

**AGRIBUSINESS WORKING GROUP
REPORT TO MID-TERM VBF on 5 June 2014, Hanoi**

EXECUTIVE SUMMARY

In recognition of the increasing importance of the Agriculture sector to Vietnam's sustainable economic development and social stabilization, the VBF Agribusiness Working Group was born in February 2014 out of a round table workshop in HCMC. We had our initial meeting by videoconference between Hanoi and HCMC on 4 April. We had a subsequent meeting with officials from MPI, MARD and MOIT on Tuesday 20 May where we discussed the details of our paper. I am pleased to report that all of the proposals in our full report were considered and most have been agreed at that meeting. And I thank the attendees at that meeting for their participation and support of the Working Group.

The Agribusiness Working Group has been strongly supported by the IFC and VCCI to whom I formally record my thanks.

Our goal is to discuss and propose effective solutions to pressing agricultural sector issues. Our primary objective is to establish a forum for informing policy direction and to present opinions to maximize the agribusiness private sector's contribution to the Government's target to promote private sector investment in agribusiness for high value- added and sustainable agricultural development in Vietnam. All of this of course sits well with Vietnam's preparation for New Trade Agreements – the theme of this mid-term VBF.

Our Working Group is comprised of representatives from local and foreign companies, business associations and NGOs. In the interests of effectiveness and efficiency we decided to confine our initial work and report to four discrete areas of interest viz:

- I. Market Access**
- II. Technology**
- III. Quality Standards, and**
- IV. Policy Implementation.**

Below are the address the key issues that we have identified under each of these four headings. Later we will establish small sub-groups to look at other pressing issues as we identify them.

Firstly, **Market Access**

Market access limitations relate to a wide range of issues and we see three distinct markets:

1. Domestic market access for Vietnamese companies
2. Domestic market access in Vietnam for foreign companies, and
3. Foreign market access for domestic companies

Each of these markets faces particular difficulties ranging from consistency of product and quality management, supply chain and R&D technologies, licensing and foreign interest limits, tariffs, lack of strategic management and planning of production and supply, lack of clarity in policy, and inconsistent implementation strategies.

The solution seems to include a clearer and more open domestic and international market access strategy based on international standards and norms.

Secondly, **Technology**

We have identified four difficulties in Technology in Agriculture:

1. Registration procedure changes.
2. Procedural bottlenecks for introducing new technologies.
3. Good quality agricultural input competitiveness and adoption.
4. Selection and application of appropriate technologies suited to Vietnam market.

The key issues in Technology include a temporary ban on registration of crop protection products pending the outcomes of a review of the registration process by PPD, transfer of responsibility and control regarding fertilizers from one Ministry to another, and continuing review of registration of seeds by CPD. This lessens confidence, transparency and predictability in the market for introduction of new technologies. There are inordinate delays in finalizing the framework for new technology introduction due to bureaucratic issues in coordination across government functions. Improved technology and IP can lead to improved food safety, less counterfeit products in the market, increased yield and profitability while reducing the carbon footprint.

Applying the right agriculture technologies suited to Vietnamese farmers, primarily small landholders, is critical to driving productivity. A national focus on affordable technologies for small landholders is critical for a step change in agricultural productivity.

Thirdly, **Quality Standards**

The major areas of concern here are:

1. Seeds and Seedlings, and
2. Counterfeit Products

Vietnam is one of the leaders in the global rice exporting market, being the second largest rice exporter in terms of volume. However, the international perception of Vietnam rice is low and inconsistent quality which minimizes its export value. One of the main reasons for this is the situation of the seed industry in Vietnam, with more than 300 seed varieties in circulation, of which the vast majority is low quality.

There are more than 200 seed companies in the country, however, very few have sufficient resources for serious investment in the sector.

There are misleading Trademarks in retail shops, products are named very similarly (often with one letter difference in the name) so farmers are often confused and are not making correct purchase decisions.

There are many different companies in the market which leads to a lack of control during the registration process, and these results in the registration of products which do not have a proper dossier. There is also no enforcement of patent infringement. Companies assume that if they receive registration approval of their product there is no patent infringed, but MARD does not have a robust system to check on IP prior to registrations.

Fourthly, and finally, **Policy Implementation**

We have identified 7 issues in this area:

1. The role of local authorities and industry associations
2. Compliance
3. Burdens in implementing administrative procedures
4. Too many provisions in too many texts
5. Conflicts among legal texts
6. Default of guidance for implementation of Laws and regulations
7. Unreasonable legal provisions (particularly on re-import of exported goods)

Vietnam's agricultural industry is fragmented to regions with significantly different attributes at each locality. The governmental policies do not truly reflect both the general and local issues.

Industry associations inefficiently perform their roles in maintaining strong linkages amongst various stakeholders in the industries. Local authorities should be given more discretion to adapt policies into real practices at their localities.

Many agricultural policies are vague and this creates opportunities for corruption in the sector.

Food safety and quarantine inspections are cumbersome and ineffective.

There are too many legal documents on prohibited substances which do not assist management agencies and businesses in maintaining compliance. There should be focused and clear regulations on prohibited chemicals and antibiotics in animal feed products for example.

There are no clear standards or regulations on food processing and food safety is compromised as a result.

Many unreasonable regulations are in place, which make it difficult for businesses, leading to delays in exports, violation of delivery deadlines or result in businesses paying high storage fees, etc.

Conclusion

The Agribusiness Working Group, through the VBF, will continue to work closely with relevant Ministries, especially the Ministry of Planning and Investment, the Ministry of Agriculture and Rural Development, the Ministry of Industry and Trade and other State Agencies to assist the Government to identify and implement effective solutions to constraints and issues in the Agriculture sector to allow Vietnam to unlock its full agricultural potential.

The Agribusiness Working Group hereunder details the issues and makes proposals under each of the four subject headings detailed above. We appreciate the Government giving us, through the VBF, the opportunity to highlight the opportunities and obstacles in this most important and large business sector in Vietnam.

I. Market Access

Market access refers to the ability of private agriculture and food companies to access markets for their products. These products may be either fresh or processed. These companies may be domestic or foreign. Access refers to both access to Vietnam markets for foreign agriculture companies as well as access of Vietnamese companies to domestic and foreign markets.

The Working Group intends to focus on supporting policies to enable market access in these terms.

Key Issues

Market access limitations relate to a wide range of issues – many of which are so-called 'cross-cutting'.

Domestic market access for Vietnamese companies

1. Quality and consistency of the product (cross-cutting).
2. Input, process and supply chain technologies to improve quality and stability of quality.
3. Research and development of technologies in-house to develop company products.
4. Management capability to oversee and develop team and product quality.
5. Inconsistency of development and implementation of government policy.

Domestic (Vietnam) market access for foreign companies

1. Licensing and foreign interest limits as barriers to entry.
2. Tariff and Non-tariff barriers and custom controls.
3. Inconsistent/ incoherent policy development and implementation.

Foreign market access for domestic companies

1. There is limited understanding of market need – it is a supply driven market.
2. Anticipating markets.
3. Market information versus market intelligence and insight.
4. How to obtain more buyers – and diversify products?
5. Key issues are: how to change management style/ adopt and obtain new technology/ understand effective marketing strategies.
6. Quality control and inconsistencies in production and processing.
7. Non-uniformity – decreasing quality over time.
8. The need for value-added processing to expand the market – e.g. in aquaculture – filet production is consistent but without well developed value added processing, the market access is limited.
9. Overproduction of similar products – many examples of a 'rush for the same product' all at the bottom of the value chain – e.g. dragon fruit, Robusta coffee, basa fish.
10. Demand driven markets – local governments and local companies.

The result is competition at the bottom end of the market – and perpetual self-limiting the opportunity for market access. The comparative advantage becoming a perpetual disadvantage.

The solution includes a clearer domestic and international market access strategy based on international standards and norms which would be supported by:

1. 'Less and smarter policy' and fewer market access obstructions from government regulations;

2. increased substantive openness to foreign technology and investment to revitalise the agriculture sector and ensure it is of world standard; and consistent implementation of smart and progressive policy – anticipating the long term gains for millions of producers; healthier rural economies; competitive Vietnamese companies; and world class technologies and practices in place in Vietnam.

II. Technology in Agriculture

1. Registration procedure changes

Context

- The registration of all Crop Protection products is on a temporary ban until the First Quarter of 2015 due to a full review of the registration process by the Plant Protection Dept (PPD).
- 1.
- Fertilizer registration and control has been transferred to the Ministry of Industry and Trade (MOIT) from the Ministry of Agriculture and Rural Development (MARD) by decree 202/2013/NĐ-CP, in November 2013. As a result, procedures have been changed. Companies now wanting to register new fertilizer formulas are operating in a policy void.
- Registration of Seeds is undergoing review by the Crop Production Dept (CPD), potential changes to the registration process are unclear.

Outstanding problems/obstacles

- The inability to introduce new technology/products in time for the new season.
- Companies reduce investments due to a lack of visibility and predictability.

Proposal

- Guidance with the new process should be issued at the same time as changes and decrees are announced. Introduction of a formal consultation process, when major changes are planned, between authorities and companies to ensure a smooth transition would help.
- Ensure the new registration framework facilitates new technology introduction.

2. Procedural bottlenecks for introducing new technologies

Context

- Introduction of new technology e.g. GM Seeds, *Biologicals* and others require the development of an appropriate framework and governance. This requires significant coordination within and across Ministries and relevant government bodies and is often time-consuming.

Outstanding problems/obstacles

- They are substantive delays in finalizing the framework for new technology introduction due to bureaucratic issues in coordination across government functions. Timelines for finalization are delayed and postponed.
- Companies are unclear on planning new product introductions, and assessing commercial and technical viability in Vietnam.

Proposal

- Expedite review and finalization of new technology introduction procedures through timely coordination across functions and collaborate with key industry players for developing regulations for new technology introduction.

3. Good quality agricultural input competitiveness and adoption**Context**

A recent report indicated that 50% of randomly tested fertilizers by authorities were off-spec. and the loss for the economy is estimated at \$US 800 million. In addition, there has been a significant increase of counterfeit products, misleading growers and leading to the development of counterfeit manufacturing.

At the same time, public awareness and demand for traceability and food safety is increasing.

The Vietnam PPP Coffee Task Force's latest report indicated that GAP combined with good quality imported inputs can increase yield and profitability by 10% while reducing carbon footprint by 50%.

A lack of adequate quality testing infrastructure hinders the adoption of better technologies for higher quality output, hampering export competitiveness.

Outstanding problems/obstacles

- Lack of leadership activities to ensure safe and proper usage of inputs and low quality inputs distributed to farmers leads to environmental and safety issues.
- Good quality inputs are not affordable to small farmers as they cannot compete with companies cheating on formulas and/or not applying VAT.
- Good quality/environmental friendly input attracts a 6% import duty which increases the price to farmers and encourages farmers to use counterfeit products. This leads to a risk of loss of farmer's productivity over time and eventually soil acidification.
- Increased usage of low quality crop protection products adversely impact crop, soil and human health. There is a risk of increased usage of fertilizers while Vietnam is already one of the highest fertilizer consumers per hectare in the world.
- Lack of adequate quality testing laboratory infrastructure and third party investments limit realizing the benefits of better technology usage.

Proposal

- Strengthen IP protection measures through strict implementation of legal action against counterfeiters and enforcement at the market place. Address corruption at the local level and make it more difficult for small input companies to be opened and closed.
- IP requirements should be embedded in the registration framework to ensure IP protection is started from the registration point.
- Introduce education programs to promote balanced nutrition, appropriate product usage protocols to reduce over-usage of inputs.
- Mass media communication by government to explain the risks for the economy, for farmers and for the public if farmers use cheap counterfeit inputs.
- Ensure mandatory leadership programs by all companies for training on safe crop protection product usage and establishing a supporting stewardship infrastructure.
- HS codes should be different for NPK, based on technology used (blending vs nitrate based NPK)

- Implement a strict review of trademark registrations, and enforce removal of 'me-too' brands, logos, visuals etc.,
- Develop policies to encourage investors to develop quality infrastructure to enable testing, and monitoring of the quality of farm output.

4. Selection and application of appropriate technologies suited to the Vietnam market

Context

- Applying the right agriculture technologies suited to Vietnamese farmers, primarily smallholders, is critical to driving productivity. A focus on affordable technologies for small-holders is critical for a step-change in agricultural productivity.

Outstanding problems/obstacles

- There are ineffective outcomes if technologies that are not suited to smallholder farming are introduced.
- A high investment threshold required for inappropriate technologies will lead to poor adoption rates,

Proposal

- Effective consultation and partnership to encourage selection and usage of appropriate technologies.
- Policy measures developed to encourage a focus on locally adaptable technologies.

III. Quality Standards

1. Seed/Seedling

Context

Vietnam is one of the market leaders in global rice exporting, being the second largest rice exporter in volume. However, the large volume cannot guarantee a high export value for Vietnam's rice due to the perception of low and inconsistent quality by the global marketplace.

Part of the main reasons for this is the situation of the seed industry in Vietnam, with more than 300 seed varieties in circulation, of which a vast majority is low quality. There are more than 200 seed companies in the country, of which very few have sufficient resources for serious investment in the sector.

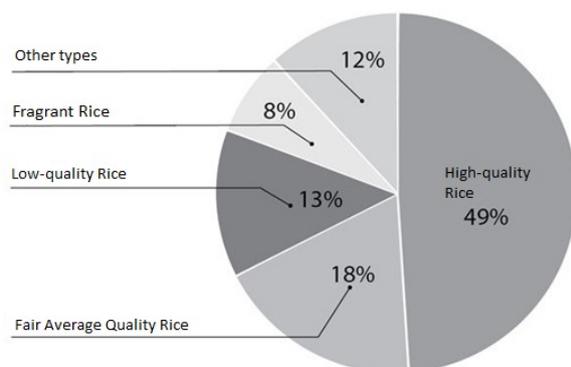


Chart 1: Vietnam's rice types for exports

However, the root cause lies in the fact that a master plan for input material production zones is non-existent. This requires collaboration between MOIT and MARD. MOIT will need to conduct market research and needs assessment for both the domestic and international markets so that orders can be placed with MARD to guide production.

The orders should indicate SPECIFIC TYPES (long, short, aromatic etc. types) and how many tons/crop or year (needs not place orders for any specific variety of rice given the existence of hundreds of such varieties). Based on such orders, MARD can start zoning work and coordinate production of different varieties that meet the same standards for such TYPES OF RICE.

However, the problem is that MARD does not have a master plan for input material production zones for export in place yet due to lack of information regarding market research and needs assessment.

Outstanding problems/obstacles

- **The rate of commercial seed usage is low** (~30% for conventional rice seed, ~40-50% for vegetables and fruit); a large majority of farmers re-use the seed they save from previous crops, leading to low productivity, low resistance to diseases, also resulting in low economical return.
- **Limitations in R&D and inadequate investment in R&D**; consequently, there is a limited number of seed varieties that can adapt to different climates across the country, and that are rapidly degradable. Therefore, the current situation is that too many seed varieties are recognized and utilized, resulting in inconsistency in the quality of agro-products. For example, Thailand only has 5-6 varieties in use, whereas Vietnam has 300, with tens of new seed varieties being recognized every year.
- **Inefficiency in the seed market mechanism due to subsidy policy**. Local authorities take advantage of these subsidy programs to support low quality, inefficient seed varieties that are not suitable for the local climatic conditions. Farmers, due to financial burdens, or being affected by the crop and seed structure and planning by the local authority, use the low quality varieties.
- **Lack of cooperation and linkage within the value chain**. For many products, high demand is not sufficiently met by supply; whereas for others, there is no market for products of high quality. The production chain elements such as SEED – PRODUCTION – PROCESSING – CONSUMPTION are not linked together. As a result, there exists many seed varieties that do not suit the tastes of the consumers.
- **Bureaucracy in the recognition procedures for new seed varieties** takes a vast amount of administration time, and demonstrates the lack of monitoring from science organizations. The consequence is that when the seed is accredited for commercial usage, it no longer meets market needs.
- **Fragmented farming** (due to the current land ownership policy) leads to difficulties in applying modern technologies in the agriculture and seed industry.
- **Human resources** – the quality of human resources in agriculture is not high, due to the lack of training and favorable remuneration policies. There has not been a mechanism to attract talent, and there is a shortage of well-trained leading experts.

Proposal

- **Public administration reform** in administrative procedures during the recognition process for new seed; and enhance the capacity of scientific supervision organizations,

to ensure that the new varieties are superior to the existing ones, to avoid low quality seed being used widely.

- **Removal of the distortive lobby practice** at the level of local authorities, to allow the farmers to use seed according to farming demand and market demand, rather than using the varieties that are chosen by the local authorities in their crop structure, but are not market-oriented.
- **Increased investment in R&D** for applying technologies, to limit the introduction and circulation of poor quality seed that does not suit market demand.
- **Creating a cohesive information exchange mechanism** among different segments in the production value chain in order for farmers to understand and effectively meet market demand, reducing the role of intermediaries/ traders (those who take advantage of farmers' lack of information for profiteering purposes)
- **Development of agricultural land policy to encourage land consolidation**; thereby encouraging long-term investment in arable land and application of science and technology in production.
- **Better focus on international cooperation and technology transfer**, together with increased investment in human resources policy, even as early as the vocational stage.

2. Counterfeit products

Context

For the Vietnamese government, it is important to secure the livelihood of farmers. To ensure this, it is important to have rules and regulations in place and enforced which protect the consumer/applicator and enable the farmer to export.

Outstanding problems/obstacles

- Confusing Trademarks in the retail shop, products are named very similarly (one letter different) so the farmer assumes this is a different product - this can lead to overuse and resistance issues.
- A large number of different companies in the market which leads to a lack of control during the registration process, this results in the registration of products which do not have a proper dossier.
- No enforcement of patent infringement. Companies assume that if they get a registration of the product there is no patent infringed, but MARD doesn't check on IP.

Proposal

- Align registration with an IP check to ensure from the beginning that products registered are not infringing IP.
- Ensure proper differentiation of brand names.
- Stronger enforcement at the provincial level of seizing counterfeit or IP infringing products.
- Stronger control of dossiers.
- We suggest that MARD bans registration of generic products that have at least 2 first letters of the product name that coincide with the proprietary name, as it may easily confuse consumers and jeopardize the reputation of the proprietary owners and the public as a whole.

IV. Implementation of policy

1. Role of local authorities and industry associations

Context

- Vietnam's agricultural industry is fragmented to regions with significantly different attributes at each locality. Government policies do not truly reflect the general and local issues.
- The industry associations inefficiently perform their roles in maintaining strong linkages amongst various stakeholders in the industries.

Outstanding problems/obstacles

- Difficulties arise in implementing policies in reality. Hence the root of many problems can not be comprehensively tackled.
- Conflict of interests amongst the parties occurs due to lack of co-operation.
- Unprompted development in the industry drives the demand and supply to be mismatched, causing instability and potential damage to the wealth of every stakeholder.
- The domestic agricultural industry is not sufficiently protected against international competition and threats.

Proposal

- Local authorities should be given more discretion to customise policies into real practices at their localities.
- There should be a requirement that within a certain number of days the local authorities must provide official guidance to implement the policies issued by higher level.
- Industry associations should be assigned specific responsibilities to help the implementation

2. Compliance

Context

- In principle, many policies in agriculture are vague in both understanding and implementation.
- Many policies provide encouragement without any particular obligation.

Outstanding problems/obstacles

- The policy implementers may take advantage of the vagueness of the policies to raise difficulties to target beneficiaries. This is where corruption may happen.
- Due to lack of transparency, the benefits from the encouraging policies may wrongly flow to other beneficiaries, whom the policies are not aimed at, causing waste of resources and inefficiency.

Proposal

- For principle based policies, local authorities have responsibilities to provide guidance on specific criteria.

3. Burdens in implementing administrative procedures

Context

- Circular 128/2013/TT-BTC requires quarantine and food safety testing on products (goods derived) from plants and animals which must be carried out at a Customs checkpoint following certain procedures,

Outstanding problems/obstacles

- The designated inspection location is unreasonable, causing cargo congestion, and time delays.

Proposal

- Circular 128/2013/TT-BTC should be amended so that businesses are allowed to bring imported frozen food products to their storage facility for quarantine and food safety inspection in accordance with current regulations instead of checking at the port checkpoint,

4. Too many provisions in too many texts**Context**

Regulations on chemicals and antibiotics not allowed to be used in animal feed are currently mentioned in various documents, for example:

- Article 7 of Circular 57/2012/TT-BNNPTNT dated November 7, 2012 on the inspection, supervision, and penalties for the use of substances in the group of beta-agonist that are banned from breeding.
- Circular 61 /2011/TT-BNNPTNT dated September 12, 2011 promulgating the national technical regulation on animal feed.
- Circular 81 /2009/TT-BNNPTNT dated 25/12/2009 on the promulgation of national technical regulations on animal feed (4 Technical Standards), Decision No. 3762/QĐ-BNN-CN dated November 28, 2008 on management of melamine in livestock production and aquaculture, etc.

Outstanding problems/obstacles

- There are too many legal documents on prohibited substances which do not facilitate management agencies and businesses in referring and fully updating.

Proposal

- There should be focused and unified regulation on prohibited chemicals and antibiotics in animal feed in order for businesses to comply.

5. Conflicts among legal text**Context**

In accordance with Decision No. 45/2005/QĐ-BNN, the Ministry of Agricultural and Rural Development has the quarantine function for "*Fresh milk, yogurt, butter, cheese, bottled milk and dairy products*".

Under Article 63, 64 of Food Safety Law, MARD is only in charge of food safety management for *raw milk*; the Ministry of Industry and Trade is in charge of processed milk management.

Outstanding problems/obstacles

Currently, the Agency that has the quarantine function for processed milk is still unclear, making it difficult for businesses to export (businesses cannot export their products without a quarantine certificate from the competent authority)

Proposal

- There should be specific guidelines, clearly defining quarantine responsibilities in each case.
- The same products should be regulated under the same Ministry.

6. Default of guidance for implementation of Laws and regulation (Laws and regulations set frames only, no guidance for implementation, thus causing burdens for business)

Context

- Food Safety Law (Article 19) provides requirements for establishment of a food processing factory in accordance with standards prescribed by MARD.
- So far, there is no regulation from MARD on these standards.

Outstanding problems/obstacles

- Food processing manufacturing is potentially deemed as unqualified (since no clear standards or requirements are in place).

Proposal

- MARD should issue a legal document to specify hygiene standards of food safety for each type of food processing facility for businesses to implement.

7. Unreasonable/Unclear legal provision

Context

Circular 219/2013/TT-BTC on implementation of Value Added Tax Law, Decree 209/2013/NĐ-CP does not classify re-import of exported goods on the list of VAT exemption.

Outstanding problems/obstacles

- For exported goods that are returned (for many reasons: customers are unable to pay, a business has to take back all products, or barriers also make businesses take goods back, or due to packaging or quality issues, etc.), many enterprises have to suffer losses since the 2 way shipping cost is huge, so if goods are not re-exportable, businesses will suffer even bigger losses.
- Therefore, when goods are returned, if businesses have to pay VAT, businesses will suffer financial difficulties.
- This is an issue that Vietnam's Seafood Industry often encountered, and these regulations create many difficulties for businesses.
- Circular 48/2013/TT-BNNPTNT provides prescription on test procedures, safety certificate for seafood exports.
- The government has taken measures to address the issue of VAT frauds that are welcomed by exporters. However, further clarification is needed with regard to classification of semi-processed agro products that are not subject to VAT filling and declaration.

Proposal

- Add "returned export goods" to the category of goods which are not subjected to VAT under Circular 219/2013/TT-BTC
- Amendments should be made to Circular 48/2013/TT-BNNPTNT (especially on checklist, sampling rate, responsibility to pay and so on).
- Provide additional guidance on classification of semi-processed agro products that are not subject to VAT filling and declaration, possibly through a detailed list of products under this category