FOOD LAW IN VIETNAM

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# TABLE OF CONTENTS

INTRODUCTION..................................................................................................................1
WHAT IS FOOD?..................................................................................................................2
QUALITY STANDARDS .......................................................................................................3
   Announcement of Standards of Foods ..............................................................................4
   Announcement Procedures ..............................................................................................4
SAFETY AND HYGIENE.....................................................................................................6
LABELING ............................................................................................................................6
ADVERTISING ......................................................................................................................9
RECALL ................................................................................................................................11
INSPECTIONS ......................................................................................................................12
IMPORT REQUIREMENTS ....................................................................................................13
EXPORT REQUIREMENTS ..................................................................................................17
   State Inspection and Certification of Aquatic Products Quality ......................................18
   Announcement of Quality Standards of Speciality Aquatic Products .........................20
   Safety and Quality Requirements for Aquatic Products for Export ..........................21
ENFORCEMENT ................................................................................................................21
SCHEDULE: List of cited Laws, Ordinances, Decrees, Circulars and Regulations classified by subject and by order of appearance .......................................................26
GLOSSARY

In this book, we generally define and abbreviate terms the first time that we use them. Even so, to make it easier to follow the text, we have prepared this Glossary for easy reference.

DOC  Department of Construction
DOIC  Department of Information and Communications
FHSA  Food Hygiene and Safety Administration
GDSMQ  General Department of Standards, Measurements and Quality
GMP  Good Manufacturing Practices
HACCP  Hazard Analysis, Critical Control Point
ISMU  International System of Measuring Units
ISO  International Standardization Organization
MARD  Ministry of Agriculture and Rural Development
MNRE  Ministry of Natural Resources and Environment
MOAP  Ministry of Aquatic Products
MOC  Ministry of Construction
MOH  Ministry of Health
MOIC  Ministry of Information and Communications
MOIT  Ministry of Industry and Trade
MOST  Ministry of Science and Technology
TCCS  Voluntary Standards
TCVN  National Standards
VND  Vietnamese dong
Understanding Vietnamese laws and regulations concerning food can be a challenge. The confusion results from the lack of a unified food law. Instead, the government relies primarily on laws which regulate the quality of goods in general. There are also specific regulations that apply these laws to food products. This means that there are two sets of regulations, one covering goods in general, and the other covering food products, and they often overlap.

A discussion of Vietnamese food law must begin with a discussion of the management of the quality of goods. The major law on the subject is the Law on the Quality of Products and Goods. This Law states that “[t]he State shall implement a uniform system to control the quality of goods.”\(^1\) However, “in cases where international treaties to which the Socialist Republic of Vietnam is a party contain provisions which differ from the provisions of the Law, the provisions of such international treaties shall prevail.”\(^2\)

The Law on the Quality of Products and Goods came into effect on 1 July 2008 and replaces the Ordinance on the Quality of Goods. The Law provides that manufacturers and traders must take responsibility for the quality of the goods or products that they manufacture or trade in order to ensure safety for humans, animals, plants, property and the environment, and to enhance the productivity, quality and competitiveness of Vietnamese goods and products.\(^3\)

The Ordinance on the Hygiene and Safety of Foods, which came into force on 1 November 2003, deals specifically with some aspects of food. In particular, this Ordinance details provisions on “securing food hygiene and safety in the process of food production and sale; preventing and overcoming food poisoning and diseases which are spread through foods.”\(^4\)

In language similar to the Law on the Quality of Products and Goods, the Ordinance on the Hygiene and Safety of Foods states that:

All Vietnamese organizations, households and individuals as well as foreign individuals and organizations that produce and trade in foods within the territory of Vietnam are subject to Vietnamese law. In cases where

\(^1\) Law on the Quality of Products and Goods, art 68.1
\(^2\) Id, art 4.3
\(^3\) Id, art 5.2
\(^4\) Ordinance on the Hygiene and Safety of Food, art 1
international treaties to which the Socialist Republic of Vietnam is a party, contain provisions which differ from the provisions of the Ordinance, the provisions of such international treaties shall apply.\footnote{\textit{Id}, art 2}

These two legal documents give the Ministry of Science and Technology ("\textit{MOST}") overall responsibility for the quality of goods, including foods. Specific responsibility for the hygiene and safety of foods, however, is under the jurisdiction of the Ministry of Health ("\textit{MOH}"). Before the enactment of the Law on the Quality of Products and Goods, the Government issued Decree 179/2004/ND-CP dated 21 October 2004 ("\textit{Decree 179}\footnote{\textit{Id}, art 23.2}") on state management of the quality of products and goods. Decree 179 details the responsibility of the MOST and of certain other ministries and branches with respect to the quality of goods.\footnote{Under Article 23 of Decree 179, the MOH is responsible to manage the quality of assorted raw materials for production of medicine, assorted medicines for prevention and treatment of human disease, assorted vaccines and medical biologicals, sanitary supplies and medical equipment, soaps and chemicals for domestic use, talcum powder, toothpaste, cosmetics, food safety and hygiene, drinking water and water for daily life.} The MOH is fully responsible for the safety and hygiene of foods. However, in case of overlapping responsibilities between these two ministries, MOST is responsible to report to the Prime Minister in order to receive a final decision.\footnote{\textit{Id}, art 23.2} Decree 179 was promulgated to implement the now abrogated Ordinance on the Quality of Goods. While a new decree to implement the Law on the Quality of Products and Goods and to replace Decree 179 is not yet in place, such provisions of Decree 179 that are not contrary to the Law on the Quality of Products and Goods remain applicable.

\section*{WHAT IS FOOD?}

The Ordinance on the Hygiene and Safety of Foods defines “food” as follows: “Foods are products which human beings eat and drink in their fresh, raw, processed or preserved forms.”\footnote{Ordinance on the Hygiene and Safety of Foods, art 3.1} There are sub-defintions of different types of food, such as functional food, high-risk food, irradiated food and genetically modified food.

Those sub-defintions are as follows:

“Functional food” is food used to support the operation of body organs. It has a nutritious value, creates comfort for the body and reduces pathogenic dangers.\footnote{\textit{Id}, art 3.10}

Circular 08/2004/TT-BYT of the MOH dated 23 August 2004 ("\textit{Circular 08}\footnote{Circular 08, art I.2}") was issued specifically to deal with functional food. Functional foods include foodstuffs to which micro-nutrients have been added, supplemental foodstuffs to protect health and medically nutritious products.\footnote{\textit{Id}, art 3.10}

“High-risk foods” are foods with a high possibility of contamination by biological, chemical and/or physical agents and which may affect the health of consumers.\footnote{Ordinance on the Hygiene and Safety of Foods, art 3.11}

Decree 163/2004/ND-CP of the Government dated 7 September 2004 implementing a number of articles of the Law
on the Quality of Products and Goods ("Decree 163") provides a list of high-risk foods that includes meat and meat products, milk and milk products, egg and egg products, fresh and processed aquatic products, ice cream, mineral water, functional foods, food additives, and frozen foods.

“Irradiated foods” or “foods preserved by radiation methods” are foods radiated by sources of radioactive activity to preserve and prevent food from degeneration. Irradiated foods are specifically regulated by Decision 3616/2004/QD-BYT of the MOH dated 14 October 2004.

“Genetically modified foods” are foods which originate from organisms genetically modified by genetic technology. According to the Ordinance on the Hygiene and Safety of Foods, the management and use of genetically modified foods is subject to regulations by the Government. However, to date, no regulation has been issued.

QUALITY STANDARDS

With regard to goods in general, quality standards cover areas such as technical specifications, experimentation methods, packaging, labeling, transportation, preservation of goods, quality management systems and other issues relating to the quality of goods. The quality of goods and products is managed on the basis of applicable announcement standards and technical specifications. The system of Vietnamese standards includes national standards ("TCVN") and standards applied voluntarily by businesses and individuals ("TCCS"). Vietnamese standards are based on international standards, regional standards, and foreign standards, the outcome of scientific and technological research, technical progress, factual experience, and the results of evaluations, tests, experiments, inspections, and appraisals.

At one time, all goods were subject to quality “registration”. That is, the State required individuals and organizations that produced and traded goods to follow certain quality standards. Foods were no exception. Foods had to be registered with the MOH. The registration included such information as: list of standards with which the food products must comply; a chart showing stages of processing of the food product from storage of raw materials, through the processing stage and ultimately to storage and delivery of the finished product; a final or draft version of the label; instructions and warranties; test results for the food product issued by an authorized government test centre; and a list of all raw materials used to process a food product including additives and packing materials. The MOH had the power to reject an application for registration.

However, since the Ordinance on the Quality of Goods came into effect, individuals and organizations that produce and trade in goods including food are required only to “announce”, rather than “register”, their own quality standards. Administrative procedures to announce quality standards are much simpler than the registration procedures. Producers and traders bear responsibility to comply with the quality standards which they have announced. That is, they are able, themselves, to decide the quality standards of their goods. Of course, such quality

\[\text{id}, \text{art } 3.12\]
\[\text{id}, \text{art } 3.14\]
\[\text{Decision 42/2005/QD-BYT of the MOH dated 8 December 2005 ("Decision 42"), art 2.2}\]
\[\text{Law on the Quality of Products and Goods, art 5.1}\]
\[\text{Law on Standards and Technical Specifications 68/2006/QH11 dated 29 June 2006, art 10}\]
\[\text{id}, \text{art } 13\]
\[\text{Law on the Quality of Products and Goods, art 10}\]
standards must satisfy applicable Vietnamese standards or industry standards. Accordingly, the authoritarian role of the State regarding the quality standards of goods, including food, has been changed into voluntary commitments by entities to set and to comply with their own quality standards.

In general, goods related to food, safety, hygiene, human health and the environment must meet Vietnamese standards. The MOH sets Vietnamese standards for the hygiene and safety of food products.20 The standards are tailored to each type of food or food group. The standards that apply to bread, for example, are different from those that apply to fresh milk.

The Regulations on Announcing Standards of Foods21 require all individuals and organizations that produce and trade food products, including food additives, to announce the quality standards to the MOH or to the local health authorities. When the health authorities issue a Certificate of Product Specification, entities must ensure compliance with the announced standards, and they are subject to periodic inspection.22 Any changes in the standards, except for those that relate only to the appearance of the label or the product packaging, must also be announced.23

Announcement of Standards of Foods

The MOH receives announcements of standards for imported food products. It also receives announcements of standards for natural mineral water for bottling, cigarettes, and special products such as nutrients used for medical and health related purposes. Products other than those mentioned must file their announcements with local health authorities.

Satisfaction of the requirements to announce standards of foods is evidenced by written confirmation from the appropriate health authority. That confirmation appears on a Certificate of Standards of Goods.24

Announcement Procedures

To announce standards for food products or materials that are in direct contact with food products (eg, packaging) and that are locally produced,25 the entity that actually produces the food product ("Company" in this section)26 must submit an announcement application to the appropriate health authorities. The announcement application must include:27

- An original copy of the completed announcement form on quality standards which is stamped and signed by the Company’s representative (a form is provided by the MOH);

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21 Issued in connection with Decision 42
22 Decision 42, art 9. This Decision refers to the general regulations on goods only when there is no regulation that deals specifically with food products.
23 Id, art 7
24 Id, art 4.4(a)
25 Announcement procedures that apply to imported foods and food additives are discussed later in the section, “IMPORT REQUIREMENTS” at page 15
26 The producer of the food product
27 Regulations on Announcing Standards of Foods, art 3
• Two original copies of the announcement on quality standards issued and stamped by the Company;

• Notarized copy of the Company’s business license;

• Certificate on the results of tests which relate to the quality and safety of the food products;\(^{28}\)

• Label or draft label of the food product, stamped by the Company;

• A copy of a Certificate that certifies that the Company has met food hygiene and safety conditions or a copy of an application to grant such a Certificate;

• A copy of the Certificate of Trademark Registration (if any);

• A copy of the receipt for payment of fees for examination of the announcement application and for issuance of the Certificate of Standards of Goods; and

• For irradiated or genetically modified food, a copy of a Certificate of either bio-safety or irradiation safety is required.

For imported food products, product specifications or a Certificate of the results of tests and a copy of a Certificate of Good Manufacturing Practices ("GMP") or Hazard Analysis, Critical Control Point ("HACCP") (if any) is also required.

If imported products are food additives,\(^{29}\) food-processing supporting substances,\(^{30}\) or special foods,\(^{31}\) other documents, such as a Health Certificate or results of clinical tests, will also be required.

A Company may establish quality standards by:\(^{32}\)

• Accepting relevant national standards, international standards, regional standards or foreign standards;

• Establishing new company standards based on scientific and technological research or the results of tests, evaluation, analysis and experiments; or

• Amending or supplementing the company’s current standards.

The announcement application should be prepared in the Vietnamese language.

\(^{28}\) If it is mineral water, a certificate on the results of tests of the water source is also required.

\(^{29}\) “Food additive”, as defined in art 3.7 of the Ordinance on the Hygiene and Safety of Foods, means a substance with or without nutritious value that is added to food ingredients in the course of processing, treating, packaging and transporting food with a view to retaining or improving some characteristic of food.

\(^{30}\) “Food-processing supporting substances”, as defined in art 3.8 of the Ordinance on the Hygiene and Safety of Foods, means substances used in the course of processing food raw materials or food ingredients in order to perfect the food-treatment or processing technologies.

\(^{31}\) “Special foods”, as defined in art 2.10 of the Regulations on Announcing Standards of Foods, means nutritious products for children, genetically modified food, irradiated food and functional food.

\(^{32}\) Circular 21/2007/TT-BKHCN of the MOST dated 28 September 2007 on the Establishment and Use of Standards, part IV.2.2
Within 15 days from the date of submission of the announcement application, the health authorities will grant the Company a Certificate of Standards of Goods. If not, the Company will be instructed how to revise the announcement application so that it is compliant.

The Company is required to announce standards of a food product to the health authorities only once before such food product may be sold in Vietnam. That is to say, the announcement is permanent. However, the Certificate of Standards of Goods must be renewed every three years. If there is a change in the food product’s standards the Company must announce the change.

SAFETY AND HYGIENE

All individuals and entities that want to produce and to trade in foods must satisfy certain conditions on health and safety in order to be licensed. Entities that deal with high-risk foods must, in addition, obtain a Certificate on Satisfaction of Conditions on food hygiene and safety.

All conditions on hygiene and safety must be maintained throughout the lifetime of the business. A food establishment (meaning a workshop or store used by a food producer, processor, business, importer or canteen service centre, and even equipment and premises used by a food producer) must satisfy certain health and safety criteria. Any location where food is processed, manufactured, stored, sold or served must meet “hygienic environmental requirements.” All employees who come into direct contact with food must have a periodic health check to assure that they meet health conditions mandated by the MOH. In addition, they must have a training certificate to show that they have studied food safety and hygiene, and must be adequately supervised so that they follow applicable regulations and possess sufficiently safe and hygienic tools. The tools, equipment, materials and chemicals used in food establishments must not contaminate food products with toxic substances, chemicals or bacteria.

LABELING


Labels are defined as “inscriptions, prints, drawings, images or signs that are imprinted or embossed directly on or affixed, stuck or pinned firmly to goods or their packaging to display necessary and principal information about such goods.” In addition, goods labeling is defined as the “inscription of necessary and principal information about the goods in order to provide consumers with basic information to identify goods, and [the labels] serve as a basis for

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33 Decision 42/2005/QD-BYT of the MOH dated 8 December 2005, art 7
34 General hygiene conditions applicable to food processing establishments issued in connection with Decision 39/2005/QD-BYT of the Minister of Health dated 28 November 2005, art 1 to art 10
35 Id, arts 17, 18, 19
36 Id, arts 11, 16
37 Decree 89, art 2
38 Id, art 3.1
purchasers to decide on the selection, consumption and use of goods, and for functional bodies to conduct inspection and supervision.\textsuperscript{39}

As provided by Decree 89, domestically circulated foods, imported foods and exported foods must bear labels, except for unpacked fresh and raw foodstuffs and processed foodstuffs which are sold directly to consumers. Labels may include both compulsory and non-compulsory information. The compulsory contents are mandatory and contain the most important information. Regulations on compulsory contents for all goods labels, whether for goods sold in Vietnam or for export, are provided in Decree 89 and elaborated in Circular 09/2007/TT-BKHCN of the MOST dated 6 April 2007 (“\textit{Circular 09}”):

\begin{itemize}
\item Name of the goods: manufacturers or traders of goods may choose a name for their goods, provided that the name must not mislead as to the nature and use of the goods. They are liable for the name they choose;\textsuperscript{40}
\item Names and addresses of the entities which produced, imported, assembled or finished the goods;\textsuperscript{41}
\item Weight and volume of the goods\textsuperscript{42} measured in units recognised by Vietnamese law, under the International System of Measuring Units (“\textit{ISMU}”);\textsuperscript{43}
\item Ingredients, if the product, including seafood, contains food additives.\textsuperscript{44} Ingredients must be listed in descending order of volume or content (volume percentage), and must include their international code (if any);\textsuperscript{45}
\item Principal quality criteria, ie factors decisive to safety and consumption by humans and the environment;\textsuperscript{46} production date, expiration date and shelf-life of goods.\textsuperscript{47} An expiration date is mandatory for food products;\textsuperscript{48}
\item Storage and usage instructions;\textsuperscript{49} and
\item Country of origin, applicable only to imported goods and goods for export.\textsuperscript{50}
\end{itemize}

Decree 89 requires that all letters, numerals, drawings, images, signs and/or marks which appear on the label must be clear and must accurately reflect the properties of the goods. They must not be ambiguous, or cause confusion with another product. Labels which are not clearly visible may result in an administrative violation.
The colour of the text of compulsory contents must contrast with the background colour of the label.\textsuperscript{51} Goods distributed in Vietnam must be labelled in the Vietnamese language, except for contents that are presented in their Latin origin.\textsuperscript{52} However, depending on the requirements of each type of goods, a foreign language may be added in smaller print.\textsuperscript{53} With respect to goods made only for export, labels may be in the language of the country or territory importing such goods, if this is agreed in the sale/purchase contracts for the goods.\textsuperscript{54} With regard to imported goods, the Vietnamese language must appear either on the original label or on an additional label which must be attached to the goods before they are put on sale or distributed.\textsuperscript{55}

The size of a label is determined by the individual or organization responsible for labeling the goods, but it must be large enough for all compulsory contents to be clearly visible.\textsuperscript{56}

According to Circular 09 and Circular 08, in addition to the compulsory contents listed above, food labels must contain some further information:

- If the name of ingredients is presented on the label of goods in order to attract attention to the goods, the quantities of such ingredients must be presented. For example, if a phrase such as “rich calcium content” is used, the calcium content must appear on the label;\textsuperscript{57}

- If perfume, sweetener or colour additives are used in the processing of food, the label must clearly state whether such additives are natural, synthetic or artificial;\textsuperscript{58}

- If the essence of natural materials is part of the name of goods, the quantities of such essence or equivalent volumes of materials must be presented;\textsuperscript{59}

- If there are two or more food additives in a product, they must be listed in proportion to their volumes;\textsuperscript{60}

- The phrase “for food” must accompany food additive substances;\textsuperscript{61}

- The labels of goods and ingredients which are irradiated or genetically modified must be presented in accordance with international treaties to which Vietnam is a party.\textsuperscript{62}
• If ingredients or substances in compound ingredients of special goods that contain preservatives with a prescribed dosage may be allergens, or harmful to humans, animals and the environment, the names of preservatives together with the names of ingredients must be presented.63

• For food that is used to improve nutrition or for treatment of health conditions, information about nutritional ingredients, specific additional nutrient contents and instructions for use must be added;64

• Labels for food used for diets must include the phrase “for diets”, and the main “diet” characteristics of the food must appear next to its name.65

Non-compulsory contents may appear on food labels, but they must not be contrary to the compulsory labeling requirements referred to above. Non-compulsory contents may be: number and bar codes granted by national number and bar code organizations; protected trademarks; medals; certificates of the product's international quality standards; serial number of the production batch; international markings used for transport, use and storage; foreign language information and information that promotes the product. However, the law prohibits language which claims that the food product prevents or treats a particular illness, or that it is equivalent to a medical alternative.66

Changes made to a registered food label or to the expiration date without the approval of the competent authority are strictly prohibited.

As previously mentioned, food products manufactured in Vietnam for export may bear a label in the foreign language of the destination country. Such products may also have their own labels at the request of the foreign buyers, provided that a phrase such as “made in Vietnam” appears on the label.67

Cigarettes made in Vietnam under foreign license may be affixed with a label in a foreign language, but the label must contain the words “made in Vietnam” in Vietnamese or in a foreign language, and must contain the required information and warnings about hygiene and safety in Vietnamese, for example “smoking causes lung cancer.”68

**ADVERTISING**

64 Circular 08, art II.3.a
65 Id., art II.3.a
66 Circular 08, art II.3.c
67 Decree 89, art 17
Detailed procedures to obtain advertising permits for food products and food additives are provided in Inter-Ministerial Circular 06/2007/TTLT-BVHTT-BYT-BNN-BXD of the MOIC, the MOH, the Ministry of Agriculture and Rural Development (“MARD”) and the Ministry of Construction (“MOC”) dated 28 February 2007 (“Inter-Ministerial Circular 06”). The application dossier for an advertising permit must be filed with the provincial Department of Information and Communications (“DOIC”), and must include the following documents:

- Application for a permit to advertise a product. The application must be made by an advertiser (the individual or the entity whose products are advertised) or, if the advertiser engages an advertising services firm to advertise the product, made by the advertising services firm;

- Copy of the Business Registration Certificate of the advertiser or the advertising services firm (as the case may be); and

- Colour picture of the advertised product, signed by the advertiser.

An advertisement on billboards, placards, or panels requires that the Department of Construction (“DOC”) accept the use of the proposed advertisement space.

In order to advertise a food product or food additive that is subject to the examination of hygiene and safety, the advertiser must provide a copy of the Certificate of Hygiene and Safety Registration, and a copy of the receipt from filing the application in order to register the advertisement with the FHSA. In respect of a food product or food additive that is subject to the requirement to announce hygiene and safety quality standards, an application to advertise must be accompanied by a copy of the company standards and a copy of the receipt from filing an application to announce quality standards of food hygiene and safety.

The regulatory timeframe for the DOIC to issue an advertising permit for an advertisement on a banner, illuminated object, aerial or underwater objects, means of transportation, or other mobile objects is five working days from the date of receipt of a complete application. In respect of an advertisement on billboards, placards, or panels, the DOIC forwards the complete application to the DOC within two working days after the date it is received. Within 10 working

69 Decree 24, art 4.2
70 Inter-Ministerial Circular 01, art II.1.e
71 Circular 43, art II.1.a
72 Inter-Ministerial Circular 06, art II.1.7
73 Id, art II.1.5.a
74 Id, art II. 1.5.d;
75 Id, art II.3.1
days, the DOC makes an assessment, and then responds to the DOIC with its approval or rejection. The DOIC will then issue an advertising permit within three working days.  

Advertisements of some products, such as sanitary pads and condoms, which do not conform to Vietnamese culture and way of life, will not be approved. Furthermore, advertisements which incorrectly state the quality of the product and/or address of the producer, or which relate to products either banned by the State or whose consumption is restricted by the State are prohibited. In this regard, tobacco advertising in any form is prohibited. Advertising alcoholic products is permitted, with strict limitations:

- Advertisement of alcoholic products with an alcohol content of 15º or less is permitted in newspapers, electronic newspapers, radio, television and computer networks. In this regard, such advertisements are treated no differently than advertisements of other products.

- Advertisement of alcoholic products with an alcohol content of more than 15º is allowed within the premises of the alcohol producers or within product introduction stalls or agents’ shops. However, no one standing outside of the premises or shops should be able to hear, see or read such advertisements.

- Various medicated alcohols or tonics may be advertised in accordance with the Regulations on Information on, and Advertising of, Drugs and Cosmetics for Human Use.

Advertisement of nutritious products for infants must be accompanied by an advisory that "breast milk is the best food for children's health and development." Advertisement of milk or food products for infants less than one year of age is prohibited.

Previously, an offshore producer with no establishment in Vietnam could advertise only through a Vietnamese advertising agency. This condition has been removed. Now, producers with or without an establishment in Vietnam are able to choose a foreign invested advertising entity or a foreign advertising branch to advertise their products.

**RECALL**

Most laws and regulations that deal with violations of food quality standards do not address the issue of recall. However, the regulations do allow sanctions that are tantamount to a recall. These include confiscation of the tools and equipment used to perform the administrative violation; destruction of items causing damage to human health; suspension of the delivery,

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76 *Id*, art II.3.2  
77 Circular 43, art II.6  
78 Decree 24, art 3.4  
79 *Id*, art 3.9  
80 Circular 43, art II.4  
81 *Id*, art II.3.a  
82 *Id*, art II.3.b  
83 *Id*, art II.3.c  
84 Decree 21/2006/ND-CP of the Government dated 27 February 2006 on the Business and Use of Nutritious Products for Infants, arts 6.1 and 6.2  
85 Decree 24, arts 21, 25
distribution and import/export of goods; and mandated re-manufacture or destruction of substandard goods.\textsuperscript{86}

Recalls are discussed in the Ordinance on the Hygiene and Safety of Foods and in Decree 163. Where an imported or manufactured food product fails to satisfy food hygiene and safety requirements or where it does not comply with the announced quality standards, the agency which issued the certificate on food quality may suspend distribution and recall the product.\textsuperscript{87} The company responsible for the distribution or manufacture of the non-compliant product must retrieve the food product.\textsuperscript{88} In the event that the competent authority decides to destroy recalled food, the company involved must itself do so. Alternatively, it must be responsible for all costs of destruction incurred by the authorities.\textsuperscript{89}

**INSPECTIONS**

Responsibility for inspection of the quality of food products is divided among five ministries. The MOST has primary responsibility to examine and announce the quality of goods in general and of foods in particular.\textsuperscript{90} The MOH is authorized to conduct inspections of the hygiene and safety of foods.\textsuperscript{91} The Ministry of Industry and Trade ("MOIT") is responsible for issues involved in the manufacture, sale and circulation of foods.\textsuperscript{92} The MARD is responsible for state management of the hygiene and safety of agricultural products, forestry products, aquatic products and salt. MARD is also responsible for hygiene and safety in connection with importation of animals, plants, and materials to grow, cultivate, or process. This includes temporary import for re-export, temporary export for re-import, and passage through Vietnam.\textsuperscript{93} The Ministry of Natural Resources and Environment ("MNRE") exercises state management of environmental protection in the manufacture and trade of foods.\textsuperscript{94} However, in practice, any one of these five ministries can initiate an inspection regarding foods, together with any other one.

In general, quality inspections are conducted by inspection teams or individual inspectors. The team or individual is tasked with: (1) investigating compliance with legislation on quality, (2) imposing sanctions, and (3) applying or proposing, according to its authority, measures for preventing or ending a violation. Based on the above, the list of authorized inspections includes:

- Whether the quality of goods distributed in the market conforms to the quality stated in the announcement;
- Whether the quality of goods complies with compulsory Vietnamese standards;
- Whether the quality of goods distributed in the market conforms with regulations on safety, hygiene and the environment;

\textsuperscript{86} Decree 126/2005/ND-CP of the Government dated 10 October 2005 on Administrative Sanctions against Violations in Measurements and Quality of Products and Goods ("Decree 126"), art 4
\textsuperscript{87} Ordinance on the Hygiene and Safety of Foods, arts 26, 37; Decree 163, arts 10, 17
\textsuperscript{88} Decree 163, art 17.2
\textsuperscript{89} Ordinance on the Hygiene and Safety of Foods, art 26
\textsuperscript{90} Decree 79/2008/ND-CP of the Government dated 18 July 2008 regulating the System of Organization, Management, Inspection and Analysis of Food Hygiene and Safety, art 2.4
\textsuperscript{91} Id, art 2.1
\textsuperscript{92} Id, art 2.3
\textsuperscript{93} Id, art 2.2
\textsuperscript{94} Id, art 2.5
Whether labels are compliant; 

Inspection of equipment used to measure and/or weigh goods; and 

Inspection of production, sale or purchase of goods in the market.

Inspectors are given a great deal of power. They may:

• Order the entity being inspected to provide all pertinent samples, information, documents and explanations necessary for the inspection;

• Request that the entity being inspected facilitate the activities of the inspectors;

• Confiscate samples of goods and have them tested;

• Make a record of the inspection and recommend to the head of the relevant quality control agency measures to be taken in the future;

• Apply measures for the prevention and handling of violations according to law; and

• In the event that any evidence of criminal conduct is discovered, transfer all information regarding any breaches of the law to criminal investigation authorities.

The contents and conclusions of the inspection and all recommendations are made in an inspection report. The inspection report is central to resolving problems. The Law on the Quality of Products and Goods states that organizations and individuals may lodge complaints with state agencies or competent officers against an administrative decision or an act of an agency or officer which decision or act they consider to be illegal and which infringes their rights and interests.95

**IMPORT REQUIREMENTS**

All imported goods are subject to the regulations described above. Food imported into Vietnam must meet the following additional conditions:96

• Have a Certificate of Standards of Goods issued by the MOH;

• Have a Certificate of Satisfaction of Food Hygiene and Safety Requirements issued by the MOH. As of the date that food materials and food additives are imported, the expiration date must be over two-thirds of the total useful life as inscribed on the label;

• Unprocessed food that has any animal or plant origin must receive phyto-sanitary certificates granted by competent Vietnamese state agencies.

In order to obtain a Certificate of Standards of Goods for imported foods, importers must announce the standards of the imported foods to the MOH.97 The procedure is very similar to

95 Law on the Quality of Products and Goods, art 64.1
96 Decree 163, art 6
97 Regulations on Announcing Standards of Foods, art 3.2
the procedure to announce standards of locally made food products, as discussed above in the subsection entitled Announcement Procedures. However, the requirement to announce imported foods does not apply to non-traded food products, such as foods carried into Vietnam for personal use or gifts, goods for the diplomatic corps and international organizations, and samples for fairs and pilot studies. Imported foods that are subject to State inspection of the Quality of Hygiene and Safety include:

- processed foods that require no further refinement and are ready for production or packaging;
- additives for food processing;
- packaged food for immediate use;
- foods that are not normally under State oversight, in case there is risk of injury or epidemic disease, or as otherwise required by the MOH in writing;
- other products on the list of products which must announce standards, issued periodically by the MOH.

Imported food can only be distributed and sold in Vietnam after the importer receives one of the following documents from the appropriate State control authorities:

- Certificate of Import Qualification; or
- Certification of “File Examination Only.”

In order for an importer to obtain a Certificate of Satisfaction of Food Hygiene and Safety Requirements, the foods must be examined by the MOH. However, the foods are free from State oversight if they accompany passengers for personal use, and are within the quantity that is free of import duty, or if they are:

- used as humanitarian gifts, or are transported in diplomatic and consular bags;

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98 Id, art 1.b
99 Decision 23/2007/QD-BYT of the MOH dated 29 March 2007 promulgating Regulations on State Inspection of the Quality of Hygiene and Safety of Imported foods (“Decision 23”), art 1.1
100 Id, art 1.2
101 Id, art 5: “File examination only” means a method of inspection of goods under which no physical inspection or testing of the product is required.
102 Id, art 1.4
temporarily imported for re-export; in transit or transfer;
placed in bonded warehouses;
used as samples for tests or research;
used for display as samples at trade fairs;
exchanged between people along the border;
processed by Vietnamese enterprises for export under a toll manufacturing arrangement;
raw materials to be refined or re-processed (vegetable oil, tobacco, herbal medicines used in food processing); or
fresh and semi-processed foods which must be under animal quarantine and vegetable quarantine.

A dossier to register for examination of imported food hygiene and safety consists of: 103

- application on a standard form attached to Decision 23;
- copy of the Certificate of Standards of Goods;
- copy of the bill of lading;
- copy of the invoice;
- copy of the Certificate of Origin;
- copy of the original Certificate of Standards of Goods certified by the Food Hygiene and Safety Administration (“FHSA”) or an FHSA certification that the products may be released;
- copy of the packing list;
- copy of the sales contract;
- health certificate issued by the appropriate state authorities of the country of origin if the foods are made from animals or plants and are processed and sterilized at high temperature, and if there is an epidemic announcement by the MARD or the FHSA; and
- if the food standards have not been announced, a copy of the Certificate of Analysis issued by an accredited laboratory or manufacturer bearing the stamp and signature of the director of the enterprise or other authorized person.

Within three days after receiving the dossier for registration of examination, the MOH 104 must issue a receipt so that the importer is permitted to carry out customs clearance procedures.

103 Id, art 6
Afterwards, the MOH examines the imported foods to determine whether to issue a Certificate of Satisfaction of Food Hygiene and Safety Requirements. A Certificate of Satisfaction of FHSA must be obtained before the importer can circulate the foods.

If an imported food fails to comply with regulations on imported food hygiene and safety, its purpose of use may be changed, or it may be recalled, recycled, destroyed, or re-exported by a decision of an enforcement authority.

In addition, where imported goods appear on the “List of goods subject to state quality examination,” the importer must apply to have the goods examined by relevant government bodies. There are a number of aquatic products on this List. After the quality examination, the examining agency will issue the results in a notice in one of the following forms:

- Certificate certifying that the imported goods meet requirements as to quality;
- Notice that the imported goods are subject to file examination only;
- Notice that the imported foods do not satisfy import requirements.

Customs procedures are based on the results of the examinations mentioned. That is to say, Customs import procedures be conducted only if the examination results are favourable. When Customs procedures are completed, the goods can be imported. If the examination results are unfavourable, the goods must either be destroyed or returned to the exporting country.

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104 According to Decision 2964/2004/QD-BYT of the MOH dated 27 August 2004, the Food Administration, an agency under the MOH, is responsible to assist the MOH to perform state oversight of quality, hygiene and safety of food nationwide. As authorized by the MOH, the FHSA is responsible to receive and examine dossiers, and decide whether to issue Certificates of Standards of Goods and Certificates of Satisfaction of Food Hygiene and Safety Requirements.

105 Decree 163, arts 10.1 and 10.2

106 Id, art 9.3

107 Id, art 10.3

108 List of goods subject to State Quality Examination promulged in conjunction with Decision 50/2006/QD-TTg of the Prime Minister dated 7 March 2006

109 Circular 05/2007/TT-BYT of the MOH dated 7 March 2007 guiding Conditions and Procedures to nominate Organizations to Implement State Inspection on Quality, Hygiene and Safety of Imported Foods, Part I.2

110 Decision 23, art 11

111 The examining agency will forward this Notice and the results of tests to owner of products/goods and the customs agency at the port where the products/goods arrive, and send a report to FHSA to propose resolution.

112 Decision 23, art 15.5
**EXPORT REQUIREMENTS**

In general, there are no specific export requirements for food products. In principle, it is the overseas buyer of a food product that sets the quality, safety or hygienic standards with which the product must comply.

In practice, the overseas buyer usually asks whether the food exporter is in compliance with International Standardization Organization (“ISO”) provisions. Further, the food product must follow international standards on hygiene and safety known as HACCP. The principle of HACCP is to define and isolate the critical points in the process which may pose a food safety hazard. Processors are responsible for producing safe products. Safe food means marketable food, and food exporters are responsible to provide safe food in accordance with HACCP.

In addition, an overseas buyer may require a Certificate of Free Sale issued by the MOH for food products intended for export. If so, the food exporter must apply for the Certificate from the MOH. According to discussions with an MOH official, the food exporter should submit a letter of request for the Certificate for Free Sale together with the sales contract under which the Certificate is required by the overseas buyer. Within about two weeks, the food exporter should receive the Certificate, assuming that it has announced to the MOH the standards on quality, safety and hygiene of the foods intended for export.

However, if the exported food product falls onto the “List of goods subject to State quality examination,” the food exporter must proceed with quality examination under the MOH. Export requirements that relate to foods are the same as those discussed in the previous section, **Import Requirements**. A successful examination will help facilitate compliance with customs procedures which apply to foods for export.

**AQUATIC PRODUCTS**

Decree 59/2005/ND-CP of the Government dated 4 May 2005 on Conditions of Manufacture and Business of a number of Aquatic Professions (“Decree 59”), other ministries, bodies and the provincial people’s committees the responsibility to organize the inspection and examination of aquatic business activities and to resolve violations. That term includes aquatic animals and plants, aquatic animal and plant products, feed for aquatic and marine life, aquatic plant protection products (e.g., chemicals), veterinary medicines for aquatic life and fishing nets and other gear.

Entities involved in processing or producing aquatic products intended for consumption are subject to inspection by MOAP to assure compliance with standards of food safety and hygiene. In order to arrange inspections, establishments must register with the bodies which perform those inspections. There are four types of inspection: first-time inspection, re-inspection, periodic inspection, and irregular inspection. Each type of inspection, except periodic

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113 There are no specific provisions on application procedures.
114 The MOAP is responsible for unifying state management of aquatic products as provided by Inter-Ministerial Circular 24/2005/TTLT-BYT-BTS of the MOH and MOAP dated 8 December 2005 guiding the Assignment and Co-ordination of State Management of Hygiene and Safety of Aquatic Products, art 1.1.a
115 Decree 59, art 17
inspection, is carried out by an inspection team set up by the head of the inspection body.\textsuperscript{117} Inspection reports must state the inspection team's general assessment of the hygienic standard of the establishment as it relates to food.

Class A establishments (those that satisfy food hygiene and safety standards)\textsuperscript{118} or Class B establishments (those that achieve food hygiene and safety standards, but have some minor faults which have little impact on the hygiene and safety of the aquatic products)\textsuperscript{119} will be granted a code number.\textsuperscript{120} If the establishment has many serious faults which cannot be remedied within a short period of time, and if continued production would have a serious impact on the hygiene and safety of the aquatic products, then at the request of the inspecting body, the body authorized to rule on such establishments will issue a non-recognition notice. The exact authorized body is discussed below. A copy of the notice is also sent to the agency which granted the business registration certificate to that establishment,\textsuperscript{121} along with a request that the business registration certificate be suspended.\textsuperscript{122} The authorized body may, by the same notice, request the state quality control body to deny quality certificates for goods produced by the establishment as from the date of the notice.\textsuperscript{123}

A qualified establishment must submit to periodic inspections and maintain hygienic and safe conditions.\textsuperscript{124} The frequency of inspections can vary, ranging from once a month to once a year, depending on the classification of the establishment: eg, Class A establishments are inspected once every six months, while Class B establishments are inspected once every three months.\textsuperscript{125} The frequency of inspection also depends on whether the establishment is involved in manual or industrial processing.\textsuperscript{126}

According to the Regulations on Aquatic Products, the MOAP is responsible for issuing recognition notices to establishments involved in the production, packaging or preservation of aquatic products for use as food. The provincial Departments of Aquatic Products deal with all other establishments involved with aquatic products for use as food.\textsuperscript{127} The inspecting bodies may collect inspection fees for first-time inspection, re-inspection and periodic inspection.\textsuperscript{128}

These Regulations do not govern retail establishments that process aquatic products,\textsuperscript{129} or catering services that provide aquatic foods.\textsuperscript{130}

\textbf{State Inspection and Certification of Aquatic Products Quality}

All organizations and individuals producing and trading in aquatic products that appear on the list of goods requiring quality inspection must apply for State inspection, whether the products

\begin{itemize}
  \item \textsuperscript{117} \textit{Id}, art 10.1
  \item \textsuperscript{118} \textit{Id}, art 11.2.a
  \item \textsuperscript{119} \textit{Id}, art 11.2.b
  \item \textsuperscript{120} \textit{Id}, art 14.3
  \item \textsuperscript{121} \textit{Id}, art 15.2.a
  \item \textsuperscript{122} \textit{Id}, art 15.2.b
  \item \textsuperscript{123} \textit{Id}, art 15.2.c
  \item \textsuperscript{124} \textit{Id}, art 18.3
  \item \textsuperscript{125} \textit{Id}, art 12.1.a
  \item \textsuperscript{126} \textit{Id}, art 12.1
  \item \textsuperscript{127} \textit{Id}, art 6
  \item \textsuperscript{128} \textit{Id}, art 24.1
  \item \textsuperscript{129} \textit{Id}, art 2.a
  \item \textsuperscript{130} \textit{Id}, art 2.b
\end{itemize}
are exported, imported or domestically consumed. This inspection is made per lot of aquatic products and a certificate of aquatic products quality will be granted per lot.

Before any lot of aquatic products can be exported, imported or consumed, one of the following documents is necessary: either a quality certificate or a notice of exemption from quality inspection. A quality certificate is granted if the lot of products meets prescribed standards. A particular lot of aquatic products may receive an exemption from inspection if the lot has already been inspected and approved by the MOAP for export or for domestic consumption as the result of a request for inspection by the processing company. If such aquatic products are returned or rejected by foreign inspection bodies, such products will be subject to inspection in Vietnam. Enterprises are exempt from inspection only when they have applied all measures to ensure food safety control, and are certified by the inspecting bodies as having done so. Many imported products are also exempt from inspection. To qualify, such products must have been granted quality certificates either by an authorized inspection agency from the exporting country, or by a foreign inspection organization approved by the MOAP. In addition, the origin, homogeneity, packaging, labeling and appearance of the imported aquatic products must be compatible with the importation documentation. If so, the inspecting body will issue a notice of inspection exemption for the qualified lots.

Each quality certificate or notice of exemption from inspection is effective only if transportation and storage have not changed the quality of the aquatic products.

If the inspection fails, the owner of the aquatic products will receive a notice of failure. The owner may request re-inspection, and in cases where the original inspection was inaccurate, resulting in damage or loss to the owner, the aggrieved owner has the right to claim compensation. The level of compensation can be agreed, but cannot exceed ten times the inspection charge already collected.

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131 Regulations on State Inspection and Certification of Aquatic Goods Quality (issued together with Decision 650/2000/QD-BTS of the MOAP dated 4 August 2000), arts 1.2, 1.3
132 Id, art 4.1
133 Id, art 12.2.2.b
134 Id, art 4.1
135 Id, art 4.4
136 If the exporting country is a signatory to a mutual recognition agreement with Vietnam
137 Id, art 11.2
138 Id, art 11.3.a
139 Id, art 13.5
140 Id, art 15.1
141 Id, art 7.6
Announcement of Quality Standards of Speciality Aquatic Products

There are separate regulations for speciality aquatic products, called Temporary Regulations on Announcing Quality Standards of Speciality Aquatic Products. The Regulations stipulate that aquatic animals and plants for breeding purposes; industrial processed foods for aquatic farming; medicines, chemicals, and biological products used in aquatic farming; and nets and other instruments used in aquatic exploration are subject to announcement procedures of quality standards. Before the products can be sold in Vietnam, announcement procedures must be carried out at the Office of Aquatic Resources Protection in the region where the head office of the establishment is located, whether the products are produced locally or whether they are imported. If there is no Office of Aquatic Resources Protection in the region, announcement procedures will be carried out at the Bureau of Aquatic Resources Protection.

The announcement application should include:

- Original completed announcement form on quality standards (this is a standard form provided by the MOAP);
- Original announcement on quality standards issued and stamped by the applicant;

To complete these two forms, the applicant must provide its standards for the specific aquatic product. As described above, such standards are set by the applicant and the applicant’s decision is made in writing, stamped and executed by the applicant. An original copy of such decision should be included in the announcement application. Further, if the standards set by the applicant meet either a Vietnamese standard or an international standard, the applicant should include such additional information;

- Certificate of the results of tests which relate to the quality of the aquatic products; and
- Label or draft label of the aquatic product.

The applicant will know whether its announcement is accepted by the local department of the MOAP within seven days from the date of submission. If the announcement is accepted, the applicant is responsible for complying with its announced quality standards and is subject to periodic inspection by the competent state agency on the quality of its speciality aquatic products. If there is a change in the announced quality standards, the applicant must announce such change.

142 These temporary regulations were issued in connection with Decision 425/2001/QD-BTS of the Minister of Aquatic Products dated 25 May 2001.
143 Id, art 7
144 The applicant is the producer if the speciality aquatic product is locally produced. The importer or the distributor is the applicant if the speciality aquatic product is imported.
145 Id, art 10.1
146 Id, art 10.2
Safety and Quality Requirements for Aquatic Products for Export

The value of aquatic products exported by Vietnam has risen steadily. Vietnam is a prominent supplier. The Government believes it is important that proper standards be maintained to ensure confidence in aquatic products that come from Vietnam.

For exports to countries with standards that differ from those of Vietnam, inspection and certification must be based on the standards and requirements of the importing countries or on agreements between Vietnam and the importing countries.\textsuperscript{147} Vietnamese regulations allow establishments that export their aquatic products to be inspected more frequently than required by Vietnamese law, if the importing countries require it.\textsuperscript{148} Accordingly, to export aquatic products, Vietnamese exporters must comply not only with Vietnamese law, but also with requirements of the importing country. The Regulations on Aquatic Products state that if an establishment that has been certified as meeting Vietnamese hygienic and safety standards has more than two lots of exported goods returned or cancelled by inspectors in either Vietnam or in the importing country, the certification will be revoked.\textsuperscript{149}

Like any food products, aquatic products should conform to HACCP. In addition, exported aquatic products must be sanitary. This requirement follows GMP, which is the basic regime for food manufacturers. The principles are straightforward and aim to prevent contamination of food through unsanitary practices. There is a close relationship between HACCP and GMP, inasmuch as GMP is considered to be a prerequisite to HACCP. Without GMP, the risks are greater.

Vietnamese exporters must also establish their own quality control system to conform to international criteria and/or the requirements of the importing countries. To this end, the Regulations on Aquatic Products stipulate that, for exported aquatic products, the standards of importing countries or market groupings are to be applied to the exporters’ inspection procedures, provided that such standards meet Vietnamese standards.\textsuperscript{150} At the moment, aquatic products for export have been removed from the list of export and import goods which are subject to state quality inspection.\textsuperscript{151} The Government has taken that step to encourage aquatic products exporters to adopt HACCP, GMP and other international criteria voluntarily.

**ENFORCEMENT**

All organizations and individuals have the right to lodge complaints regarding violations that relate to the quality of food products.\textsuperscript{152} They may even make a complaint regarding wrongdoing by a government official responsible for implementing or enforcing the laws and

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\textsuperscript{147} Decision 649, art 3.3
\textsuperscript{148} Id, art 12.2
\textsuperscript{149} Id, art 16.2.c
\textsuperscript{150} Id, art 3.3
\textsuperscript{151} Decision 650, art 3
\textsuperscript{152} Law on the Quality of Products and Goods, art 64; Ordinance on Hygiene and Safety of Foods, art 49.2; Decree 126, art 31.2
regulations on the quality of food products.\textsuperscript{153} The authorities must respond to such complaints.\textsuperscript{154}

All individuals and organizations, including foreign organizations and individuals, that commit an administrative violation with respect to the quality of goods will be sanctioned.\textsuperscript{155} This accords with the Civil Code, which states that: “individuals, legal persons, etc. that are producers or who do business without ensuring the quality standards of goods and damage any consumer must compensate” the consumer.\textsuperscript{156} However, only inspectors of the General Department of Standards, Measurements and Quality (“GDSMQ”) or one of its branches, People’s Committees, the police, the Customs Service, market management agencies or specialist inspection agencies of the ministries have the right to deal with administrative violations.\textsuperscript{157} Once a violation has been discovered, the law gives the government much flexibility in the form and scale of punishment.\textsuperscript{158} Sanctions include:

1. Warning: applies only to minor or first time violations or violations with extenuating circumstances;

2. Fine: determined on the basis of the type and seriousness of the violation, the presence of extenuating or aggravating circumstances, and the personal record of the offender. The sanctions must be within the prescribed range of fines for each type of violation. The fines range from VND 100,000 to VND 20 million;

3. Temporary or permanent withdrawal of permits, certificates and other documents issued by state agencies relating to the quality of goods;

4. Forcible registration of quality or application for necessary certificates or other documents;

5. Confiscation of evidence and tools used to commit an administrative violation;

6. Temporary suspension of business activities if the violation is deemed likely to affect safety, hygiene, the environment or the economy;

7. Forcible implementation of measures to address contamination or the spread of disease caused by the violation;

8. Forcible destruction of items causing damage to human health;

9. Forcible suspension of the delivery, distribution and import/export of goods; and

10. Forcible re-manufacture or destruction of substandard goods.\textsuperscript{159}
The sanctioning agency will apply either a warning or a fine in almost every instance. Other sanctions are considered optional. Whether an optional sanction is applied depends largely on the type and seriousness of the violation. However, the enforcement agencies are given relatively little guidance as to which sanctions to impose or how large a fine should be. The regulations do list extenuating and aggravating circumstances, as well as situations where sanctions are not to be applied. As you will see, the regulations refer to violations of many laws, not just to violations related to food.

Extenuating circumstances include:161

• The offender attempts to mitigate the damage caused by the breach or to deal voluntarily with the consequences and to compensate the injured;

• The offender voluntarily declares his violation or repents the violation;

• The violation is committed in a state of nervous excitement caused by the illegal acts of other persons;

• The violating party is a pregnant woman, an old and sick person, a diseased person, a disabled person or a person with limited awareness or control over his actions;

• The violation is committed in especially difficult circumstances not brought about by the offender; or

• The breach was committed as a result of backward thinking.

Aggravating circumstances include:162

• Organised violations;

• Repeated and/or extensive violations;

• Enticement by the offender of underage persons to commit a violation, or forcing dependent persons to commit a violation;

• A violation committed while the offender is under the influence of alcohol or some other stimulant;

• An offender’s abuse of power in order to commit the violation;

• The offender takes advantage of wartime conditions, natural disasters or other social difficulties in order to commit the violation;

• An offender persists in the violation despite the request of an authorized person to cease;

160 Decree 126, art 4
161 Ordinance on Dealing with Administrative Violations 44/2002/PL-UBTVQH10 dated 2 July 2002, art 8.1
162 Id, art 9
• A violation committed while the offender is serving a criminal sentence or subject to an administrative penalty; and

• The offender attempts to evade responsibility or conceal the violation.

Situations where no sanction should be applied include:¹⁶³

• Where the offender had no choice due to urgent circumstances, unforeseen contingent events, natural disasters, war and similar situations, and every measure to overcome the difficulties has been taken;

• The offender suffers from a mental or other disease that is confirmed by a medical agency and which causes him or her to lose awareness or behavioural control;¹⁶⁴ and

• Where the statute of limitations (two years for import-export violations and one year for all other violations) has expired.¹⁶⁵

Usually, the more complicated and serious the violation, the higher the level of the inspector who is sent to deal with it (for example, regular inspector vs. chief inspector of the GDSMQ). The sanctions which may be imposed on the spot also depend on the level of the inspector. However, even an inspector of the lowest-level may impose a fine of up to VND 200,000, confiscate items worth up to VND 2,000,000, require the restoration of the normal state of affairs, order the implementation of measures to deal with pollution and diseases, and order the destruction of products damaging to human health.¹⁶⁶ Where an inspector believes that it is necessary to impose a fine beyond his authority, he must submit a file regarding the breach to the appropriate higher authority.¹⁶⁷ Within 10 days (or 30 days for complicated cases) the relevant government agency will issue a decision on how to handle the administrative violation.¹⁶⁸

If the administrative violation is found to constitute criminal behaviour, and is likely to cause serious consequences to other people, to hygienic or environmental safety, or to State property, then the agency handling the administrative violation must send its investigation file to the appropriate criminal investigation department to handle the violation in accordance with the Penal Code.¹⁶⁹

An injured party may demand compensation by filing suit with the Civil Division of the People’s Court.

¹⁶³ Id, art 3.6
¹⁶⁴ Ordinance on Dealing with Administrative Violations, art 3.6
¹⁶⁵ Decree 126, art 5.1
¹⁶⁶ Id, art 25
¹⁶⁷ Id, art 29.2
¹⁶⁸ Ordinance on Dealing with Administrative Violations, art 56.1
¹⁶⁹ Decree 126, art 29.3
CONCLUSION

In conclusion, regulations on foods have been improved and simplified. A good example is the replacement of the complex rules regarding registration of food quality, hygiene and safety. A regime of announced food quality, hygiene and safety now applies. This change provides a shortened and simplified alternative, which should not impair standards.

The rules on food continue to develop in a way that recognizes the greater sophistication of the Vietnamese food industry, consumer needs, and import, export and processing standards. The reality is that the laws must continue to evolve. Rules that were intended to regulate the quality of goods in general are not completely adequate to regulate the quality of food products. There is a clear recognition of this, but, as often the case in Vietnam, the process of change and implementation is measured and deliberate.
### SCHEDULE

List of cited Laws, Ordinances, Decrees, Circulars and Regulations classified by subject and by order of appearance

<table>
<thead>
<tr>
<th>Subject</th>
<th>Pages</th>
<th>Name of legal documents</th>
<th>Issued by</th>
<th>Issued on</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Quality Standards</strong></td>
<td>3 - 7</td>
<td>• Law on Standards and Technical Specifications 68/2006/QH11</td>
<td>National Assembly</td>
<td>29 June 2006</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Law on the Quality of Products and Goods 05/2007/QH12</td>
<td>National Assembly</td>
<td>21 November 2007</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Decree 188/2007/ND-CP providing the Functions, Duties, Authorities and Organization of the MOH</td>
<td>Government</td>
<td>27 December 2007</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Decision 42/2005/QD-BYT promulgating Regulations on Announcing Standards of Food Products</td>
<td>MOH</td>
<td>8 December 2005</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Circular 21/2007/TT-BKHCN on the Establishment and Use of Standards</td>
<td>MOST</td>
<td>28 September 2007</td>
</tr>
<tr>
<td><strong>Safety and Hygiene</strong></td>
<td>7</td>
<td>• Decision 39/2005/QD-BYT promulgating Regulations on General Conditions of Hygiene applicable to Food Processing Establishments</td>
<td>Minister of Health</td>
<td>28 November 2005</td>
</tr>
<tr>
<td><strong>Labeling</strong></td>
<td>7 - 10</td>
<td>• Decree 89/2006/ND-CP on the Labeling of Goods</td>
<td>Government</td>
<td>30 September 2006</td>
</tr>
<tr>
<td><strong>Advertising</strong></td>
<td><strong>10 - 12</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>----------------</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>•</strong> Decision 02/2007/QD-BYT promulgating Regulations on Hygiene and Safety of Cigarette Products</td>
<td>MOH</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>•</strong> Circular 08/2004/TT-BYT guiding Management of Functional Foods</td>
<td>MOH</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>•</strong> Circular 09/2007/TT-BKHCN guiding a number of Articles of Decree 89/2006/ND-CP</td>
<td>MOST</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>•</strong> Decree 24/2003/ND-CP providing Detailed Regulations Implementing of the Ordinance on Advertising</td>
<td>Government</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>•</strong> Decree 21/2006/ND-CP on the Business and Use of Nutritious Products for Infants</td>
<td>Government</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>•</strong> Circular 79/2005/TT-BVHTT amending and supplementing a number of provisions of Circular 43/2003/TT-BVHTT</td>
<td>MOIC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>•</strong> Inter-Ministerial Circular 01/2004/TTLT-BVHTT-BYT guiding Advertising Activities in the Domain of Health</td>
<td>MOIC, MOH</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>•</strong> Inter-Ministerial Circular 06/2007/TTLT-BVHTT-BYT-BNN-BXD guiding One-door Procedures to Grant Advertising Permits</td>
<td>MOIC, MOH, MARD, MOC</td>
<td></td>
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</tr>
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<td></td>
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<td>15 January 2007</td>
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<td>23 August 2004</td>
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<td>6 April 2007</td>
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<td>13 March 2003</td>
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| **Recall** | **13** | • Ordinance on the Hygiene and Safety of Foods 12/2003/PL-UBTVQH11  
• Decree 163/2004/ND-CP Implementing of a number of Articles of the Law on the Quality of Products and Goods  
• Decree 126/2005/ND-CP on Administrative Sanctions against Violations in Measurements and Quality of Products and Goods | Standing Committee of the National Assembly | 26 July 2003  
Government | 7 September 2004  
Government | 10 October 2005 |
| **Inspection** | **13 - 15** | • Law on the Quality of Products and Goods 05/2007/QH12  
• Decree 79/2008/ND-CP regulating the System of Organization, Management, Inspection and Analysis of Food Hygiene and Safety | National Assembly | 21 November 2007  
Government | 18 July 2008 |
| **Import Requirements** | **15 - 18** | • Decree 163/2004/ND-CP Implementing of a number of Articles of the Law on the Quality of Products and Goods  
• Decision 2964/2004/QD-BYT providing the Functions, Duties, Authorities of Departments, Agencies, Offices and Inspectors of the MOH  
• Decision 42/2005/QD-BYT promulgating Regulations on Announcement of Standards of Food Products  
• Decision 50/2006/QD-TTg promulgating the List of Goods subject to State Quality | Government  
MOH | 7 September 2004  
MOH | 27 August 2004  
Prime Minister | 8 December 2005  
Prime Minister | 7 March 2006 |
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<th><strong>Export Requirements</strong></th>
<th><strong>19</strong></th>
<th>• Decision 50/2006/QD-TTg promulgating the List of Goods subject to State Quality Examination</th>
<th>Prime Minister</th>
<th>7 March 2006</th>
</tr>
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| **Aquatic Products**    | **19 → 23** | • Decree 59/2005/ND-CP on Conditions of Manufacture and Business of a number of Aquatic Professions  
  • Decision 649/2000/QD-BTS promulgating Regulations on Examination and Recognition of Satisfaction of Hygiene and Safety of Aquatic Processing and Trading Establishments  
  • Decision 650/2000/QD-BTS promulgating Regulations on State Inspection and Certification of Aquatic Goods Quality  
  • Decision 425/2001/QD-BTS promulgating Temporary Regulations on Announcement of Quality Standards of Speciality Aquatic Products  
  • Inter-Ministerial Circular 24/2005/TTLT- | Government | 4 May 2005 |
<p>|                         |        | • MOAP | 4 August 2000 |
|                         |        | • MOAP | 4 August 2000 |
|                         |        | • Minister of Aquatic Products | 25 May 2001 |</p>
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<th>Enforcement</th>
<th>23 - 26</th>
<th>BYT-BTS guiding the Assignment and Coordination of State Management of Hygiene and Safety of Aquatic Products</th>
<th>MOH, MOAP</th>
<th>8 December 2005</th>
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- Civil Code 33/2005/QH11
- Law on the Quality of Products and Goods 05/2007/QH12
- Ordinance on Dealing with Administrative Violations 44/2002/PL-UBTVQH10
- Ordinance on the Hygiene and Safety of Foods 12/2003/PL-UBTVQH11
- Decree 126/2005/ND-CP on Administrative Sanctions against Violations in Measurements and Quality of Products and Goods
- Decree 136/2006/ND-CP providing and implementing a number of Articles of the Law on Appeal and Denunciation
- Decree 95/2007/ND-CP amending and supplementing a number of Articles of Decree 126/2005/ND-CP

| | | | National Assembly | 14 June 2005 |
| | | | National Assembly | 21 November 2007 |
| | | | Standing Committee of the National Assembly | 2 July 2002 |
| | | | Standing Committee of the National Assembly | 26 July 2003 |
| | | | Government | 10 October 2005 |
| | | | Government | 14 November 2006 |
| | | | Government | 4 June 2007 |