FOOD LAW IN VIETNAM

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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.

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FOOD LAW IN VIETNAM

RUSSIN & VECCHI*

INTRODUCTION

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 laws on the subject are the Law on the Quality of Products and Goods (“LoQPG”) and the Law on Food Safety (“LoFS”). The former 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 Law, the international treaties shall prevail.”²

The LoQPG came into effect on 1 July 2008 and replaced the Ordinance on the Quality of Goods. It 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 LoFS, with effect from 1 July 2011, replaces the Ordinance on the Hygiene and Safety of Foods. Mainly it describes the rights and obligations of organizations and individuals in respect of food safety; conditions to ensure the safety of food for manufacturing, doing business in food, and importing, exporting food; advertising, labelling food; testing food; analysing threats to food safety; and protecting, preventing, and overcoming breakdowns in food safety.⁴

The LoQPG gives the Ministry of Science and Technology (“MOST”) overall responsibility for the quality of goods, including foods. And the LoFS specifies the responsibilities to the Ministry of Health (“MOH”), Ministry of Agriculture and Rural Development (“MARD”), and Ministry of Industry and Trade (“MOIT”) for the safety of food.

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¹ LoQPG, art 68.1.
² Id, art 4.3.
³ Id, art 5.2.
⁴ Art 1, LoFS.

* This book was originally prepared by Nhan Thien Vu, then with Russin & Vecchi in Vietnam. It was originally published in 2000 by Prospect Media Pty Ltd. as a chapter on Vietnam in a publication entitled “International Food Law”. The Vietnam Chapter has been revised and updated many times by Russin & Vecchi. This edition is current through January 2011.
WHAT IS FOOD?

The LoFS defines “foods” as follows: “Foods are products which human beings eat and drink in their fresh, raw, processed or preserved forms. Foods do not include cosmetics, tobacco, and medicinal products.” There are sub-definitions of different types of food, such as fresh food, nutritional food, functional food, genetically modified food, irradiated food, street food and packaged food.

Those sub-definitions are as follows:

“Fresh food” is unprocessed food including meat, eggs, fish, aquatic products, vegetables, fresh fruits, and other unprocessed foods.

“Nutritional food” is food supplemented with vitamins, mineral substances, serum antioxidant microminerals in order to prevent the community or a particular group in the community from the shortage of vitamins, substances, and microminerals.

“Functional food” is food used to support the operation of body organs, creates comfort for the body, increases resistance, reduces pathogenic dangers. It consists of food supplements, health protective food and medically nutritious food.

“Genetically modified food” is food which consists of one or more materials which have been genetically modified.

“Irradiated food” is food radiated by a form of radioactivity 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.

“Street food” is a ready-to-eat food or beverage. It is obtained from a vendor, sold on streetsides, in public, or similar places.

“Packaged food” is completely packaged and labelled food, which may be eaten or processed further.

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5 LoFS, art 2.20.
6 Id, art 2.21.
7 Id, art 2.22.
8 Id, art 2.23.
9 Id, art 2.24.
10 Id, art 2.25.
11 Id, art. 2.26.
12 Id, art. 2.27.
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 which relate 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. Also included are 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, under the LoQPG individuals and organizations that produce and trade in goods, including foods, are required only to “announce”, rather than “register”, their own quality standards. Administrative procedures to announce quality standards are much simpler than the former 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 standard of their goods. Of course, such quality 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. 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 Foods require all individuals and organizations that produce and trade food products, including food additives, to announce the quality

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13 Decision 42/2005/QD-BYT of the MOH dated 8 December 2005 (”Decision 42”), art 2.2.
14 LoQPG, art 5.1.
16 Id, art 13.
17 Art 10.
19 Issued in connection with Decision 42. These Regulations were issued before the LoFS was issued, so some regulations are not compatible. We anticipate that the Regulations will be amended.
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. 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.

**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.

**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, the entity that actually produces the food product (“company” in this section) must submit an announcement application to the appropriate health authorities. The announcement application must include:

- 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);
- 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;
- 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);

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20 “Food additive”, as defined in art 2.13 of the LoFS, means a substance with or without nutritional value that is added to food ingredients in the course of food production with a view to retaining or improving some characteristics of the food.

21 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.

22 Id, art 7.

23 Id, art 4.4(a).

24 Announcement procedures that apply to imported foods and food additives are discussed later in the section “IMPORT REQUIREMENTS” on p 15.

25 The producer of the food product.

26 Regulations on Announcing Standards of Foods, art 3.

27 If it is mineral water, a certificate on the results of tests of the water source is also required.
· 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, food-processing supporting substances, or special foods, other documents, such as a Health Certificate or results of clinical tests, are also required.

A company may establish quality standards by:

· 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.

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.

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28 “Food-processing supporting substances”, as defined in art 2.3 of the LoFS, means substances used in the course of processing food raw materials or food ingredients for technological purposes; they may be extracted from food.

29 “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.


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 Standards on food hygiene and safety.

All standards 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.

Under the Law on Consumer Protection (“LoCP”), with effect from 1 July 2011, in order to determine whether a product is defective or unsafe, authorities will assess not only its quality, but also its design. Authorities will also determine whether a warning is required.

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 purchasers to decide on the selection, consumption and use of goods, and for functional bodies to conduct inspection and supervision.”

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

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32 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, arts 1 to 10.

33 Id, arts 17, 18, 19.

34 Id, arts 11, 16.

35 Art 3.3.

36 Decree 89, art 2.

37 Id, art 3.1.

38 Id, art 3.2.
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 (“Circular 09”), amended by Circular 14/2007/TT-BKHCN of the MOST dated 25 July 2007 (“Circular 14”):

- 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;

- names and addresses of the entities which produced, imported, assembled or finished the goods;

- weight and volume of the goods measured in units recognised by Vietnamese law, under the International System of Measuring Units (“ISMU”);

- ingredients, if the product, including seafood, contains food additives. Ingredients must be listed in descending order of volume or content (volume percentage), and must include their international code (if any);

- principal quality criteria, ie, factors decisive to safety and consumption by humans and the environment; production date, expiration date and shelf-life of goods. An expiration date is mandatory for food products;

- storage and usage instructions; and

- country of origin, applicable only to imported goods and goods for export.

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 be seen as an administrative violation.

The colour of the text of compulsory contents must contrast with the background colour of the label. Goods distributed in Vietnam must be labelled in the Vietnamese language, except for contents that are presented in their Latin origin. However, depending on the requirements of each type of goods, a foreign language may be added in smaller print. With respect to goods

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39 Id, art 13.
40 Id, art 14.
41 Id, art 12.2.d.
42 Id, art 15.1.
43 Id, appendix III.
44 Id, art 18.3.a.
45 Decree 89, art 19; Circular 09, art II.7.
46 Decree 89, art 16.
47 Id, art 12.2.c.
48 Id, art 12.2.e.
49 Id, art 17.
50 Id, art 8.
51 Id, art 9.4.
52 Id, art 9.2.
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{53} 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{54}

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{55}

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{56}

- 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{57}

- 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{58}

- If there are two or more food additives in a product, they must be listed in proportion to their volumes;\textsuperscript{59}

- The phrase “for food” must accompany food additive substances;\textsuperscript{60}

- 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{61}

- For food that is used to improve nutrition or for health treatment, information about nutritional ingredients, specific additional nutrient contents and instructions for use must be added;\textsuperscript{62}

- If the ingredients of special goods contain preservatives with a prescribed dosage, which may cause allergens, or which may be harmful to humans, animals or the environment, the names of the preservatives together with the names of the ingredients must be included;\textsuperscript{63}

- 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.\textsuperscript{64}

\textsuperscript{53} Id, art 3.
\textsuperscript{54} Id, art 9.3.
\textsuperscript{55} Id, art 7.
\textsuperscript{56} Decree 89, art 18.1; Circular 09, art II.6.b.
\textsuperscript{57} Decree 89, art 18.3.a.
\textsuperscript{58} Circular 09, art II.2.c.
\textsuperscript{59} Decree 89, appendix III.
\textsuperscript{60} Id, appendix IV.
\textsuperscript{61} Id, art 19.4.
\textsuperscript{62} Circular 08, art II.3.a.
\textsuperscript{63} Id, art 19.3.
\textsuperscript{64} Id, art II.3.a.
In addition, under the LoFS, labelling of functional food, food additives, irradiated food, and genetically modified food must meet the following criteria.65

- A label for functional food must contain the phrase “functional food” and must not imply in any way that the food can replace medicine;

- A label for food additives must contain the phrase “food additive” and contain information on scope, dosage, and use;

- A label for irradiated food must contain the phrase “irradiated food”;

- A label for genetically modified food must contain the phrase “genetically modified food”.

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

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65 Art 14.2.  
66 Circular 08, art II.3.c.  
67 Decree 89, art 17.  
ADVERTISING

Current regulations that relate to advertising in general are Decree 24/2003/ND-CP of the Government dated 13 March 2003 providing Detailed Regulations Implementing the Ordinance on Advertising (“Decree 24”); Circular 43/2003/TT-BVHTT of the Ministry of Culture and Information (“MOCI”) dated 16 July 2003 guiding Decree 24 (“Circular 43”); Inter-Ministerial Circular 01/2004/TTLT-BVHTT-BYT of the MOCI and the MOH dated 12 January 2004 guiding Advertising Activities in the Domain of Health (“Inter-Ministerial Circular 01”). The contents of an advertisement of all goods, not just food products, must be accurate, truthful and must correctly reflect the form, quality, usage, label, design, classification, packing, origin, use date, preservation period and warranty period of the goods. In particular, food advertisements must be truthful, must accurately describe the quality of the food products, and must include guidance on use and preservation of those foods for which guidance is required. The advertisement must be in accordance with food labels and quality standards which have been announced to or registered with relevant state agencies.

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 MOCI, 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:

- 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 written agreement from the Department of Construction (“DOC”).

In order to advertise a food product or food additive that is subject to examination for 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 Food Hygiene and Safety Administration (“FHSA”). To advertise a food product or food additive that is subject to announcement of hygiene and safety quality

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70 Decree 24, art 4.2.

71 Inter-Ministerial Circular 01, art II.1.e.

72 Circular 43, art II.1.a.

73 Inter-Ministerial Circular 06, art II.1.7.

74 Id, art II.1.5.a.
standards, the application to advertise must be accompanied by a copy of the company’s standards and the filing receipt.\textsuperscript{75}

The regulatory timeframe for the DOIC to issue an advertising permit varies from five to 15 working days depending on the medium in which the advertisement will appear.\textsuperscript{76}

Advertisements of some products, such as sanitary pads and condoms, which may conflict with Vietnamese culture and way of life, will not be approved.\textsuperscript{77} Furthermore, advertisements which incorrectly state the quality of the product and/or address of the producer,\textsuperscript{78} or which relate to products either banned by the State or whose consumption is restricted by the State are prohibited.\textsuperscript{79} In this regard, tobacco advertising in any form is prohibited.\textsuperscript{80} Advertising alcoholic products is permitted, with strict limitations:

- Advertisement of alcoholic products with an alcohol content of 15\(^\circ\) 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.\textsuperscript{81}

- Advertisement of alcoholic products with an alcohol content of more than 15\(^\circ\) 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.\textsuperscript{82}

- 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.\textsuperscript{83}

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.\textsuperscript{84}

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\textsuperscript{85} to advertise their products.

\textsuperscript{75} Id, art II. 1.5.d.
\textsuperscript{76} Id, art II.3.1, art II.3.2.
\textsuperscript{77} Circular 43, art II.6.
\textsuperscript{78} Decree 24, art 3.4.
\textsuperscript{79} Id, art 3.9.
\textsuperscript{80} Circular 43, art II.4.
\textsuperscript{81} Id, art II.3.a.
\textsuperscript{82} Id, art II.3.b.
\textsuperscript{83} Id, art II.3.c.
\textsuperscript{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.
\textsuperscript{85} Decree 24, arts 21, 25.
RECALL

Under Decree 54/2009/ND-CP of the Government dated 5 June 2009 on Administrative Sanctions against Violations in Standards, Measurements and Quality of Products and Goods ("Decree 54"), the following goods are subject to recall:

- goods whose quality does not conform with the standards on which a standard conformity certification\(^{86}\) is based, or whose certificate has expired;\(^{87}\)

- goods whose quality is inconsistent with the quality registered in standard conformity announcements;\(^{88}\)

- goods which are subject to conformity certification but whose quality does not conform with applicable technical regulations;\(^{89}\)

- goods whose quality does not conform with applicable technical regulations;\(^{90}\)

- goods with torn, faded or partially or wholly unreadable labels or which have been modified or erased; unlabelled goods for which labels are required.\(^{91}\)

- goods whose codes and barcodes contain Vietnam’s code (893), but the use of such code has not been permitted; goods with codes and barcodes which belong to different enterprises; goods with markings which may be confused with codes or barcodes;\(^{92}\)

- goods with foreign codes which are produced in Vietnam only for export; however, the use of such codes has not yet been allowed by competent foreign agencies or their foreign owners;\(^{93}\)

Recall of foods is discussed in article 55 of the LoFS. The following foods must be recalled:

- expired foods which are in circulation;

- foods which do not conform with applicable technical regulations;

- foods created from new technology, the circulation of which foods is not allowed;

- spoiled foods;

- foods made of a prohibited substance or which contain polluting agents which exceed applicable limits;

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\(^{86}\) “Standard conformity certification” is certification that goods conform to applicable standards. (art 3 of the LoSTS).

\(^{87}\) Decree 54, art 13.

\(^{88}\) Id, art 14.

\(^{89}\) Id, art 15.

\(^{90}\) Id, art 16.

\(^{91}\) Id, art 23.

\(^{92}\) Id, art 26.2.

\(^{93}\) Id, art 26.3.
imported foods which contain polluting agents which can cause personal injury and which have been identified publicly by the exporting country, by any other country, or by any international organization.

This article also provides forms of recall, the disposition of recalled foods, and the responsibilities of certain individuals, organizations, and competent State bodies in connection with the recall.

Under article 22 of the LoCP, in case of a defective product, a responsible business organization or individual must publicly announce recall of the defective product in five successive issues of a central daily newspapers or have the news of the recall broadcast on a central radio station or a central television station five times on five successive days. The announcement must include the following:

- Description of the product to be recalled;
- Reason for the recall and warnings of injury which may be caused by the defective product;
- Time, location and form of the recall;
- Time, method to repair the defect; and
- Measures taken to ensure that consumers’ interests are protected.

INSP ECTIONS

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. The MOH is authorized to conduct inspections of the hygiene and safety of foods. The MOIT is responsible for issues involved in the manufacture, sale and circulation of foods. 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. The Ministry of Natural Resources and Environment (“MNRE”) exercises state management of environmental protection in the manufacture and trade of foods. 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.

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95 Id, art 2.1.
96 Id, art 2.3.
97 Id, art 2.2.
98 Id, art 2.5.
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;
- 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; and
- in the event that any evidence of criminal conduct is discovered, transfer such evidence 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 LoQPG 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.\textsuperscript{99}

\textsuperscript{99} LoQPG, art 64.1.
IMPORT REQUIREMENTS

All imported goods are subject to the regulations described above. Food imported into Vietnam must meet the following additional conditions: 100

- 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. 101 The procedure is very similar to the procedure to announce standards of locally made food products, as discussed above in the subsection entitled Announcement Procedures, p 4. However, the requirement to announce imported foods does not apply to non-traded food products, 102 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: 103

- 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, or as otherwise required by the MOH;
- other products on the MOH list of products the standard of which must be announced.

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: 104

- Certificate of Import Qualification; or
- Certification of “File Examination Only.” 105

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100 Decree 163, art 6.
101 Regulations on Announcing Standards of Foods, art 3.2.
102 Id., art 1.b.
104 Id., art 1.2.
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\(^{106}\) 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 pouches;
- temporarily imported for re-export, or are in transit or are being transferred;
- 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 fall under animal quarantine and vegetable quarantine.

A dossier to register for examination of imported food hygiene and safety consists of:\(^{107}\)

- 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 FHSA or an FHSA certification that the products may be released;
- copy of the packing list;
- copy of the sales contract;

\(^{105}\) *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.

\(^{106}\) *Id*, art 1.4.

\(^{107}\) *Id*, art 6.
• 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 an epidemic has been announced 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\textsuperscript{108} must issue a receipt so that the importer is permitted to carry out customs clearance procedures. Afterwards, the MOH examines the imported foods to determine whether to issue a Certificate of Satisfaction of Food Hygiene and Safety Requirements.\textsuperscript{109} A Certificate of Satisfaction of FHSA must be obtained before the importer can circulate the foods.\textsuperscript{110}

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.\textsuperscript{111}

In addition, where imported goods appear on the “List of goods subject to state quality examination,”\textsuperscript{112} the importer must apply to have the goods examined by relevant government bodies.\textsuperscript{113} 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:\textsuperscript{114}

• 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.\textsuperscript{115}

Customs procedures\textsuperscript{116} are based on the results of the examinations mentioned. That is to say, Customs import procedures must be conducted only if the examination results are favourable. When Customs procedures are completed, the goods may be imported. If the examination results are unfavourable, the goods must either be destroyed or returned to the exporting country.

\textsuperscript{108} 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.

\textsuperscript{109} Decree 163, arts 10.1 and 10.2.

\textsuperscript{110} Id., art 9.3.

\textsuperscript{111} Id., art 10.3.

\textsuperscript{112} List of goods subject to State Quality Examination promulgated in conjunction with Decision 50/2006/QD-TTg of the Prime Minister dated 7 March 2006.

\textsuperscript{113} 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.

\textsuperscript{114} Decision 23, art 11.

\textsuperscript{115} 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.

\textsuperscript{116} 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 (“CFS”) 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 informal information, the food exporter should request the MOH to issue a CFS along with the sales contract which specifies that a Certificate is required by the overseas buyer. Assuming that it has announced the standards on quality, safety and hygiene of the foods intended for export, the exporter will receive the Certificate.

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 the Business of a number of Aquatic Professions (“Decree 59”) gives the Ministry of Aquatic Products (“MOAP”), 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 (eg, chemicals), veterinary medicines for aquatic life, fishing nets and other gear.

Entities involved in trading or producing aquatic products are subject to regulations on inspection and certification to assure compliance with standards of food safety and hygiene.

To be more specific, the following subjects must be inspected:

- Fishing vessels with a main engine of at least 50 CV (including factory vessels which process aquatic products for domestic consumption); landing sites; auction markets; separate establishments which produce ice-water for aquatic products preservation and processing; establishments which purchase and preliminarily treat aquatic products;

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117 There are no specific provisions on application procedures.
118 The MOAP is responsible for coordinating state management of aquatic products. See 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 I.1.a.
119 Decree 59, art 17.
establishments which store and package aquatic products for domestic consumption; establishments which process aquatic products for domestic consumption; 120

- Factory vessels which process aquatic products for export; establishments which process bivalve mollusks purifying establishments and their middlemen; separate cold storage for preservation of aquatic products; establishments which store, package, or process aquatic products for export; 121

Local inspection and certification bodies assigned by Provincial Departments of Agriculture and Rural Development, or the National Agro-Forestry-Aquatic Quality Assurance Department are responsible for inspecting and certifying establishments. 122 There are four types of inspection: inspection for certification, periodic inspection, unscheduled inspection, and audit. 123 Every separate fishery aquatic establishment which is approved for food hygiene and safety standards is entitled to an approval code attached to a certificate on satisfaction of food hygiene and safety standards.

An establishment under Article 2.1.a, Decision 117 which satisfies all food hygiene and safety standards, but which has some minor failures which can be remedied within a short time (no more than 30 days after inspection) will be given a "pass". However, if an establishment does not satisfy food hygiene and safety standards and, if correction in a short time is not possible, and if continued production would have a serious impact on food hygiene and safety standards, such an establishment will be given a "fail". 124

Grades of A, B, C, D are given to establishments under Article 2.1.b, Decision 117. Grade A means that the establishment satisfies all food hygiene and safety standards. Grade B establishments achieve food hygiene and safety standards, but have some minor failures which have little impact on food hygiene and safety standards. Grade C establishments do not satisfy food hygiene and safety standards, but the failures can be remedied within a short time (no more than 30 days after inspection). Grade D establishments do not satisfy food hygiene and safety standards, it is not possible to remedy the failure in a short time, and if continued production would have a serious impact on food hygiene and safety. 125 Only grade A or grade B establishments meet food hygiene and safety standards. 126

These Regulations do not govern small producers (households and individuals) for individual consumption, retailers and restaurants, retail markets, and establishments which manufacture products of aquatic animal origin but which are not destined for human consumption. 127

State Inspection and Certification of Aquatic Products Quality

Aquatic products whether produced for domestic consumption, export, or import (including products imported for processing, and aquatic products recalled or returned from foreign

121 Id., art 2.1.b.
122 Id., art 5.
123 Id., art 6.
124 Id., art 13.1.
125 Id., art 13.2.
126 Id., art 13.3.
127 Id., art 2.
countries) are subject to regulations which apply to inspection and to certification of food hygiene and safety.\textsuperscript{128} This inspection is made per lot of aquatic products and a certificate of aquatic products quality will be granted per lot.\textsuperscript{129} A single Health Certificate is granted to each lot of aquatic products for export. The maximum quantity of one lot is three 40 foot containers for catfish, and one such container for other aquatic products.\textsuperscript{130} There are no regulations on the size of containers for imported products.

Grounds for inspection and certification of aquatic products are as follows:

- The inspection and certification of aquatic products produced for domestic consumption are based on technical regulations on food hygiene and safety issued by the MARD and other ministries and offices, and are also based on the quality announcement of food business operators (“FBOs”).

- The inspection and certification of aquatic products for export to certain markets that MARD monitors and so require periodic inspection for management purposes; the inspection and certification of aquatic products imported for processing, and of aquatic products recalled or returned from foreign countries are based on technical regulations on food hygiene and safety issued by MARD and other ministries and offices.

- The inspection and certification of aquatic products for export to markets which require food hygiene and safety inspection and certification conducted by the competent authorities are based on food hygiene and safety regulations issued or approved by importing countries, or are based on international treaties and agreements concluded or ratified by Vietnam.\textsuperscript{131}

The following authorities are responsible for the hygiene, safety inspection and certification of aquatic products:\textsuperscript{132}

- Authorities which are assigned to control the quality, hygiene and safety of aquatic products by the Department of Agriculture and Rural Development inspect and certify the quality, hygiene and safety of aquatic products before they are put into circulation for domestic consumption.

- Authorities under the control of the National Agro-Forestry-Fisheries Quality Assurance Department inspect and certify the quality, hygiene and safety of aquatic products for export, aquatic products imported for processing, aquatic products recalled or returned from foreign countries.

FBOs must register for inspection by sending a dossier for food hygiene and safety inspection registration to inspecting bodies in person, via postal mail, email, fax (confirmed by telephone), or online, then submit the dossier to inspectors upon on-site inspection.\textsuperscript{133}

After on-site inspection, inspectors grant a health certificate for each lot. Contents which have

\textsuperscript{128} Decision 118/2008/QĐ-BNN by MARD dated 11 December 2008 on Regulations on the Official Inspection and Certification of Food Hygiene and Safety of Aquatic Products, art 2.

\textsuperscript{129} Id, art 7.1.

\textsuperscript{130} Id, art 7.2.

\textsuperscript{131} Id, art 6.

\textsuperscript{132} Id, art 5.

\textsuperscript{133} Id, art 11.3.
not been inspected or fail to satisfy the applicable conditions will not be certified. For aquatic products for export, pursuant to mutual recognition of inspection and certification capability, an inspecting body is allowed to grant a health certificate for a lot which has been inspected by another inspecting body.\footnote{Id, art 15.}

In case inspected contents fail to satisfy applicable standards on the quality, hygiene and safety of aquatic products, the inspecting body must issue test results. Within three working days after results are issued to the FBO, if the FBO does not lodge any complaints on the test results, the inspecting body is required to send a \textit{Notice of Failure} to the FBO.\footnote{Id, art 16.}

Inspection of aquatic products may be exempt or may be relaxed. Alternatively, the inspection may be very detailed. The options are set out in Chapter III of Decision 118.

**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.\footnote{These temporary regulations were issued in connection with Decision 425/2001/QD-BTS of the Minister of Aquatic Products dated 25 May 2001. This Decision was abrogated by Decision 1149/QD-BNN-PC by MARD dated 23 April 2009, but detailed implementing regulations on announcing quality standards for speciality aquatic products have not yet been issued.} 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 for Protection of Aquatic Resources.

The announcement application should include:\footnote{Id, art 7.}

\begin{itemize}
  \item Original completed announcement form on quality standards (this is a standard form provided by the MOAP);
  \item Original announcement on quality standards issued and stamped by the applicant;
  \item Certificate of the results of tests which relate to the quality of the aquatic products; and
\end{itemize}

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.
• 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 specialty aquatic products. If there is a change in the announced quality standards, the applicant must announce the change.

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.

In fact, establishments which export aquatic products must comply strictly with Vietnamese regulations on food hygiene safety, and standards applicable to aquatic products. They must also comply with international protocols, bilateral arrangements, and requirements of importing countries. 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. Accordingly, to export aquatic products, Vietnamese exporters must comply not only with Vietnamese law, but also with requirements of the importing country. If an establishment that has been certified as meeting Vietnamese hygiene and safety standards receives a warning on the same standard by either a Vietnamese or foreign inspector on more than two lots of exported goods, the certification will be suspended.

Like any food products, aquatic products should conform to HACCP. In addition, exported aquatic products must be sanitary. This requires an exporter to follow 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. Aquatic products for export are subject to Decision 118. The Government has taken that step to encourage aquatic products exporters voluntarily to adopt HACCP, GMP and other international criteria.

139 Id, art 10.1.
140 Id, art 10.2.
141 Decision 117, art 4.2.
142 Id, art 14.2.
143 Id, art 17.1.k.
144 Decision 118, art 2.
ENFORCEMENT

All organizations and individuals have the right to lodge complaints regarding violations that relate to the quality of food products. They may even make a complaint regarding wrongdoing by a government official responsible for implementing or enforcing the laws and regulations on the quality of food products. The authorities must respond to such complaints.

All individuals and organizations, including foreign individuals and organizations that commit an administrative violation which relates to the quality of goods will be sanctioned. 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 that injure any consumer must compensate” the consumer. Inspectors who specialize in science, Chief Inspectors of the Ministry of Science and Technology and related provincial level services, presidents of People’s Committees of all levels, the police, the customs department and market management agencies or specific inspection agencies have the right to deal with administrative violations. Once a violation has been discovered, the law gives the government much flexibility in the form and scale of punishment.

Depending on the nature and severity of violations which involve standards, measurements and quality, an organization or individual may be subject to one or several additional sanctions. One such sanction is cancellation of the right to use certificates of conforming technical specifications; certificates on satisfaction of business conditions; inspection certificates; and so on.

Apart from principle and additional sanctions, administrative violators may be subject to one or several remedies: restoration of the condition which was altered by administrative violations; recovery of sums of money illegally gained from the commission of administrative violations, recall of products or goods or recall of measuring devices which violate standards, and so on. For instance, products or goods must be destroyed if they are not safe for humans, animals, plants, and the environment.

Enforcement agencies are given guidance as to which sanctions to impose or how large a fine should be. For example, a fine of between VND 2,000,000 and 4,000,000 may be imposed on miscalibrated measuring devices. Fines also apply for use of measuring devices which have not been inspected.

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,

145 Law on the Quality of Products and Goods, art 64.
146 Ordinance on Hygiene and Safety of Foods, art 49.1.
148 Decree 54, arts 1, 2.
149 Civil Code, art 630.
150 Decree 54, arts 29, 30 & 31.
151 Id, art 3.
152 Id, art 3.
153 Id, art 3.
154 Id, art 25.
155 Id, Chapter II.
not just to violations related to food.

Extenuating circumstances include:\textsuperscript{156}

\begin{itemize}
\item The offender attempts to mitigate the damage caused by the breach or to deal voluntarily with the consequences and to compensate the injured;
\item The offender voluntarily declares his violation or repents the violation;
\item The violation is committed in a state of nervous excitement caused by the illegal acts of other persons;
\item 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;
\item The violation is committed in especially difficult circumstances not brought about by the offender; or
\item The breach was committed as a result of backward thinking.
\end{itemize}

Aggravating circumstances include:\textsuperscript{157}

\begin{itemize}
\item Organised violations;
\item Repeated and/or extensive violations;
\item Enticement by the offender of underage persons to commit a violation, or forcing dependent persons to commit a violation;
\item A violation committed while the offender is under the influence of alcohol or some other stimulant;
\item An offender's abuse of power in order to commit the violation;
\item The offender takes advantage of wartime conditions, natural disasters or other social difficulties in order to commit the violation;
\item An offender persists in the violation despite the request of an authorized person to cease;
\item A violation committed while the offender is serving a criminal sentence or subject to an administrative penalty; and
\item The offender attempts to evade responsibility or conceal the violation.
\end{itemize}

Situations where no sanction should be applied include:\textsuperscript{158}

\textsuperscript{157} Id, art 9.
\textsuperscript{158} Id, art 3.6.
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.\(^{159}\)

Within 10 days (or 30 days for complicated cases) the relevant government agency will issue a decision on how to handle the administrative violation.\(^{160}\)

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

**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.

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\(^{159}\) Id., art 3.6.

\(^{160}\) Id, art 56.1.
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<td>Decision 42/2005/QD-BYT promulgating Regulations on Announcement of Standards of Food Products</td>
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<td>Decision 50/2006/QD-TTg promulgating the List of Goods subject to State Quality Examination</td>
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<td>Circular 05/2007/TT-BYT guiding Conditions and Procedures to nominate Organizations to Implement State Inspection on Quality, Hygiene and Safety of Imported Foods</td>
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<td>Export Requirements</td>
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<td>● Inter-Ministerial Circular 24/2005/TTLT-BYT-BTS guiding the Assignment and Co-ordination of State Management of Hygiene and Safety of Aquatic Products</td>
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<td>● Decision 117/2008/QĐ-BNN promulgating Regulations on Inspection and Certification of Satisfaction of Hygiene and Safety of Aquatic Trading and Manufacturing Establishments</td>
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<td>● Decree 136/2006/ND-CP providing and implementing a number of Articles of the Law on Appeal and Denunciation</td>
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