

**sSWG-ABD**

**SUB-SECTOR WORKING GROUP ON AGRO-BIODIVERSITY**

**Agroforex Company's contribution**

**Administration and Taxation Applied for  
Forest Products**

Department of Forestry

Meeting of December 19, 2014

Presentation into four parts:

1 - Agroforex Company in brief

2 – The Regulations (Theory)

3 - The Regulation (Practice of their application)

4 - Consequences and Proposals

**-Part 1-**

## **Agroforex Company in brief**

# Agroforex Company in brief

In 1992, Agroforex Company invested in Lao PDR in one sector only:

**Renewable natural resources used by the aromatic and pharmaceutical industries**

According to one model:

**Contract farming**

With the same objective:

**Searching for a full organization of the sector**

For the same outcome:

**The large export to industry**

# Vision and Strategy

Agroforex Company is an SME private with 100 employees.

The initial vision (1992), still current, is to develop an exportation sector (> extensive activities and currency-generating).

The implementation strategy tends to integration through a continuous adaptation.

Integration by contract farming and industrial partnerships (> see developed logos);

Adaptation to the regulatory and contextual environment (emergence of BIO organic, CSR,...



Regulatory compliance bio EU + NOP since 2004

Concept of ethical and responsible development put forward in 2002

Forest products exploited-operated (by our company) have end product uses in fine chemistry industries (> sector subject to specific regulations and certifications).



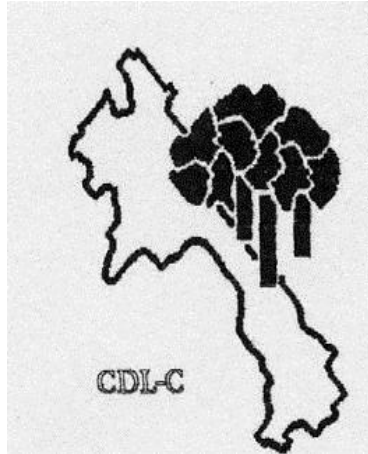
Ability to carry and manage complex issues and systems (JECFA, European Pharmacopoeia,...)

Approach in accordance with the concept of contract farming 2 + 3 (sustainable market access)

In conclusion Agroforex Company is a specialized SMEs, in line to a certain extent, with the promotion of the OTOP concept (at village level, occasionally district)

# Logos

1992



2008

**-Part 2 –**

**The provisions of regulations "in theory"**

# Regulations Governing Forest Products

The production, exploitation and trade of forest products are rules by rules and regulations directed by 3 Governmental Administrative services:

- Agriculture and Forestry, through annual quotas of exploitation, issuing of an annual agricultural license and inspection certificate to travel including the quantities and how to obtain when applicable;
- Industry and Commerce, deliver a trading license and export permits specifying quantity and value basis;
- Finance, issuing receipts of collection of various types of taxes.

The basic Law n° 47 legal text called "Kaysone" of June 1989.



# The Exploitation of Forest Products

The exploitation and production of forest products \* are governed by provisions giving rise to the establishment of exploitation quotas from the province operation and decided by the annual meeting of the Government (Prime Minister);

Implementation by the MAF and PAFO which are responsible for relaying these quotas to DAFO level;

With examples of nominal quotas in the case of investment in the sectors in question and subject to annual monitoring.

\* (we're talking here of NTFP or non-timber forest products)

# Trade of Forest Products

- Context of ultra trade liberalization following the dismantling of State Trading Companies;
- Patent of business now issued definitively at the national level and at the local level, including the type of activity and category of products;
- Lifting of systematic checks (types of the products and quantities) prior to transport. The permit became purely "documentary";
- During the procedure for exportation the certificate from DAFO as permit for movement of the DICO is the part in the certificate of original form to associate with all other exportation documents.

# Taxation of Forest Products (1)

The tax system includes 4 types of levels:

- 1 - operating tax «kha boulana, pasi sapayakone» (for conservation of the resource). the tax rate is fixed by the Act 47 of 1989 and Decree 23 of 1990 (depending on products 0% for some but up to 20% for others);
- 2 - Tax on the turnover now TVA was exempted for agricultural production but was applicable to forest products (without specific details). According to the law on TVA (ref. 04 of 26/12/2006), TVA is refundable for productions exported (art 10 and 19). And implementing n° 270 9/18/2009 accurate than production from plantations (and documented as such) are exempt.  
The finance Act (Tax Law) by 2012, in its articles 14 & 15, confirmed the provisions of the TVA Act (activities of sapling nurseries, afforestation, planting of industrial, fruit and medicinal trees)
- 3- Tax on profits calculated on the basis of a lump sum profit margin (5% for this type of production) to which is applied a single tax rate of 24% (or according to the preferential tax rate on the investment license). Exemption for investment in Zone 1 for 7 years then 10% then (Act on the promotion of foreign investment, art. 18).

# Taxation of Forest Products (2)

**4 - Export tax: the tax rate was fixed by the Act 47 of 1989 and its implementing Decree No. 23 of 1990, ranging from 2% to 40% depending on the product type.**

**However, Custom Law No. 04 12 20, 2011, in art. 59, provides an exemption from the export tax for agricultural products subject to specific investments.**

**With the accession to the WTO of Laos, Presidential Decree No. 002 of 27/4/2012 led to consolidate this export tax.**

**However, arrangements have been provisioned to exonerate this export for specific investments (ref. Tax Statement of the Cabinet of the Government, dated from 13/09/2013).**

# NTFP and Agricultural Commodity Products: Comparison of Taxation in Theory

Fiscality	Gum & Resin	Commodity Agriculture Products (maize, Cassava, Jobstear, etc)
Taxe d'exploitation (Kha boulana)	0% à 3%	None
TVA	10% <sup>(1)</sup>	exonerate
Tax on profits	5% * 24%	5% * 24%
Tax on exportation	10% <sup>(2)</sup>	None

(1) The VAT Act provides a rebate for export

(2) May be the subject of an exemption in the case of investment/promotion

Forest products such as the gums and resins, are without environmental impact compared to the large agricultural commodities exported (chemicalization, deforestation, possible use of GMOs,...). And yet, compared with the forest product, these agricultural commodities benefit from a fiscal (tax benefit).

**- PART 3-**

# **THE PRACTICE OF THE APPLICATION OF THE PROVISIONS**

# THE PRACTICE OF APPLICATION

- An application quotas of mixed operation:

A provision very positive but difficult to implement at the DAFO level, as quotas are allocated to the provinces and, where they are relayed to the districts by the PAFO, may have been a redistribution (see the case of preference quota).

During transport of the products, the DAFO have no obligation to point the implementation of quotas. (DICO or the Finance Department might be able to do so);  
The 'Quota' rules may be ignored by Commercial and Finance Offices of the districts;

- A variable application of tax provisions:

The multiplicity of texts and their rate of diffusion, the ignorance of the exemption provisions, generate confusion (contradiction between the expectations of local governments and the private sector);

Implementation of the regulatory provisions may vary from one district to another (see following table)

# Case study: taxes levied on a forest product X in three districts

Dispositions rule	District 1	District 2	District 3
Tax on profits (5%*20%)	None	All taxes to the annual lump sum regardless of the quantities ( <i>akhon pamoun</i> )	10%*20% on value quantities transported
Environmental tax (does not apply)	None		None
TVA (exonerate for planted products)	10% the value of the quantities carried		None

When fees charged are decoupled product or how to obtain types and quantities actually transported, it is impossible to manage the resource and the industry. The flat-rate fee (pamoun) is a right of entry usurped for traders without quota of operations and without investment in the sector



# The Problem of the Annual Package Fees (*akhon bèb pamoun*)

- A practice that deviates from the regulatory
- Can potentially cause a decoupling between levied taxes and harvested quantities (no possible quantitative follow-up)
- Can make null and void the application of quotas and deter investment in the resource or the sector
- Gives a right of entry usurped in the pipeline for merchants without a quota and that invest nothing (distortion of competition = informal trade)
- Encourages the expediencies and illegal practices (load elements, adulteration, speculation, etc.)

# The Question of the Place of Payment of Taxes: Central or District Level?

Local payment sought by the District Governors - or  
- payment at the central level requested by the  
central Department of taxes?

The recent opening up of the remote districts  
allows the payment of taxes directly to the  
production district (example: Samphan District).

Payment of taxes at the local level has a positive  
effect of mobilization of the administration sector  
which generates tax revenues

**-PART 4-**

# **CONSEQUENCE AND PROPOSITION**

# Consequence

- The rules and regulations related to exploitation and trade of forest products are weakly applied and their interpretation vary a lot, which results in:
- Opportunism and widespread fraudulent practices: adulteration of products, load elements, speculation on prices, memorization of statements;
- A high opacity on demand and prices, detrimental to rural populations in their decision to invest;
- A possible loss of profit for the tax administration (as taxes unrelated to the actual quantities)

# Major Consequence

- It leads to unattractive and risky context for long-term investment in forest products sectors in Laos... and yet, the formalization of the exploitation and trade constitutes one of the ways of sustainable and responsible development for the rural population,
- as Laos has a potential comparative advantage on this type of resources

# Propositions

- Encourage products that protect and enhance the resources (and penalize those that have a destructive effect) through tax differentiation measures;
- Act on the functioning of the informal trade by more tightened control measures (at the level of the legitimacy of administrative documents, of the quantities,...), see coercive (seizures), whose consequences have been raised (from a point of view qualitative, tax, ...);
- Support the key actors involved in the structuring of clusters and their long-term development by public private partnerships PPPs in this sector.