

## CHAPTER 13 FOOD, AGRI AND AQUA BUSINESS SECTOR

### OVERVIEW

The Food, Agri and Aqua Business sector experienced a slow recovery in 2018 after difficulties linked to the pork market and the global vitamin supply environment. Encouragingly, many agricultural products have seen an increase in exports<sup>1</sup> even if tougher times may come. At the same time, increasing economic integration<sup>2</sup> and the consequences of climate change have made this transforming sector even more vulnerable.<sup>3</sup> We, therefore, noted that a new Law on Animal husbandry will be added to the legal existing framework on Cultivation, Fisheries and Forest. Vietnam now has four laws on its primary industries.<sup>4</sup>

The path to a safe and sustainable food production and supply sector is challenging, as the recent pig crisis and exposure to imports on raw materials has shown.<sup>5</sup> Therefore, we strongly believe restructuring is particularly important.<sup>6</sup> Fluctuations increase the difficulty of restructuring the sector, as farmers and producers are not able to take any risks due to the lack of visibility and market regulation.<sup>7</sup> Those elements may lead to shortages, if external events impact global production, as with the outbreak of African Swine Fever.<sup>8</sup> In 2017, the industry responded to the Government's appeal to save the swine sector, but this helped only in the short-term. A truly sustainable organisation of agricultural markets must be implemented - based on good practices - in order to limit the effects of market volatility and Vietnam's huge exposure to global trade. This organisation should be global, as we have seen in the past that troubles and short-term measures in one particular sector have had huge consequences on substitution products.<sup>9</sup>

Dependence on China for export - the growth rate of fruit and vegetable exports reached an average of over 70 per cent each year from 2014-2017 - is one of the main causes of problems in agricultural products, which seemed to slow down in 2018.<sup>10</sup> Previously, Vietnamese enterprises encountered obstacles such as export/import tariffs and quarantine requirements when exporting to neighbouring countries. These obstacles, combined with a lack of information, resulted in the use of unofficial import and export channels, despite greater risks and huge consequences such as the swine-sector crisis. Integration with the global economy must be the channel to make exchanges official, traceable and controlled. The implementation of the upcoming EVFTA must be an example of quickly removing barriers between the two entities, enabling both parties to enjoy growth in exchanges.

The upcoming implementation of the EU-Vietnam Free Trade Agreement should facilitate trade between both parties while fostering sustainable growth and economic development. Below are the key matters that FAABS firmly believes can be improved with an efficient implementation of the EVFTA, especially in the field of Sanitary and Phytosanitary (SPS) measures.

- 1 "VN Must Work Hard to Meet Export Targets", *Vietnam News*, 17 July 2018. Available at: <<http://vietnamnews.vn/economy/451878/vn-must-work-hard-to-meet-export-targets.html>> last accessed on 8 December 2018.
- 2 "VN Is the Most Globalised Populous Economy", *Vietnam News*, 18 October 2018. Available at: <<http://vietnamnews.vn/economy/468143/vn-is-the-most-globalised-populous-economy.html>> last accessed on 8 December 2018.
- 3 "UN Climate Change Report Launched in Việt Nam", *Vietnam News*, 11 October 2018. Available at: <<https://vietnamnews.vn/environment/climate-change/467591/un-climate-change-report-launched-in-viet-nam.html>> last accessed on 8 December 2018.
- 4 "New Law on Animal Husbandry Promises Progress", *Vietnam News*, 30 November 2018. Available at: <<http://vietnamnews.vn/opinion/480879/new-law-on-animal-husbandry-promises-progress.html>> last accessed on 8 December 2018.
- 5 "VN to Import 300,000 Tonnes of Raw Cashew", *Vietnam News*, 20 October 2018. Available at: <<http://vietnamnews.vn/economy/468066/vn-to-import-300000-tonnes-of-raw-cashew.html>> last accessed on 8 December 2018.
- 6 "VN Needs Nat'l Framework for Safe Pork", *Vietnam News*, 25 October 2018. Available at: <<http://vietnamnews.vn/society/468456/vn-needs-natl-framework-for-safe-pork.html>> last accessed on 8 December 2018.
- 7 "Pork Prices Expected to Rise Further", *Vietnam News*, 7 November 2018. Available at: <<http://vietnamnews.vn/economy/469233/pork-prices-expected-to-rise-further.html>> last accessed on 8 December 2018.
- 8 "Pork Shortage Likely to Happen in Vietnam Because of ASF", *SGGP English Edition*, 28 October 2018. Available at: <<http://sggpnews.org.vn/content/NzU1NDA=.html>> last accessed on 8 December 2018.
- 9 "Pig farmer rescue campaign hits chicken breeders", *VCSC*, 28 June 2017. Available at: <<https://www.vcsc.com.vn/tin-chi-tiet/pig-farmer-rescue-campaign-hits-chicken-breeders/150415>> last accessed on 8 December 2018.
- 10 "Growth of Exports to China Slows Down", *Vietnam News*, 16 August 2018. Available at: <<http://vietnamnews.vn/economy/463815/growth-of-exports-to-china-slows-down.html>> last accessed on 8 December 2018.

The objective of Chapter 6 of the EVFTA on SPS measures is to protect human, animal or plant life or health while facilitating trade and to ensure that the implemented SPS measures are not unjustified obstacles to trade. In this context, the FTA Chapter aims to encourage the development and adoption of international standards, guidelines and recommendations, and to promote their implementation by the Parties. The chapter also refers to the SPS Agreement of the WTO. The key provisions developed under this Chapter for SPS purposes are: the EU as a single entity, regionalisation and pre-listing.

Vietnam needs to make the necessary internal adjustments to be ready for the effective implementation of the provisions included in the SPS chapter from day one of entry into force of the EVFTA. First of all, Vietnam should recognise the EU as a single entity through a single, predictable and transparent procedure for all imports coming from the EU, which clearly defines the import requirements common to all EU Member States and sets clear timeframes. This will ensure that the requests for approval stemming from the EU are approved swiftly and not confronted with long, burdensome procedures as is currently the case. Applications from EU Member States would be done through the EU, no longer bilaterally.

For this purpose, Vietnam should ensure full transparency on its import requirements and procedures and find solutions to the problem of work overloads and limited human resources capacities. In this context, it would be advisable that Vietnam simplifies its institutional set-up or its implementation procedures within the framework of its right to determine its appropriate level of protection.

Furthermore, Vietnam should develop a system for gaining confidence about the control system of the exporting Party (EU Member States) based on risks, either by conducting verification visits to the exporting Party auditing a representative number of establishments and/or by information requests to the exporting Party, and ensuring that the expenses of such verifications are borne by Vietnam.

Vietnam also has to introduce a procedure for the approval of EU establishments (pre-listing) submitted by the exporting Party within 45 working days (that can be extended up to 30 days) without prior inspection of individual establishments. Instances of rejection alongside its justification must be communicated promptly and without delay.

Finally, Vietnam has to accept the concept of regionalisation which means that, when an outbreak occurs in the territory of an EU Member State trade measures should only be applied to the affected area. The information from competent authorities in the EU Member States on the status of plant pests and animal diseases (including information on areas free or information on the area affected by an outbreak) should be accepted by Vietnam, so that following the notification of a pest or disease only the affected zone or region is subject to the relevant import restrictions and not the entire country or the EU. This approach shall be risk-based and risk-proportionate, allowing imports into Vietnam of animals, animal products, plants and plant products from the regions, areas or zones which have been recognised and accepted as disease-free or pest-free.

The rationale for such adjustments is as follows: animal and plant health requirements, feed and food safety requirements are defined at EU level. Member States produce and export on the basis of the same EU standards and controls (Art. 12 of Regulation 178/2002 Food law). Therefore, Vietnam should set import conditions common to all EU Member States and ensure that exports of products produced under similar or comparable conditions from the Member States are all treated equally. In a nutshell, Vietnam should apply the same procedure that the EU applies for Vietnamese exports. Indeed, when Vietnam exports to the EU, it has access to the EU single market and the same import requirements. Therefore, the same sanitary standards apply to all EU Member States and trade partners exporting to the EU in a non-discriminatory manner.

In our view, this should be an opportunity to increase the food safety levels of the country. These are increasing, albeit slowly.<sup>11</sup> Indeed, we recognise many positive initiatives in the right direction, including those mentioned in the World Bank report.<sup>12</sup> However, nationwide progress should be encouraged under a centralised body. We discussed this subject in past editions of the Whitebook, and we strongly believe that this “centralised food safety agency” can be the cornerstone of a safe and sustainable agribusiness sector in coordination with industry

11 “Dirty’ Food Needs to Be Controlled When Tét Approaches”, *Vietnam News*, 6 December 2018. Available at: <<http://vietnamnews.vn/society/481405/dirty-food-needs-to-be-controlled-when-tet-approaches.html>> last accessed on 8 December 2018.

12 “Management of food safety risks in Viet Nam: Challenges and Opportunities”, *Onehealth*. Available at: <<http://onehealth.org.vn/management-of-food-safety-risks-in-viet-namchallenges-and-opportunities.new>> last accessed on 10 December 2018.

initiatives<sup>13</sup> through public-private schemes. Recently, it was stated that improving food safety standards can avoid huge productivity losses - estimated at US\$700 million each year - due to contaminated food.<sup>14</sup>

Under the Government's strategic agenda to embrace Industry 4.0, accelerating the digital transformation of all industries including Agriculture, we would like to share some views about precision production systems. For years, global production was done using trial and error, receiving advice through wise observations and multiple studies, allowing the sector to make huge progress. Many revolutions took place, replacing human with animal labour and then, more recently, with machines. Those revolutions led, step-by-step, to an increase in the size of the production units. Nowadays, we are entering a new revolution of "Agriculture 4.0", through the adoption of new technologies including positioning systems, smart sensors but also IT application, combined with high-tech machines. Agriculture 4.0 is a highly dynamic and rapidly evolving concept, and will offer great improvements in a short space of time. Agriculture 4.0 will be a success only for those who will understand its value, and it is, therefore, essential to consider information-sharing. The innovations that will remain over time and that will really impact this revolution are those that will not forget the human being and will promote the reconciliation between human work and the data it generates. So far, some weaknesses have been identified for Vietnam to overcome, in order to take full advantage of those dramatic changes.<sup>15</sup> It also implies that farmers and producers have quick access to new and innovative products and knowledge. Those two matters will be addressed in sections I (traceability) and II (registration process) of this chapter.

The control of goods entering Vietnam is understood as all countries want to protect their population from unqualified and unknown products. The use of tariffs and quotas are usually used to organise this control, but as we shift towards a more open global economy, we are increasingly experiencing the use of non-explicit trade barriers. Whilst many requirements are legitimate, we are seeing how regulations and red-tape are being manipulated and used as a deliberate tool to distort trade flows and protect domestic industries. We would like to see the recognition of the customs code applied within the EU – following REGULATION (EC) No 1831/2003 – as an integral part of the implementation of the EVFTA. Many companies have experienced HS code requalification, sometimes even after more than 10 years of imports under a given HS code. A cooperation program between EU and Vietnamese customs could be implemented to share experiences in that matter.

The yellow card recently given to Vietnam by the EU in October 2017 for not having demonstrated sufficient progress in the fight against Illegal, Unreported and Unregulated (IUU) fishing worldwide will also likely have an impact on exports. This subject is still currently under scrutiny<sup>16</sup> and the Vietnamese Government has taken measures to answer the EU warning and follow its recommendations.<sup>17</sup> Another issue, already mentioned briefly in the 2017 edition of the Whitebook, is Antimicrobial Resistance (AMR), caused by irresponsible use of antibiotics, which in Vietnam is already one of the highest in the world.<sup>18</sup>

The opening up of several 'difficult' markets, such as Japan and Australia, prove that it is possible for Vietnam to comply with high-level food safety requirements.<sup>19</sup> In our view, the Government should use these successes to show farmers and producers the benefits of improving standards, as this will increase the competitiveness of Vietnamese products as well as open up more markets, especially the EU. We share the view of the Vietnam Association of Seafood Exporters and Producers that improving quality and ensuring food safety is the best method to increase exports.<sup>20</sup> However, while the focus on increasing exports is important, we believe the long-term focus

13 "New Vietnam Food Centre Seeks to Improve Traceability, Safety and Standards in Wake of Recent Concerns", *Food Navigator Asia*, 11 June 2018. Available at: <<https://www.foodnavigator-asia.com/Article/2018/06/04/New-Vietnam-food-centre-seeks-to-improve-traceability-safety-and-standards-in-wake-of-recent-concerns>> last accessed on 10 December 2018.

14 "IFC Works up Vietnam's Appetite for Food Safety Standards", *Vietnam Investment Review*, 9 December 2018. Available at: <<https://www.vir.com.vn/ifc-works-up-vietnams-appetite-for-food-safety-standards-64432.html>> last accessed on 10 December 2018.

15 "Vietnam Unprepared for Imminent 4th Industrial Revolution: Experts", *VnExpress International*, 28 March 2018. Available at: <<https://e.vnexpress.net/news/business/vietnam-unprepared-for-imminent-4th-industrial-revolution-experts-3728896.html>> last accessed on 10 December 2018.

16 "European Commission to Review Yellow Card against Vietnamese Fisheries in Early 2019", *Vietnam News*, 27 June 2018. Available at: <<http://vietnamnews.vn/politics-laws/450637/european-commission-to-review-yellow-card-against-vietnamese-fisheries-in-early-2019.html>> last accessed on 8 December 2018.

17 "Việt Nam Takes Action to Remove EC Yellow Card on Fisheries", *Vietnam News*, 4 August 2018. Available at: <<https://vietnamnews.vn/politics-laws/463178/viet-nam-takes-action-to-remove-ec-yellow-card-on-fisheries.html>> last accessed on 8 December 2018.

18 "Vietnam Tracks Multi-Drug Resistant Bacteria", *CDC*, 20 March 2018. Available at: <<https://www.cdc.gov/globalhealth/healthprotection/fieldupdates/winter-2017/vietnam-tracks-bacteria.html>> last accessed on 8 December 2018.

19 M. Long, "Vietnam exports processed chicken to Japan", *VOV World*, 20 September 2017. Available at <[vovworld.vn/en-US/current-affairs/vietnam-exports-processed-chicken-to-japan-577933.vov](http://vovworld.vn/en-US/current-affairs/vietnam-exports-processed-chicken-to-japan-577933.vov)> accessed on 22 November 2017; M. Van, "Vietnam the first permitted to export dragon fruit to Australia", *VN Economic Times*, 29 August 2017. Available at <[vneconomicstimes.com/article/vietnam-today/vietnam-the-first-permitted-to-export-dragon-fruit-to-australia](http://vneconomicstimes.com/article/vietnam-today/vietnam-the-first-permitted-to-export-dragon-fruit-to-australia)> last accessed on 22 November 2018.

20 B. Chau, "Seafood Exports Maintain Growth Momentum", *Vietnam Chamber of Commerce and Industry*, 04 November 2016. Available at <[www.vccinews.com/news\\_detail.asp?news\\_id=34095](http://www.vccinews.com/news_detail.asp?news_id=34095)>

should prioritise transforming the domestic agricultural sector to be stronger and more self-sufficient. This should include upgrading, diversification, developing high-end products, and improving food safety. Transforming the sector along these lines would help it to export more.

To further increase quality and address issues of food safety, traceability is a solution that should be further developed.<sup>21</sup> We also believe that it is important that current regulations are reviewed and that a value agricultural and food production and supply chain is created. This includes developing new market opportunities, reducing AMR and the sector's dependence on imported materials.<sup>22</sup> In our view, cooperation and coordination of the various parts of the sector is key to its success in domestic and foreign markets, and that is what should be focused on.

We also wish to stress the importance of developing a sustainable sector that provides farmers with a stable income and reduces their carbon footprint while meeting consumer demands. For example, farmers need to become more business-minded. Today, farmers often react impulsively when choosing what to grow and do not look for buyers or gather market intelligence before deciding on products.<sup>23</sup> Farmers also need to learn what products they should use to increase yields, but which use less water and other natural resources while keeping the soil fertile. This can be done by creating trust and developing agricultural extension groups and veterinary services. We share the view of the Prime Minister that the size of land plots needs to be increased and high-tech needs to be applied, alongside more investment and better policies.<sup>24</sup>

Hereafter, we will address some of these issues more in detail.

## I. LEGAL ENFORCEMENT: TRACEABILITY AND ACCOUNTABILITY THROUGH AN ANIMAL IDENTIFICATION AND RECORDING SYSTEM

Releva Relevant Ministries: Ministry of Agriculture and Rural Development (MARD), Ministry of Health (MOH), Ministry of Industry and Trade (MOIT), Ministry of Science and Technology (MOST)

### Issue description

Currently, there is no mandatory traceability system, even though the Food Safety Law prescribes it. There have been some local 'voluntary' traceability systems for eggs and vegetables set up in recent times.<sup>25</sup> This is a good first step, but in our view, the Government should start introducing mandatory systems. It could begin with the introduction of a mandatory animal registration system, as the lack of such a system causes a two-fold risk for food safety at the moment.

Firstly, when a serious disease breaks out – one which can be transmitted from animals to humans (zoonotic disease) – it is not possible to trace the disease back to its origin. Not being able to accurately identify the source of an infection makes effectively eradicating the disease incredibly difficult, if not impossible. This reduces confidence both in the sector and in Vietnam, causing a drop in prices and irrevocable reputational damage.

21 Whitebook 2016, Chapter 11 (I): "Food Safety – importance of traceability and legal enforcement" p. 80.

22 "Policies hinder trading of local agricultural products", *Vietnam News*, 22 June 2017. Available at: <vietnamnews.vn/economy/378730/policies-hinders-trading-of-local-agricultural-products.html> last accessed on 22 November 2017; "Vietnamese agriculture improves quality for exports", *Voice of Vietnam*, 24 June 2017. Available at: <english.vov.vn/economy/vietnamese-agriculture-improves-quality-for-exports-352245.vov> last accessed on 22 November 2017; "Weakness in Vietnam's agricultural supply chains", *Vietnam Net*, 6 May 2017. Available at: <english.vietnamnet.vn/fms/business/177731/weakness-in-vietnam-s-agricultural-supply-chains.html> last accessed on 22 November 2017; T. Dung, "Vietnam seeks to export pork", *Saigon Times International*, 22 October 2017. Available at: <english.thesaigontimes.vn/56697/Vietnam-seeks-to-export-pork.html> last accessed on 22 November 2017.

23 "Farmers switch to pepper as coffee prices fall", *Vietnam News*, 28 May 2016. Available at: <vietnamnews.vn/economy/297419/farmers-switch-to-pepper-as-coffee-prices-fall.html> accessed on 22 November 2017; "Vietnam's pepper export revenue loses spice due to oversupply", *VN Express*, 26 June 2017. Available at: <e.vnexpress.net/news/business/vietnam-s-pepper-export-revenue-loses-spice-due-to-oversupply-3605029.html> last accessed on 22 November 2017.

24 T. Hoang, "PM points out shortcomings in agriculture production", *VN Express*, 27 June 2017. Available at: <english.thesaigontimes.vn/54693/PM-points-out-shortcomings-in-agricultural-production.html> last accessed on 22 November 2017.

25 V. Yen, "Egg origin made traceable from this month", *The Saigon Times*, 07 September 2017. Available at <english.thesaigontimes.vn/55976/Egg-origin-made-traceable-from-this-month.html> last accessed on 22 November 2017; "Saigon consumers can now check where their vegetables come from", *VN Express*, 17 January 2017. Available at <https://e.vnexpress.net/news/news/saigon-consumers-can-now-check-where-their-vegetables-come-from-3529541.html> last accessed on 22 November 2017.

Secondly, not having an identification system in place actually increases the likelihood of serious food safety issues occurring. For example, when a problem such as the illegal use of hormones or antibiotics is detected, it is often impossible to identify and punish the offender because the source of the product is unknown. This lack of accountability makes it more likely that offences will occur, since perpetrators know that the chances of being caught are very low. For instance, at a session of the National Assembly in June 2017, it was revealed that only 20 per cent of the detected 680,000 violations have been punished.<sup>26</sup> However, we welcome the new Decree on fines for food safety violations which is being drafted.<sup>27</sup> In our view, this will have a positive impact. The Government has also recognised that offenders should be punished more severely<sup>28</sup> and we are pleased with the decision of the Ho Chi Minh City (HCMC) authorities to do this.<sup>29</sup> In earlier editions of the Whitebook, we raised the issue of strict(er) enforcement of existing regulations.<sup>30</sup> Of course, legislation could be improved, but we believe that more effectively enforcing the current regulations would be a good first step. This will increase food safety, competitiveness and export possibilities while lowering the negative economic impact significantly by reducing health costs and rejections of Vietnamese products by importing countries.

We also believe that an identification and recording system containing a traceability component would change this and be a useful tool to prosecute offenders. At the same time, it would improve the food safety reputation of Vietnam. This system would allow each animal product to be traced back to the farm where it was born, the places it stayed during its lifetime and after, as well as the companies responsible for its transport. Since the reputational damage of a serious disease outbreak is extremely high for the sector and the country, we believe that the costs of such a registration system should be borne jointly. The initial investment to design and set up the system should be borne by the Government. However, the operational costs of running the system should be paid for by fees levied on the sector. Each producer, transporter and handler should be required to pay a fixed annual fee to be registered. Then, an additional fee should be levied per animal, meaning larger businesses would pay extra. Below, we briefly describe a pilot currently running in HCMC. The pilot has shown that the costs of the scheme are relatively easy for the users to cover.

Monitoring animal movements will allow MARD, through the Department of Animal Health, to better protect against trade-limiting diseases such as Foot and Mouth Disease. These diseases currently restrict the ability to develop official health protocols with China and cost millions of dollars of losses to farmers every year. The Department of Livestock Production of MARD and MOIT require improved monitoring systems to better protect against and regulate the unofficial import of livestock and products from other countries and to improve market access and competitiveness in foreign markets. We are aware that the fresh food traceability system is now operating in HCMC with the support of the HCMC authorities.<sup>31</sup> This system ensures the traceability and integrity of all pig and pork movements into HCMC from 22 surrounding provinces.<sup>32</sup> It is now being extended to chicken and poultry<sup>33</sup> and eggs<sup>34</sup> with projects in beef, vegetables and fruits also in the pipeline. The decision of the HCMC authorities to only accept traceable pigs is a good step. However, it is important that this is strictly implemented, which we believe will be done soon.<sup>35</sup>

This program could effectively improve the Government's ability to monitor the movement of animals and

26 "Lawmakers say unsafe food giving Vietnamese long slow death", *VN Express*, 06 July 2017. Available at: <e.vnexpress.net/news/news/lawmakers-say-unsafe-food-giving-vietnamese-long-slow-death-3595305.html> last accessed on 22 November 2018.

27 "Ministry gets tough on food safety violations", *The Saigon Times*, 08 September 2017. Available at: <english.thesaigontimes.vn/56028/Ministry-gets-tough-on-food-safety-violations.html> last accessed on 22 November 2018.

28 "Localities struggle to ensure food safety", *Vietnam Net*, 12 September 2018. Available at: <english.vietnamnet.vn/fms/society/186231/localities-struggle-to-ensure-food-safety.html> accessed on 22 November 2017; "Shrimp injection crackdown intensified", *Vietnam News*, 13 September 2017. Available at: <http://vietnamnews.vn/society/393687/shrimp-injection-crackdown-intensified.html> last accessed on 22 November 2018.

29 K. Phong, "Food safety violators to face criminal charges", *Saigon News*, 6 October 2017. Available at: <sggpnews.org.vn/law/food-safety-violators-to-face-criminal-charges-70372.html> last accessed on 22 November 2018.

30 Whitebook 2015, chapter 3.1.5: "Legal Framework, Coordination and Enforcement" p. 91; Whitebook 2016, chapter 11 section I: "Food Safety – Importance of traceability and legal enforcement" p. 81; Whitebook 2017, chapter 13 section II: "Food Safety: risk-based food safety management and importance of legal enforcement" p. 106.

31 For more information, please refer to <https://te-food.com/use\_case.html> last accessed on 22 November 2018.

32 Decision 6079/QĐ-UBND dated 21 November 2016 of HCMC People's Committee promulgating regulations on implementation of the plan on management, identification and traceability of pork under the pilot market of food safety in Ho Chi Minh City during the period of 2016 – 2020

33 Decision 3584/QĐ-UBND dated 8 July 2017 of HCMC People's Committee approving the plan on management, identification and traceability of poultry under the pilot market of food safety in Ho Chi Minh City

34 Decision 3583/QĐ-UBND dated 8 July 2017 of HCMC People's Committee approving the plan on management, identification and traceability of eggs under the pilot market of food safety in Ho Chi Minh City

35 V. Yen, "HCMC says will trace pork origin more stringently", *Saigon Times International*, 23 October 2017. Available at: <english.thesaigontimes.vn/56696/HCMC-says-will-trace-pork-origin-more-stringently.html> last accessed on 22 November 2018.

products. It provides a reliable system that will allow stricter enforcement of regulations and decrease the impact of corruption. The minimal cost of the system is paid for by users rather than the authorities, or reliance on international support. For this program to be successful, the authorities should accept, support and implement it at all Government levels. It would also be helpful if an annual report could be published detailing how issues will be followed-up. In this light, it is also important that authorities prevent the sale of products that are suspected of being unsafe while waiting for test results. This is currently not possible and therefore we suggest drafting regulations to make it possible.<sup>36</sup>

In 2017, a problem was detected in Europe with the use of a pesticide which resulted in eggs becoming unsafe. This caused large financial losses for many companies. However, the fact that the tainted eggs were traceable prevented a negative impact on human life and resulted in the arrest of the persons responsible.<sup>37</sup> This incident shows that it is sometimes not easy to control food safety. But, with the right tools in place, the issue can be addressed efficiently and quickly with the responsible persons held accountable. The Vietnamese Government could learn from this and other international best practices to avoid making the same mistakes, and introduce these in Vietnam where not applied yet.<sup>38</sup> As we mentioned in the previous edition of the Whitebook<sup>39</sup>, referring to the report of the World Bank Group<sup>40</sup>, food safety should be assessed in a risk-based manner. In our view, this can be best achieved through involving the producers and ensuring their commitment to supplying safe food products.

### Potential gains/concerns for Vietnam

The introduction of an identification and recording system containing a traceability component would make it easier to find and punish offenders. This would ensure that fewer offences occur as there would now be a more effective system to identify the people responsible. At the same time, food safety standards would rise and the reputation of Vietnamese products would increase both nationally and internationally. Increased food safety would lead to more export opportunities for Vietnam to the EU and other markets.

### Recommendations:

- Finance the setting up of an identification and recording system containing a traceability component;
- Start with a product, such as pig, in which Vietnam is competitive and has export potential;
- Roll-out the HCMC pilot nationally;
- Raise awareness of the importance of implementing the HCMC program to increase the reputation of Vietnamese products, food safety and exports;
- Encourage the Government at all levels to accept, support and implement this system;
- Introduce an annual registration fee for this system and a fee per animal, or follow the HCMC finance model;
- Draft regulations to prevent the sale of products that are being examined and tested;
- Look at international best practice for traceability and use this where necessary to improve the situation in Vietnam; and
- Improve food safety through involving the producers and committing them to supply safe food products.

36 K. Phong, "Food safety violators to face criminal charges", *Saigon News*, 6 October 2017. Available at: <[sggpnews.org.vn/law/food-safety-violators-to-face-criminal-charges-70372.html](http://sggpnews.org.vn/law/food-safety-violators-to-face-criminal-charges-70372.html)> last accessed on 22 November 2017. See 32. "Food safety violators to face criminal charges", *SGGP News*, 6 October 2017. Available at: <[sggpnews.org.vn/law/food-safety-violators-to-face-criminal-charges-70372.html](http://sggpnews.org.vn/law/food-safety-violators-to-face-criminal-charges-70372.html)> last accessed on 24 February 2019.

37 "15 EU countries, Hong Kong and Switzerland caught up in tainted egg scandal", *RTE*, 11 August 2017. Available at: <[www.rte.ie/news/europe/2017/0811/896628-eu-commission-eggs/](http://www.rte.ie/news/europe/2017/0811/896628-eu-commission-eggs/)> last accessed on 22 November 2018.

38 H. Nguyen-Viet, T.T. Tuyet-Hanh, F. Unger, S. Dang-Xuan & D. Grace, "Food safety in Vietnam: where we are at and what we can learn from international experiences", *NCBI*, 16 February 2017. Available at <[www.ncbi.nlm.nih.gov/pmc/articles/PMC5314466/](http://www.ncbi.nlm.nih.gov/pmc/articles/PMC5314466/)> last accessed on 24 February 2019.

39 Whitebook 2017, Chapter 12: "Food safety: Risk-based food safety management and importance of legal enforcement" p. 106.

40 "Vietnam food safety risks management: challenges and opportunities: technical working paper", *World Bank Group*, 28 March 2017. Available at: <[documents.worldbank.org/curated/en/415551490718806138/pdf/113828-REVISED-WP-Technical-working-paper-EN-FINAL.pdf](http://documents.worldbank.org/curated/en/415551490718806138/pdf/113828-REVISED-WP-Technical-working-paper-EN-FINAL.pdf)> last accessed on 24 February 2019; "World Bank releases report on food safety in Vietnam", *Vietnam Net*, 28 March 2017. Available at: <<http://english.vietnamnet.vn/fms/society/175339/world-bank-releases-report-on-food-safety-in-vietnam.html>> last accessed on 24 February 2019.

- Traceability solutions need to, start small but have global ambitions, and must also be designed to restore trust and facilitate the work of farmers, not as a constraint which is important for user adoption.

## II. REGISTRATION PROCESS - INITIAL AND RENEWAL

Relevant Ministries: Ministry of Agriculture and Rural Development (MARD), Ministry of Health (MOH), Ministry of Industry and Trade (MOIT), Ministry of Science and Technology (MOST)

### Issue description

Companies which want to sell products in Vietnam must register the products at MARD; the requisite processes are slightly different if companies are under the Livestock or Fisheries department. The processes prescribed by the law and circulars under MARD<sup>41</sup> aim to maintain a high quality level within the animal feed sector in Vietnam. In addition to the length of the process, the complexity and uncertainty of the rules and registration procedures do not often allow for a clear application of the directives and respective follow-up. This leads to significant delays in the provision of innovative products in Vietnam. We would like to suggest that processes be simplified and transparent, especially for companies that have been operating in Vietnam for a long time. Products from countries recognised for their know-how and seriousness in terms of food safety should enjoy special treatment. We hope that this is realised under the EVFTA.

Decree 39<sup>42</sup> has improved the legal framework on management of animal feed in Vietnam. However, we still see that the length of the registration is variable, but never lasts less than 6 months and may reach over one year if communication is not smooth between companies and MARD. Usually, a lot of exchanges happen in order to understand and respond properly to the requests. Once done, the process will allow an enterprise to import a product for 5 years, after which the certificate must be renewed in order to continue importing.<sup>43</sup> The processes for initial and renewal registration are quite burdensome, and many companies are worried about the lack of transparency of the whole process, leading to delays in the availability of products to the Vietnamese market.

### Potential gains/concerns for Vietnam

If this issue could be addressed, it would be a 'win-win' for both Vietnam and the companies. Vietnam and Vietnamese farmers and producers would have quicker access to new innovative products and solutions, while companies could sell their products faster in the market. As explained in the Guide to the EVFTA prepared by the EU Delegation about the single entity concept: "The purpose of this Chapter is to set up a single and transparent procedure for the approval of EU exports of food products into Vietnam." We fully support this as it will accelerate the approval of EU export applications and avoid discriminatory treatment. Regionalisation is also important as it means that in case of diseases, trade restrictive measures shall only be applied to the affected area(s), while the rest of the country can continue to export. Finally, the principle of pre-listing is important to facilitate imports because prior individual inspections of exporting establishments are no longer required and will therefore speed up the process.

Pre-listing means that once Vietnam has approved a category of food product from the EU and is confident about the capacity of the competent authority of that particular EU Member State to control the compliance of EU food safety requirements, imports from all the other establishments submitted by that country will automatically be allowed. This does not mean that Vietnam gives up control of food safety checks, because if there are doubts about a specific establishment, Vietnam could still undertake an inspection visit but – as stated in the EVFTA – the costs of such an inspection should be borne by Vietnam. We also believe that the to-be-established SPS Committee will help to address some of the current issues caused by the existing division of responsibility under the three Ministries.

41 Decree 08/2010/ND-CP dated 5 February 2010 of the Government on Management of animal feed and its Guiding Circular 66/2011/TT-BNNPTNT dated 10 October 2011 - amended by Circular 50/2014/TT-BNNPTNT dated 24 December 2014, Circular 29/2015/TT-BNNPTNT dated 4 September 2015 and Circular 20/2014/TT-BNNPTNT dated 26 June 2014.

42 Decree 39/2017/ND-CP dated 4 April 2017 of the Government providing the regulatory framework for animal feeds and aqua feeds

43 Annex 4 of Circular 66/2011/TT-BNNPTNT dated 10 October 2011 of the Ministry of Agriculture and Rural Development (modified by Circular 50/2014/TT-BNNPTNT), application for re-registration of animal feed permitted for sale in Vietnam.

**Recommendations:**

- Create a one-stop shop for products dedicated to animal nutrition, regardless of species.
- Lighten the registration process – possibly using an online platform - especially when products are registered and freely sold in the country of origin.
- Effectively prepare for the implementation of the SPS commitments under the EVFTA upon day one of entry into force. Recognise the EU as a single entity and put in place a single and transparent procedure for all agro-food imports from the EU, irrespective of the EU Member State. This could be done through a specific circular or decision covering EU imports.

**III. FERTILIZER LAW**

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 Relevant Ministries: Ministry of Agriculture and Rural Development (MARD), Plant Protection Department (PPD).  
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**Issue description**

We believe some new requirements in Decree 108<sup>44</sup>, particularly in terms of nutrients analysis and product development, are not fully realistic and we would suggest that these are reviewed.

Potassium tolerance in NPK (compounds and blends)

While nitrogen and phosphorus local tolerance have remained at 90 per cent, the new Decree is now different for the potassium (K<sub>2</sub>O) tolerance levels.

K<sub>2</sub>O is now separated into two cases:

- If the content of K<sub>2</sub>O in NPK fertilizer is ≥ 10%, the tolerance level is 97% (- 3%)
- If the content of K<sub>2</sub>O in NPK fertilizer is ≤ 10%, the tolerance level is 93% (- 7%)

Technically, such levels of tolerance are extremely challenging to handle for compound NPKs as well as blended NPKs. To reach those levels, production may have to 'overdose' and this would have significant cost impacts.

New product development and trial requirement

Before launching a new product in the market, the new Decree now requires 1- to 2-year trials as part of the NPK blend product registration. In our view, fertilizers are made of nutrients of which the effects on the plants/crops are already well known from different scientific results. One product can be applied on many different crops, and the results will be different. Also, there is no 'residue' impact from fertilizer versus pesticides.

**Potential gains/concerns for Vietnam**

While we need to control the quality of the fertilizers used in Vietnam, those new requirements in particular strongly challenge the production in terms of cost, and this would impact Vietnamese farmers. Also, it can slow down the development and availability of new technologies and innovations in the market.

**Recommendations:**Potassium tolerance in NPK

We suggest reviewing tolerance levels of K<sub>2</sub>O and recommend not to differentiate between the K<sub>2</sub>O levels in the products in order to harmonise K<sub>2</sub>O tolerance to 90 per cent or 93 per cent at most for all NPKs.

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<sup>44</sup> Decree 108/2017/ND-CP dated 20 September 2017 of the Government on fertilizer management

### New product development and trial requirements

We propose not to do field trials, but rather focus on physical and chemical checks/analysis as part of the registration process.

### Other recommendations

- Oxide form of secondary nutrients in NPKs: For NPKs, we propose to restore the declaration of Calcium and Magnesium values to oxide forms (CaO, MgO) as before. Farmers and dealers have been familiar with this oxide form for a long time, instead of elemental forms (Ca, Mg). This change is creating confusion at farmer and dealer levels. This will also harmonise secondary nutrients declaration with Calcium Nitrate products as this product uses oxide forms.
- Moisture analysis: We recommend moisture analysis methods should follow international standards like the International Fertilizer Association (IFA). The use of Vacuum Thermogravimetric (heating method, thermal method) to measure the moisture of fertilizers that contain thermally labile substances such as Magnesium Sulphate is not recommended by IFA. Results from this method will not match with international producers' specifications. The suitable method, recommended by IFA in this case, is the chemical reaction method.
- Product sampling at market: The market surveillance units belong to MOIT and are organised from central to local levels.<sup>45</sup> The analytical labs are accredited by MARD, usually at the national level, such as Quatest 3 and Vinacontrol. There are two inspection organisations/units allowed to do inspections in the market including the Department of Agricultural & Rural Development and Market Management Unit at provincial and district levels. However, there is almost no link between these two organizations.

When the market surveillance unit takes samples of fertilizer in the market, the relevant company is not informed, unless the analysis results are not in accordance with specifications. We would suggest a few adjustments in order to make the surveillance activity more transparent and accurate:

- The surveillance unit must inform the staff (sales or agronomists) of relevant fertilizer companies to be present at the time of sampling.
- The Government (with the support of fertilizer companies) should train the dealers and the surveillance staff about the sampling method so they can all monitor the sampling process.
- Re-tests should be allowed if requested by the companies.

## ACKNOWLEDGEMENTS

Food, Agri and Aqua Business Sector Committee

<sup>45</sup> Ordinance 11/2016/UBTVQH13 dated 8 March 2016 of Standing Committee of National Assembly on market surveillance