INTRODUCTION
This Position Paper reflects the concerns and issues affecting the international community in Vietnam involved in Agribusiness. Inputs for this paper have come from the members of the Vietnam Business Forum (VBF) Agribusiness Working Group, the International Finance Corporation IFC) and the Food, Agri and Aqua Business Sector Committee (FAASC) of the European Chamber of Commerce in Vietnam. I would like to thank them all for their time, effort and contributions.

Several of the issues have been previously brought to the VBF’s attention by this Working Group but they are raised here again because in our view they have not been (properly) addressed or are still not resolved. This year we have added a part on Food Safety as this is an important topic in the light of the various Free Trade Agreements that have been reached. The Government is taking various actions, but considering the high number of rejections of Vietnamese agricultural products at the border of for example the United States, Japan, Australia, and the European Union, it apparently is not enough.¹

The Position Paper is divided into 4 sections: comments on the Draft Decree on Policies promoting Foreign Investment in Agriculture, Modernisation and Sustainability of the Agriculture Industry in Vietnam, other Agricultural related issues, such as Intellectual Property Rights, Pesticides and Fertilisers and we conclude with Food Safety. You will find first an executive summary containing a short overview of the various issues in these sections as well as our recommendations related to that part. After that you will find a detailed description of these issues as well as what the impact is, but also how we believe this can be addressed.

¹ See Meeting Standards, Winning Markets, Trade Standards Compliance 2015, UNIDO (www.unido.org/tradestandardscompliance.html)
EXECUTIVE SUMMARY

1. Draft Decree on Policies promoting Foreign Investment in Agriculture

In our view the Draft Decree is still quite general and lacks specifics in a number of places. At the same time there is subjective decision-making built into the Decree. Further to this, the Draft Decree applies only to foreign investment. We wonder why that is the case when Vietnam has a unified legal system for both domestic and foreign investment (law on Investment 2014). Important is also that with regard to the agricultural sector, the Ministry of Agriculture and Rural Development (MARD) is implementing the Agricultural Restructuring Plan (ARP) which will focus on enhancing private sector investment both domestic and foreign.

The Draft Decree also issues a list of sub-sectors and refer to the list of locations entitled to incentives. However, it is not clear what the logic is for providing incentives for such activities and locations. We suggest MARD conducts a formal investor survey to define the effectiveness of the current incentives as well as to determine objectively which incentives are really decisive to attract foreign investors.

Finally, the Draft Decree mentions an investment promotion arrangement which in our view is very vague and therefore meaningless (Chapter IV). We would like to encourage MARD and/or the Task Force (on private sector investment) to define what specific services and assistance they will offer to an investor.

Recommendations
- Make the Draft Decree more specific;
- Link to investment promotion;
- Enlarge the scope of the Draft Decree and do not limit it to foreign investment;
- Conduct a formal investor survey to define effectiveness of current incentives to attract foreign investors; and
- Define and specify what specific services and assistance will be offered to an investor.

2. Modernisation and Sustainability of the Agriculture Industry in Vietnam

An issue that prevents Vietnam from being an overall key-player on the agricultural export market is the lack of sustainability, part of which is stemming from the fact that and that there are mainly small-holders in agriculture. The latter one prevents
the use of machines – which can improve the quality and quantity – as the investment costs cannot be borne by a single small-holder and the size of land is too small to use machines. The Government has realised that this issue needs to be addressed and is taking measures to attract foreign direct investment to modernise and mechanise agriculture. It is developing hi-tech agricultural areas and putting programs in place which will make borrowing money to modernise and mechanise farming much easier.\(^2\) We believe also that the Government should create incentives that will encourage farmers to cooperate. Businesses can also play a role by introducing incentives to encourage farmers to further cooperate. We are aware that mechanisation will increase unemployment in rural areas as many people depend on agriculture for their daily income and we support the idea of building factories in rural areas in order to sustain employment in the concerned areas. In order to put this strategy and these programs in place, money is needed. In recent years investment in agriculture has not been in line with the contribution agriculture made to the GDP. We fully support the view laid down in the Vietnam country paper for the FFTC-NACF seminar, that investments in agriculture are important to ensure food security and sustainable agricultural development in Vietnam.\(^3\) We also believe that a modernised and mechanised agriculture system will result in an improved quantity and quality of agricultural produce. In order to achieve this it would be helpful if a level-playing field would be created with regard to all aspects of doing business in the agricultural sector for foreign companies. Especially taking into account the expertise and knowledge these companies can bring to Vietnam which will help to upgrade the sector. In this aspect it is also important to consider the way the agricultural sector is structured and what kind of products are exported. We believe there is a need and a possibility to do this. Considering the various initiatives we believe the Government is already aware of this. It is also important to open up markets to export Vietnamese products, not only countries like the United States, Japan or the European Union, but also neighbouring countries. Currently Vietnam imports many products from for example Thailand or China, but the export to these countries has not been fully utilised yet. Market access to these and other countries for Vietnamese products needs to be negotiated.

Even if the level of investment by the Government is not enough, it is still possible to modernise and upgrade through Foreign Direct Investment (FDI) and Private-Public

\(^2\) See (vietnamnews.vn/society/263713/farmers-reap-modern-farming-gains.html)

\(^3\) See Vietnam country paper for the FFTC-NACF International Seminar on Threats and Opportunities of the Free Trade Agreements in the Asian Region, held in Korea on 11-15 September 2013, (www.agnet.org/htmlarea_file/activities/20110719103351/2007013101.pdf)
Partnerships (PPP). To attract more FDI there are several challenges that need to be overcome, even though the before-mentioned Draft Decree will help when our recommendations have been taken into consideration. It is for example necessary to create clear and transparent trade policies and administrative procedures. Furthermore, it is important that equal access is given to small and large-scale farmers and enterprises. Finally, it should be noted that the tax system is not as competitive as in the countries in the region.\textsuperscript{4} We are pleased with the view of the President that some regions should try to attract FDI and use hi-tech farming techniques to develop the sector.

With regard to further developing the PPPs we believe that it is important to realise that in order to continue and maintain this success. In our view the Government should put a monitoring system and right policies in place to ensure that best practices can be applied by the farmers in that aspect. We fear that if this does not happen, there is no level-playing field for all companies involved. The lack of concrete Government policies will in our view result in companies being discouraged to invest in a PPP despite the positive results of the PPP.

Another way to improve sustainability of agriculture is providing crop nutrition solutions for growers by the companies. One of the common activities of companies active in that industry is organising farmer meetings. These meetings are aimed at transferring advanced technologies to farmers and help them to understand more about integrated crop nutrient management which in return will increase crop yield and quality as well as income and economic return for the growers. The farmer meetings are usually organised at the village level. However, prior to handling of farmer meetings, a company needs to get permission from the Department of Industry and Trade (DOIT) at provincial level. We believe that the implementing process can be simplified and harmonised, because to obtain permission every time for organising these farmer meetings is quite burdensome and differs per province. There are also some issues with regard to obtaining permission for a foreigner to be active in certain areas. In our view this should be simplified as well. This can for example be done based on the fact that a company already has a distribution license. We also believe that in case a foreigner has a valid work permit or resident card the requirement to obtain permission should be abolished. Finally, we have experienced that occasionally governmental officials and industries are not fully

\textsuperscript{4} See (ap.fftc.agnet.org/ap_db.php?id=106&print=1)
aware of the implications of new regulations. We therefore believe it would be helpful to organise trainings in to increase an effective implementation process.

Recommendations
- Upscale the agriculture sector;
- Encourage cooperation;
- Continue to create easier access to financing for farmers and put incentives in place to stimulate farmers who are willing to modernise and mechanise;
- Support farmers leaving the profession to find another job by encouraging construction of factories in rural areas;
- Encourage development of more best practices or PPP;
- Develop a monitoring system and right policies in place to ensure that best practices can be applied by the farmers;
- Create a level-playing field in all aspects by:
  - giving equal access to financing in and outside Vietnam;
  - giving equal access to raw materials in and outside Vietnam;
  - providing equal treatment in obtaining a business license; and
  - providing equal treatment with regard to other sector-specific requirements.
- Shift from exporting commodities and low quality products to high-end products;
- Transform by-products into attractive products for export;
- Diversify products and give the same support as is done for coffee, tea, pepper, seafood and rubber;
- Encourage investment for production, the post-harvest phase, and the processing and preserving sectors;
- Create market access in neighbouring countries for Vietnamese products.
- Simplify and harmonise procedures to obtain permission to organise farmer meetings;
- Simplify entry permission for foreigners of companies that have a distribution license;
- Abolish the need to obtain an entry permission for a foreigner who has a valid work permit or resident card; and
- Organise trainings for Governmental officials and industries to increase the effectiveness of the implementation process of new regulations.
3. Quality Agricultural Inputs including Pesticides and Fertilisers
A recent report has indicated that 50% of fertilisers by authorities were off-specification or sometimes even fake. This report indicates that the loss for the economy is estimated at USD 800 million. Counterfeit and illegal crop protection products are also on the rise, creating devastating losses for farmers and the agricultural industry. Counterfeit pesticides are rarely tested and may contain unknown toxic impurities which may pose risks to farmers and consumers’ health. Furthermore counterfeit products can severely damage crops or can lead to rejection of the produce by food companies due to unwanted residues. All these factors can put the income of farmers in jeopardy. We believe that stricter registration and enforcement will allow increasing the potential of Vietnamese products and exports to the EU market. This in return will increase the position of the Vietnamese farmers as well.

In our view the lack of leadership activities ensuring safe and proper usage of inputs and low quality inputs distributed to farmers lead to environmental and safety issues. Good quality inputs are not affordable to small farmers so they cannot compete with larger companies. However, the negative impact of it is considerable. Proper use of good quality inputs will reduce production cost, improve crop productivity/quality and limit the impact of fertiliser usage on environment. At the same it is important that awareness is created about the risk of using fake fertilisers and pesticides for human’s health as well the impact it has on the reputation of Vietnamese products for export. Products are often rejected at the border of other countries for import as they contain too high levels of pesticides or other harmful chemicals (as a result of using the wrong or fake products). We believe improvement can be achieved by introducing training programs as well as by sharing the latest information and technology with farmers. It would also help if a clear distinction is made between NPK fertilisers and other chemicals with regard to the HS code. We also think that companies that produce or import high-quality products which are safe for the environment and the population should be treated differently with regard to licensing requirements. Finally, we would like to make some remarks on the new regulations on fertiliser management. They have brought a new wind to the fertiliser market. The aim of these new law and regulation are to restructure the fertiliser market in Vietnam and gradually eliminate fake and poor quality products from the market. We welcome this but the implementation needs improvement as sometimes the result is that companies with good products end-up in having
difficulties. Therefore it is important to use the correct sampling method to avoid unreliable and ‘false’ results when on the market.

**Recommendations**

- Strengthen IPR protection measures through strict implementation of legal action against counterfeiters and enforcement at the market place; and seize illegal products from the market;
- Raise awareness through Governmental mass media communication explaining the risks for farmers, the population and the economy if farmers use (cheap) fake inputs;
- Apply stricter regulations and market control on poor quality and fake fertilisers;
- Embed IPR requirements in the registration framework to ensure IPR protection starts from the registration point;
- Implement a strict review of trademark registrations, and enforce removal of me-too’ brands, logos, visuals etc.
- Address corruption at the local level and make it more difficult for small input companies to be opened and closed;
- Introduce education programs to promote balanced nutrition, appropriate product usage protocols to reduce over-usage of inputs;
- Establish a training program to encourage applying balanced crop nutrition in 4-R concept (right product, right rate, right time and right place) as well as to tackle the situation of wrong and/or over-usage of inputs; from that will reduce production cost, improve crop productivity/quality and limit the impact of fertilizer usage on environment;
- Update the knowledge of extension agents on crop nutrition and plant protection, and the impact of agri-inputs on the environment in order to implement a training program effectively;
- Encourage transfer of new knowledge and new research results to farmers as soon as possible;
- Promote a level playing field by removing import tax for quality compound NPK fertilisers (fertilisers produced with advanced technology, good performance in the field, safe to human health, with non or less impact on the environment, etc.) to encourage import, /production and use of these products;
- Differentiate fertilisers from generic chemicals and allocate an appropriate HS code to fertilisers to avoid confusion on levy;
- Ensure mandatory leadership programs in all companies with regard to training on safe crop protection product usage;
- Establish a supporting stewardship infrastructure for safe crop protection product usage;
- Develop policies to encourage investors to develop quality infrastructure to enable testing, and monitoring of the quality of farm output.
- Remove the “one-time license” requirement for companies whose business license already include import rights
- Remove the requirement that a confirmation letter from the bank is needed for obtaining permission to import fertilisers into Vietnam;
- Focus on checks on the internal, local market to control the input market in Vietnam;
- Make a distinction in companies that have a license for local production and distribution and those that only have a distribution license;
- Set up technical barriers to eliminate the use of high-risk pesticides which can harm human beings and the environment;
- Encourage responsible and ethical management and use of (good quality and safe) pesticides following good practices in selling products;
- Encourage proper labelling of pesticides in compliance with the provided instructions;
- Establish regulation with specific criteria to encourage the introduction of new-class crop protection products with advanced techniques and technologies;
- Put qualified education programs in place for farmers to reiterate the importance and benefits of proper use of pesticides and following instructions on labels.
- Encourage using the correct sampling method to avoid unreliable and ‘false’ results; and
- Put in place guidelines which will help following the correct sampling method.

4. Food Safety
Food safety is a major issue for the agricultural sector but also for the population. As the World Health Organisation (WHO) writes: “Unsafe food has been a human health problem since history was first recorded, and many food safety problems encountered today are not new. Although governments all over the world are doing their best to improve the safety of the food supply, the occurrence of food-borne
disease remains a significant health issue in both developed and developing countries."  

In the first nine months of 2015, the number of reported food poisoning cases was 129, 3,436 people got sick and 20 people died.

Food safety issues not only cause people to get sick, but they also limit the export possibilities for Vietnam and damage the reputation of Vietnamese products. In 2014 trade commissions in the European Union (EU), Japan and the United States received many warnings about seafood shipments containing antibiotic residues exceeding the permitted level. In 2015 various issues with exports have been reported: exports to Saudi Arabia, the United States, and Japan. From January till now the Rapid Alert System for Food and Feed (RASSF) of the EU rejected 21 products coming from Vietnam at the border of one of the EU member states. 17 other products were stopped and further information is needed before a decision can be taken. In light of the upcoming signing and ratification of various FTAs, it is important to detect multi-residue levels (MLRs) as competition will be fiercer.

It is also worth realising that the high levels could be caused by counterfeit and illegal ingredients or raw material which on top of damaging the reputation of Vietnamese products also may pose risks to farmers’ and consumers’ health. Sometimes it also involves products that are already forbidden for a long time in other countries, but they can still be used in Vietnam; because they are not forbidden yet, regulations are not clear, or they are used due to lack of enforcement.

It is well-known that inadequate post-harvest handling, storage and distribution impact the rate of success of producing countries and impacts food safety. This could partly be achieved by introducing a Food Safety Agency with one ministry responsible, harmonisation and coordination of laws and regulation. This would

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5 “Five keys to safer food manual” by the World Health Organisation, see [http://apps.who.int/iris/bitstream/10665/43546/1/9789241594639_eng.pdf?ua=1]  
6 See [tuoitrenews.vn/business/28078/vietnam-produce-exports-should-meet-food-hygiene-safety-requirements-in-overseas-markets-ministry]  
8 See [tuoitrenews.vn/society/26193/toxic-tet-kumquats-highlight-vietnam-s-pesticide-problem]  
9 Agribusiness and Food Safety Chapter of the Food, Agri and Aqua Business Sector Committee in the White book 2015 of the European Chamber of Commerce, paragraph 3.1.5 on legal framework, coordination and enforcement.  
mean less administrative hassle and a more efficient quality and safety control, which would enable greater stakeholder involvement.

We know that the Government is aware of these issues and is taking initiatives to address them. In 2013 and 2014, several regulations have entered into force.\textsuperscript{11} In particular, Joint Circular 13/2014/TTTLT-BYT-BNNPTNT-BCT (Joint Circular 13) is a significant step forward as it intends to avoid overlapping in food management by the various Ministries, but still this does not eliminate potential confusions. Also, considering the still occurring issues, it is not enough yet.

The current system makes it also difficult to have consistency in the process of drafting, implementing and application of the regulations. It becomes even more complicated because at a local and provincial level the regulations are sometimes interpreted in different ways or allow different ways of dealing with for example samples. It can happen that inspectors come check on three, maybe even four occasions and they check the same or different things, contra-expertise is sometimes possible, but not always. This all means that it is quite costly and time-consuming for both companies and government authorities. This will probably result in higher consumer prices, but not necessarily higher food safety. We believe that there are various ways to obtain ones goal. The quality of laboratories and testing methods are also important to improve food safety. We also believe that all companies should be treated in the same way and the control of products should be the same before they are allowed to enter Vietnam. Practice has shown this is not always the case. A recent case also has shown that improvement is necessary, because two tests by different testing agencies for the same product had different results, and were therefore inconclusive as to whether the product was safe or not. Sometimes it is also impossible to perform a test; or products that – would improve the visibility of Vietnamese products -can be legally used within the EU but cannot be imported into Vietnam. This means that the locally cultivated fruit is – compared to fruits produced elsewhere and treated with this wax – less attractive for export. In our view food safety issues can be addressed in various ways, such as a good legal framework, a traceability-system, a centralised Food Safety Agency, IPR, pesticide control and management, good testing facilities and effective legal enforcement.

\textsuperscript{11} For example: Decree 178/2013/ND-CP dated 14 November 2013 on sanctions of administrative violations on food safety, Decree 119/2013/ND-CP dated 9 October 2013 on sanctioning of administrative violations in the domains of veterinary medicine, livestock breeds, and livestock feeds (Decree 119) and Joint Circular 13/2014/TTTLT-BYT-BNNPTNT-BCT dated 9 April 2014 on allocation of tasks and cooperation among regulatory agencies in food safety.
Note that the Food Safety Agency could be involved in various ways in the supply chain.

**Recommendations**

- Further clarify the scope of Joint Circular 13;
- Establish a working group consisting of representatives of relevant ministries/agencies and organisations active in the food, agri and aqua business (such as the Agribusiness Working Group of the VBF and the Food, Agriculture and Aquaculture Business Sector Committee of EuroCham);
- Amend the Food Law and create a centralised Food Safety Agency with one Ministry responsible as soon as possible;
- Assign the following tasks to the Food Safety Agency:
  - Inspection, certification and control in relation to import, export and transhipment of ingredients, raw material and food products
  - Food testing and certification;
  - Food labelling and advertisements;
  - Reporting on food alerts related to the food supply chain including pesticide, fertiliser, feed, etc.
  - Licensing and registering food traders and establishments, food processors and food warehouse;
  - Providing education and trainings on food safety and food safety awareness;
  - Assistance in developing best practices related to food safety; and
  - Organisation of inspections and providing input for criminal investigations related to feed and food safety.
- Incorporate existing structures in the Food Safety Agency in order not to lose existing knowledge and experience;
- Cooperate with neighbouring countries to address cross-border food safety issues;
- Encourage companies to introduce a traceability system;
- Enforce existing legislation on traceability;
- Change the law so that all labs in Vietnam, being local or international, use the same – internationally recognised and standardised – testing methods;
- Promote the VILAS accreditation scheme and use that as the only scheme;
- Take measures to improve the reputation of labs in Vietnam;
- Encourage enforcing the requirements to remain VILAS accredited; Accept results of a (foreign or Vietnamese) lab that is accredited according to international
standards in the same way as test results are accepted for local laboratories without the need to do another test in order to obtain a license or certificate;
- Increase the testing methods available in Vietnam;
- Harmonise the working methods of laboratories and develop best practices;
- Take care that current initiatives are implemented in a harmonised way;
- Reduce red tape when laboratory tests need to be done abroad;
- Amend testing requirements in such a way that a ‘speciation analysis’ is requested for heavy metal;
- Test the ‘species’ of the heavy metals on harmfulness with regard to mobility, bioavailability, and bioaccumulation;
- Encourage upgrading of testing methods and facilities to be in accordance with modern, international standards such as accredited by ISO, AFNOL, AOAC to ensure accurate testing results, prevent any undue delay and/or arbitrary or unjustifiable discrimination;
- Allow importing companies to store frozen food products in their own or neutral storage facilities for quarantine and food safety inspections in order not to break the cold-chain;
- Allow products that can be legally used in other countries, to be imported into Vietnam without additional documents; and
- Enforce existing laws, especially if public health is affected.

We appreciate the opportunity to present these issues at the VBF. In the document we have described our concerns and views, as well as the benefits when our recommendations will be implemented for each of the before-mentioned items. In the full text you will find some further guidance to certain topics in the overview for 2016.
DETAILED POSITION PAPER

In this position paper you will find a detailed description of the issues, how it impacts agriculture, the economy, the population as well as export possibilities for Vietnam as well as our recommendations on how these issues can be addressed.

1. Comments of the Draft Decree on Policies promoting Foreign Investment in Agriculture

We note that the Draft Decree applies to only foreign investment. Vietnam has a unified legal system for both domestic and foreign investment (Law on Investment). In regard to the agricultural sector, MARD is implementing the ARP which will focus on enhancing private sector investment both for domestic and foreign companies.

The Draft Decree issues a list of sub-sectors (Appendix 1) and refers to the list of locations entitled for incentives. It is not clear what the logic for providing incentives for such activities and locations is. In addition, there is subjectivity in the decision-making built into the Decree. This is not good international practice which is defined by transparency and predictability of the criteria and implementation rules. Long-term investment decisions demand policy security and investors will be concerned if some current incentives could be removed over time. With regard to the level and type of financial incentives, global evidence suggests strongly that tax incentives are not effective for investor’s location choice. Similarly, evidence worldwide suggests that resource seeking or market seeking investors, most of whom this Draft Decree is targeting, do not require incentives as they will be more persuaded by the extent of opportunities in the country they seek to exploit. We suggest MARD to conduct a formal investor survey to define the effectiveness of the current incentives as well as to determine objectively which ones are decisive in attracting foreign investors.

The Draft Decree also mentions investment promotion arrangement which is very vague and therefore meaningless (Chapter IV). The Draft Decree mandates that MARD will develop a foreign investment promotion function. Recently MARD has set up a Task Force to coordinate private sector investment promotion. In this case, it is not clear why the MARD would require a separate facility for FDI promotion over and above what the Task Force can achieve and what specific services/assistance an additional facility would offer investors?.
2. Modernisation and Sustainability of the Agricultural Sector in Vietnam

2.1. Small-holders: up-scaling
An issue that prevents Vietnam from being an overall key-player on the agricultural export market is the lack of sustainability, part of which is stemming from the fact that and that there are mainly small-holders in agriculture. The latter one prevents the use of machines – which can improve the quality and quantity – as the investment costs cannot be borne by a single small-holder and the size of land is too small to use machines. The Government has realised that this issue needs to be addressed and is taking measures to attract foreign direct investment to modernise and mechanise agriculture. It is developing hi-tech agricultural areas and putting programs in place which will make borrowing money to modernise and mechanise farming much easier. We are aware that mechanisation will increase unemployment in rural areas as many people depend on agriculture for their daily income and we support the idea of building factories in rural areas in order to sustain employment in the concerned areas. We believe that the Government should create incentives that will encourage farmers to cooperate. Businesses can also play a role by introducing incentives to encourage farmers to further cooperate.

A modernised and mechanised agriculture system will result in an improved quantity and quality of agricultural produce. This in return will put Vietnamese agricultural products on equal footing with products from other exporting countries. We hope that the farmers benefiting from these changes will improve their living conditions and that agriculture will become more sustainable.

Recommendations
- Upscale the agriculture sector;
- Encourage cooperation;
- Continue to create easier access to financing for farmers and put incentives in place to stimulate farmers who are willing to modernise and mechanise; and
- Support farmers leaving the profession to find another job by encouraging construction of factories in rural areas.

12 See at (english.vov.vn/Economy/Agricultural-restructuring-focuses-on-scientific-application-production/286519.vov), (vietnamnews.vn/society/261897/Farmers-reap-benefits-from-innovations.html) and (english.vov.vn/Economy/Why-Vietnams-agriculture-industry-is-unsustainable/287883.vov)
13 See (vietnamnews.vn/society/263713/Farmers-reap-modern-farming-gains.html)
2.2. Small-holders: transferring knowledge through farmer meetings

Since 2014, the management of inorganic fertiliser has been handled by the Ministry of Industry and Trade (MOIT) instead of MARD. Circular 29/2014-TT-BCT dated 30 September 2014 was issued by MOIT regulating the production and trade of inorganic fertiliser. It is understandable that in the transition period several things do not go well yet and need to be improved to support the development of industries.

To provide crop nutrition solutions for growers, one of the common activities that industries usually do is organise farmer meetings. These meetings are aimed at transferring advanced technologies to farmers which help them to understand more about integrated crop nutrient management. This will in return increase crop yield and quality as well as raise the income of the farmers. The farmer meetings are usually held at the village level. Prior to holding these farmer meetings, the industry needs to get permission from Department of Industry and Trade (DOIT) at a provincial level. We understand this regulation but we believe that the implementing process can be improved, as currently obtaining permission to organise farmer meetings is complicated and time-consuming. The issues currently faced are the following. The procedures of permission granting are not clearly regulated and are implemented differently from location to location. The same company needs to prepare different documents to submit to a DOIT depending on the province. In some provinces, a company needs to get permission from 2 different local authorities and has to submit the dossier to the district level to get an additional permission from them after getting permission from the DOIT. We believe this is unreasonable and differs from the practice under MARD, when companies only needed permission from the Department of Agriculture and Rural Development (DARD) at a provincial level. We also have noticed that the officers of DOIT seem not to have completely understood the procedures yet. This causes confusion as because they are not yet able to provide clear answers to questions of the companies. We therefore suggest that trainings for governmental officers as well as companies should be organised when new regulations are published. This will help to have an effective implementation process.

Another burdensome requirement is that a foreigner, even in the possession of a resident permit, can only participate in a farmer meeting after an approval process. Without approval from local authorities, foreigners are not allowed to engage with farmers. We believe that this requirement exists to protect the farmers, which we
fully support. However, it also limits the transfer of knowledge about sustainable agriculture technologies. The process to obtain permission takes quite long and is especially very complicated to organise for overseas persons. This while it is often important to be able to organise a meeting at short notice or on a frequent basis, and sometimes fly-in experts from overseas to inform the farmers about the latest technology and insights. It would help if companies can obtain clear guidance on procedures of permission granting for farmer meeting and these procedures should be harmonised across the country. Return to the practice that only permission from one level (DOIT) needs to be obtained and not two as currently some provinces required. Further to this the time the time to obtain permission for a foreigner to attend these farmer meetings should be shortened for those companies that already have a distribution license and for these foreigners that have a valid working permit or resident card the requirement for entry permission should be abolished.

As in our view farmer meetings are one of the most effective approaches to transfer advanced technologies to farmers, and taking in to consideration that this is a common industry activity, we believe this issue can be addressed as follows and we would like to make the following recommendations:

- Simplify and harmonise procedures to obtain permission to organise farmer meetings;
- Simplify entry permission for foreigners of companies that have a distribution license;
- Abolish the need to obtain an entry permission for a foreigner who has a valid work permit; and
- Organise trainings for Governmental officials and industries to increase the effectiveness of the implementation process of new regulations.

2.3. Climate changes and shift of focus
The agricultural sector is also a vulnerable sector, as climate change and the economic situation have an impact on its output. The vulnerability especially applies to the people working in it. A study of the Institute of Policy and Strategy in Agriculture and Rural Development (IPSARD) and Oxfam shows that the risk ratio for farmers is 70-80% with a profitability ratio of just 20%. Depende on weather conditions and fluctuating prices limits the possibility to increase the export volume

14 See (vccinews.com/news_detail.asp?news_id=30755)
of products such as rice, coffee and tea. At present, Vietnamese products are competitive on price but not on quality, and there is a need, and a possibility, for improvement. Once the focus is not mainly on production, but also on market and consumer needs, there are in our view many opportunities that open up. We believe that the agri and aqua business sector can grow and export more and different products in a sustainable way.

This objective can be achieved in various ways. One way is to shift from exporting mainly commodities and low-end mass production goods, such as cashews, pepper, and coffee to exporting high-quality end manufactured products. This will allow Vietnam to enter other markets and earn more. We are pleased with the initiative for coffee and the plans the MARD has drafted. A second possibility is that instead of only cultivating and selling rice, the husk is used in the energy sector. Yet another way is to diversify the range of export products. Fruits and vegetables are also potential products to export. However, there are some issues that need to be addressed. Government support for these products is needed in the same way as for rice, seafood, rubber, tea and coffee. It is also important to open up markets to export Vietnamese products. In this regard Vietnam should not only focus on markets such as the US, Japan, or the EU, but also neighbouring countries. Currently Vietnam imports many products from for example Thailand or China, but the export to these countries has not been fully utilised yet and is even quite difficult, not to say impossible. Market access to these and other countries for Vietnamese products needs to be negotiated. Furthermore, investments for production, the post-harvest phase, and the processing and preserving sectors are needed, and it is important that farmers and producers will be instructed about food safety and hygiene. We also believe it is necessary to introduce a high logistic level and innovative management scheme. In short, a strategy is needed to upgrade and modernise the value chain, which will improve efficiency, competitiveness, sustainability, product quality and meet consumer demand.

15 See (vccinews.com/news_detail.asp?news_id=30288)
16 See (vccinews.com/news_detail.asp?news_id=30497)
17 See (www.livetradingnews.com/vietnam-works-to-increase-export-value-of-coffee-66189.htm!U_QEsPmSwU)
18 See (vietnamnews.vn/economy/255018/high-tech-agriculture-needs-funding.html)
19 These constraints are laid down in the Vietnam country paper for the FFTC-NACF International Seminar on Threats and Opportunities of the Free Trade Agreements in the Asian Region, held in Korea on 11-15 September 2013. See: (www.agnet.org/htmlarea_file/activities/20110719103351/2007013101.pdf).
20 Note that we mention only a few of the constraints.
21 See (ap.fftc.agnet.org/ap_db.php?id=106&print=1) and (vccinews.com/news_detail.asp?news_id=30501)
Recommendations
- Shift from exporting commodities and low quality products to high-end products
- Transform by-products into attractive products for export;
- Diversify products and give the same support as is done for coffee, tea, pepper, seafood and rubber;
- Encourage investment for production, the post-harvest phase, and the processing and preserving sectors; and
- Create market access to neighbouring countries for Vietnamese products.

2.4. Level playing-field
The findings of the Food Agriculture Organisation of the United Nations (FAO) in its report 'World agriculture: towards 2015/2030, an FAO perspective' are in our view important and still valid, even though they date back to 2003.\(^{22}\) The FAO writes that foreign direct investment (FDI) is the main instrument through which multinational corporations (MNC) expand their reach globally. In that way MNCs can affect production levels and composition, production technologies, labour markets and standards. MNC can also make an important contribution as vehicles of capital, skills, technologies, access to both domestic and export marketing channels, and creation of linkages to the rural economy, for example through contract farming. This is supported by discussions during the plenary session of the International Support Group of the World Bank, about the difficulties and challenges such as investment capital for agriculture, sustainable agricultural development, improved competitiveness and participation facilitation of the private sector in agricultural development.\(^{23}\)

We share and support those findings as it is in our view important to create a level playing field for small, large, local and international companies regardless of legal entity, size and nationality, based on a common interest, and to create and to provide as much as possible: equal access to financing in or outside Vietnam, equal access to raw materials in or outside Vietnam, equal treatment in obtaining a business licence in Vietnam, and equal treatment with regard to other requirements that are related to the sector. This could also attract FDI.

\(^{22}\) Ibid, page 273.
\(^{23}\) See (www.isgmard.org.vn/News.asp?status=1&infoID=756)
Recommendations
- Create a level-playing field in all aspects by:
  - giving equal access to financing in and outside Vietnam;
  - giving equal access to raw materials in and outside Vietnam;
  - providing equal treatment in obtaining a business license; and
  - providing equal treatment with regard to other sector-specific requirements.

2.5. Financing: FDI
Once a strategy has been developed, money is needed to put this strategy in place. In recent years investment in agriculture has not been in line with the contribution agriculture made to the GDP. For example in 2012 agriculture was about 19.7% of GDP, while only 5% of the Government’s total investment was dedicated to the agricultural sector.\textsuperscript{24} We fully support the view laid down in the Vietnam country paper for the FFTC-NACF seminar, that investments in agriculture are important to ensure food security and sustainable agricultural development in Vietnam.\textsuperscript{25} Even if the level of investment by the Government is not enough, it is still possible to modernise and upgrade through FDI and Private-Public Partnerships (PPP). Noteworthy is also that Agribank, a Vietnamese bank, has started a program to finance the introduction of hi-tech agriculture in Vietnam.\textsuperscript{26}

In 2013 the sector only received 0.6% of the FDI invested in Vietnam.\textsuperscript{27} To attract more FDI there are several challenges that need to be overcome. For example it is necessary to create clear and transparent trade policies and administrative procedures. Furthermore it is important that equal access is given to small and large-scale farmers and enterprises. Besides that it should be taken into account that there is often a shortage of high-skilled labour resources in the agricultural sector as industrialisation attracts most young workers in rural areas to industry zones. Finally, it should be noted that the tax system is not as competitive as in the countries in the region.\textsuperscript{28} We are pleased with the view of the President that some regions should try to attract FDI and use hi-tech farming techniques to develop the sector.\textsuperscript{29} And that

\begin{footnotesize}
\begin{itemize}
\item See (vietnamnews.vn/economy/255018/high-tech-agriculture-needs-funding.html)
\item See Vietnam country paper for the FFTC-NACF International Seminar on Threats and Opportunities of the Free Trade Agreements in the Asian Region, held in Korea on 11-15 September 2013, (www.agnet.org/htmlarea_file/activities/20110719103351/2007013101.pdf)
\item See (bizhub.vn/banking/6726/agribank-finances-credit-programme-for-hi-tech-agriculture.html)
\item See (vccinews.com/news_detail.asp?news_id=30755)
\item See (ap.fftc.agnet.org/ap_db.php?id=106&print=1)
\item See (vietnamnews.vn/economy/259037/bac-giang-told-to-attract-fdi-to-agriculture-sector.html)
\end{itemize}
\end{footnotesize}
some provinces, such as Dong Thap, Lam Dong and Son La, have already achieved that objective.\textsuperscript{30}

**Recommendations**

- Continue to create easier access to financing for farmers and put incentives in place to stimulate farmers who are willing to modernise and mechanise; and
- Support farmers leaving the profession to find another job by encouraging construction of factories in rural areas.

### 2.6. Financing: PPP

PPP is another way to attract more investment into the agriculture sector.\textsuperscript{31} Existing PPP projects have boosted agricultural output 2-3 times, and farmers’ incomes have successfully increased with 10-15\%. In this way production chains\textsuperscript{32} can be created that meet international standards, which make it easier to penetrate supermarket chains\textsuperscript{33} and improve sustainability of the sector. Hereafter you will find some examples of PPP projects that have been successful or that are being put in place now; and can be used as best practice for that specific part of the sector. PPP or best practices make it possible to increase the output in the sector in a sustainable way providing the farmers with a higher income. At the same time it increases the quality of the product and this will allow Vietnamese products to be exported easier as they will get a better reputation.

#### 2.6.1 Coffee PPP

As mentioned already, Vietnam is the number one exporter of coffee in the world. Coffee farmers in Vietnam are only smallholders and the number one in the use of fertilisers. This use has a negative impact on the environment, and it does not necessarily mean that they have a better output. If farmers want to improve production, they have to do that in a sustainable manner, using the limited quantity of farmland in an optimal way. This reduces pressure for deforestation, GHG emissions, water loss and loss of biodiversity. In 2010 an initiative was started to improve the coffee output involving the whole coffee value chain. The project is done in the form of a PPP and participants are from the private sector, public sector,


\textsuperscript{32} PPPs can for example help in the processing industry, storage, applying international certification, applying modern packaging technology and traceability systems, applying technology in market information and agricultural product marketing.

\textsuperscript{33} See (vccinews.com/news_detail.asp?news_id=30720)
some associations, so Vietnamese authorities, companies and of course local farmers. The local farmers are engaged as ambassadors to spread the best practices amongst their peer farmers. The result of the project is that the output has increased while the carbon footprint, water usage and quantity of fertiliser have been reduced. Another result of this initiative is also the recently formed Vietnam Coffee Coordinating Board aimed to strengthen Vietnam’s position as exporter of coffee while producing it in a sustainable way.\textsuperscript{34}

In 2009 Minister Coa Duc Phat of MARD embraced the New Vision on Agriculture of the World Economic Forum to reduce the carbon footprint by 20%, increase profit for farmers by 20% and increase productivity by 20% in the coffee production sector.\textsuperscript{35} After 5 years of collaboration between the various partners such as the Government, private (local and foreign) companies, Non-Governmental Organisations (NGO), on sustainable agriculture on coffee many of the objectives have been achieved. The focus was mainly on reducing the carbon footprint and improving water management. The coffee PPP shows indeed a reduction of 50% of the carbon footprint and usage of only 33.3% of the water with the same yield results. However, in order to continue and maintain this success, we believe the Government should put a monitoring system and right policies in place to ensure that best practices can be applied by the farmers in that aspect. We fear that if this does not happen, there is no level-playing field for all companies involved. The lack of concrete Government policies will in our view result in companies being discouraged to invest in a PPP despite the positive results of the PPP.

2.6.2 Milk PPP

A project that has started recently and that is funded by the Dutch Government consists of a cooperation between companies, the Vietnamese authorities, farmers, and a university.\textsuperscript{36} The demand for fresh milk in Vietnam is growing, but the dairy sector in is underdeveloped and around 75% of all dairy products is imported. This means that local dairying must develop to meet this growing demand. However, family-owned farms in Vietnam are very small, with an average of less than 10 cows per farm; and they often lack knowledge and skills. This project is intended to develop the sector in a sustainable way while increasing the production of fresh

\textsuperscript{34} See (www.idhvietnam.com/site/getfile.php?id=227)
\textsuperscript{36} See (www.talkvietnam.com/2014/07/sustainable-dairy-zone-project-breaks-ground-in-ha-nam)
milk, meeting market demands. Within five years three dairy zones will be set up, and each dairy zone will consist of fifty farms with each fifty milking cows. Investments are made to make dairying at family-owned farms more professional. At the same time proper infrastructure systems will be setup to guarantee the highest quality milk.

Recommendations
- Encourage development of more best practices or PPP; and
- Develop a monitoring system and right policies in place to ensure that best practices can be applied by the farmers.

3. Good quality Agricultural Input including Pesticides and Fertilisers

3.1 Quality and proper use of agricultural inputs
A recent report indicated that 50% of randomly tested fertilisers by authorities were off-specification and the loss for the economy is estimated at USD 800 million. In addition, there has been a significant increase of fake (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 Good Agricultural Practices (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. 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 and environmentally friendly inputs are not affordable to small farmers as the as they have a 6% import duty compared to other products. This increases the price for farmers and farmers will be inclined to use poor quality inputs or even fake products. This will lead to a risk of limiting crop productivity (or even damaging crop), affecting the produce quality and food safety. Some of these bad quality or fake products can even result in acidified and contaminated soil. There is a risk of increased usage of fertilisers while Vietnam is already one of the highest fertiliser consumers per hectare in the world. The increased usage of low quality crop protection products adversely impacts crop, soil and human health. In our view it is
important to set up technical barriers to eliminate the use of high-risk pesticides which can harm human beings and the environment.

The improper use and application of poor quality pesticides is a key challenge in the food production process. This can adversely affect the health of pesticide applicators and consumers of the agricultural produce, as well as harm the environment. In addition, it can economically affect exported agriculture produce as this can be rejected due to the exceeding of maximum residual levels. It has been reported that the associated dangerous practices are still widespread in Vietnam despite the technical training that a large percentage of the farmers have received from state and non-state actors.\textsuperscript{37} It is said that their practices remain strongly influenced by their traditional routines and experience-based assessments of risks instead of formal technical guidelines. By ensuring safe food production, particularly in the context of pesticide use, Vietnam can increase their export value of agricultural goods, which will increase the inflow of foreign currency. Furthermore, this can help enhance Vietnam’s reputation as a reliable source of safe food for major food importing countries. This will in turn benefit and improve the income situation of Vietnamese farmers.

At the same time it is important that for selling these products good practices with regard to responsible and ethical management and use of (good quality and safe) pesticides are followed. In this respect it is important that pesticides are properly labelled in compliance with the provided instructions. We also believe that a regulation with specific criteria to encourage the introduction of new-class crop protection products with advanced techniques and technologies should be put in place. It is in our view important that education programs are put in place for farmers to reiterate the importance and benefits of proper use of pesticides and following instructions on labels. There should also be education programs to promote the balanced nutrition, appropriate product usage protocols to reduce over-usage of inputs as well as training programs to encourage applying balanced crop nutrition in 4-R concept (right product, right rate, right time and right place). These trainings will also tackle the situation of wrong and/or over-usage of inputs. This will result in reduced production costs but improve crop productivity/quality and limit the impact of fertiliser usage on environment. Further to this it is important to update the knowledge of extension agents on crop nutrition and plant protection,

\textsuperscript{37} P. Van Hoi, Governing pesticide use in vegetable production in Vietnam, see (http://library.wur.nl/WebQuery/wda/1928507)
and the impact of agri-inputs on the environment in order to implement a training program effectively; In this aspect it is important that new knowledge and new research results are transferred as soon as possible to farmers. Finally we believe that the lack of an adequate quality testing laboratory infrastructure and third party investments also limits realising the benefits of better technology usage.

**Recommendations**

- Ensure mandatory leadership programs in all companies with regard to training on safe crop protection product usage;
- Set up technical barriers to eliminate the use of high-risk pesticides which can harm human beings and the environment;
- Encourage responsible and ethical management and use of (good quality and safe) pesticides following good practices in selling products;
- Encourage proper labelling of pesticides in compliance with the provided instructions;
- Establish regulation with specific criteria to encourage the introduction of new-class crop protection products with advanced techniques and technologies;
- Establish a supporting stewardship infrastructure for safe crop protection product usage;
- Put qualified education programs in place for farmers to reiterate the importance and benefits of proper use of pesticides and following instructions on labels;
- Introduce education programs to promote balanced nutrition, appropriate product usage protocols to reduce over-usage of inputs;
- Establish a training program to encourage applying balanced crop nutrition in 4-R concept (right product, right rate, right time and right place) as well as to tackle the situation of wrong and/or over-usage of inputs; from that will reduce production cost, improve crop productivity/quality and limit the impact of fertiliser usage on environment;
- Update the knowledge of extension agents on crop nutrition and plant protection, and the impact of agri-inputs on the environment in order to implement a training program effectively;
- Encourage transfer of new knowledge and new research results to farmers as soon as possible; and
- Develop policies to encourage investors to develop quality infrastructure to enable testing, and monitoring of the quality of farm output.
3.2 One-time licensing process to import fertilisers
Circular 35/2014/TT-BCT of MOIT dated 15 October 2014 regulates the automatic import license applicable to fertilisers. A company has to apply for a one-time license for each lot of fertiliser it imports, even though a company already has a business license for importing and trading fertiliser in Vietnam. Further to this there is an additional requirement for issuing that one-time license which is to have a confirmation from a specific bank at the time of the importation. In our view the first requirement is unnecessary and only complicating the import without having added value. The additional requirement is in our view unreasonable and also not practical as companies are uncertain what bank they will select for payment to the supplier at the time of importation. It depends on the competitiveness of banks and exchange rates when payment to the supplier is due.

We understand that the Government would like to control mechanisms in place. However, in our view controls should focus on checks on the internal market in relation to for example counterfeits. It should not be done by slowing down the process to import high quality inputs, in particular not for companies that already have a local production and distribution license, and not just a trading license. These procedures are not only burdensome but this process is also quite costly for the companies\(^\text{38}\), due to the required documentation and time. In return this will only increase the cost of the product. These costs do not have an extra value, but only will limit the farmers’ access to these products because of the increased price with as a result a negative impact on health and environmental issues.

**Recommendations**

- Remove the “one-time license” requirement for companies whose business license already include import rights;
- Remove the requirement that a confirmation letter from the bank is needed for obtaining permission to import fertilisers into Vietnam;
- Focus on checks on the internal, local market to control the input market in Vietnam; and
- Make a distinction in companies that have a license for local production and distribution and those that only have a distribution license.

\(^{38}\) Companies have to pay demurrage to the shipping lines as a result of this time-consuming process.
3.3 Tax
Vietnam is already one of the highest fertiliser consumers per hectare in the world. Incorrect use or use of fake products limits the crop productivity and can even damage the crop. It also affects the produce quality and food safety; and finally it can cause acidifying and contaminating the soil which makes the use in the future more difficult. An increased usage of low quality crop protection products adversely impact crop, soil and human health. However, products that are of good quality and environmental friendly input have a 6% import duty compared to poor quality inputs, or even fakes. This high tax increases the price and encourages farmers to use poor quality inputs or even fake products. Besides this there is also a problem with the HS codes, as the one for generic chemicals used to make fertiliser on the spot, is currently the same as the one for fertilisers.

Recommendations
- Differentiate fertilisers from generic chemicals and allocate an appropriate HS code to fertilisers to avoid confusion on levy; and
- Promote a level playing field by removing import tax for quality compound NPK fertilisers (fertilisers produced with advanced technology, good performance in the field, safe to human health, with non or less impact on the environment, etc.) to encourage import, production and use of these products.

3.4 Quality control
The promulgation of Decree 202/2013/ND-CP and relevant Circulars of MOIT on fertiliser management have brought a new wind to the fertiliser market. The aim of these new law and regulation are to restructure the fertiliser market in Vietnam and gradually eliminate fake and poor quality products from the market. We welcome this but the implementation needs improvement as sometimes the result is that companies with good products end-up in having difficulties. To illustrate this we would like to give the following example. Companies are importing high quality fertilisers from for example Europe and have an issue when the Market Control Team inspects the product at retailer shops and it is concluded that the product does not meet the technical regulation standards. If a company makes a complaint, the inspector can make another analysis which sometimes gives even worse results. This situation is very complicated to handle because all official documents required for import, such as the CoA from the plant where it is produced and the analysis

39 Considering that companies distribute their products through local distributors, who subsequently sell to retailers who sell to farmers.
performed by Customs at the port of importation in Vietnam indicate that the products are all within specifications. We believe that the wrong results might be the outcome of the sampling during the inspection process. The samples are taken from one product bag only, while the TCVN 5815 on sampling process requests taking samples from at least five bags. The samples are not taken by a proper tool such as spear and are contained in a market nylon bag instead of a poly-ethylene bag as stipulated in TCVN 5815/2001. There is no reference sample left at the retailer shop as recommended in TCVN. The big difference in analysis of the two labs also raises doubts with regard to the analytical methods used.

As we understand, sampling and analysis of fertilisers are the main concern of fertiliser producers and traders in Vietnam. In our view the following guidelines would be helpful to address and improve the issue as has just been described. Importers cannot be responsible for retail level checks, especially if they do not have representatives on site on that same day. A relevant company representative should be present at the time of sampling to be sure that the sampling process is properly followed. If the company representative or dealer sees that the sampling process is not followed according to the regulations, he can refuse signing the inspection minute. To guarantee that the sample sent to lab for analysis is genuine and intact, after taking the samples and sealed, the one for lab analysis should be sent immediately by post to the lab instead of bringing it to the market control team office and send it later as is currently done. After a second sample analysis, in case the company (producer or importer) still does not agree with the result, they can propose an independent (international) accredited and certified lab can be asked do the analysis and the cost of this analysis would be for the company. Another option would be to take four samples per one inspection instead of three as stipulated in TCVN 5815. On sample is kept at the dealer’s shop and two are brought to the management team office. The company (producer or distributor of the product) will take one sample and send it to an (international) accredited and certified lab for analysis. At the same time the market control team also sends one of the two of their samples to another accredited and certified lab for analysis. After that a comparison between the two lab results will make the results more reliable. In this way there will be a guarantee that analysing methods used are not that different. Those changes will make the issue of sampling and analysing become more reliable and transparent and at the same time the concern of the fertiliser company or trader will be in principle be addressed.
Recommendations
- Encourage using the correct sampling method to avoid unreliable and ‘false’ results; and
- Put in place guidelines which will help following the correct sampling method.

3.5 IPR
Weak enforcement of IPR indirectly causes harm to the agricultural industry in particular and society as a whole. This problem also limits the ability of the industry to drive innovation in the market. Counterfeit and illegal crop protection products are on the rise; counterfeit pesticides are rarely tested and may contain unknown toxic impurities which may pose risks to farmers and consumers’ health. Furthermore, counterfeit products can severely damage crops or can lead to rejection of the produce by food companies due to unwanted residues. All these factors can put the income of farmers in jeopardy. In relation to this, we are pleased with Decree No. 08/2013/NĐ-CP on administrative penalties for producing and trading counterfeit products. However, in our view the penalties should be higher to make it unattractive for offenders to disregard the law.

Recommendations
- Strengthen IPR protection measures through strict implementation of legal action against counterfeiters and enforcement at the market place; and seize illegal products from the market;
- Raise awareness through Governmental mass media communication explaining the risks for farmers, the population and the economy if farmers use (cheap) fake inputs;
- Put in place effective regulatory rules which do not compromise safety and efficacy;
- Put stricter regulations and market control on poor quality and fake fertilisers;
- Embed IPR requirements in the registration framework to ensure IPR protection starts from the registration point; and
- Implement a strict review of trademark registrations, and enforce removal of ‘me-too’ brands, logos, visuals etc.

3.6 Other issues
Some products that are long forbidden in other countries because of health issues can still be used in Vietnam, either because not forbidden yet or existing regulations
prohibiting these products are not enforced. On the other hand products that can be legally used in other countries cannot be imported in Vietnam.\textsuperscript{40} For example, a wax from the EU could be used to better present a locally cultivated fruit destined to be exported. This wax can be legally used within the EU. However, documents needed according to Vietnamese law to approve the import of this by the MOH cannot be obtained from the EU member State because such a document is not issued there. This means that the MOH will not approve, and the locally cultivated fruit is – compared to fruits produced elsewhere and treated with this wax – less attractive for export. If Vietnam accepts products that are approved for use in other countries, Vietnam can export a product with high potential to the EU for example. Vietnamese producers will be able to grow export and compete with fruit exporters in the rest of the world who are allowed to use this product.

**Recommendations**

- Allow products that can be legally used in other countries, such as EU-members, to be imported into Vietnam without additional documents;
- Put in place effective regulatory rules which do not compromise safety and efficacy.

4. Food Safety

4.1 Introduction

Early August the Free Trade agreement between the European Union (EU) and Vietnam was signed. According to Jean Jacques Boufllet, (now former) Minister-Counsellor and head of the Trade and Economic section of the EU delegation to Vietnam, the EU’s quality requirements, especially for food products, are high and Vietnamese firms should move to meet the requirements.\textsuperscript{41} This means that companies need to meet the requirements that are set at a higher level than in Vietnam.\textsuperscript{42} It is expected that more will be exported to the EU as a result of this agreement, which will help to reach the export goal set by the Vietnamese government.\textsuperscript{43}

\textsuperscript{40} See paragraph 3.1.5 in Whitebook 2015 on legal framework, coordination and enforcement.
\textsuperscript{41} See [http://vietnamnews.vn/economy/274021/eu-vn-agree-on-free-trade-after-three-year-talks.html](http://vietnamnews.vn/economy/274021/eu-vn-agree-on-free-trade-after-three-year-talks.html)
However, as the World Health Organisation (WHO) writes: “Unsafe food has been a human health problem since history was first recorded, and many food safety problems encountered today are not new. Although governments all over the world are doing their best to improve the safety of the food supply, the occurrence of food borne disease remains a significant health issue in both developed and developing countries.”

In an opinion poll conducted by Food Industry Asia (FIA) on 16 April 2015, food safety ranked on top as the issue that would have the greatest impact on consumer preference in Asia in 2015/2016. It ended up considerably higher than the other topics.

4.2 Food safety issues in Vietnam

What is food safety or safe food and why is food safety important? Safe food is food that does not make you sick immediately after you have eaten it, but also that does not make you sick in the long run. If food does contain unacceptable levels of hormones, pesticides, certain heavy metals or other chemical ingredients you can become sick only after some time. The WHO defines unsafe food as “food containing harmful bacteria, viruses, parasites or chemical substances and can cause more than 200 diseases – ranging from diarrhea to chronic diseases such as cancer.”

Food safety is still an issue in Vietnam. In the period 2011-2013, the number of food poisoning related incidents decreased. In 2014 about 5,000 people were reported to have been suffering from food poisoning in Vietnam and 16 people died, and this number covers only the ‘official cases of food poisoning that have been reported and registered. In the first nine months of 2015 the number of reported food poisoning cases is 129, 3,436 people got sick and 20 people died. We have seen

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44 ‘Five keys to safer food manual’ by the World Health Organisation.
45 See (foodindustry.asia/food-safety-key-to-consumer-preference-in-asia)
46 ‘Agribusiness and Food Safety’ at Chapter of the Food, Agri and Aqua Business Sector Committee in the Whitebook 2015 of the European Chamber of Commerce.
49 See (vietnamnews.vn/society/276516/20-food-poisoning-deaths-reported-in-nine-months.html)
results of efforts conducted by the Government to improve food safety.\textsuperscript{50} Nevertheless, unsafe food is still a major public health issue in Vietnam, like in other developing countries,\textsuperscript{51} not because of food poisoning, but because of hidden food safety issues caused by the use of forbidden products like hormones, antibiotics, pesticides, etc. which cause health problems for the population in the long term.

4.3 Limitation of export opportunities

Food safety issues not only cause people to get sick, but they also limit the export possibilities for Vietnam and damage the reputation of Vietnamese products. In 2014 trade commissions in the European Union (EU), Japan and the United States received many warnings about seafood shipments containing antibiotic residues exceeding the permitted level. In 2015 there have already been reported various issues with exports to Saudi Arabia, the United States, and Japan.\textsuperscript{52} From January till now the Rapid Alert System for Food and Feed (RASSF) of the EU rejected 21 products coming from Vietnam at the border of one of the EU member states. 17 other products were stopped and further information is needed before a decision can be taken. In 2014 as many as 130 products were not allowed to be imported directly into the EU.\textsuperscript{53} About 51 shipments contained too high levels of chemicals and antibiotics, a sevenfold increase from 7 in 2013. In general the reasons imports were stopped because they contained too high levels of certain heavy metals, bacteria, virus, moulds or other prohibited substances.

4.4 Importance of addressing food safety issues

In light of the upcoming signing and ratification of various FTAs, it is especially important to detect multi-residue levels (MLRs) as competition will be fiercer.\textsuperscript{54} For instance, tariff-related advantages emanating from the FTA will require products to be up-to-standard if Vietnam wishes to increase exports, especially as it will also have further competition from the region. In our view, the quality of seafood and fish exports is quite good but other products such as pepper, tea, and coffee still need quality improvement.

\textsuperscript{50} See (vietnamnews.vn/society/258361/advertising-hygiene-violations-cost-firms.html) and (www.vietmaz.com/2014/08/vietnam-tightens-control-over-imported-agricultural-produces/)
\textsuperscript{51} See (english.tapchicongsan.org.vn/Home/Vietnam-on-the-way-of-renovation/2013/396/Viet-Nam-continues-implementing-national-target-programs-on-healthcare.aspx)
\textsuperscript{52} See (tuoitrenews.vn/business/28078/vietnam-produce-exports-should-meet-food-hygiene-safety-requirements-in-overseas-markets-ministry)
\textsuperscript{53} RASSF portal of EU: ec.europa.eu/food/safety/rasff/index_en.htm
As mentioned before, the fact that Vietnamese products are being rejected for import in other countries damages the reputation of Vietnamese products in general. It might be just one producer or exporter, who does not follow the rules or is not conscious of products not meeting requirements, but the reputation of all Vietnamese products is at stake and all Vietnamese products will be scrutinised in detail. In this aspect it is also important to realise that importing countries often have set a standard that is higher than met by Vietnamese products and higher than required by Vietnam. It is important to address the issues to reach the set export goal of USD 32 billion.

It is also worth realising that the high levels could be caused by counterfeit and illegal ingredients or raw material which on top of damaging the reputation of Vietnamese products also may pose risks to farmers’ and consumers’ health.\(^55\) Sometimes it also involves products that are already forbidden for a long time in other countries, but they can still be used in Vietnam; because they are not forbidden yet, regulations are not clear, or they are used due to lack of enforcement.\(^56\)

Not only managers of food companies worry about food safety, the Vietnamese people also worry about food safety and what it means for their well-being and health.\(^57\) Considering the number of events organised also by the various ministries and agencies, it is clear that food safety is also an important topic for the Government. However, it seems not enough and addressing the issue is important as food safety is said to be the solution to agricultural growth.\(^58\)

### 4.5 Who should address these issues

It is well-known that inadequate post-harvest handling, storage and distribution impact the rate of success of producing countries and impacts food safety.\(^59\) It is also important to have a value/supply chain approach to analyse where the food safety issues occur and how they can be best prevented, as food safety issues can happen in the whole value and supply chain.\(^60\) There have been initiatives to develop best practices in the (value) chain approach, both by the Government and retailers/wholesalers.\(^61\) We believe that a chain-approach is the best way, because it will allow a retailer/wholesaler to steer the process and provide feedback as they

\(^{55}\) See (tuoitrenews.vn/society/26193/toxic-tet-kumquats-highlight-vietnam-s-pesticide-problem)

\(^{56}\) ‘Agribusiness and Food Safety’ Chapter of the Food, Agri and Aqua Business Sector Committee in the Whitebook 2015 of the European Chamber of Commerce, paragraph 3.1.5 on legal framework, coordination and enforcement.

\(^{57}\) See (thediplomat.com/2014/01/vietnam-back-to-organic)

\(^{58}\) See (english.vov.vn/Economy/Food-safety-optimal-solution-to-agricultural-growth/283734.vov)


\(^{60}\) See (aciar.gov.au/files/food_safety_from_farm_to_fork.pdf)

know what their customers are looking for. Retailers/wholesalers could be encouraged to adopt this approach if it will mean they will have an advantage as well. This could partly be achieved by introducing a Food Safety Agency with one ministry responsible, harmonisation and coordination of laws and regulation. This it would mean less administrative hassle and a more efficient quality and safety control, which would enable greater stakeholder involvement.

Value chain approach

Source: Sustainable Food Lab

Several best practices and certifications to address these issues have been developed worldwide and in Vietnam. Fish and seafood producers have been quite successful and are exporting their products. However, in general the possibility to qualify for certification and therefore export is often very difficult and maybe even impossible, considering the mainly small scale and the high costs involved. This approach could start with small steps, to begin with for example by training farmers without the necessity to obtain a certification; but they would work in the same way. The Government can support communities and stimulate farmers to participate. Farmers can also be encouraged to form a farmers’ association. In a report written for a project from the Asian Development Bank can be read that similar associations are quite successful as regular suppliers of supermarkets and are also more likely to receive government support in technical training and quality development than individual farms.\(^{62}\)

The direct cooperation between retailer/wholesaler and producer means that the producer will receive a better price because the middleman has been cut out. It also means that breaks in the cool chain will occur less, products will be of a better quality because of fewer handling steps in between, and food safety will increase. If the final part of the chain has less administrative hassle; it could even mean that prices could go down. The sector will become more competitive and the consumer will be the overall winner of this (value) chain approach development.

\(^{62}\) See [http://mpra.ub.uni-muenchen.de/42591/1/MPRA_paper_42591.pdf](http://mpra.ub.uni-muenchen.de/42591/1/MPRA_paper_42591.pdf), page 11.
However, the Government also needs to be involved, especially at the beginning of the chain with clear legislation and at the end of the chain when it comes to enforcing legislation. We also believe that a centralised Food Safety Agency (FSA) could play a role in addressing food safety issues.

4.6 How to address food safety issues

Food safety issues can be addressed in various ways, such as a good legal framework, a traceability system, IPR, pesticide control and management, good testing facilities and effective legal enforcement.

4.6.1 Legal framework

It starts with a good legal framework and ends with enforcing the regulations. As the Food and Agriculture Organisation writes in its guidelines on food control: “In many countries, effective food control is undermined by the existence of fragmented legislation, multiple jurisdictions, and weaknesses in surveillance, monitoring and enforcement.” We fully understand this as we believe the current legal framework is one of the main issues why it is difficult to have an effective food safety control and enforcement. The content of the Food Law in itself is not the problem, but the fact that at the moment many ministries and government agencies are involved in managing chemical substances and antibiotics as well as the management of food hygiene and safety.

In 2013 and 2014, several regulations have entered into force. In particular, Joint Circular 13/2014/TTLT-BYT-BNNPTNT-BCT (Joint Circular 13) is a significant step forward as it intends to avoid overlapping in food management by the various Ministries, but still this does not eliminate potential confusions. For instance, if a vitamin additive is added to milk, this product will fall under a different Ministry’s competence than just milk, which makes it complicated for the producer. More generally we believe clarification is needed. We are not aware of any assessments on the impact of Joint Circular 13, the issue remains that multiple parties remain involved in the decision-making process with regard to food safety. In our view, this will not be as efficient and effective as having only one responsible entity.

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63 See (www.wpro.who.int/foodsafety/documents/docs/English_Guidelines_Food_control.pdf)
64 Such as the Ministries of Health (MOH), Industry and Trade (MoIT), Agriculture and Rural Development (MARD), Science and Technology (MoST), and Natural Resources and Environment (MoNRE), as well as National Agency for Food Hygiene and Safety, NAFIQAD; see :
(cp.cornell.edu/DPubS/Repository/1.0/Disseminate?view=body&id=pdf_1&handle=dsns.gfs/1265385755)
65 For example: Decree 178/2013/ND-CP dated 14 November 2013 on sanctions of administrative violations on food safety. Decree 119/2013/ND-CP dated 9 October 2013 on sanctioning of administrative violations in the domains of veterinary medicine, livestock breeds, and livestock feeds (Decree 119) and Joint Circular 13/2014/TTLT-BYT-BNNPTNT-BCT dated 9 April 2014 on allocation of tasks and cooperation among regulatory agencies in food safety.
The current system makes it also difficult to have consistency in the process of drafting, implementing and application of the regulations. It becomes even more complicated because at a local and provincial level the regulations are sometimes interpreted in different ways or allow different ways of dealing with, for example, it can happen that inspectors come check on three, maybe even four occasions and they check the same or different things, contra-expertise is sometimes possible, but not always. This all means that it is quite costly and time-consuming for both companies and government authorities. This will probably result in higher consumer prices, but not necessarily higher food safety.

In our view a centralised Food Safety Agency could address and solve many of the current food safety issues. We realise this change takes time but in the light of the FTA’s we believe it is paramount to start preparations to reach the objective of a centralised FSA. There are some points we would like to make about the FSA as some parts of the current structure should not be discarded.

A centralised Food Safety Agency needs to:
- incorporate current national and local structure(s) in the new structure
- harmonise and coordinate local and provincial level; and
- cooperate with neighbouring countries to address cross-border food safety issues (as food safety does not stop at the border).

A centralised Food Safety Agency could:
- advise policy makers such as the prime minister and national assembly;
- be involved in import, export and transhipment of food requirements related to inspection, certification and control;
- deal with food labelling and advertisement;
- license and register food traders and establishments, food processors and food warehouse;
- organise inspections and provide input for criminal investigations related to feed and food safety;
- report on food alerts related to the food supply chain including pesticide, fertiliser, feed, etc.;
- provide information when necessary;
- provide education and trainings on food safety and food safety awareness; and
- assist in developing best practices related to food safety.
A centralised Food Safety Agency would:
- improve the management and quality of food safety control;
- improve and boost the reputation of Vietnamese products for consumption in Vietnam;
- reduce the likelihood of export products being rejected;
- improve and boost the reputation of Vietnamese products abroad;
- reduce costs for companies and improve (international) competitiveness;
- reduce health risks;
- support more sustainable and fair trade; and
- make enforcement of violations straightforward and transparent.

Recommendations
- Further clarify the scope of Joint Circular 13;
- Establish a working group consisting of representatives of relevant ministries/agencies and organisations active in the food, agri and aqua business (such as the Agribusiness Working Group of the VBF and the Food, Agriculture and Aquaculture Business Sector Committee of EuroCham);
- Amend the Food Law and create a centralised Food Safety Agency with one Ministry responsible as soon as possible;
- Assign the following tasks to the Food Safety Agency:
  - Inspection, certification and control in relation to import, export and transhipment of ingredients, raw material and food products
  - Food testing and certification;
  - Food labelling and advertisements;
  - Reporting on food alerts related to the food supply chain including pesticide, fertiliser, feed, etc.
  - Licensing and registering food traders and establishments, food processors and food warehouse;
  - Providing education and trainings on food safety and food safety awareness;
  - Assistance in developing best practices related to food safety; and
  - Organisation of inspections and providing input for criminal investigations related to feed and food safety.
- Incorporate existing structures in the Food Safety Agency in order not to lose existing knowledge and experience;
- Cooperate with neighbouring countries to address cross-border food safety issues.

4.6.2 Traceability

Another important part of achieving a good food safety environment is traceability. That is a track-and-trace system that allows companies and authorities to know where products have gone through the food chain. It will help to improve food safety and to avoid or mitigate health and economic impacts.\(^66\) The economic effects are not only related to public health, but also to businesses. The consequences of a product recall can be considerable as a product being out of the market for a certain period of time can lead to loss of shelf space, or in the worst case scenario to loss of customers.

Therefore it is important for a company to successfully track and trace its products through the supply chain and retrieve them. Traceability is about risk management and mitigation, about lowering the impact of recalls and lowering liability costs, but it is also about regaining consumer confidence. Besides this, it is an important part in the decision-making process by the relevant authorities in relation to closing-out a product recall.\(^67\)

However, food traceability is not only about recalls. Consumers also require more information on the origin of products and its ingredients in the whole supply chain: from the farm to the consumer with the processing industry, and the retail and foodservice industry in between. Finally traceability is also about reducing incidences of food fraud as well as unintentional or intentional adulteration; disease management; and environmental emergencies.

Traceability is also important as sometimes counterfeit or illegal products regain consumer confidence by providing information on the origin of products in the supply chain.\(^68\) In our opinion, the centralised FSA could play an important role in this.

**Recommendations**

- Encourage companies to introduce a traceability system; and

\(^66\) See [www.foodsafetymagazine.com/enewsletter/the-importance-of-food-traceability/]


- Enforce existing legislation on traceability.

4.6.3 Laboratories and testing

4.6.3.1 Introduction

Even if laws with regard to traceability would be better enforced the laboratories and laboratory tests in Vietnam are not up to standard yet and do not guarantee safe food.\(^{69}\) In light of the upcoming signing of various free trade agreements, it is especially important to detect multi-residue levels (MLRs) to be able to export Vietnamese products to for example the EU. However, tests that can easily detect MRLs such as a broad spectrum analysis of active ingredients cannot be performed in Vietnam. Also a more specific analysis for heavy metal presence is needed to focus only on those types of heavy metal that actually affect human, animal and plant health.

Another issue is that test results from foreign laboratories are still not accepted in the same way as test results from local laboratories, even though these international labs have obtained a world-wide recognised accreditation, such as the International Organisation for Standardisation (ISO) 17025.

4.6.3.2 International accreditation

On the website of the international organisation for accreditation bodies, the International Laboratory Accreditation (ILAC)\(^{70}\) it reads: “The arrangements\(^{71}\) support the provision of local or national services, such as providing safe food and clean drinking water, (...). In addition, the arrangements enhance the acceptance of products and services across national borders, thereby creating a framework to support international trade through the removal of technical barriers.”

According to the ILAC accreditation is “The independent evaluation of conformity assessment bodies against recognised standards to carry out specific activities to ensure their impartiality and competence. Through the application of national and international standards, government, procurers and consumers can have confidence in the calibration and test results, inspection reports and certifications provided.” \(^{72}\)

\(^{69}\) ‘Agribusiness and Food Safety Chapter’ of the Food, Agri and Aqua Business Sector Committee in the Whitebook 2015 of the European Chamber of Commerce, paragraph 3.1.4 on quality of laboratories and testing.

\(^{70}\) ILAC is the international organisation for accreditation bodies operating in accordance with ISO/IEC 17011 and involved in the accreditation of conformity assessment bodies including calibration laboratories (using ISO/IEC 17025), testing laboratories (using ISO/IEC 17025), medical testing laboratories (using ISO 15189) and inspection bodies (using ISO/IEC 17020). See for more about ILAC at (ilac.org/about-ilac/).

\(^{71}\) Arrangements = Multi-Recognition Arrangement (MRA) Accreditation bodies, that have been evaluated by peers as competent, sign arrangements that enhance the acceptance of products and services across national borders, thereby creating a framework to support trade.

\(^{72}\) See (ilac.org/about-ilac/)
This has as a result that technical barriers should be reduced because products should be accepted across national borders and there is no need for additional calibration, testing, and/or inspection of imports and exports. ILAC Multi-Recognition Arrangement (MRA) could promote international trade and the goal of “accredited once, accepted everywhere” can be realised.73

This means that accreditation bodies could play an important role in ensuring safe food. In Vietnam there is an accreditation body. However, the problem is not only legal enforcement of existing regulations, but also the fact that results from accredited labs, established in Vietnam or elsewhere, foreign or Vietnamese, are not recognised in Vietnam while this - according to the ILC MRA - should be the case.

4.6.4 Vietnam Laboratory Accreditation Scheme

4.6.4.1 Introduction

The Bureau of Accreditation (BoA), established in 1995 under the Ministry of Science and Technology (MoST), offers accreditation programs for laboratories, certification bodies and inspection bodies.74 One of the schemes offered is the Vietnam Laboratory Accreditation Scheme (VILAS). This scheme is established under the Directorate for Standards and Quality (STAMEQ).75 VILAS follows the requirements of the ILAC and Asia Pacific Laboratory Accreditation Cooperation (APLAC).76 This should mean that VILAS needs:

- to maintain - amongst others - conformance with ISO/IEC 17011; and
- to ensure that all its accredited laboratories and inspection bodies comply with relevant ISO/IEC schemes.77

However, it seems that the requirement under 2 is not always maintained in Vietnam as it appears to be quite easy to obtain and keep an accreditation without the proper regular checks.

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73 See (http://ilac.org/ilac-mra-and-signatories/), SO/IEC 17011 on Proficiency testing (for accreditation bodies). Clause 7.12.1 (ISO/IEC 17011) “The accreditation body shall have and apply procedures to demonstrate the competence of its accredited laboratories by their satisfactory participation in proficiency testing activity, where such activities are available and appropriate. Where such activities are available and appropriate, the minimum amount of proficiency testing shall be specified. The amount of proficiency testing and frequency of participation have to be seen in relation to other surveillance activities.

Clause 7.12.2 (ISO/IEC 17011) The accreditation body may organize proficiency testing or other inter-laboratory comparisons itself or may involve another body, judged to be competent.

Clause 7.12.3 (ISO/IEC 17011) The accreditation body shall ensure that proficiency testing activities that its accredited or applicant laboratories have to undertake are effective, linked to the assessment process and appropriate corrective action are carried out when necessary.”

74 See (www.boa.gov.vn/)

75 STAMEQ has responsibility for advising the Government on the scientific, technical and legislative requirements of the national measurement standards system and has specific responsibilities for coordinating the national measurement standards system, and legal metrology.

76 Asia Pacific Laboratory Accreditation Cooperation, APLAC is a cooperation of accreditation bodies in the Asia Pacific region that accredit laboratories, inspection bodies and reference material producers https://aplac.org/

77 ILAC is the international organisation for accreditation bodies operating in accordance with ISO/IEC 17011 and involved in the accreditation of conformity assessment bodies including calibration laboratories (using ISO/IEC 17025), testing laboratories (using ISO/IEC 17025), medical testing laboratories (using ISO 15189) and inspection bodies (using ISO/IEC 17020).
4.6.4.2 Accreditation
Before a laboratory, foreign or local, can be active in Vietnam it needs to be accredited according to the VILAS scheme. This means the labs are accredited in accordance with the STAMEQ regulations and ISO/IEC. When a lab is accredited according the VILAS scheme it does, however, not mean that automatically all organisations/ministries accept the results of the labs. Depending on the kind of test a lab would like to perform it would need additional accreditation of for example Quatest, Vietnam Food Administration (VFA), the Ministry or Department of Health, etc. Sometimes this only means that they check if a lab is accredited according VILAS, while it takes time and costs money before this additional accreditation is obtained.

4.6.4.3 Foreign labs
It, however, also does not mean that companies or foreign or national inspection services can use these labs to have their products checked when they want to obtain a license to import or export their products. For this they would need to use local Vietnamese labs. Often they would use foreign labs present in Vietnam, such as SGS, Bureau Veritas, Intertek, TUV or InvivoLabs. Reason for this is that the company exporting Vietnamese products would like to be sure the standards for import in their home country are met with regard to multi-residue levels of for example hormones, pesticides and levels of heavy metals. They would not risk the products being rejected at the border and not being allowed to enter the country.

According to the Vietnamese law producers, importers and exporters can only use certain (Vietnamese) inspection services, such as VinaCert, VinaControl or NAFIQAD. These inspection services can only use the Vietnamese labs such as Quatest 1, 2 or 3, VinaControl, Case, EDC or NAFIQAD. Foreign inspection services such as Intertek, TUV, Control Union, Bureau Veritas, Asia Inspection and SGS are used by exporters and they often will use the foreign labs.

4.6.4.4 Mutual recognition
If an importing company provides a lab test or inspection report by a foreign lab or inspection service it is not recognised and the testing needs to be done in Vietnam. Even when the results of the Vietnamese lab have as a result that the license is not

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78 It depends on the product which inspection services can or needs to be used.
given and the results of the international lab would prove the opposite result, they cannot be submitted. This working method is not in line with the goal of ILAC: “accredited once, accepted everywhere”. We believe this should be changed. However, in order to achieve that and Vietnamese labs having the same level as foreign labs another issue needs to be addressed: proficiency testing.

4.6.4.5 Proficiency testing
In order for a laboratory to know if its performance is in line with other labs, and results do not deviate from other labs it is important for labs to participate in proficiency testing. For this a lab will send samples to other labs and it will receive samples from other labs to test. The results will be collated and evaluated centrally and the standard will be set. Each lab is informed of this result and its performance in relation to the other participating labs and the results of the test. However, a problem in Vietnam is that labs are accredited by VILAS but the requirements as set by ILAC and APLAC are not strictly followed. For example labs are not required to participate in proficiency tests following a global standard. Currently some proficiency testing is done within Vietnam, however, the level is too low and this means that results do not have the same value as of international labs participating in global proficiency tests. This makes it difficult to compare results as the methods might differ from methods used by other labs. It is also not guaranteed that the results are reliable as the methods are not always according to the agreed international standards.

4.6.4.6 Range, kinds and methods of tests and testing
Many key measures linked to laboratory performance and quality, are being implemented. However, as there are many laboratories belonging to multiple entities with different responsibilities, those measures and programs may not be implemented in a uniform way which should be avoided. The way testing currently takes place is costly, time-consuming and often no guarantee for detection of food safety issues. If the current system can be changed, it will be cheaper for companies which will probably result in a lower consumer price, but certainly in higher food safety. This will make Vietnamese products more competitive. We believe that to improve food safety and competitiveness of the sector it is paramount that the quality

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78 A proficiency test is one of the best ways for a laboratory to monitor its performance it to participate in proficiency testing scheme. Proficiency testing is a type of inter-laboratory comparison exercise in which samples are circulated to the participating laboratories, results are then collated and evaluated centrally. Each laboratory is then informed of its performance relative to the other laboratories in the scheme and relative to either true or consensus result for the sample. Performance is usually quoted in terms of the number of standard deviations between the achieved value and the consensus or true value. In some schemes participants are given a pass/fail rating, see (www.labnetwork.org/en/testing-areas/chemical-lab/108-proficiency-testing)

80 International programs financed by JCEA, UNIDO, WHO, GTZ, etc. and national programs.
of laboratories improves, while testing methods should be modernised and brought to international standard. The problem is though that not all tests can be performed in Vietnam and that the range of what can be tested is still limited.\textsuperscript{81} This means that products being exported sometimes will be rejected because too high levels of pesticides, hormones, heavy metals. It also happens that despite positive test results a product is still considered unsafe and will be destroyed.\textsuperscript{82}

Testing methods are also not always in accordance with modern and international standards or the equipment is not up-to-date enough to test adequately. Testing food products, imported or local, for contaminants such as bacteria, total plate count, yeast and mold for the purpose of food safety and food microbiological quality is for example done through so-called traditional methods (growing sample bacteria in petri dishes). These procedures are complicated and time-consuming, which causes companies to be less competitive. New technology is needed as well, to increase the ability to detect residue of antibiotics and pesticides in food.

Another issue is that there is no lab in Vietnam that can perform a broad spectrum analysis of active ingredients (AI), the lab needs to be told for which AI the product needs to be tested.\textsuperscript{83} The test also takes longer than in Europe where in a short time the result is available of which of the 500 AIs are found. At the same time it is problematic that test results of foreign laboratories certified to perform specific tests on food safety are not accepted in the same way as test results from local laboratories.

Besides this, the test method does not always guarantee safe food. For example sanitary and phytosanitary requirements on heavy metals, such as mercury and arsenic, should not be tested for the total concentration of heavy metals. More specific analyses, focusing only on those “species” of heavy metals that actually affect human, animal and plant health are needed. Reason for this is that certain harmful species of heavy metals can be very present and concentrated while the total concentration is still acceptable. The current, “general” testing method is not in line with international and EU standards.

\textsuperscript{82} See (vietnamnews.vn/society/258756/probe-launched-into-customs-food-tests.html)
\textsuperscript{83} An active ingredient is a component that can affect the structure or any function of the body of a human-being. The active ingredients list is the part of the ingredient label that must adhere to specific regulations mandated by food safety agencies.
The way of taking samples can also be improved; now often samples are not taken randomly but are prepared by companies. Further to this, it can become quite expensive if you need to test things that currently cannot be tested in Vietnam. The whole process is further complicated by the fact that you might need a license to export samples.

Besides this it is problematic that if third party labs are certified to perform specific tests, the results should be accepted and approved in the same way as local ones. For example, the result of Quatest 3 is always considered as the final result in order to import goods into Vietnam, even though there might be test results from an international lab. We already mentioned that it can even happen that a test result is wrong, but a contra-test is not accepted or possible. In order to improve the quality of laboratories we would like to point out the outlines drafted by Food Law Enforcement Practitioners (FLEP).84

Another issue is that sometimes product receive permission to be imported as all the test results are according to specification. However, when the company subsequently would like to obtain a permit to sell the product the product is not according to specification anymore. It is not clear though where the problem – if there is really one – starts and why at first there is no problem but later there is.

Finally, a problem is that under Circular 128/2013/TT-BTC, quarantine and food safety testing must be carried out at a customs checkpoint. The facilities at such customs checkpoints are often insufficient, causing delays which have a big impact on the product, as the cold-chain is broken. So this requirement causes food safety issues as well as financial damages for the company. In our view the FSA as described above could also play a role in improving the current system.

**Recommendations**

- Change the law so that all labs in Vietnam, being local or international, use the same – internationally recognised and standardised – testing methods;
- Promote the VILAS accreditation scheme and use that as the only scheme;
- Take measures to improve the reputation of labs in Vietnam;
- Encourage enforcing the requirements to remain VILAS accredited;

84 See [www.flep.org/downloads/Products/Enforcement/Official_labs.doc](http://www.flep.org/downloads/Products/Enforcement/Official_labs.doc). FLEP is a forum which brings together representatives of European food control authorities, exchange information, address inconsistencies and explore practical enforcement difficulties.
- Accept results of a (foreign or Vietnamese) lab that is accredited according to international standards in the same way as test results are accepted for local laboratories without the need to do another test in order to obtain a license or certificate;
- Increase the testing methods available in Vietnam
- Harmonise the working methods of laboratories and develop best practices.
- Take care that current initiatives are implemented in a harmonised way
- Reduce red tape when laboratory tests need to be done abroad;
- Amend testing requirements in such a way that a ‘speciation analysis’ is requested for heavy metal;
- Test the ‘species’ of the heavy metals on harmfulness with regard to mobility, bioavailability, and bioaccumulation;
- Encourage upgrading of testing methods and facilities to be in accordance with modern, international standards such as accredited by ISO, AFNOL, AOAC to ensure accurate testing results, prevent any undue delay and/or arbitrary or unjustifiable discrimination;
- Allow importing companies to store frozen food products in their own or neutral storage facilities for quarantine and food safety inspections in order not to break the cold-chain;
- Allow products that can be legally used in other countries, to be imported into Vietnam without additional documents; and
- Enforce existing laws, especially if public health is affected.

4.7 Legal enforcement

In the earlier mentioned report of the FAO it reads: “Sound food safety legislations and policies are meaningless unless they are effectively enforced through monitoring of inspection service.”

Even if, in principle, the legal framework in its current form allows for higher food safety, we believe that the main problem lies in enforcing compliance. In our view the lack of effective enforcement and too low fines contribute to low food safety. Infringers calculate the costs of getting caught and having to pay a low fine and the costs to comply with the rules.

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85 Ibid.
An example used to illustrate difficulties with enforcement of food safety standards in Vietnam is related to potassium bromate (E924), an additive often used in the bread-baking industry. It has been banned in the EU since 1990 and in many countries world-wide, as it is carcinogen and can be replaced by other products.\textsuperscript{86} It is not on the list of authorised additives in the food industry in Vietnam either. Despite verbally agreeing that such additives should not be used, Government agencies do not seem to be willing to issue a statement in writing that the additive is not allowed. Such a document could make enforcement easier, although problems have been identified with the enforcement of the regulation by relevant authorities. Considering the negative effects of potassium bromate on public health we believe that the authorities should enforce the regulation and no longer allow use of this additive. In other countries the authorities managed to ban the use of the product. Therefore, we believe it is also possible in Vietnam, especially as it is very easy, quick and low-cost to check if the additive is present. No highly equipped laboratory is needed; it is possible to do a simple test on-site. Enforcing the ban of this additive will improve, or at least not damage, the health of the population; not only the people working in the bread-baking industry, but in general. It can be done without losing the possibility to bake bread as alternatives exist.

Another issue is that several small animal-feed manufacturers add growth hormones to pig feed. This is done to shorten the growth period of the animal, to make the animal look better (before selling), and to have leaner meat. However, the use of these hormones has damaging effects on the health of consumers.\textsuperscript{87} Because of the carcinogenic risks, the use of growth hormones has been banned in the EU since 1989. The use of growth hormones is not allowed in Vietnam either, but often enforcement of this regulation is weak. In 2014, several provinces in North Vietnam have strictly enforced the regulations forbidding the use of these hormones.\textsuperscript{88} This has discouraged many producers from putting growth hormones in animal feed and many farmers no longer buy this animal feed.\textsuperscript{89} However, in 2015 the problem seems to be even more problematic than before and is said to be mainly an enforcement problem.\textsuperscript{90} Therefore we ask the Government to enforce existing legislation strictly and even make it more severe. Companies will infringe regulations less as there is no cost advantage anymore. In short, food safety improves. This will also make export

\textsuperscript{86} See (www.ncbi.nlm.nih.gov/pmc/articles/PMC1556785/)
\textsuperscript{87} See [www.com/consumers/genera/hormones_meat.htm] and (ec.europa.eu/food/fs/sc/scv/out21_en.pdf)
\textsuperscript{88} See (vietnamnews.vn/society/259271/pig-farmers-targeted-in-chemical-probe.html)
\textsuperscript{90} See (english.vietnamnet.vn/fms/society/140769/pork-safety-risk.html)
easier, as there will be fewer issues with food safety causing the products to be refused. And the health risk decreases which saves costs within several years.

These are just some examples, but there are – unfortunately – many more that could be mentioned here. The guidelines developed by the FAO seek to provide advice to national authorities on strategies to strengthen food-control systems to protect public health, prevent fraud and deception, avoid food adulteration and facilitate trade. These could be taken as a starting point to strengthen the enforcement in Vietnam.

**Recommendations**

- Allow products that can be legally used in other countries, to be imported into Vietnam without additional documents; and
- Enforce existing laws, especially if public health is affected.

**4.8 Conclusion**

We believe that food safety is important for the following reasons:

- Food safety is an opportunity to upgrade quality standards;
- Food safety increases the probability to successfully meet foreign standards;
- Food safety drives the upgrade of the agriculture sector to ensure the quality of processed food products and the productivity;
- A food safety crisis can be a financial disaster: sales suffer, costs of recall of products, fines, public relation expenses, etc.;
- Communication about a food safety program helps to reassure existing customers and secure prospective ones;
- A more efficient and effective food safety management and enforcement will:
  - improve food safety;
  - boost exports;
  - reduce costs; and
  - make enforcement of violations straightforward and transparent.

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91 See (www.wpro.who.int/foodsafety/documents/docs/English_Guidelines_Food_control.pdf)