only applicable at the port of entry, whereas the latter applies all the way up to food’s consumption. The Food Act of 1993 and the Food Regulation of 2007 also allow scientific analysis of foods to determine safety and require food labelling in three languages – English, French and Bislama. They also outline the process for recall of products. Although these acts and regulations provide a useful basis for interventions to protect consumers, there are gaps, particularly in their enforcement. Further capacity building within the enforcement agencies is required.

Food (Control) Act No. 21 of 1993

This act establishes the infrastructure and system for regulating the food industry in Vanuatu. It sets up the relevant bodies and specifies their powers and authorities and the requirements and procedures for carrying out their work. It can be seen as an essential step towards creating a safe and well-regulated food industry.

- **Strengths:** Without this kind of legislation, the food industry in Vanuatu would not be a level playing field between traders and consumers, especially when considering the high growth of imports in Vanuatu. The Act establishes benchmarks for regulating importers, wholesalers, manufacturers and vendors. It also sets a framework that is not too complex to work within. Overall coordination is the responsibility of a Chief Food Authority supported by local food authorities and authorised officers. This is a workable formula for a country like Vanuatu. The language of the Act varies from scientific and technical jargon to simple English. This can be challenging for interpretation; but the Act provides simple meanings for most of the key provisions.

- **Issues in application:** Difficulties arise in parts of the law that assign a role to specific officials and offices that have now been restructured or renamed. Additionally, while it establishes avenues for certain actions to be taken, the actual infrastructure, resources and capacity do not exist. This creates a legal vacuum that affects the validity of the law and the credibility of enforcement mechanisms. There are also issues with interpretation of certain technical terms that are either no longer used in the food industry or the relevance of which in the current system is questionable. There have not been any court cases or convictions under this Act, and so most of the penalty provisions have been made redundant. This situation is not to be considered a fault of the enforcement function, but the realisation that prosecution for a food-type offence is not a readily understandable concept in the Vanuatu food industry.

- **Possible reform areas:** Several areas of the food industry need structural adjustment, but the law itself can also be improved and adjusted. There is a need to emphasise reform in the
structure created under the Act. Currently, the Chief Food Authority is assigned to the Ministry of Health and placed under the direction of the Director of Public Health or the Director General. In reality, the Ministry of Health is overburdened with responsibilities and cannot realistically provide oversight on food safety issues. It has an Environmental Health Unit, which has three full-time staff, but food is only a small part of their portfolio and they have other roles, including coordination with the six provinces of Vanuatu. Thus, an essential reform step is to remove the Chief Food Authority from the Ministry of Health and make it an independent body, either under a separate statute or within the existing Act. This would enable more focus and attention to food safety issues and would also mean better viability for direct government funding and assistance.

**Public Health Act No. 22 of 1994**

It is indicated in the publication site of this legislation that even though it has been assented by the Head of State, it has not yet come into force. The legislation is comprehensive in nature and covers all aspects of public health and management of health systems. The most relevant to this study is a segment of ‘Part 12 – Control of Baby Feeds’, which contains useful provisions on promotion of breastfeeding and control of commercial baby food, supply and use of prescribed articles, authorizations, and prescribed advertisements.

Unfortunately, this legislation is designated as still inactive. This study was not able to get a policy position from the Government or Ministry of Health on this Act. It could be the case that parts of the legislation have been implemented and enforced as a matter of policy and administrative exercise within the health system of Vanuatu.

**Vitamin supplements for pregnant women**

Vitamin supplements that are often advised for pregnant women to take are considered medicines and regulated mainly under two pieces of legislation: the Sale of Medicines (Control) Act of 1988 and the Control of Pharmacists Act of 1983. At the import stage, only the former applies, requiring the pharmacist importing drugs to disclose details in a customs declaration. The Sale of Medicine Act provides additional protection, requiring pharmacists to inform customers about the nature and use of the medicines they provide. Both Acts are becoming quite obsolete given the rapid advancement of technology that enables consumers to purchase the vitamins online quite easily. Enforcement also remains a challenge.

**Control of Pharmacists Act No. 5 of 1983**

- **Background:** The pharmaceutical industry in Vanuatu is not large. There are three commercial pharmacies in town, two of which have existed over a longer period of time and one that has been around for the last 10 years. The government hospital also has a pharmacy, which provides drugs to patients who go through the public health system. This law is a regulatory and structural law, setting up the industry, creating rules on registration and how pharmacists should operate and how the pharmacies’ business should be conducted.

- **Strengths:** The law creates rules for registration and accountability to the public and provides an opportunity for the authorities to examine the adequacy of the operation to ensure that proper service is provided. It also provides for good practices and the manner in which medicines are to be sold and supplied.

- **Issues in application:** The pharmaceutical industry worldwide is a lucrative industry with a strong emphasis on profit. Like in the information technology industry, products become obsolete or change very quickly because of the race to find the best drugs, leading consumers to believe that a new drug is better than the previous one. This industry also has a strong technological and innovative nature, which means that drugs are developed rapidly and it is often a challenge to properly regulate the market. Pharmaceuticals are also sold online and can be ordered from outside Vanuatu by any individual; this is especially true of vitamins and dietary supplements. It is uncertain whether any enforcement has been carried out. There is also a concern that commercial pharmacy operators may become complacent and see no need for government intervention in their operation, judging from the fact that a pharmacist refused to participate in this study.
- **Possible reform area**: This law is archaic and unable to cope with the sweeping technological changes that have happened in the pharmaceutical industry in the last 30 years.

### Children’s toys

The import of children’s toys suffers a tremendous gap in terms of preventing unsafe imports from entering into Vanuatu consumers’ hands. The only related legislation is the Import of Goods Act of 1984, in which emphasis is placed on controlling market access to protect the domestic industry. This Act does not regulate the safety aspect of imports. Therefore, Vanuatu consumers remain exposed to high-risk imported goods; if such items are successfully imported, there is no additional screening mechanism in place other than the one required by the Customs Act.

### DVDs and magazines

Imports of obscene materials in the form of films, DVDs, and magazines are controlled mainly by two pieces of legislation: the Obscenity Act of 1973 and the Censorship of Films Act of 1973. Under those two Acts, media that may not be suitable for viewing by the public and children are first screened at the customs clearance stage; if they are allowed to be imported, they are regulated by the Censorship Act.

#### Censorship of Films Act of 1973

- **Background**: This law establishes a censorship system in Vanuatu and sets up the Censorship Commission to scrutinise films entering Vanuatu.

- **Strengths**: For a least developed country like Vanuatu, it is difficult to ‘re-invent the wheel’ in some sectors. Legislation of this nature already provides the basis for censorship, and all that is needed is some government commitment and industry cooperation to make it work. The main strength is the potential for having an efficient and effective censorship in Vanuatu, while the industry is still small and the ‘Internet revolution’ has not been fully realised.

- **Issues in application**: Given that this legislation has become dormant, it is difficult to raise any issues in application. The immediate question that can be raised in relation to this law is whether CIRD has used it to create or raise the sensitivity levels in the ASYCUDA system. It is also unclear whether there have been any prosecutions for offences against this Act.

- **Possible reform area**: A possible practical area of improvement is that the proper application of censorship is done as part of the border control. In this respect, further capacity building of custom officers may be required. Additionally, a renewed government effort in this industry area and the earmarking of funds for staffing of the Censorship Commission could be considered.
Policies and guidelines related to import safety and children

These policies were developed by line ministries and departments as well as relevant stakeholders, including development partners such NGOs, donors and community partners. Three policies have been selected for discussion here.

Sanitary phytosanitary measures

SPS measures deal with five main areas in Vanuatu. Table 1 summarizes how SPS measures affect the import process in Vanuatu. The capability in Vanuatu to manage SPS measures is uncertain because of the lack of infrastructure (both technological and logistical), human resources, organisational capacity, and a comprehensive legal framework.

All of these protect and benefit consumers in Vanuatu. As for application to the food consumed by children and infants, the last three SPS functions are particularly important for setting quality standards for imported items such as infant formula.

Table 1: Current SPS architecture in Vanuatu

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<th>Function</th>
<th>Key activities</th>
<th>Government agencies</th>
<th>Private sector</th>
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<td>Animal products</td>
<td>Disease surveillance</td>
<td>DQLD</td>
<td>Importers</td>
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<td>Border inspection</td>
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<td>Fumigation or incineration</td>
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<td>Quality assurance and standards</td>
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National Breastfeeding Policy

The National Breastfeeding Policy (attached as Appendix 1) aims to promote breastfeeding infants. It discourages the use of infant formula and the advertisements and free samples that promote it. The policy also supports the International Code for Selling Milk Powder or Baby Food. This indicates that Vanuatu has established a policy to encourage breastfeeding and put in place good control over the sale and consumption of infant formula in accordance with the requirements stipulated by the International Code. While the policy is really an expression of government intention and goals and has
little impact on the monitoring and control of infant formula, it sets the tone for future legislative and regulatory measures in this area.

**National Children’s Policy**

The mission statement of the Vanuatu National Children’s Policy 2007–2011 states:

> Children are our future but their concerns and issues are current and paramount. Their best interests and rights are to be protected regardless of age, gender, religion, ethnicity, disability, health status and cultural background. Children have the right to survive, develop, participate and be protected. It is a communal mission to ensure that these rights are acknowledged and promoted, so that our children will grow in safe homes to become responsible members of Vanuatu society.

This statement sets the background to what this policy aims to establish for children in Vanuatu by the Government and its stakeholder partners. It presents a useful tool by specifying activities that are to be undertaken by relevant sectors in Vanuatu. These are identified in seven main areas, one of which relates to food supply and security:

> Quality food supply and security must be made a priority, especially in the urban centres and natural disaster prone areas, to ensure proper nutrition for children today, and to protect children from being traumatised by the challenges that will come tomorrow.

The policy is a useful tool for shaping laws that aim to protect children in regards to foods that they consume and are exposed to, whether locally produced or imported. That in itself is a great start; the ensuing step of implementation is one for the Government to embark on first.

**Findings**

The following findings apply to laws, policies and guidelines related to import safety and children in Vanuatu:

1. Since introduction of the Food (Control) Regulations of 2007, not all authorised officers employed in a food authority established under the Food (Control) Act have received formal training and instruction on inspection and enforcement procedures.

2. There are laws in Vanuatu regarding censorship, but the laws do not function, and no actual body as stated under the Censorship of Films Act is currently functional and carrying out any censorship of media products such as DVDs and magazines.

3. The Customs Act regulates the entry of imports including food, toys, DVDs and magazines by empowering CIRD officials to apply particular criteria to be met in order to import goods, but it does not give CIRD officials responsibility for checking on whether the imported products are safe or not.

4. The Customs Act centralised the clearance of imports by creating one electronic process whereby all requests for import clearance are processed through a single system called ASYCUDA. CIRD has effectively regulated the import of goods.

5. It is unclear whether the Control of Pharmacists Act is actively enforced and whether the designated body under the Act and the responsible ministry are functioning effectively. No information was found as to whether there have been instances where the Act has been used to penalise a pharmacist for selling inferior products.

6. Many of the laws in Vanuatu regarding safety measures for imported products, regulation of the supply and sale of imported products and importation of products are out of date, inactive and in need of review and reform.

7. Many of the same laws do not have the necessary infrastructure, personnel and resources to further their implementation.

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8. Many laws in Vanuatu create provisions that cannot be adhered to for reasons of practicality. For example, they create offices, positions and duties for which there are insufficient human and financial resources within the Government. This is especially true in the case of the Food (Control) Act.

9. There are gaps between what the law states and what is actually practised, when it comes to food safety, regulation of imports and responsibilities of agencies empowered under the law to regulate importation of goods into Vanuatu. The gaps are mostly caused by a lack of technical expertise and occur because when laws are drafted and enacted, there is no constructive follow-up and implementation. An example is in areas of the law that require specific practises and exercises, such as testing of samples of products, that never occur in Vanuatu. The law expressly states that food labelling has to be in three languages (English, French and Bislama), and yet no action has been taken in this regard.


11. The Vanuatu National Breastfeeding Policy, developed in 1997 and reviewed in 2005, is an effective policy tool that indirectly controls the importation of infant formula into Vanuatu, encourages consumers not to buy the product and supports the implementation of the International Code for Selling Milk Powder and Baby Food.

12. The Public Health Department also has a General Policy on Food Safety, and the Nutrition Section of the Public Health Department has put out a Vanuatu National Nutrition Policy. All these policies encourage the sale, supply, manufacture and consumption of healthy, nutritious and safe food.

13. The Vanuatu National Children’s Committee has been appointed by the Minister for Justice and Social Welfare.

**Recommendations**

The following actions are recommended in relation to laws, regulations and policies:

**Infant food and formula**

1. Provide formal training on the implementation and enforcement of the Food (Control) Regulations on an on-going basis for all authorised officers under each of the food authorities in Vanuatu, including the gazette with names of authorised officers after completion of training.

2. Enforce and implement the legal requirement of food labelling and packaging as contained in the Food (Control) Act and the Food (Control) Regulations on imported food products.

3. Consider regulation of the sale of infant formula in order to allow only licensed businesses to import, distribute and sell it, with added responsibilities and duties regarding pre-sale advice and consumer assistance with complaints.

**Children’s toys**

4. Consider the review of laws regarding importation of children’s products, and the requirement for a health certificate to be issued by the exporting country as a prerequisite for importation into Vanuatu.

**DVDs and magazines**

5. Review the Censorship of Films Act with the aim of identifying whether to revive the existing legal framework or to introduce a new and modern censorship system that is similar to those that exist in other countries in the region.

**Vitamin supplements**

6. Review the Control of Pharmacists Act in order to raise the level of control and monitoring on non-prescription pharmaceutical products such as vitamin supplements. A review should also consider modernising the regulatory regime of the conduct of pharmacists similar to those in countries such as Australia and New Zealand.
Overall

7. Allow CIRD to incorporate into its import regulatory regime a consumer safety factor and a health certification requirement so that these elements of monitoring and control occur in a centralised manner when declaration of imports first occurs.

8. Conduct a review of all laws relating to the importation of goods with a view to ascertaining options for establishing a law or set of laws to address safety measures for imported products, regulation of the supply and sale of imported products and overall importation of products.

9. Ensure that sufficient government resources and support are directed towards institutions and agencies that have the mandate of ensuring safety measures for imported products, regulating the supply and sale of imported products and analysing the safety and quality of imported products, especially food products.

10. Carry out legislative and administrative exercises to minimise gaps between the law and practise, with regards to control and monitoring of unsafe imports as well as imported products in general.

11. Encourage Government, NGOs and private-sector stakeholders to engage in coordinated efforts to implement the Vanuatu National Children’s Policy 2007–2011 with a specific focus on ensuring protection of children from the consumption of unsafe imports. This should be done with assistance from the National Children’s Committee.

12. Encourage Government, NGOs and private-sector stakeholders to engage in coordinated efforts to implement the Vanuatu National Breastfeeding Policy, especially regarding the requirements of the International Code for Selling Milk Powder and Baby Foods.
Import-related institutions and agencies

One of the objectives of this study was to examine the level of compliance and monitoring that exists in Vanuatu for imported products, especially those that can and do have adverse effects on the health and welfare of children. This section focuses on identifying which government ministry, department, authority, agency, institution or organisation has following responsibilities:

- Setting quality standards for imported products
- Enforcing compliance on the importation of products
- Monitoring imports
- Regulating quality and processes

Several trends and characteristics exist in Vanuatu. First, the control and monitoring of Vanuatu’s border with regards to imported products is a centralised function resting solely with CIRD. Thus, only one agency holds the power to decide what enters Vanuatu. This centralisation is supported by an automated system administered by CIRD. Second, the control and monitoring of quality is the responsibility of a different government agency, DQLD. Third, the function of receiving consumer complaints about food products and controlling the sale and supply of food rests with another authority, the Chief Food Authority, which then delegates that function to a local food authority, which relies on authorised officers to implement the controlling and monitoring functions according to the Food Control Act. The only limitation under this chain of command is that authorised officers under the Chief Food Authority only have jurisdiction over food products and food establishments, and cannot exercise any discretion over other kinds of products.

If a consumer has a complaint regarding a toxic or hazardous children’s toy, who should be responsible? Currently, the matter could be taken up primarily with the business selling the toy. In legal terms, this would be considered a breach of contract and legal action could be taken by the parents of the child or any person who is affected. Given that common law applies in Vanuatu, this would be a possible course of action. A food authority may receive such a complaint and refer the consumer to possible legal options, but it can take no other practical measure. It could be argued that the liability for a defective or hazardous product should be borne by the manufacturer, but in reality it is difficult to make a manufacturer responsible when it is a foreign entity and may not even have an agent or contact in Vanuatu. This is an area that consumer law needs to address.

The import monitoring roles of various government agencies and private entities are summarized in Appendix 2. In an emergency recall of a contaminated food or other imported product, the greatest challenge will lie in the cooperation and sharing of information amongst these agencies. Other challenges include different human resource and financial capacities. However, some private-sector organisations such as Vanuatu Terminal Services and Ifira Wharf & Stevedoring often apply international standards in their services as cargo handlers at international ports of entry, and they cooperate efficiently with government agencies. This is apparent when visiting airports and wharves both in Vila and Santo, where they have worked to improve their premises, obtain certification, acquire training for staff and comply with local and international standards for the provision of their services. Vanuatu Terminal Services in Port Vila has certification that requires it to adhere to International Air Transport Association (IATA) standards for cargo handling, airport security and safety. It has maintained its certification since its establishment as a result of its efficient service standards.

Vanuatu National Codex Committee

The Vanuatu National Codex Committee was established by the Council of Ministers as an initiative under Vanuatu’s membership in the Food and Agriculture Organization and in adopting the Codex Alimentarius Convention. The Committee includes officials and technical specialists from areas such as trade, agriculture, health, quarantine, customs, the Chamber of Commerce, academia, food authorities, food safety agencies and industry representatives. Every country that adopts the Codex Alimentarius is required to form a National Codex Committee. The main role of the Codex Committee is to carry out implementation of the Codex Alimentarius and to attend to Vanuatu’s obligations to the various committees of the Codex Alimentarius Commission. It also advises the Government on policies relating to food safety, food security and trade in food. As a cross-sectoral body, it is in the best position to carry forward much of the work of regulating unsafe imports, given that it already has
a mandate to advise Government on developing laws and regulations for controlling and monitoring imported foods and the manufacture of foods. It also has the potential of setting up a Vanuatu Bureau of Standards should this step be considered by the Government.

Findings

The following findings relate to the institutions and agencies involved in the import process in Vanuatu:

1. Vanuatu Terminal Services is the only entity certified by the Civil Aviation Authority to process cargo at international airports in Vanuatu. All goods imported by air have to be processed on entry by this company.

2. Vanuatu Terminal Services is certified as an agent that has met the professional standards of the IATA to promote, sell and handle international cargo transportation.

3. It is not clear whether Ifira Wharf & Stevedoring has been certified by an international body to provide stevedore services, but it has concession permission from the Government of Vanuatu to operate the wharf and provide the services of a stevedore.

4. CIRD performs a border control function. It also has the responsibility of collecting revenue. It has no legal commitment to regulate the quality and safety of products entering Vanuatu.

5. Even though CIRD is the principal body responsible for allowing imported goods into Vanuatu, it does not have the capacity to deal with complaints from consumers regarding those goods and is not mandated to respond to complaints.

6. CIRD has a system in place to profile the risk level of products, countries of origin and importers and spot those risks as a way of detecting unsafe and illegal imports.

7. DQLD is an integral part of the control and monitoring system for imports entering Vanuatu. Its staff have powers under the law to confiscate and destroy any imported item that is unsafe for human health, detrimental to agriculture or harmful to the environment.

8. DQLD has officers stationed at all international ports of entry in Vanuatu. They have sufficient training, but in some areas they lack the necessary technical equipment to fully perform their duties. This includes equipment that can be used to test samples of products, including for food contamination, and X-ray certain types of goods.

9. DQLD manages more than five major laws regarding import and export of animals and plants, including kava, and certification of importers and manufacturing and storage premises.

10. Most of the officers employed in DQLD are qualified to carry out inspections at ports of entry and to recall contaminated products. They have also received training on SPS measures.

11. An important DQLD internal document that is relevant for monitoring and controlling imports is the Import Procedures Manual.

12. Port Vila Municipality has only one qualified food inspector. On 10 February 2009, seven municipal police officers were appointed as authorised officers under the Food Control Act. They are enforcement officers, and have undergone some instruction on the Food (Control) Regulations, but it is not clear whether they have received formal training on food safety, inspection of food establishments and food hygiene inspection techniques such as analysis of compliance with Hazardous Action Critical Control Point standards. Their role would also include enforcement of the Food (Control) Regulations.

13. The increased number of cruise ship visits, flights, and import and export activity has resulted in an increased workload for DQLD. This has put a strain on their provision of services and therefore often slows down the import process. When the volume of air and sea traffic is normal, DQLD staff are capable of carrying out inspections effectively at ports of entry.

14. The National Food Technology Centre, which is part of DOTI, has two officers. They have appropriate qualifications in food technology and are capable of carrying out food safety and hygiene inspections of food establishments, shops selling food products and other food handlers. They are authorised officers under the Food (Control) Act. While the initial objective of the Centre was to act as a laboratory for analysis of food samples and to offer certification for local manufacturers, this has not been possible due to lack of resources and support. The
office also acts as the national focal point for the Codex Alimentarius in Vanuatu. One of the officers serves as chair of the Vanuatu National Codex Committee.

15. DOTI has officers with experience and training in food safety. It has an important role in determining market access of goods in Vanuatu, as its staff advise the Ministry of Trade, Commerce and Tourism on imports. It has not been noted under this study whether there is a formal policy in place for market access of imported products and whether DOTI officers are familiar with advising the Government on the types of products that are unsafe for consumption by children and mothers in Vanuatu.

16. Sanma Province has one qualified food inspector, who is employed by the Government and relies on government funding in order to carry out inspection and quality control of imported products in the Province of Sanma.

17. Luganville Municipality has one qualified food inspector. This officer has been the environmental health officer in Luganville for almost 20 years. While the number of imports in Luganville has increased, the capacity of the office of the environmental health officer has remained constant.

18. DOPH has three staff who work in the Environmental Health Unit. They are trained and qualified as authorised officers under the Food (Control) Act and have relevant experience. They do not have direct involvement in the import process, but they can be asked to provide safety checks of any imports with potential health hazards. They have also been directly involved in the recall of imported products, especially food products.

19. There is now a Child Rights Officer in the Department of Women’s Affairs.

Issues and recommendations

Several issues exist regarding the role of agencies and institutions in the import process:

1. Most government institutions have the capability of carrying out control and monitoring of unsafe imports but require constant support and resources.

2. Training is essential in ensuring that roles and functions provided through regulation are effectively carried out.

3. Coordination of the work of government institutions can reduce some of the gaps in enforcement and implementation.

4. There are some challenges in getting national and local government institutions to coordinate their work in the area of controlling and monitoring unsafe imports.

5. Some institutions have had difficulty recruiting personnel to succeed current officials, creating a potential vacuum in key positions.

In light of these findings and issues, the following steps are recommended:

1. Establish an independent statutory body to take on the role of Chief Food Authority, to have general powers and duties for regulating the manufacture, sale, supply and import of food into Vanuatu. This body should also accommodate the function of the Vanuatu Bureau of Standards, National Food Testing Laboratory and Consumer Commission.

2. Strengthen the Vanuatu National Codex Committee by providing an increased budget and sufficient resources to support a fully equipped office that can handle work relating to food safety and security in Vanuatu. This should also involve creation of legislation to formally establish the Codex Committee and to outline its roles and duties with the specific function of developing policy and laws on controlling and monitoring unsafe imports into Vanuatu.

3. Provide on-going training to all authorised officers, and increase the number of authorised officers to cope with the increase in the amount of imports and the number of food premises and international ports of entry.

4. Set up a Censorship Commission within an existing government department in order to reactivate the existing Censorship of Films Act and to consider other censorship regulations.
5. Organise a coordinated programme to allow other government departments and institutions to participate with CIRD in its internal Selectivity Committee, which meets monthly to consider the ASYCUDA list of sensitive products.

6. Enact legislation to establish a Consumers Commission with responsibility for dealing with the welfare of consumers. This body could be set up under the structure of a Chief Food Authority for the purposes of administration and operation, but should have a general mandate for all consumer issues.

7. Develop trade policies for Vanuatu that set criteria for rules of origin of imported products. Such policies should form the basis of Vanuatu’s negotiations for accession to and adoption of free trade agreements.

8. Provide technical assistance to importers to help them to comply with Vanuatu’s food labelling requirements.

9. Ensure that institutions responsible for enforcement of packaging requirements consistently carry out their role, including by making importers aware of legal requirements for packaging.
The import monitoring process

Building on the earlier discussion of Vanuatu’s import process and the various officials, agencies and private-sector stakeholders involved in it, this section will review how imported goods are monitored in order to ascertain whether Vanuatu’s system has adequate control and monitoring measures in place. For this purpose, the import process can be divided into three phases: initiation, investigation and distribution. The discussion that follows focuses on the import of one product—infant formula—and describes the officials, agencies, and types of controls involved.

Initiation

The process of importing infant formula begins when the manufacturer in the country of origin receives an order from an importer in Vanuatu. The major actors and laws involved are as follows.

- **Importers**: Any person or company intending to import goods must obtain a business license. An importer has to provide a purchase order to purchase infant formula, but this is not a legal requirement and does not have to be reviewed by any government agency. An importer has no legal requirement in Vanuatu to obtain a permit to import infant formula. The importer merely has to comply with customs requirements.

- **Government ministries and departments**: CIRD regulates the import of all goods entering Vanuatu, including infant formula, especially at the initiation of imports when an importer declares the contents of the shipment. CIRD has the authority to decide if an import is restricted, prohibited or illegal in Vanuatu.

  The Ministry of Health, DOPH and the Environmental Health Unit have a role in regulating the import and consumption of baby foods under the Public Health Act. This study did not confirm any past or current measures to regulate baby foods in Vanuatu.

  The Chamber of Commerce often helps importers to access overseas markets and facilitates import processes for goods entering Vanuatu. It is a statutory body representing businesses in Vanuatu and has no real monitoring or control function.

- **Exporters**: For Vanuatu’s requirements, an exporter of infant formula has to ensure the normal product specifications, such as packaging, labelling, product identification, lot number and use-by date. The exporter has to provide an invoice to the importer with the details of the product. It is a requirement under ASYCUDA that the exporter’s details are disclosed in the declaration.

  In some exporting countries, there is a requirement to attach a health certificate from an authority or the manufacturer. For most of the importers examined in this study, milk powder products did not require health certificates, only liquid milk products. Currently, there is no legal requirement in Vanuatu for a health certificate from a health authority in the country of origin of infant formula.

  There is no legal procedure under Vanuatu law for purchasers of infant formula in Vanuatu to sue an overseas manufacturer if their child experiences harm from consuming the product.

- **Laws and regulations**: In the initiation phase of importing infant formula, the following laws may have a direct or indirect effect: the Customs Act, the Food (Control) Act, the Food (Control) Regulations, the Public Health Act, the Business License Act, and the Import of Goods (Control) Act. The government agencies responsible for applying these laws were discussed in the previous section.

Investigation

In this phase, inquiries are made into the goods imported, the importer, the purpose of importing and the methods of handling and storage. This is also the stage in which the goods first enter Vanuatu, and other line agencies and departments are involved for the first time. In this phase, it is expected that full control and monitoring measures will commence on a product like infant formula. This is where the actual goods are seen, quality can be tested, import documents can be verified, and certain taxes and dues are paid.
• **Importers**: In this phase, an importer of infant formula is supposed to have declared the imported consignment, disclosed its full details and paid the necessary customs duties. The importer is now under the scope of the Customs Act, and CIRD officers have the role of scrutinising the information given by the importer. Importers also can engage a customs broker to clear their goods from the wharf or airport; the customs broker is obliged to follow the same rules and regulations. In this phase, authorities can physically examine the imported consignment of infant formula, if there is a need to check on its contents and quality.

**Government ministries and departments**: CIRD has the primary role in investigating the import consignment. This usually involves documentary investigation, physical examination, interviews and an audit check on documents and importer information. CIRD officials will usually be present at the wharf or airport to check the entry of the import consignment. Their check is more of a documentary check and revenue collection point. ASYCUDA checks at this stage are usually done through the self-assessment process by the importer, but CIRD officials will also do a manual assessment of the ASYCUDA declaration forms. The ASYCUDA process is the first point at which an investigation is done on the import consignment. The results indicate whether a second investigation by DQLD officials is needed and whether health officials are required.

The DQLD also has a role during this phase. A dairy-based product like infant formula is regarded by Quarantine as a high-risk food and therefore may be subject to a check at the port of entry. DQLD is empowered by law and trained and equipped to carry out this check. The purpose is to examine the quality and safety of the product. If the product is contaminated, DQLD officers have a standard process to follow to deal with the product and its importer. There is no legal requirement that all infant formula be examined, analysed in a food laboratory or put through a health analysis. DQLD officials will usually be present at the wharf or airport to check the entry of the import consignment. Their check is mainly for quality and safety issues and to cross-check with any import restriction list or advisory.

The Ministry of Health, DOPH and Environmental Health Unit have a role in regulating the import and domestic consumption of baby food under the Public Health Act. Health officials only become involved in the investigation of an import consignment if they are alerted by the CIRD. For infant formula, health officials usually have an indirect form of control by educating mothers on the benefits of breastfeeding with the aim that this will deter them from using infant formula. Health officials currently have no technical capacity to test samples of infant formula for quality and safety; they basically rely on the product quality guarantee provided by the manufacturer. Health officials are equipped to carry out a recall on any contaminated product.

**Investigation, inquiry and inspection**: Physical examination of documents is done under the ASYCUDA process, at the wharf or airport and upon collection of goods. Because infant formula is not flagged as restricted by ASYCUDA, physical examination is not mandatory; it will most likely be done if the importer has been flagged for closer attention. Physical examination of infant formula will be carried out by DQLD and CIRD officials if they have food safety concerns about the consignment or are not satisfied with the import declaration and wish to further verify the nature of the goods.

**Exporters**: Exporters cannot be investigated except for the documents and information that they have supplied to the importer. There is no law in Vanuatu that makes exporters liable for problems caused by their product to a consumer in Vanuatu; and even if there was, it would be limited by questions of jurisdiction and application of foreign laws. The Vanuatu National Breastfeeding Policy makes mention of the International Code of Marketing of Breast-milk Substitutes, which may affect exporters if the country they are in has enacted this code as part of its domestic legislation.

**Laws and regulations**: In the investigation phase, the following laws may have some direct or indirect effect on the monitoring and control of infant formula imports: the Customs Act, the Food (Control) Act, the Food (Control) Regulations, the Animal Importation and Quarantine Act, the Public Health Act, the Business License Act and the Import Duties (Consolidation) Act.
Distribution

The final phase of the import process involves the movement of goods towards consumers and users. Importers remain central in this phase, but their role changes from importer to seller or distributor. Some control and monitoring is still required.

- **Wholesalers:** For a wholesaler of imported goods, the main concern is proper storage. A wholesaler is obliged to allow random inspection by CIRD, DQLD and Food Authority officials. Inspection can occur on product quality or the adequacy of the storage site, or it can follow a report of contaminated foods. Most wholesalers consulted during the study had good things to say about the ASYCUDA system; their concerns related mostly to the practical process of inspection and clearance, as this often took a long time and by the time their goods reached them, several days had been lost in transit. Most wholesalers are well aware of quality control measures and food safety requirements – and of the shortage of human resources in the relevant government departments.

Wholesalers agree that there is no practical mechanism in place to track where products go after they have been purchased by retailers. This is crucial when food contamination occurs on a product that a wholesaler has the exclusive right to import into Vanuatu.

- **Retailers:** Retailers of infant formula consulted during the study expressed a variety of comments. Infant formula does not require a permit to import, and they often experienced very few controls and hurdles in importing it to Vanuatu. Some retailers stock French infant formula because of their customers' language preferences. Some retailers gave no explanation to customers when they purchased infant formula but would respond if a customer prompted them. Other retailers routinely explained to customers how to administer infant formula.

In selling infant formula, retailers are subject to the Food Control Regulations, and authorized officers of any food authority have the authority to inspect a retail store based on any report of product defects. Retailers consulted for this study also discussed the challenges that exist with use-by dates and best-before dates. Some retailers push the limit and use the best-before dates as a marketing tool to reduce the price on the product after that date. There is a gap in implementing the Food Regulations when it comes to this type of practice.

- **Government ministries and departments:** Once a product reaches the market and the consumers, there is a shift in responsibility for monitoring and control of imported goods, as health officials become responsible for ensuring product safety and quality. This involves inspection in shops and wholesale facilities. Food authorities such as municipal and provincial councils also have officers with the authority to inspect shops and food storage premises. CIRD and DQLD officials have a minimal presence during this phase.

An immense gap exists in Vanuatu with regards to pro-consumer legislation and Consumer Commission-type bodies. Consumers in Vanuatu have no formal procedure for reporting problems with food products purchased in retail and wholesale outlets.

- **Laws and regulations:** In the distribution phase, the laws that impose direct and indirect control and monitoring measures on imported goods such as infant formula are the Food (Control) Act, the Food (Control) Regulations, the Port Vila Municipality By-laws, the Business License Act, and the Public Health Act.

**Monitoring quality during the import process**

An important part of the import process is the monitoring of the quality of imported products, especially the products that are the focus of this study. In general, DQLD has the responsibility of ensuring the quality of products imported into Vanuatu. But this responsibility is mainly for animal and plant products and food products. We can safely assume under the study that the monitoring of quality also covers the products covered in this study, which include pharmaceutical products.

Usually in the initiation phase of the import process, DQLD does not perform quality checks, except for products that may require an import certificate. An import certificate is usually for the purpose of enabling entry, but not necessarily for monitoring quality. For example, the import of a dairy product like cheese requires an import permit from DQLD in Vanuatu. Upon arrival in Vanuatu, the cheese has...
to be checked again for quality and safety for human consumption by DQLD officials at the airport or wharf. This usually occurs during the investigation phase.

DQLD monitors quality for all products. In some instances, the quality monitoring is initiated when a product is flagged by ASYCUDA. Otherwise, DQLD officials refer to the import documents for information on the nature of the imported product. This is called inspection of documents or a document check. While ASYCUDA monitors and regulates the declaration of imports, it does not contain a specific feature that requires a declaration of quality. What ASYCUDA does carry out is a risk assessment process using sensitivity criteria that are built into the system based on risk factors. This is a normal border control mechanism used by CIRD to detect any prohibited imports. Similarly, risk factors related to health, food safety and child safety may be added to the sensitivity criteria, enabling ASYCUDA to flag any imports that meet those criteria. Thus ASYCUDA has some potential for monitoring the quality of imported products; but ASYCUDA is controlled by CIRD, and DQLD officials would have to work with CIRD officials to make this happen.

Physical inspection of imported products is another method used by DQLD officials to check imported products. This will disclose the condition of the product and whether the product fits the description in the documents and on the packaging labels. This is a crucial part of the import monitoring process, because most products entering Vanuatu are subject to a physical examination. The success of a physical inspection depends on the efficiency and professional capacity of the DQLD official who carries it out.

Laboratory analysis is another form of quality control and monitoring that DQLD officials are empowered to carry out if they reasonably believe that a product needs to be tested for safety and quality. This is allowed under the law, especially the Food (Control) Act, and is part of the investigation phase.

During the final phase, distribution of imports, DQLD officials may become involved again in monitoring or checking the quality of a product; if a recall process is initiated, the recalled product will be analysed in order to ascertain its level of contamination or defect.

Various laws and regulations empower DQLD officials to monitor the quality of imported products. But there are practical limitations to this work – for example, the lack of testing stations at both of Vanuatu’s international ports of entry, and of a complete food laboratory. In Vanuatu, DQLD officials have the discretionary function of regulating the quality of imported products, but this function is dependent both on practical factors and on coordination between agencies.

Issues and recommendations

The following issues have been identified in Vanuatu’s import system.

1. **Data collection and record keeping**: Importation of all types of goods relies heavily on the collection of information. During this study, difficulties were encountered in locating records on the importation of the goods that are the focus of the study. In most of the government and private entities consulted during the study, there was an overwhelming amount of in-house information, but this could not be translated into statistics that could be released for public use. Most institutions have internal rules of confidentiality that can be a bar to release of information. The statistics used in this study come mainly from the Reserve Bank of Vanuatu’s Research Division and the National Statistics Office. Of course, both of these institutions rely on the same agencies to provide them with this information.

2. **Tracking of imported products**: As imported food products, as well as media products and toys, enter Vanuatu, it becomes difficult to track where they move to, which retail outlet they are sold from and which island or province they are consumed in. This becomes an issue when authorities have to recall a product, contain contaminated product or trace a batch of inferior goods such as toys. The roles of the authorities and agencies currently involved in the import system are limited to checking and facilitating entry, and the tools they use are not sufficient even for this task. In future, a computerised system for recording all batches and quantities of goods and products and stored on a central database could help with this problem. Manufacturers and distributors located overseas should have in their record information regarding products they have manufactured and the destination to which they have been sent. Vanuatu could explore the possibility of exchanging such information.
3. **Second-hand imported goods and goods dumped in Vanuatu:** There has been a gradual increase in used products imported into Vanuatu. Such products often create risks for consumers, especially children. Second-hand clothes, for example, are very inexpensive, but there is no guarantee that they are safe to use, and it is not always clear where they come from. An additional problem relates to some imported goods that, after being consumed in Vanuatu, are difficult to dispose of – for example, computer hardware, automobiles, electronic products, and plastic packaging. Although these imported products have a beneficial use, they later become hazards for human health and the environment.

Regarding the flow of imports and the types of control and monitoring that exist in Vanuatu, the following actions are recommended:

1. Improve coordination between government departments and institutions involved in the processing of imports, especially the sharing of information on import trends and developments.

2. Consider establishing a tracking system for all products entering Vanuatu. Such a system could be managed by CIRD and supported by all institutions and agencies involved in the import process.

3. Consider adopting the ‘exporterpays’ principle to allow the cost of health certification, consumer guarantees and food labelling to be met by the exporting country. Such an exercise could be advocated in Vanuatu by the Ministry of Trade, Commerce and Tourism and DOTI on the basis of rules-of-origin negotiations on market access.

4. Create laws and policies that hold the exporting country and manufacturers responsible for the appropriate disposal of hazardous wastes created by imports after they are consumed locally.

5. Increase links with other import monitoring agencies regionally and internationally to enhance information sharing and early detection of unsafe imports flowing from other international markets.

6. Review and strengthen government policies to regulate the entry of unsafe imports into Vanuatu, by developing criteria based on rules of origin and proven health hazards of certain imported products.

7. Consider establishing laws and policies to control imported products dumped into Vanuatu and products that become a health hazard after use.
Product sample audit

The import process described earlier in this report represents the current official understanding of how the process works. However, quite often the system does not work as intended, and therefore, the study also included a sample audit that involved observing the process to see if the steps required by law are being taken in practice. This was also an opportunity to investigate again whether the required processes are necessary and appropriate. Observing incidents of non-compliance, if any, and examining the reasons for them can help to create a better system.

The import process can also be seen as a system, in that it combines both written and unwritten rules, commercial practises and industry-specific rules, especially regarding air and sea transport. The sample audit assessed Vanuatu’s import monitoring system to see whether it complies with existing laws and guidelines and whether it effectively screens for unwanted and unsafe items entering the Vanuatu market. It sought to identify the gaps in the regulatory framework that governs the import process.

The audit took place in various offices, inspection points, storage areas, processing areas and wholesale and retail outlets in Port Vila and Santo – including the following locations in Port Vila.

- **Wharf area**: Ifira Wharf & Stevedoring – visit to premises, wharf area, storage area, handling facilities, cargo vessel and container storage area; interview of tally officers and foreman, as well as customs and quarantine officials; observation of cargo clearance procedures
- **Airport area**: Vanuatu Terminal Services – visit to offices, inspection area, cargo handling facilities, storage areas, refrigerated storage facilities, document inspection offices, cargo release area; interview of cargo manifest officers and managers, as well as customs and quarantine officials; observation of cargo clearance procedures
- **Customs brokers’ work areas**: visit to premises, attendance at clearance exercise on wharf, inspection of documents at wharf and airport inspection points, interview on import clearance procedures
- **Importers’ work areas**: visit to premises, warehouse and storage area; interview of staff responsible for clearance and movement of cargo to importer premises; observation of storage, handling and sale of imported products
- **ASYCUDA premises**: visit to location where ASYCUDA system is administered; observation of the clearance of imports by customs officials; observation of the forms and procedures for import clearance

The main ASYCUDA server is in Vila, and all data processing is done there. The Santo office of the CIRD is basically a branch of the Vila office. However, the same ASYCUDA system is used in both Port Vila and Santo, and the system is identical throughout Vanuatu. Any ASYCUDA user can connect via the Internet to the main server in Port Vila.

A variety of officials and technical specialists participated in the product sample audit, including government officials, business people, customs brokers, importers, and people working in non-government agencies.

Validation and feedback

Almost all who participated in the sample audit found the exercise new and peculiar. Many had seen their work as routine and normal and did not expect it to be questioned. Most were guided in their work by their training and experience, whether they were customs brokers, quarantine officials, cargo handlers or staff working for importers.

Apart from customs officials who had some experience and understanding of an audit process, many participants were not able to comprehend the purpose of an audit. The view of most was that products entered into Vanuatu and an importer had to meet a set of criteria in order to bring imports into Vanuatu. The question of whether imports are unsafe and harmful to the health and well-being of consumers was not really considered.

Participants were invited to reflect on the results of the sample audit. This was done in order to validate the findings and ‘qualify’ the results of the audit. This process was carried out in Port Vila and
Santo and was well attended by participants. Most participants were interested to see how the audit was done and were even encouraged by the results. Participants also said that the audit may have asked for too much information given that Vanuatu’s import system probably is not that structured and some processes that may exist in other countries do not exist in Vanuatu. Even though the quantity of imports flowing into Santo may be low and the import infrastructure present in Santo is of a smaller scale, the participants attending the validation process were active and shared many views that were useful for the study, including remarks about the sample audit results.

Audit questions were generic and aimed to suit all the goods that were the focus of the study. In some cases, personnel were reluctant to give information or were not able to say exactly what their task involved. Most personnel involved in the sample audit conduct their work routinely, and they supplied information and cooperated with the audit once they understood its purpose.

Findings

The sample audit identified the following findings:

1. In Vanuatu, the only X-ray facilities available to analyse and examine goods at an international port of entry are at the Vanuatu Terminal Services facilities at Bauerfield International Airport, Port Vila and Pekoa International Airport, Santo. The staff at Vanuatu Terminal Services have received training to run the equipment, but the equipment is only used for exports. Vanuatu import laws and regulations do not require X-ray examination, given that this security protocol has been undertaken in the exporting country.

2. The international wharf in Port Vila has no testing facility, and there is no permanent office for DQLD officials. This means that any food samples or other products suspected of having defects must be physically removed from the wharf area for checking.

3. Customs brokers and agents in Vanuatu are regulated by CIRD and accountable to CIRD for their conduct. All users of ASYCUDA are expected to comply with all rules in the ASYCUDA process, especially with regards to false declarations. Non-customs brokers must comply with the same rules and are subject to the same regulatory system.

4. ASYCUDA has made possible a centralised declaration, control, and monitoring system. This also means that the decision on which imports are allowed entry into Vanuatu are made at one point and this decision is not shared.

5. While ASYCUDA is an efficient system in terms of processing customs declarations on imports and exports, it is not always easy to obtain data on specific fields and categories. It was not always possible to acquire data on the quantity of the imported goods that were the focus of this study, for several reasons that may be of an administrative nature.

6. The import system in Vanuatu works effectively in monitoring the types of imports entering Vanuatu, but there is a lack of systems and processes to effectively check on the health and safety aspect of imported products.

7. Once imports are cleared and leave the holding area, there is no way of tracking them, either by the import processing body or by importers, if a problem or breach occurs later.

8. DQLD does maintain records of certain imported products for which it has authority to permit entry into Vanuatu, including meat, eggs, and dairy products.

9. Vanuatu does not yet have a health declaration process built in to the customs declaration process. Currently, the customs declaration includes a quarantine declaration for several products, but no requirement to declare the health aspect of an imported product or to require a health certification from the exporting country.

10. CIRD, in operating ASYCUDA, creates criteria that can flag sensitive imported goods, importers or countries of export. This process can incorporate selectivity criteria based on health or safety risks or other factors needing control. However, CIRD has not yet been able to include new selectivity criteria, because it does not receive information from institutions such as DOPH, DQLD, DOTI and food authorities on what needs to be flagged. CIRD staff explained that once a new selectivity criterion is flagged under ASYCUDA and an import enters Vanuatu fitting that criterion, it needs to be verified by the institution that submitted the
criterion. CIRD considers this a challenge, especially if the institution concerned is unable to verify the import and therefore holds up the import process.

11. DQLD officials are stationed at all international ports of entry into Vanuatu. They are responsible for clearing all vessels entering Vanuatu, as well as clearing all containers and items brought in on those vessels. At some points of entry, DQLD officials have permanent offices and stations, while at others, there is no permanent office and so the DQLD official has to be on site each time an import takes place.

12. Vanuatu has no restrictions on the importation of infant formula or baby food; importers of infant formula and baby food follow the same import process they would for any other product. There are also no laws or regulations regarding the sale of these products, apart from the normal commercial etiquette that each retailer applies as part of its service.

13. Infant formula and baby food are sold over the counter by most retailers in Port Vila and Santo. With the exception of pharmacies, retailers rarely give advice to customers on the use of these products. It would be expected that as they are food products, the provisions of both the Food (Control) Act and the Food (Control) Regulations would apply to these products.

14. Vanuatu has no restrictions on the importation of children’s toys. All current importers of children’s toys follow the same import process they would for any other product. There are no laws or regulations regarding the sale of children’s toys, apart from the normal commercial etiquette that each retailer applies as part of its service.

15. Children’s toys are sold at most of the retailers in Port Vila and Santo. Most retailers of children’s toys exercise a no-refund policy for any defects in the toys once they are purchased. The study found no real information regarding complaints procedures for customers who experienced problems with children’s toys they had purchased.

16. Iodised salt is imported through normal channels. No license is needed from any authority to import this product into Vanuatu. Its distribution and sale are not restricted. It would be expected that as it is a food product, the provisions of both the Food (Control) Act and the Food (Control) Regulations would apply to this product. It does not appear on the ASYCUDA list of sensitive items.

17. Vitamin supplements are mainly sold by pharmacies in Port Vila and Santo. Most vitamin supplements sold in Vanuatu do not require a medical prescription; they can be sold over the counter by a pharmacist. Often, medical practitioners recommend that their patients take vitamin supplements. Most consumers of vitamin supplements are able to purchase the product, usually with some advice and guidance from the pharmacy staff.

18. The Control of Pharmacists Act places the onus on pharmacists to store pharmaceutical products safely. Vitamin supplements are not all covered under this law, and it is unclear under the Act what type of procedure is to be followed in the sale of vitamin supplements and whether their importation is regulated. It is likely that vitamin supplements have no regulation restricting their importation into Vanuatu. This product range is also not flagged by ASYCUDA.

19. The importation, distribution and sale of DVDs containing music, movies, games and other multimedia content are regulated by the Censorship of Films Act. In practical terms, this control measure is non-existent. The Censorship Commission called for by the Act is not functional. It is also unclear whether the Act can be interpreted to cover modern forms of technology and multimedia. As a result, in Vanuatu the importation of DVD movies, music, games and multimedia content is not restricted or censored. CIRD has no mechanism in place within ASYCUDA to restrict or censor DVD products.

20. The importation, distribution and sale of magazines are not governed by a specific law or regulation. There are laws that make it a criminal offence to sell or publish obscene materials, but these are not directly related to the control and monitoring of imported magazines. Most retail outlets selling magazines do so with little restriction; some carry notices prohibiting the sale of certain magazines to people under a specific age. In Vanuatu, there are laws that set the age limit for minors, but this factor is not currently implemented in controlling the importation of magazines. All imported media products such as magazines are declared through ASYCUDA.
21. Customers experiencing defects in manufactured products or contaminated foods and breaches in food safety and hygiene often have difficulty in lodging complaints. This is due to a lack of awareness by consumers, lack of information on where and to whom to complain, and lack of notices at retail outlets about the opportunity to complain.

**Recommendations**

The following recommendations are offered based on the findings of the sample audit:

1. Strengthen cooperation between all government institutions involved in the import process by setting up an intergovernmental committee to address import-related issues on a regular basis. Such a committee can also assist CIRD in maintaining the ASYCUDA selectivity criteria for items such as those listed in this study.

2. Encourage DOPH, DOTI and DQLD to contribute safety-related items to the ASYCUDA selectivity criteria.

3. Revise import control procedures to add requirements for safeguarding women and children’s health and safety, especially a requirement for a health declaration by importers.

4. Revise the Public Health Act in order to regulate the import, distribution and sale of infant formula and baby foods with a provision to license retailers and wholesalers.

5. Establish a requirement for a health certification from the exporting country for infant formula, baby food, iodised salt and vitamin supplements.

6. Encourage importers, distributors and vendors of children’s toys to import only child-safe toys and to attempt to import toys manufactured with raw materials that are proven to be safe for children’s health.

7. Encourage vendors of children’s toys to engage in fair consumer practises by offering a channel for customer complaints and ensuring that refunds or replacements are made for defective toys.

8. Revise the Control of Pharmacists Act by updating the list of prescribed pharmaceuticals to include any vitamin supplements that require a prescription and by including procedures for the sale of vitamin supplements by pharmacists. Review the entire existing legislative and regulatory framework for pharmacists.

9. Review the Censorship of Films Act to improve the censorship system in Vanuatu and to put in place practical guidelines for censorship of all forms of media imported into Vanuatu.
Gaps in the import monitoring system

This section examines shortcomings in the import system that may allow unsafe products to enter Vanuatu.

Stage 1: Arrival of goods

Storage capacity at ports of entry

At the Port Vila wharf and other facilities visited during this study, there is clearly a shortage of safe storage space; most containers are actually stored outside of the actual wharf area. There are hazards related to this type of storage in that containers can be tampered with. At the Vanuatu Terminal Services premises in both Port Vila and Santo, there are efficient facilities for storage of frozen foods. However, these facilities are not able to store more than 3 tonnes of frozen goods, so there may be difficulties in handling any increase in imported frozen foods.

International port security standards

Another concern is the low level of security at wharves in Port Vila and Santo. While checks are done at entry points, they are at a very low level, and most security officers have minimal training. In the Santo wharf area, the stevedore was responsible for handling imported goods including foods, copra and cocoa exports, petroleum products, dangerous goods and tourist cruise ships all in one wharf area. While no formal assessment has been made of the security standard at the Santo wharf, having many types of activities in one wharf area could arguably have implications for the safety of imported goods.

Stage 2: Documentation

Oversight of customs brokers

Most imported products entering Vanuatu have either been processed by or had some input from a customs broker. Customs brokers have an almost fiduciary role in that they receive confidential information from an importer and are then obliged to disclose that information through ASYCUDA. Customs brokers are licensed under the Customs Act, and their activities are overseen by CIRD. It is not clear from the legislation what the criteria are for cancelling a broker’s license and what the procedure is for dealing with complaints about customs brokers.

It could also be seen as a shortfall that only one government agency regulates customs brokers and agents, because there are no checks and balances on the management of customs agents. Many customs brokers and agents are former customs officials, and the close relationship can often create complacency in monitoring the performance of brokers and agents.

Duty to disclose

The effectiveness of an import system depends on the information provided about the imported goods, the consignee and the manufacturer. One of the shortfalls noted in this study is in relation to the duty of customs brokers to disclose information to ASYCUDA. Some customs brokers said that they did not feel obliged to disclose more than was necessary. For example, regarding media products, customs brokers have indicated that DVDs, movies and games that may contain violent or otherwise offensive material have not been disclosed because there was no duty to do so.

Another disclosure-related issue is that the Customs Act does not specify whether a lack of disclosure is a liability for the broker or the importer, since brokers can only relay whatever information is transmitted to them.

Required documents

The documents that are submitted to obtain clearance from ASYCUDA and CIRD are the invoice, details of the imported goods, purpose of import and tariff information. For effective monitoring of imports, more detailed disclosure of the nature of imports is necessary — such as the place of manufacture, ingredients, date of production, use-by and best-before dates and product history (to show whether there have been previous instances of food contamination or other health hazards).
This information is not currently required. Without it, entry requirements are very easy for importers to comply with.

**Health certification for food products**

There is no requirement for a health certification from the country of origin for any of the imported products covered in this study or for imported food products in general. Imported infant formula, baby food, iodised salt and vitamin supplements are cleared by CIRD and DQLD officials based on the information on the bill of lading, invoice, package label and any product guarantee.

Requiring a health certification would be a guarantee that the product will have no adverse effects on human health and is therefore fit for human consumption. It would also promote the development of product standards, because any certification would be issued on the basis that the product was produced, packaged and stored in safe and hygienic manner.

Imports of liquid milk from Australia and New Zealand are always accompanied by a health certificate; this requirement has been imposed by DQLD, and the failure to supply such a health certificate will result in refusal of entry to liquid milk products.

**Consumer access to imported products**

In the last 10 years, Vanuatu has experienced a huge increase in imports. This is a positive development for the economy and GDP and, through import duties, for government revenues. But Vanuatu has designed an import process that facilitates entry of imports for the purpose of economic stimulus and local consumption with little regard for the social and health effects of those imports on the population, especially women and children. There is a lack of government rules and policies to control the entry of imported products into Vanuatu, especially food products.

**Stage 3: Clearance**

**Quality control**

Some areas of control and monitoring in Vanuatu do function effectively, and the available infrastructure can and does enable officials to respond to issues of quality control. But there is a gap in the existence of processes and technology in implementing quality control. For instance, when the melamine scare was reported and WHO released a list of products with proven or potential melamine contamination, Vanuatu’s Ministry of Health received that information. But the capacity to go out into the field and identify which consignments, importers, and wholesale and retail outlets had those products was seriously lacking. It was also difficult to test those products locally. It was difficult at that time to even use ASYCUDA to swiftly respond to the melamine problem.

**Product standards**

If Vanuatu accepts that imported products must meet a certain quality standard, then it must back this up with the necessary laws and regulations. Current legislation contains general statements of the need to ensure quality. For example, section 2(3) of the Food (Control) Act states: “No person shall import, sell or distribute any food manufactured, prepared, preserved, packaged or stored for sale under insanitary conditions.” But these statements do not go far enough.

ASYCUDA declaration forms do not require importers to declare whether the imported product has been manufactured, packaged, labelled and stored according to approved international standards such as those of the ISO (International Organization for Standardization). Thus, even though the quality requirement is stated, the mechanism to assess quality is absent.

The ASYCUDA system can be configured to require importers to declare whether or not imported products, especially food products, have been produced according to the appropriate standards. Vanuatu does not yet have an authority such as a Bureau of Standards to set standards for imported products. In the meantime, as participants in this study proposed, ISO standards can be applied to certain categories of products imported into Vanuatu if CIRD and other key government agencies coordinate to implement them.
Censorship

A serious gap in Vanuatu’s import regime is its dormant censorship system. While legislation exists, the offices and functions under that legislation have not been activated. This gap opens the Vanuatu market to all types of media without restriction. It may be expected that businesses selling media products such as DVDs and video games would caution customers, but most retail outlets visited during this study were not observed to do so. ASYCUDA has no censoring element; DVDs with obscene content can only be detected during random physical inspections. Magazines, advertisements and newspapers from overseas get into Vanuatu with no restriction or censorship; their availability is driven purely by customer demands and distribution channels. There are laws in place in Vanuatu to stop people from publishing or distributing obscene and offensive materials, but these are criminal laws and require a report or complaint to be made before any action can take place.

Technological capacity

The lack of testing facilities and technical expertise means that Vanuatu has no capacity at this time to test the quality and safety of imported foods or other goods. Visits during the study to DQLD premises, the National Food Technology Centre and all air and sea ports of entry found no functioning facilities to carry out scientific analyses of food products. Such testing is important in order to verify food safety and compliance with standards set by Vanuatu or the exporting country. According to the Vanuatu National Codex Committee, while Vanuatu has no existing testing facility, there is an arrangement for Pacific Island countries requiring testing of foods to use the facilities of the Institute of Science at the University of the South Pacific in Suva, Fiji. This has never been tried by Vanuatu, but there has also been some difficulty in the use of these services as any sample of food sent to Fiji has to comply with Fiji quarantine requirements.

Implementing SPS measures

Data gathered during this study, compared with comments in the Vanuatu Diagnostic Trade Integration Study Report 2008, indicate the following gaps in SPS measures for Vanuatu’s import process:

1. Lack of facilities to carry out quality testing according to internationally approved standards for foods and pharmaceutical products
2. Lack of clearly defined roles for different government agencies, causing overlap in some areas and gaps in other areas of SPS implementation
3. Absence of a national standards-setting body that could adopt international standards for food products and also set standards for locally produced foods and food products;
4. Ad-hoc nature of existing export standards that have been set up by some statutory bodies

Perhaps the most important of these gaps is the absence of a national standards-setting body. Without standards, quality cannot be guaranteed. SPS measures have their roots in standards, and if Vanuatu adopts a set of standards for particular foods then it can justify controlling those products. Vanuatu has not yet acceded to the WTO, but WTO rules of origin are already being applied to its exports, and it should consider addressing the gaps in SPS implementation.

Stage 4: Payment of fees

There are no significant gaps or shortfalls in this stage of the import process that have ramifications for the monitoring and control of imports. The fees paid by importers are for services provided by Government and the private sector.

Stage 5: Release and collection of goods

During this stage, imported goods and products leave the airport or wharf and come under the control of the importer. While the delivery documents offer proof of who took possession of the imports, there is no record to show where they are expected to be stored and sold.

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Interviews with key agencies involved in critical control points of the import process, such as Customs and Quarantine, indicated that there is currently no way to track products as they move around the country. For instance, ASYCUDA may record the import of 3 tonnes of milk powder, but it does not record the brand name, where it will be distributed and sold, or details about its quality such as the use-by and best-before date. The population of Vanuatu is spread over a vast area, and it is important to be able to track the consumption of imports.

**Stage 6: Distribution of goods**

**Recalls**

A product recall occurs when the manufacturer, importer, food authority or health authority discovers that a product is defective, contaminated or unsafe. Both food and non-food products can be recalled. Vanuatu has experienced recalls, especially of imported food products.

In Vanuatu, a government minister has the authority to order a recall if a product is unsafe for human health or could cause environmental or agricultural damage. But the communication links to the minister depend a lot on detection and citing of those products by the various agencies involved. Recall can also be initiated by a manufacturer.

Laws governing recalls include the Food (Control) Act and the Public Health Act. Neither law establishes a specific process for consumers, retailers, wholesalers or suppliers to bring complaints about defective imported products. They merely imply that if consumers find a defect in a product, they have to use their own initiative to report the matter to the shop where they bought the product or to the authorities. The law does not make clear which authority should receive complaints, but participants in this study generally felt that the Ministry of Health and DOPH would be the focal point for any recall process.

This information is not well publicised; most shops and supermarkets do not post notices explaining how to complain about a defective purchase. Under section 52 of the Food (Control) Act, all general practitioners have a duty to report cases of food poisoning to the Chief Food Authority. This duty has not been adhered to in many instances, mainly due to lack of resources by most hospitals and clinics for transmitting the information. The DOPH has very little information about cases of food poisoning in hospitals and health centres around Vanuatu.

Most of this study’s information on product recalls came from interviews with officers of the Environmental Health Unit under the Ministry of Health. Upon notification of a defective or contaminated product, either by another authority or by a shopowner or consumer, an initial visit will be made and an investigation conducted. Following that, an assessment will be made as to what actions to take. The first step is to remove the product from the shelves with the assistance of the shopowner. A public notice is sent out, and the manufacturer of the product is informed. The destruction of the product will then take place and a full report will be made by the Environmental Health Unit. Depending on the nature and extent of the recall, other agencies can be involved, such as the DQLD, the Port Vila Municipal Council and CIRD. In some recalls, DQLD officials are heavily involved because of their expertise in assessing contamination levels in food and other animal and plant products.

No court case, civil or criminal, has ever been undertaken in Vanuatu to charge a shopowner with selling contaminated products that have been the subject of a recall. While recalls occur in Vanuatu, they do not happen often, and any infringement is usually not punishable by law; most likely the importer will pay a fine or lose the product. It is also not clear, from the two laws mentioned above, who must meet the cost of a recall once it is completed. Currently, this cost is borne by the authorities.

There are limits to the human resources available to carry out a recall. Also, there is the technical difficulty that the import system is not able to track imports once they have entered Vanuatu. There are also gaps in the ability to coordinate efforts between agencies. The law on product recalls does not create a burden on importers, and it gives no clear direction as to who is to raise a complaint, which agency is responsible for undertaking a recall or what measures are to be put in place during a recall.

**Consumer complaints**

Shops in Port Vila and Santo do not advise consumers on how they can lodge a complaint. Existing laws and regulations also do not clearly spell this out, and so we can only assume that retailers have
a duty to inform customers but that failure to do so does not necessarily incur a penalty. Imported products, for example from Australia, are labelled with postal and email addresses to contact regarding problems with the product, but this is difficult for consumers in Vanuatu.

The Environmental Health Unit of DOPH has identified itself as the agency to which public complaints should be addressed regarding contaminated foods, food safety problems and related matters. In Port Vila, the Municipal Council’s Environmental Health Unit undertakes a similar role. Both agencies are competent food authorities, but the existence of two separate complaint procedures creates uncertainty among consumers. It would seem useful to have a single and well-profiled complaints process which all consumers can use.

Recall of non-food products

While food product recalls have taken place in Vanuatu, this study found no record of any recall of media products or other non-food products. No specific law deals with recall of products other than food. While retailers and wholesalers may have certain obligations to the manufacturers and have insurance cover for recalls, little information was found as to how effective industry-based self-regulation is. Many importers are reluctant to disclose whether they have an arrangement with the manufacturer or exporter to recall products and, if so, what steps are required to activate a recall. More research is needed on this issue.

Stage 7: Purchase and consumption

Food labelling

Vanuatu law requires processed foods sold in Vanuatu to be labelled in English, French and Bislama. But this has not been enforced by the food authorities, and importers have been reluctant to adhere to the law or even take steps towards changing the labelling on foods that they import. This is partly caused by uncertainty in some government departments as to their capacity and the procedures for enforcing the law. Some government departments are restricted by their budget to carrying out key functions; others have the budget but also have other pressing priorities; and still others have the budget but lack the facilities and equipment. For example, DOPH’s Environmental Health Unit has only three staff members, yet the Ministry of Health has the ultimate responsibility for policing and enforcing the Food (Control) Act. Thus, consumers in Vanuatu are exposed to products that are labelled in a language they do not fully understand and therefore can end up purchasing a product that may cause an allergy or other health hazard.

There are also practical difficulties on the importers’ side. Many imported products are sold to Vanuatu through distributors, but in order to change the labelling, there has to be some direct contact with the manufacturer. Relabelling is costly; importers are especially reluctant to relabel inexpensive goods, which make up most products with labelling in an unfamiliar language. Enforcing the labelling laws would result in some importers losing business or ceasing to import certain products.

Most of the products that were the focus of this study were found to have labels in English; some have French labelling; but most also have Asian languages such as Mandarin, Bahasaeditin Indonesia or Malay.

Consumer protection laws

Vanuatu has not enacted any legislation to protect consumers from harmful products or to offer remedies to consumers if they are injured while consuming or using imported products. While Vanuatu has adopted the United Kingdom Sale of Goods Act of 1879, this archaic foreign legislation cannot fully protect consumers in the modern commercial environment.

In addition to legislation, Vanuatu has a great need for an agency to protect consumers and act on their behalf by dealing with grievances, liaising with Government on policy development, lobbying for consumer protection laws, acting as a consumer watchdog and mediating consumer disputes.
Findings

Regarding aspects of the system that are being carried out inadequately or not at all, the following findings have been made:

1. Many products imported into Vanuatu are labelled in languages that do not conform with the provisions of the Food (Control) Act and the Food (Control) Regulations. None of the products covered in this study have labelling that complies with those laws.

2. Many shops in Vila have no notices informing consumers of how to complain about products that they have purchased.

3. There is no legislation in Vanuatu to protect consumers except for the UK Sale of Goods Act, which is obsolete and needs to be updated to address the situation in Vanuatu.

4. Many shops in Vila do not give explicit warranty for the products covered by this study. This means that customers buying these products are not protected from defects or problems arising from their use and consumption.

5. Many shops in Vila are not strict in applying an age limit to the sale of DVDs, video games, magazines and books. There is no sign to inform the customer and also no policing by vendors. While the authorities have the responsibility of enforcing the law, it is assumed that it is a normal business practise that a vendor advise customers of the nature of the product they are buying; this is a requirement under common-law sale of goods.

6. Registered pharmacies in Vila have qualified staff who offer good advice to consumers. This advice is usually for prescribed products, but there is also information available for infant formula, and this is given out to customers purchasing the product. Infant formula is not a prescribed product, but the pharmacies participating in this study frequently give advice to customers purchasing infant formula and most other products.

7. There is no one government department in Vanuatu designated to inform the public if there is a recall of an imported product. This role is shared between DOPH, Port Vila Municipal Council, CIRD, the Food Centre and DQLD.

8. There is no clear and effective line of communication to inform Vanuatu consumers of unsafe imported goods. Safety information also does not always appear on the ASYCUDA selectivity criteria.

Recommendations

To address these issues, the following recommendations are made:

1. Improve procedures within the Government for carrying out recalls of both food and non-food products.

2. Establish guidelines to assist consumers and members of the public in cases of product recalls.

3. Develop policies to raise consumer awareness with the assistance of relevant national and provincial government agencies.

4. Encourage importers of food products to inform consumers of the necessary procedures to follow in lodging a formal complaint regarding problems with food quality.

5. Encourage importers of food products and manufactured items for children to place notices on their premises to assist consumers in choosing the appropriate products.
Conclusion

This study, the first of its kind in Vanuatu, has tried to describe the import system of Vanuatu based on the best sources of information available. It has relied on information from individuals who have experience and knowledge in the field. Information from institutions and agencies on statistics, processes, forms and operational matters has been integral to the study. Site visits were advantageous, because they gave context to the ideas and theories espoused here. Meetings, consultations and discussions were key ways of exchanging and validating facts, and it is hoped that the technical and professional networks that emerged during this study will also be an asset for future work in this area.

The study collected information on the import system of Vanuatu, how it works, what its components are, who the main players and stakeholders are, and what rules form the basis for its processes. It investigated whether the import system in Vanuatu has been able to appropriately control and monitor unsafe imports and imports that could have adverse effects on the health of children and their mothers.

It reviewed the various laws, regulations and policies that affect the import system in Vanuatu. Understanding these laws is a necessary step to improving the system.

The study was limited in its ability to obtain import-specific data. There is a need to record, collect and collate additional data on various aspects of the import process and to make this valuable information available on a national, regional and international level.

In conclusion, this report encourages the Government of Vanuatu to consider its findings and implement its recommendations. Like in all policy adjustments, there is a need for coordination between agencies as well as consultation with private-sector stakeholders, NGOs and communities. Government can play a key role in coordinating that exercise with the aim of bringing about positive changes that will benefit children and mothers in Vanuatu.
Appendix 1: Vanuatu National Breastfeeding Policy

1. **Exclusive breastfeeding**
   Mothers should breastfeed their babies exclusively until they are six months old. Do not give water, glucose water or any other kind of water or food to babies under six months. (You may do so only in special cases such as with an adopted baby, a baby whose mother is HIV/AIDS positive following doctor’s advice or in the case where the baby’s mother is seriously ill or unconscious.)

2. **When to start breastfeeding**
   Help mothers to start breastfeeding their baby immediately after birth. It is best to start breastfeeding within half an hour of birth.

3. **How to express breast milk**
   Teach all mothers how to ensure that their milk supply is adequate by feeding their infants as often as possible. In the case where the baby cannot feed from the mother’s breast because of illness or through work, teach mothers how to express her breast milk and demonstrate and help them to use a cup to feed their babies expressed breast milk.

4. **Feed babies on demand**
   Encourage mothers to feed the baby at any time of the day or night and anywhere.

5. **All babies should be with their mothers**
   Mother and baby must remain together for 24 hours a day except for hospital procedures. Time of separation should not be for more than one hour unless there are medical indications.

6. **Other food**
   Do not feed babies less than six months with other kinds of food to substitute breast milk. Teach mothers to prepare fresh local soup or mashed food to feed their babies with from six months on. Do not waste money on baby food from the shops.

7. **Do not give or accept any other kind of milk**
   Do not give or accept canned, bottled or packaged milk or fresh cow or goat milk or any other milk at reduced prices or which are offered free of charge by any company to feed babies with at any health facility.

8. **Do not use bottles or dummies**
   Bottles and dummies must not be used by any health facilities. Prohibit their use in any government or public premises.

9. **Free samples and posters**
   Free samples, posters or booklets by milk producing companies must not be accepted by any health facilities. Health workers should not accept free samples whether they be for the hospital or their home.

10. **A working mother’s privilege (Section 6: Employment Act)**
    Breastfeeding mothers have the right to feed their baby twice a day; that is half an hour in the morning and another half an hour in the afternoon during working hours and their wages should also cover these breastfeeding sessions. Mothers are allowed to go home during such times to feed their babies or have a helper bring their baby to their workplace for feeding.

11. **Counselling for all expectant and breastfeeding mothers**
    Health workers from all public and private health facilities must provide appropriate counselling to expectant mothers about the advantages and ways of breastfeeding.
12. **Support groups for mothers**
   There should be breastfeeding support groups everywhere where mothers have babies whether it be at the health facilities or at home.

13. **International Code for Selling Milk Powder or Baby Food**
    The Vanuatu Government supports the International Code which states that all companies producing or selling powdered milk, baby foods or bottles and dummies are prohibited from promoting or advertising their products in Vanuatu.

14. **Report anyone who acts in violation of the terms of this policy**
    Should any health worker, health facility or company continue to violate the terms of this policy they should be reported to the Vanuatu Government's Ministry of Health.
## Appendix 2: Public and private entities in the Vanuatu import system

### Public agencies

<table>
<thead>
<tr>
<th>Agency / description</th>
<th>Relevant laws and policies</th>
<th>Role in import process</th>
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| **Customs and Inland Revenue Department**  
- Department in the Ministry of Finance whose major role is collecting government revenue  
- Responsible for border control at ports and wharves  
- Sets tariffs on imports and has power to clear imports into Vanuatu  
- Has general powers of inspection of goods, documents and premises with regards to imported products  
- Has power to detain imports and penalise those in breach of law | Business Licence Act  
Value Added Tax Act  
Customs Act  
Import Duties (Consolidation) Act  
Import of Goods (Control) Act | Conducts compliance on importation process.  
Monitors the import process. |
| **Department of Quarantine and Livestock Development**  
- Department in the Ministry of Agriculture, Quarantine, Forestry and Fisheries whose major role is providing quarantine work on borders and in Vanuatu  
- Responsible for border control at ports and wharves  
- Deals with pests, problems and outbreaks  
- Responsible for setting standards for exports and imports  
- Responsible for adopting and imposing standards from other countries in Vanuatu  
- Has capacity to analyse and test samples of imports suspected of carrying a disease or breaching quarantine  
- Has power to detain imports and penalise those in breach of law | Animal Importation and Quarantine Act  
Food (Control) Act  
Food (Control) Regulations  
Plant Protection Act  
Quarantine Act  
Quarantine Import Manual  
SPS measures  
Codex Alimentarius | Sets quality control standards for certain categories of imported products.  
Conducts compliance on import process for certain categories of goods (animal and plant products and high-risk foods).  
Monitors the import process. |
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| **Department of Public Health, Environmental Health Unit**  
- Department in the Ministry of Health, unit within that department that is concerned with food safety issues  
- Has a role in developing food safety policy and legislation  
- Advises government on food safety and security  
- Responsible for raising public awareness of food safety matters  
- Can receive complaints from consumers regarding food poisoning, contamination and expired foods  
- Has role in recall but little capacity  
- Has no capacity to analyse and test foods or other imports suspected of being unsafe | Food (Control) Act  
Food (Control) Regulations  
Public Health Act  
Codex Alimentarius  
National Breastfeeding Policy  
National Food and Nutrition Policy | Has a potential role in setting standards for certain categories of imported products in terms of quality controls. The Environmental Health Unit can advise ASYCUDA on what sensitivity levels it should impose on certain products, but its capacity to do so is in question. |
| **Ministry of Trade, Commerce and Tourism**  
- Ministry with major role in trade policies and external trade functions  
- Responsible for negotiating bilateral, multilateral and free trade agreements on behalf of Vanuatu  
- Can impose prohibitions, restrictions and quotas on imports | Import of Goods (Control) Act | Has a potential role in setting standards for certain categories of imported products in terms of quality controls. Can advise ASYCUDA on what sensitivity levels it should impose on certain products, but its capacity to do so is in question.  
Since 1980, the Ministry of Trade has not developed any trade-related legislation. Much of its work is policy-based. |
| **Department of Trade and Industries**  
- Assists the Ministry of Trade in the areas described above  
- Advises the Minister on applications for exemptions of duty by local manufacturers  
- Sets policy for external trade into Vanuatu  
- Supports Vanuatu industries in marketing their products locally and overseas  
- Plays a major role in MSG trade negotiations | Import of Goods (Control) Act | Has a potential role in setting standards for certain categories of imported products in terms of quality controls. Can advise ASYCUDA on what sensitivity levels it should impose on certain products, but its capacity to do so is in question.  
Since 1980, the Department of Trade has not developed any trade-related legislation. Much of its work is policy-based.  
Some core legislation have been passed but not gazetted. |
| **Vanuatu Food Technology Centre**  
- A unit within the Department of Trade and Industries  
- Primarily tasked with managing a government laboratory to analyse and certify locally produced foods  
- Centre for food industry research and development  
- Accommodates the Vanuatu National Codex Committee and acts as the Vanuatu focal point for Codex Alimentarius | Food (Control) Act  
Food (Control) Regulations  
Codex Alimentarius  
SPS measures | Helps to set standards for certain categories of imported products in terms of quality control.  
Helps conduct compliance on import process for certain category of goods (animal and plant products and high-risk foods). |
### Agency / description

**Port Vila Municipal Council**
- Local government for Port Vila
- Functions include control and regulation of businesses that sell foods, such as supermarkets, restaurants, cafes, takeaways and snack bars
- Personnel are equipped and trained in environmental health and equipped to inspect food premises

### Relevant laws and policies
- Food (Control) Act
- Food (Control) Regulations
- Municipalities Act
- Food Hygiene Control By-Law
- Food Vendors By-Law

### Role in import process
- Has a monitoring role within the import process. Does not have powers of border control or powers to inspect and examine imports, but it would have powers to enter into a premises where imports are stored or sold and examine any of those goods based on a complaint or reasonable suspicion of breach. It can then impose a fine or other penalty.

### Private entities

### Entity / description

**Vanuatu Terminal Services**
- Certified as having met the professional standards of IATA to promote, sell and handle international air cargo transportation; also certified by the Civil Aviation Authority
- All staff are IATA certified with frequent training to update their certification; training includes goods handling, storage, control and security
- Warehouse in operation since 2005, owned by Airports Vanuatu (a government-owned company), of which it is a subsidiary, has space for Customs and DQLD, also has an X-ray facility to examine goods for export

### Relevant laws and agreements
- Civil Aviation Authority Rules
- IATA standard operation procedures
- Civil Aviation Act

### Role in import process
- Could set standards for packaging, security protocols and storage.
- Could be involved in monitoring during the import process, especially in stages 1 and 2.
- May exercise a discretionary function in regulating quality or process if it believes that the import has not been put through the standard procedures of import or export.

**Ifira Wharf & Stevedoring (Port Vila)**
- Local companies that have a concession agreement with the Government to provide stevedoring services
- Primary functions are the handling, discharge, delivery and safe-keeping of cargo

### Relevant laws and agreements
- Companies Act
- International Ship and Port Facility Security Code of the International Maritime Organization
- Concession agreements

### Role in import process
- Could set standards for packaging, security protocols and storage.
- Could be involved in monitoring during the import process, especially in stages 1 and 2.
- May exercise a discretionary function in regulating quality or process if it believes that the import has not been put through the standard procedures of import.

**Northern Island Stevedoring Company (Luganville)**
- Local companies that have a concession agreement with the Government to provide stevedoring services
- Primary functions are the handling, discharge, delivery and safe-keeping of cargo

### Relevant laws and agreements
- Customs Act
- Business License Act

### Role in import process
- Facilitate monitoring during the import process.
- Ensure compliance by importer clients with the import process by disclosure of information.
Appendix 3: Vanuatu laws and policies referenced in this report

Legislation and subsidiary legislation

- Animal Importation and Quarantine Act [CAP. 201]
- Business Licence Act No. 19 of 1998
- Censorship of Films Act of 1973 [CAP. 72]
- Control of Pharmacists Act No. 5 of 1983 [CAP. 23]
- Customs Act No. 15 of 1999
- Food (Control) Act No. 21 of 1993 [CAP. 128]
- Food (Control) Regulations No. 37 of 2007
- Food Hygiene Control By-Law
- Food Vendors By-Law
- Import Duties (Consolidation) Act [CAP. 91]
- Import of Goods (Control) Act [CAP. 176]
- Obscenity Act of 1973 [CAP. 73]
- Port Vila Municipalities By-laws
- Public Health Act No. 22 of 1994
- Sale of Medicines (Control) Act No. 9 of 1988 [CAP. 48]
- Value Added Tax Act No. 12 of 1998

Vanuatu legislation, court cases, and other government-related documents can be found online at http://www.paclii.org/databases.html#VU.

Policies

- National Food and Nutrition Policy
- Vanuatu Children’s Policy 2007–2011
- Vanuatu National Breastfeeding Policy