

# Agricultural Smuggling and Philippine National Security

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## ABSTRACT

This qualitative descriptive study was aimed to identify, analyze, and describe Philippine vulnerabilities in national security owing to the influx of imported agriculture and fishery products.

Documents analyses, key informants' interviews, and direct observations were used to arrive at the eight weaknesses/loopholes leading to the country's food safety vulnerabilities: in business name registration and permitting; through Customs Bureau's accreditation; in enlisting as importer at the Department of Agriculture Food Safety Regulatory Agencies (DA-FSRAs); in securing the sanitary phytosanitary inspection clearance (SPSICs); in risk classification and inspection; in transporting of goods to warehouses, and in the withdrawal and distribution of the imported agriculture and fishery products from warehouses.

Loopholes were caused by laxity in business registration; overconcentrated authority and discretion by Customs; rigged DA FSRAs Registry Books; DA FSRAs' irresponsible issuance of SPSICs; Customs' secretive risk classification; inadequate/lack of inspection capabilities at ports; un-escorted trucking of containers; and, unmonitored withdrawal and distribution of goods from warehouses.

Hence, within the scope of this study (June 2019 to December 2020), technical agricultural smugglings were found out because of the weaknesses and loopholes in the Customs Bureau's and the Agriculture Department Food Safety Regulatory Agencies' procedures posing food safety and national risks to the country.

## Keywords

agricultural smuggling, technical smuggling, national security, food safety

*Article Received: 10 August 2020, Revised: 25 October 2020, Accepted: 18 November 2020*

## Introduction

With the robustness of globalized trade (Soros, 2002), a country's food safety and national security architecture at the ports could be put to a serious stress test.

National security is an over-arching interest covering political, economic, socio-cultural, techno-scientific, environmental, and military dimensions (NDCP, 2011). And national security has now evolved from the old traditional notions of police and military posturing to every human activity that deals with nationhood (Kintanar, 2010). Good governance, health issues, economics and finance, including guarding against the entry of health hazards and pandemic carriers are embraced by national security. Hence, food safety is subsumed under national security.

The Philippines is a net importing country and importation has been the default mechanism of the government including importations on agriculture and fishery (A/F) products (Dar, 2019). These include grains or cereals, meat, fish, vegetables, fruits, among other A/F products. Concomitantly, food safety becomes an issue as these goods enter the Philippine borders especially with its archipelagic architecture.

The Philippine government agencies guarding its borders are the customs, immigration, quarantine, and security (CIQS) agencies. This study, however, is delimited on the Bureau of Customs (BOC) and the Department of Agriculture Food Safety Regulatory Agencies (DA-FSRAs), namely: Bureau of Animal Industry (BAI), Bureau of Plant Industry (BPI), National Meat Inspection Services (NMIS), Bureau of Fishery and Aquatic Resources (BFAR), and the Philippine Fishery Development Authority (PFDA). Also, the country's vanguard in health and safety is the Department of Health, but this agency is excluded in this study.

With humans manning the ports, their frailties play centerstage in cargo inspection and clearance processes. Chief is graft and corruption. This menace weakens security screens of every nation. A fragile security architecture and systemic graft and corruption practices are lethal combination (Khanna, 2011).

In his 2019 State of the Nation Address (SONA), President Duterte pledged to weed out graft and corruption in his administration's remaining years. Although this study did not delve into graft and corruption cases; it pointedly ventured into identifying, analyzing, and describing the loopholes and weaknesses of the BOC and the DA-FSRAs' processes relative to A/F products importation. It used the input, process, output, outcome (IPOO) Model as the analytical and research framework. Documents analyses, key informants' interviews, and direct observations were the data-generation devices used. Relevant secondary data were also accessed to complement the primary data.

## Discussion of Findings And Analyses

Discussion of reviews and analyses of the Anti-Agricultural Smuggling Act (Republic Act 10845) of 2016, the Food Safety Act (FSA) of 2013, the Customs Modernization and Tariffs Act (CMTA) of 2016, and the amended Philippine Fisheries Code, the amended Philippine Meat Inspection Code, the amended Livestock and Poultry Feeds Act, National Security Strategy of the Philippines 2017-2022, Philippine Development Plan 2017-2022 are included here. Included also are the reviews and analyses of the special laws' implementing rules and regulations (IRRs) and other relevant BOC and DA official documents and data sources. Noteworthy is the provision of the Anti-agricultural Smuggling Act of 2016 which states that agricultural

smuggling is a form of economic sabotage and is punishable under the law.

### Analyses of the FSA of 2013 and CMTA of 2016

Review and analyses of the provisions of these laws do not yield signs of contradiction. The Department of Agriculture Compliance Regulatory Enforcement for Strategic Trade (DA-CREST) officials emphasized that “the conflict is not in the law, but in the manner of implementing the law.”

Likewise, analyzing the responses of importers’ representatives during clarificatory conferences called by the DA-CREST officials showed that the flaws are not in the laws, but in their implementation.

The key informant said that key issues were discussed in DA-CREST clarificatory conferences/interviews, thus:

1. Issue: “Who should be followed” at the ports—BOC or DA FSRAs?

Interviewees claimed that they were merely importers; thus follow government directives and controls, and comply with government agents’ instructions.

2. Issue: InterCommerce “dropdown options” of cold storage warehouses (CSWs) as final destination of goods  
Interviewees claimed that the DA-InterCommerce computer system gives them CSW options. They simply tick one option presented by the system. They assumed their “ticked” options were allowed because their Sanitary PhytoSanitary Inspection Clearances (SPSICs) were eventually approved through a systems-generated document.

3. Issue: On cargo inspection by BOC tax-assessment inspection ahead of the DA-FSRAs

Importers’ representatives claimed that they were not allowed to file entry unless they complied with BOC rules. They pay the duties first before their cargoes are brought to designated examination area (DEA) for inspection. No payment, no examination.

4. Issue: “BOC’s square root” examination being invoked as compliant to DA’s “prior inspection” requirement:

Importers claimed that the BOC examination done with DA quarantine inspectors’ presence were valid compliance with DA rules.

5. Issue: “Import Notification Document” (IND) is new and unnecessary DA-CREST’s imposition

Importers’ representatives said they came to know this DA imposition when CREST was organized. This is contested by the DA-CREST officials because it is provided for in FSA of 2013.

Thorough examination affirmed that indeed the two laws are not contradictory with each other. While the FSA was passed in 2013 and the CMTA-became a law in 2016, both laws are valid and deserve unqualified application. Statutory rules on construction dictate that when the law is clear there is no more room for interpretation. What is needed is application.

Section 12 of FSA 2013 provides, among others, that:

(b) Imported foods shall undergo cargo inspection and clearance procedures by the DA and the DOH at the first port of entry to determine compliance with national regulations. **This inspection by the DA and the DOH shall take place prior to assessment for tariff and other charges by the Bureau of Customs (BOC).** The BOC and

the Association of International Shipping Lines (AISL) shall provide the DA and the DOH documents such as the Inward Foreign Manifest of Arriving Vessels to enable the DA and the DOH to identify shipments requiring food safety inspection. Shipments not complying with national regulations shall be disposed according to policies established by the DA and the DOH; *[Emphasis supplied.]* Section 301 of the CMTA on “Customs Control Over Goods, it provides:

The Bureau shall seek to cooperate and conclude mutual administrative assistance agreements with other customs administrations to enhance customs control. **The Bureau shall consult, coordinate, and cooperate with other government regulatory agencies**, free zones authorities, and the customs stakeholders in general to enhance customs control.” *[Emphasis supplied.]*

From the foregoing juxtaposition, both laws are clear and therefore need no further interpretation.

Some practices at the ports, however, were observed not compliant with these laws. But they do not constitute a doubt that this will necessitate statutory construction. The blatant deviations are rooted in the mis-interpretation and mis-application of the laws rather than in the laws’ provisions. The laws are complementary in so far as cargo clearance and inspections are concerned. Hence, they simply need to be enforced. The implementers’ deviations do not invalidate these legislations.

DA-CREST Lawyer, Reyandro Unay, who presided most of the clarificatory conferences, explained:

*“The misconception is not well-grounded. Customs’ primacy in the ports is not in issue. Yet, even the CMTA, tasks the Customs bureau to “consult, coordinate, and cooperate with other government regulatory agencies, free zones authorities, and the customs stakeholders in general to enhance customs control.”*

*“On the issue of “dropdown options” provided by InterCommerce, the contention is misplaced. Technology cannot be used to defeat government rules and regulations — it should be facilitative. The “dropdown options” facility is there simply to facilitate encoding; it does not offer the online permit applicant choices because he is bound by his contract with his CSW. His CSW contract ties him to the ‘dropdown options’ — he only ticks his contracted CSW. That is how the technology is designed here.”*

*“On cargo inspection: The law is clear—inspection by the DA shall take place prior to BOC examination and tariff assessment.*

*“The purposes of Customs inspection are different from that of the DA FSRAs’— the former is for taxation; the latter is for food safety.*

*“Finally, the IND is prescribed by the implementing rules and regulations of the FSA 2013, not by CREST. It is even required by law to be updated regularly.*

Additionally, General Jonathan V. Ablang, Head of DA-CREST, said:

*“It is unfortunate that CREST gets to be blamed by the consignees. They were required by the rules, even before CREST was constituted. Specifically, the FSA requires them.”*

*“What is frustrating is – even a bureau head who is mandated by law to prepare and prescribe the format of*

*these documentary requirements has yet to see the format of this IND. He claimed ignorance”.*

From the articulations of these two officials there is no conflict between the FSA’s prescription for “prior DA inspection”, and CMTA’s customs processes. It is in BOC examiner’s non-observance, and the pusillanimity of DA FSRA quarantine inspectors that violated the law. The BOC examiner’s and the DA-FSRA’s non-feasance, mis-feasance, and malfeasance are what facilitate massive technical smuggling—uninspected cargoes, prejudicing Philippine food safety and national security situations.

Through documents analyses, the provisions of the Customs Modernization and Tariff Act (CMTA) of 2016, the Food Safety Act (FSA) of 2013, the Fisheries Code of the Philippines, and the Meat Inspection Code of the Philippines, among others, require customs authorities and DA-FSRAs’ quarantine officers to conduct thorough examination and inspection on imported A/F goods upon arrival at the borders. Specifically, the DA-FSRAs have to ensure food safety by conducting cargo inspection and clearance before the BOC conducts tariff assessment on the imported A/F products.

Direct observation of the researcher’s key informant found an illegal practice done by the BOC because it first conducts tariff assessment before the DA-FSRAs conduct their examination and inspection for food safety both at the ports of entry and in the “second border” or at warehouses.

#### **BAI and NMIS Personnel Violations**

Also, among the DA-FSRAs, this study found a disconnect because the approval and issuance of meat import clearances is being performed by the BAI, violating the provisions of the Philippine National Meat Inspection Code because it is the NMIS that has that mandate, yet NMIS is non-assertive. These issues were discussed and explained by the officials of the anti-smuggling unit of the Department of Agriculture – the Compliance Regulatory Enforcement for Strategic Trade (DA-CREST), with the FSRAs officials of BAI and NMIS and some representatives of meat importers in several clarificatory conferences.

#### **The “Eight Toll Gates” of Agricultural Smuggling**

Furthermore, it was found out that there were other weaknesses and loopholes identified in succeeding procedures delving with A/F products importation. These are corroborated with documents provided by the DA-CREST officials and this researcher’s data source, whose experience and stint at the BOC as a third-level official proved useful. The informant stated: “Throughout the entire importation process—from importers’ eligibility and qualification, through the filing and entry of import documents, to tax assessment and cargo clearance examination leading to their transport out of the port zone, are flaws/loopholes that facilitate the nuances of technical smuggling. I call these the Eight Toll Gates of Agricultural Smuggling.” Here goes:

##### **Toll Gate 1: Registration of Business Name and Mayor’s Permit**

Many importers register a *ready-to-close* (RTC) trading firm. Single proprietorship is the most preferred way as it comes easy. The Department of Trade and Industry (DTI) wants every business name registered; and the local government units (LGUs) require that businesspersons secure Barangay and Municipal/City Permits or Mayor’s

Permit (MP) before they are allowed to operate business enterprise. Without the LGU Permits, no business enterprise can be pursued in the physical world—a permit is a precondition to operating any business outfit in any locality. Online businesses may not require LGU Permits, yet, shipped cargoes are not delivered through the virtual world—these are done in the physical world. So, there is no choice but to register the brand with the Department of Trade and to secure LGU Permits.

“These government offices are not known for effective screening or vetting of business registrants’ intentions,” expressed the key informant.

##### **Toll Gate 2. Accreditation with the Bureau of Customs**

After business name’s DTI registration and getting the LGU permit, the next step is accreditation with the Bureau of Customs Accounts Management Office (BOC-AMO).

Like other offices, the informant observed that the BOC had flaws in its processes. The BOC-AMO had been found to accredit even shanties in slum areas as business addresses worthy of government recognition.

One alternative to organizing an RTC is to look for a *consignee-for-hire* (C4H) that is already registered with the BOC. There are hundreds of them in BOC-AMO’s rooster, the informant said. “The capitalist need only to negotiate for the terms of their working arrangement as well as the fees of the C4H. Instantly, the capitalist has a BOC AMO-accredited trading firm”. Effortlessly, the capitalist is now ready to carry out the importation business. This is not a baseless indictment—even the BOC itself released official documents showing it had “TIN-blocked” hundreds of importers for want of business addresses.

In fact, even the Presidential Anti-Corruption Commission (PACC) had documented cases of *ghost or dummy consignees*. Some even resulted in the filing of anti-graft cases before the Ombudsman, the informant further said.

Nevertheless, accreditation with the BOC-AMO is essential, before driving to the next toll gate. Without this AMO accreditation, the capitalist could not be registered in the DA-FSRAs’ Importers Registry.

But why do capitalists resort to an RTC or a C4H or a ghost or a dummy? “So that when the eventuality happens, as it is not unlikely to happen—given the real intention, the capitalist/importer will be ready to let go of that trading outfit without ‘losing his/her shirt’,” said the informant.

##### **Toll Gate 3. Enlistment at DA FSRA as Importer**

Anyone intending to import A/F products has to be regulated by what the law calls: the food safety regulatory agencies (FSRAs).

Each of these agencies regulate A/F importations within their regulatory jurisdictions. Part of their mechanisms is to require FSRA registration before anyone can apply import permit. Only those enlisted can be issued import authorization document. This authorization is called: Sanitary PhytoSanitary Import Clearance (SPSIC).

##### **Toll Gate 4. Securing SPSIC from DA-FSRAs**

At the DA-FSRAs, they operate similarly: only those enlisted as IMPORTERS in their respective registry are issued SPSICs: *no accreditation/no SPSIC*.

SPSIC is vital; without it, one cannot import A/F products. And the SPSIC data/information are likewise crucial: It can cause additional cost to the business; or it might cause the closure of the business. Or, it may even lead to prosecution



for large-scale agricultural smuggling penalized as economic sabotage as provided for in the Philippine's Anti-Smuggling Law of 2016.

**Toll Gate 5. The Importation Proper**

After procurement of A/F goods abroad, the "invisible" capitalist now ships them to the Philippines. At the country's border, the capitalist's representatives or dummies operating his/her RTC or C4H will not have difficulty at the ports—his/her trading firm's papers having been pre-arranged with Customs and the DA-FSRAs.

And, because his/her *RTC or C4H or ghost or dummy* was duly accredited with the BOC-AMO, its importation breeze through BOC's risk classification system—RED, ORANGE, YELLOW, GREEN, or SUPER GREEN. Even this risk classification system is not infallible, opined the informant. "Years back, a University of the Philippines study found out that some RED shipments which are supposed to be subjected to 100% inspections and therefore time-consuming were processed and cleared even faster than most GREEN shipments when the latter requires only a modicum of clearing procedures".

**Toll Gate 6. A Charade at the Border Ushers in Danger**

At the BOC designated examination area (DEA), space limitation will not allow importer's cargoes to linger. Cargoes need to be dispatched immediately, discarding a thorough examination even if it violates the law. Their excuses—space limitation and port congestion.

These A/F products are stuffed inside shipping cargo container. They go in 10-, 20-, 40-, or 45-footer containers—all opaque. So, "open-close-examination-only" is how examination is conducted on these containers. BOC personnel open the shipping container, take a quick look, then close the container, and off the container goes, hauled off to "somewhere", if not "nowhere." At this stage, the seeds of food safety and national security risks are sown, divulged the informant.

**Toll Gate 7. The Drive to Disaster Called "Second Border"**

After the "open-close-only" type of examination at the DEA, these containers will have to be transported to their final destination called the "second border." This term was coined to justify inspection of the cargo at the premises of the importer. By whatever stretch of the term, the importer's premises are too much of a "second border".

At the DEA, the shipping container's seal that was broken during examination is replaced with FSRA's ordinary plastic conduction seal that is not subject to accounting, not durable, and signifies nothing. The container leaves the port area. Under FSRA rules, the container is supposed to be transported with designated escort from the DEA to its final destination. But the DA-FSRAs lack the personnel to escort all the containers that are being transported, so the probability that unescorted cargoes will not be inspected is high, and the possibility of these containers to have elements prejudicial to food safety and national security is not farfetched.

That said, from the time these shipping containers leave the port area, Philippine national security architecture is teetering precariously; and the seeds of national security risk have virtually been introduced onto vulnerable and unsuspecting territories.

Fortunately, the BOC implemented a GPS-enabled tracking system called Electronic Tracking of Containerized Cargo (E-TRACC) System.

Late in 2019, two (2) 40-footer containers of whole frozen squid were transported to its "Final Destination" in Quiapo District, Manila City without the legally required prior-inspection by BFAR authorities. No electronic request for inspection (eRFI) was ever filed at the BFAR Quarantine Office. The shipment was tagged, under BOC's E-TRACC System.

Even before the shipment arrived at the supposed "Final Destination," the GPS-enabled seal was deliberately disarmed/disabled, triggering an alarm at the BOC's ETRACCS platform. The illegal attempt was foiled. The containers were held in Paranaque instead of Quiapo. The contents were found to be mis-declared fishery products whose customs valuation fall within the threshold of large-scale smuggling.

Such is the power of ICT-aided enforcement tools, but only if, all A/F cargoes are electronically tagged. Sadly, not all.

*"We shall be writing BOC about its ETRACCS monitoring on the fishery importations of same importer beginning June 2020 when they shall have started activating the ETRACCS in December 2020. This consignee brought frozen shrimp, frozen pangasius fillet, frozen oyster, frozen scallop adductor, yellowtail collar, and whole frozen squid originating from Vietnam, China, Norway, and Japan, and entered through the POM and MICP,"* a CREST official told this study's key informant.

**Toll Gate 8. The Beginning of The End of Government's Control**

When the container arrives at the "second border" as indicated in the SPSIC, the imported commodities are examined thoroughly in the presence of, and by, concerned FSRA's inspector.

With the limited number of FSRAs' commodity inspectors nationwide, vis-à-vis the number of containers being brought to the "second border" for the mandatory inspection, it is with certainty that these goods will not be thoroughly inspected or probed. For how can tens of government inspectors effectively conduct 100% examination of thousands of containers brought to the "second borders" at different places of the archipelago?

Note that, except for rice shipments, most imported A/F products are required to be stored in DA-accredited CSWs. In fact, every FSRA-issued SPSIC should indicate the CSW within which to store the imported A/F commodity. Failing to indicate the CSW—either owned or contracted, in the permit application means denial of SPSIC.

It is in this "second border" that inspection shall be conducted. And every activity involving these imported A/F commodities, while they are at the CSW, must be done in the presence of FSRAs' inspectors.

Nonetheless, after a thorough inspection, only then shall these containers be issued Second Border Inspection Reports.

And, every time there is going to be withdrawal of a certain volume of these imported goods, an FSRA inspector is required to be present purposely to oversee the withdrawal. Withdrawals in the absence of inspectors are considered irregular. But it is observed that no inspectors are on service 24/7, the informant opined, because they usually

serve only on official weekdays, from Monday to Friday, at office hours of 8:00 in the morning until 5:00 in the afternoon.

All told, when the imported A/F goods did not pass through an accredited CSW, no regular inspection can be said to have been done. A DA administrative order decrees that imported A/F products that require storage in CSWs shall be kept, stored, and traded only in DA-accredited CSWs.

For the period **July 26, 2018 to July 26, 2019**, it is documented that almost 5,000 containers of imported A/F products were hauled off from the ports to their “second border.” Their final destination: *a defunct CSW—thus, non-existent in the eyes of the law.*

All these, the informant explained, happened with the full knowledge of government regulators - BAI and NMIS for meat imports; and BFAR and PFDA for fish and fishery imports; and BPI for plant imports.

Again, it is posited that un-inspected containers compromise national welfare because they endanger food safety and national security.

Having said that, the country could be inferred as a **Republic of the Sitting Duck**; and a hypothetical question is raised: *might have these happened without the tentacles of graft and corruption at play?*

To indicate where the flaws are, the acronym POROSITY was coined; to spot where the flaws are found, how these are taken advantage of, and how these can be plugged.

With POROSITY, the “Eight Toll Gates” of agricultural smuggling are not totally unexpected. And left unattended, these defects could persist and could continue to be exploited by the market forces—dark or otherwise, until concerned government authorities *reboot their operating systems, retrofit their processes, and retool their people* to advance national security.

The acronym **POROSITY** are the causes for the existence of the “Eight Toll Gates” of large-scale agricultural smuggling, thusly:

#### **PASSIVITY in the Screening and Vetting Process of the Bona Fides of Business Registrants**

The *loose systems* of the DTI and the LGUs, to exclude the Cooperative Development Authority, are the initiatory flaws in the system due to absence of check and balance in their approval process. These agencies do not have compliance-monitoring mechanisms except on payment of fees. All they care are interventions to soak up their respective coffers, observed the informant.

*The results:* RTCs, C4Hs, and dummy consignees get registered with DTI, and easily secures Mayor’s Permit even with palpably suspicious business addresses.

#### **OVERCONCENTRATION of Authority and Discretion in BOC-AMO’s hands**

The flaws caused by PASSIVITY in Toll Gate 1 is eventually embedded into another *weak vetting process* of BOC-AMO, whose affairs and decision-making in the recordation and accreditation of importers are wholly in the hands of the AMO chief—monopolized authority with wide latitude of discretion.

This results in thousands of dubious importers having been accredited by BOC-AMO, with nobody cross-checking or auditing her/his decisions. And, with the Customs Commissioner signing the Certificate of Accreditation, no one in the agency will have the courage to question the Commissioner’s signature no matter how flawed the process documentation may have been. This abetted the C4H scheme in the agency, the key informant expressed.

#### **RIGGED Registry Books of the DA FSRAs**

Business registrations, Mayor’s Permit, and BOC-AMO accreditation amount to nothing if one is not registered with DA-FSRAs. No FSRA registration, no issuance of SPSIC. No SPSIC means no bringing in of A/F products. Put differently, FSRA registration is *sine qua non* to SPSICs.

But, once accredited—whether a fraud, a fake, or flawed, the DA agencies no longer do any counter-checking of the importer’s representation. In short, DA FSRAs just rely on BOC-AMO’s bona fides, such that a flawed BOC accreditation permeates the FSRA’s registration system.

*Results:* BOC-AMO’s weak registration system, plus the loose vetting process in FSRAs’ SPSIC issuance, facilitate the unebbing tide of agricultural smuggling.

#### **OVERTLY Irresponsible Issuance of SPSICs by FSRAs**

Irresponsible issuance by FSRAs of SPSIC for A/F products assured the unmolested smuggling of A/F commodities.

Specifically, all A/F importations that need to be stored, kept, or traded in cold storage warehouses (CSWs) shall only be done in duly accredited CSW facilities where commodity testing and 100% inspection by duly trained FSRA technical people shall be conducted.

Unfortunately, from **July 26, 2018 to July 26, 2019** alone, data showed 5,000 SPSICs were issued to various consignees whose CSW is already defunct.

In short, 5000 containerized A/F shipments have virtually eluded the mandatory cargo inspection exposing the country’s food safety and national security to risks.

Unfortunately, even DA-InterCommerce IT facility is helpless against abuses by permit processors. Ineligible permit applicants that do not have accredited CSWs have been granted SPSICs.

*Results:* This massive misrepresentation of applicants by indicating the defunct CSW as “second border” inspection sites had facilitated “computerized misdeclaration.” The DA-InterCommerce failed to check this loophole in the process—a major defect in the current VASP’s system that could have been avoided had DA Trade System (DATS) ordered re-configuration by rebooting it to automatically shut out applicants without pre-declared CSW lease contract.

#### **SECRETIVE Risk Management Office of the BOC**

Another cause is the **opacity in BOC Risk Management Office (RMO)** protocols. BOC’s tightly guarded selectivity protocols are not helping the DA and its FSRAs. Even supposedly RED category shipments were released without thorough or 100% inspection.

*Results:* With the computer system effectively dis-abled, the situation will expectedly justify “manualized” transactions.

The key informant said this is derisively called “The Magic E2M” which means “electronic to manual” rather than the planned E2M which is “electronic-to-mobile” system. When “the Magic E2M” is on, “wonderful transactions” are processed in haste, and A/F imports are released even without inspection.

#### **INADEQUACY or Lack of Examination Capability by the DA’s Quarantine Officers at the Borders**

Compounding the problem is **DA’s lack of A/F-dedicated examination facility** right at the ports. DA-FSRA quarantine officers only piggyback on BOC examination process: the “open-close-only” examination, following a “square-root” formula. This is not compliant with food safety inspection requirement under the FSA of 2013.

*Results:* All imported A/F products have been released openly violating Section 12 (b) of FSA of 2013, which decrees:

**“Imported foods shall undergo cargo inspection and clearance procedures by the DA and the DOH at the first port of entry to determine compliance with national regulations. This inspection by the DA and the DOH shall always take place prior to assessment for tariff and other charges by the Bureau of Customs (BOC).”**

#### **TRACKING Limitations over these Un-Escorted, and Un-Inspected Containers**

Aggravating the causes, these yet to be examined containers are *transported via un-escorted* trucks and vans. Virtually, they are released without getting inspected. The DA-FSRAs lack an ICT-aided transport monitoring capability.

The “expressway of economic sabotage” is perfected or completed when the goods are brought to undisclosed places, or diverted to defunct CSW, or kept in un-accredited CSW —the CSWs then become the *“Exit Toll Gate of Large-Scale Smuggling.”*

In short, the required inspection as mandated by law no longer happens.

#### **YAWNING Gaps in CSWs as Situs for “Second Border” Inspections**

CSW processes – arrival of trucks, unloading of containerized A/F products, storage, withdrawal, and dispatching of transport vans that haul off these commodities – are inadequately monitored by the FSRAs and LGUs’ regulatory offices. The highly regulated CSW business operation is only loosely monitored by government regulators. Are CSWs enablers of legitimate businesses or coddlers of agricultural smugglers? – *this is another hypothetical question to ask.*

The documented shipments from **July 26, 2018 to July 26, 2019** where 5,000 SPSICs were issued to various consignees whose “final destination” or “second border” are already defunct clearly demonstrate horrors at the borders. And the result is - food safety and food security vis-à-vis national security is compromised and left to the dynamics of free-trade without the presence of regulators.

### **Conclusion**

Hence, as of the conduct of this study (January to December 2020) and as of this writing, technical agricultural smuggling happened because of the weaknesses and loopholes in the Customs Bureau’s and the Agriculture Department Food Safety Regulatory Agencies’ procedures posing food safety and national security risks to the Philippines.

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