# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>WHAT IS FOOD?</td>
<td>2</td>
</tr>
<tr>
<td>FOOD SAFETY</td>
<td>3</td>
</tr>
<tr>
<td>Announcement of conformity to technical specifications or food safety</td>
<td>4</td>
</tr>
<tr>
<td>Announcement Procedures</td>
<td>4</td>
</tr>
<tr>
<td>LABELING</td>
<td>7</td>
</tr>
<tr>
<td>ADVERTISING</td>
<td>11</td>
</tr>
<tr>
<td>RECALL</td>
<td>14</td>
</tr>
<tr>
<td>INSPECTIONS</td>
<td>16</td>
</tr>
<tr>
<td>IMPORT REQUIREMENTS</td>
<td>18</td>
</tr>
<tr>
<td>EXPORT REQUIREMENTS</td>
<td>19</td>
</tr>
<tr>
<td>AQUATIC PRODUCTS</td>
<td>20</td>
</tr>
<tr>
<td>Inspection and Certification of Fishery Aquatic Establishment</td>
<td>20</td>
</tr>
<tr>
<td>State Inspection and Certification of Aquatic Products Quality</td>
<td>21</td>
</tr>
<tr>
<td>Announcement of Quality Standards of Specialty Aquatic Products</td>
<td>22</td>
</tr>
<tr>
<td>ENFORCEMENT</td>
<td>25</td>
</tr>
<tr>
<td>CONCLUSION</td>
<td>28</td>
</tr>
<tr>
<td>SCHEDULE</td>
<td>29</td>
</tr>
</tbody>
</table>
# GLOSSARY

In this book, we 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.

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>DOC</td>
<td>Department of Construction</td>
</tr>
<tr>
<td>DOH</td>
<td>Department of Health</td>
</tr>
<tr>
<td>DOIC</td>
<td>Department of Information and Communications</td>
</tr>
<tr>
<td>FHSA</td>
<td>Food Hygiene and Safety Administration</td>
</tr>
<tr>
<td>GDSMQ</td>
<td>General Department of Standards, Measurements and Quality</td>
</tr>
<tr>
<td>GMP</td>
<td>Good Manufacturing Practices</td>
</tr>
<tr>
<td>HACCP</td>
<td>Hazard Analysis, Critical Control Point</td>
</tr>
<tr>
<td>ISMU</td>
<td>International System of Measuring Units</td>
</tr>
<tr>
<td>ISO</td>
<td>International Standardization Organization</td>
</tr>
<tr>
<td>MARD</td>
<td>Ministry of Agriculture and Rural Development</td>
</tr>
<tr>
<td>MCST</td>
<td>Ministry of Culture, Sports, and Tourism</td>
</tr>
<tr>
<td>MNRE</td>
<td>Ministry of Natural Resources and Environment</td>
</tr>
<tr>
<td>MOAP</td>
<td>Ministry of Aquatic Products</td>
</tr>
<tr>
<td>MOC</td>
<td>Ministry of Construction</td>
</tr>
<tr>
<td>MOCI</td>
<td>Ministry of Culture and Information</td>
</tr>
<tr>
<td>MOH</td>
<td>Ministry of Health</td>
</tr>
<tr>
<td>MOIC</td>
<td>Ministry of Information and Communications</td>
</tr>
<tr>
<td>MOIT</td>
<td>Ministry of Industry and Trade</td>
</tr>
<tr>
<td>MOST</td>
<td>Ministry of Science and Technology</td>
</tr>
<tr>
<td>TCCS</td>
<td>Voluntary Standards</td>
</tr>
<tr>
<td>TCVN</td>
<td>National Standards</td>
</tr>
</tbody>
</table>
FOOD LAW IN VIETNAM*

INTRODUCTION

Understanding Vietnamese laws and regulations concerning food can be a challenge. The confusion results from the lack of a unified food law. The government relies on general laws to regulate the quality of goods, including food. There are also specific regulations that apply these laws to food products. This means that there are two sets of rules—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.” 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.”

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.

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, labeling food; testing food; analysing threats to food safety; and protecting, preventing, and overcoming breakdowns in food safety.

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.

---

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

---

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.
FOOD SAFETY

All individuals and entities that want to produce and to trade in foods must assure that their foods are safe. In other words, the foods must conform to relevant technical specifications and meet limit requirements for pathogenic micro-organisms, residues of plant protection drugs or veterinary drugs, heavy metals, contaminants, and other substances in food that may cause harm to human life and health. In addition, subject to the type of food, food must comply with one or more of the regulations on (i) use of food additives and processing aids in food production and trading; (ii) food packaging and labeling; and (iii) food preservation.

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: a list of standards with which the food products must comply; a chart showing the stages of food product processing 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. Under the LoFS, food producers and traders must decide and announce the standards of their foods. That is, they are able, themselves, to decide the standard of their goods. Of course, such 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 standards.

13 LoQPG, art 5.1.
15 Id, art 13.
Producers and traders of packaged food, additives, food process supporting substances, packing materials, and food containers (“Products” for short) for which technical specifications are available are required to announce that their Products conform to relevant technical specifications before they are circulated on the market. In case technical specifications are not available for the Products, their producers and traders are required to announce that they conform to food safety regulations before they are circulated on the market until the respective technical specifications are promulgated and take effect.\(^\text{16}\)

Administrative procedures to announce the conformity with specifications or food safety regulations are much simpler than the former registration procedures.

**Announcement of conformity to technical specifications or food safety regulations**

Under Article 4 of Decree 38, the MOH is responsible to receive announcements of specifications or food safety regulations conformity submitted by producers or traders of functional food, additives, supporting substances of food process, imported packaged food, packing materials, and food containers.

The DOH is responsible to receive announcements of specifications or food safety regulations conformity submitted by producers or traders of food domestically produced at its locality other than functional food, additives, or supporting substances of food process.

Producers or traders will receive the Receipt of Announcement of Specifications Conformity within 7 working days since the date a complete and valid announcement dossiers is submitted. In case of announcement of food safety regulations conformity, they may receive the Confirmation of Announcement of Food Safety Regulations Conformity within 15 working days since the submission date of complete and valid announcement dossiers. Regarding functional food and nutritional food, producers or traders may receive the Confirmation of Announcement of Food Safety Regulations Conformity within 30 working days since the date of submission of complete and valid announcement dossiers.

**Announcement Procedures\(^\text{17}\)**

In order to announce the conformity for food, the food producer or trader must follow the following steps:\(^\text{18}\)

- Procedures and dossiers for announcement of specifications conformity

---

\(^{16}\) Decree 38/2012/ND-CP of the Government dated 25 April 2012, providing Detailed Regulations Implementing of some articles of the LoFS, art 3 (“**Decree 38**”).

\(^{17}\) Circular 19/2012/TT-BYT of the MOH dated 9 November 2012, guiding the announcement of specifications or food safety regulations conformity, arts 4, 5 (“**Circular 19**”) and arts 5, 6 of Decree 38.

\(^{18}\) Announcement applications that apply to imported food are discussed later in the section “**IMPORT REQUIREMENTS**” on p 16.
Step 1: Evaluation of specifications conformity

The producers and traders can choose to evaluate the specifications conformity of their food either (i) by themselves through testing their food at a designated laboratory, an admitted independent laboratory, or a recognized laboratory; or (ii) by an organization designated by the MOH.

Step 2: Announcement of specifications conformity

The producers and traders must prepare and submit the announcement application to the authority.

In cases of self-evaluation, the announcement application includes announcement form in a prescribed form, details of the food in a prescribed form, food testing result within 12 months, quality control plan, a periodic supervision plan, report on the evaluation of specifications conformity, and certificate of conformity with standards of Hazard Analysis, Critical Control Point (“HACCP”) or ISO 22000 or equivalent if the producers and traders have a quality management system certified as complying with standards of HACCP or ISO 22000 or equivalent.

If the evaluation is conducted by a designated organization, the announcement application includes an announcement form in a prescribed form, details of the food in a prescribed form, a certificate of specifications conformity issued by the designated organization, and a certificate of conformity with standards of HACCP or ISO 22000 or equivalent if the producers and traders have a quality management system certified as complying with standards of HACCP or ISO 22000 or equivalent.

- Procedures and dossiers for announcement of food safety regulations conformity

Step 1: Evaluation of food safety regulations conformity

The producers and traders can choose to evaluate the conformity of their food at a designated laboratory, an admitted independent laboratory, or a recognized laboratory. Based on the testing result, the producers and traders will evaluate if details of their products comply with food safety regulations applied to such food. In case the food safety regulations for a product are not available, Codex regulations will be applied.

Step 2: Announcement of specifications conformity

The producers and traders will prepare and submit the announcement application to the relevant authority.

For imported food (excluding functional and nutritional food), the announcement application includes an announcement form in a prescribed form, details of the food in a prescribed form, testing results issued within the last 12
months, a periodic supervision plan, a label sample at the origin country and sub-label in Vietnamese, food sample (first import into Vietnam), a certificate of business registration or investment certificate, a certificate on satisfaction of conditions on food safety issued to the importer, and a certificate of conformity with standards of HACCP or ISO 22000 or equivalent if the producers and traders have a quality management system certified as complying with standards of HACCP or ISO 22000 or equivalent.

For food domestically produced (excluding functional and nutritional food), the announcement application includes an announcement form in a prescribed form, details of the food in a prescribed form, testing results issued within the last 12 months, a quality control plan, a periodic supervision plan, label sample, a certificate of business registration or investment certificate, a certificate on satisfaction of conditions on food safety issued to the importer, and a certificate of conformity with standards of HACCP or ISO 22000 or equivalent if the producers and traders have a quality management system certified as complying with standards of HACCP or ISO 22000 or equivalent.

For imported functional and nutritional food, the announcement application includes an announcement form in a prescribed form, details of the food in a prescribed form, a certificate of free sale or the like, testing results issued within the last 12 months, a periodic supervision plan, a label sample at the origin country and sub-label in Vietnamese, a food sample, a certificate of business registration or investment certificate, a certificate on satisfaction of conditions on food safety issued to the importer, a certificate of conformity with standards of HACCP or ISO 22000 or equivalent if the producers and traders have a quality management system certified as complying with standards of HACCP or ISO 22000 or equivalent, and scientific information or studies on the effect of the food as announced.

For functional and nutritional food domestically produced, the announcement application includes an announcement form in a prescribed form, details of the food in a prescribed form, testing results issued within the last 12 months, a label sample, a food sample, a certificate of business registration or investment certificate, a certificate on satisfaction of conditions on food safety issued to the importer, a certificate of conformity with standards of HACCP or ISO 22000 or equivalent if the producers and traders have a quality management system certified as complying with standards of HACCP or ISO 22000 or equivalent, scientific information or studies on the effect of the food as announced, and testing results on the effective uses of the food (first sale in the market), quality control plan, and periodic supervision plan.

- Announcement procedures applied to imported products (excluding functional food) of a producer for its internal use, a supermarket, and a hotel of four stars or more.

The announcement application includes details of the food in a prescribed form, certificate of business registration or investment certificate of the producer or the trader, testing results within 12 months or testings result of a designated laboratory, an admitted independent laboratory, or a recognized laboratory.
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.”20 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.”21

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 (“Circular 09”), amended by Circular 14/2007/TT-BKHCN of the MOST dated 25 July 2007 (“Circular 14”). The compulsory contents include:

- name of the goods: manufacturers or traders of goods may choose a name for their goods, provided that the name does not mislead consumers as to the nature and use of the goods. Manufacturers or traders are liable for the name they choose;22

- names and addresses of the entities which produced, imported, assembled, or finished the goods;23

- weight and volume of the goods24 measured in units recognised by Vietnamese law, under the International System of Measuring Units (“ISMU”);25

---

19 Decree 89, art 2.
20 Id, art 3.1.
21 Id, art 3.2.
22 Id, art 13.
23 Id, art 14.
24 Id, art 12.2.d.
25 Id, art 15.1.
• ingredients, if the product, including seafood, contains food additives. 26 Ingredients must be listed in descending order of volume or content (volume percentage), and must include their international code (if any); 27

• principal quality criteria (i.e., factors decisive to safety and consumption by humans and the environment 28), production date, expiration date, and shelf-life of goods. 29 An expiration date is mandatory for food products; 30

• storage and usage instructions; 31 and

• country of origin (applicable only to imported goods and goods for export). 32

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. 33 Goods distributed in Vietnam must be labelled in the Vietnamese language, except for contents that are presented in their Latin origin. 34 However, depending on the requirements of each type of goods, a foreign language may be added in smaller print. 35 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. 36 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. 37

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. 38

26 Id., appendix III.
27 Id., art 18.3.a.
28 Decree 89, art 19; Circular 09, art II.7.
29 Decree 89, art 16.
30 Id., art 12.2.c.
31 Id., art 12.2.e.
32 Id., art 17.
33 Id., art 8.
34 Id., art 9.4.
35 Id., art 9.2.
36 Id., art 3.
37 Id., art 9.3.
38 Id., art 7.
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;\(^\text{39}\)

- 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;\(^\text{40}\)

- 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;\(^\text{41}\)

- If there are two or more food additives in a product, they must be listed in proportion to their volumes;\(^\text{42}\)

- The phrase “for food” must accompany food additive substances;\(^\text{43}\)

- 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;\(^\text{44}\)

- 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;\(^\text{45}\)

- 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;\(^\text{46}\)

- 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.\(^\text{47}\)

---

\(^{39}\) Decree 89, art 18.1; Circular 09, art II.6.b.

\(^{40}\) Decree 89, art 18.3.a.

\(^{41}\) Circular 09, art II.2.c.

\(^{42}\) Decree 89, appendix III.

\(^{43}\) Id, appendix IV.

\(^{44}\) Id, art 19.4.

\(^{45}\) Circular 08, art II.3.a.

\(^{46}\) Id, art 19.3.

\(^{47}\) Id, art II.3.a.
In addition, under the LoFS, labeling of functional food, food additives, irradiated food, and genetically modified food must meet the following criteria:

- 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.

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.

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 health safety in Vietnamese; for example “smoking causes lung cancer.”

---

48 Art 14.2.
49 Circular 08, art II.3.c.
50 Decree 89, art 17.
51 Law on Prevention of Harmful Effect of Cigarettes of the National Assembly dated 18 June 2012, art 15 and Inter-Ministerial Circular No 05 /2013/TTLT-BYT-BCT guiding the label of and printing health warnings on packs of cigarettes of the MOH and the MOIT dated 8 February 2013.
The current laws and regulations that relate to advertising in general are the Law on Advertisement No. 16/2012/QH13 of the National Assembly dated 21 June 2012, Decree 181/2013/ND-CP of the Government dated November 14, 2013 (“Decree 181”); Circular 10/2013/TT-BVHTTDL of the Ministry of Culture, Sports, and Tourism (“MCST”) dated December 6, 2013 (“Circular 10”); and 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 any good, not just food products, must be accurate and 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 that the producer has announced to or registered with the relevant state agencies.

Detailed procedures to obtain advertising permits for food products and food additives are provided in 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 as the advertiser’s agent;

- copy of the Business Registration Certificate of the advertiser or the advertising services firm; and

- color 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”).

---

52 Decree 181 provides detailed regulations implementing some articles of the Law on Advertising.
53 Circular 10 provides detailed regulations implementing the Law on Advertisement and Decree 181 on legitimate documents, the organization and operation of Appraisal Council of Advertised Products and the assignment of state management on advertisement
54 Amended by 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”)
55 Decree 24, art 4.2.
56 Inter-Ministerial Circular 01, art II.1.e.
57 Circular 43, art II.1.a.
58 Inter-Ministerial Circular 06, art II.1.7.
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, along with 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 standards, the application to advertise must be accompanied by a copy of the company’s standards and the filing receipt.

The regulatory timeframe for the DOIC to issue an advertising permit varies from five to fifteen working days, depending on the medium in which the advertisement will appear.

Advertisements of some products, such as sanitary pads and condoms, which may constitute an inappropriate subject matter for public advertisement, will not be approved. Furthermore, advertisements which incorrectly state the quality of the product and/or the 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 subject to 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. 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

---

59 Id, art II.1.5.a.
60 Id, art II. 1.5.d.
61 Id, art II.3.1, art II.3.2.
62 Circular 43, art II.6.
63 Decree 24, art 3.4.
64 Id, art 3.9.
65 Circular 43, art II.4.
66 Id, art II.3.a.
67 Id, art II.3.b.
68 Id, art II.3.c.
development.” Advertisement of milk or food products for infants less than one year of age is prohibited.\textsuperscript{69}

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{70} to advertise their products.

Furthermore, under Articles 5 and 12 of Decree 181, the advertisement content of all foods and all food additives must be certified. Conditions and procedures for the certification of advertisement content must comply with Circular 08/2013/TB-BYT of the MOH dated 13 March 2013 ("Circular 08").

In addition to activities that are prohibited under the Law on Advertisement, under article 3 of Circular 08, the following activities are also prohibited:

1. Advertising foods without a written certification of advertisement content issued by a competent health agency;

2. Advertising food which is counterfeit or which is of inferior quality;

3. Advertising food in a manner that implies that its effect is like that of medications;

4. Advertising food not in line with the contents of the declaration of conformity with the regulations on food safety, or which exaggerates the effects of the food;

5. Advertising food in the form of articles written by doctors, pharmacists, or medical workers in a manner that implies that such food can cure diseases;

6. Using images, reputation, or correspondence of health agencies, medical workers, or patients in order to advertise food.

Additionally, Circular 10 and Article 8.11 of the Law on Advertisement, an advertising piece which contains a word/phrase such as “the only”, “the best”, “best”, “number one” or the like must be verified by a legitimate document. It can be a market research report prepared by a qualified market research organization or a certificate or the like granted by a regional or national competition/exhibition organization which recognizes that the product in the advertising piece is “the only”, “the best”, “best”, “number one” or the like. The document is valid for only one year from its issue date.

\textsuperscript{69} 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{70} Decree 24, arts 21, 25.
RECALL

Under Decree 80/2013/ND-CP of the Government dated 19 July 2013 ("Decree 80") on Administrative Sanctions against Violations in Standards, Measurements, and Quality of Products and Goods, the following goods are subject to recall:

- Imported or manufactured goods whose quality does not conform with a standard conformity certification, or circulating goods that are unsafe for the consumers;\(^{71}\)
- goods that violate applicable technical regulations;\(^{72}\)
- goods violated labeling laws.\(^{73}\)
- circulating goods that violate regulations on compulsory contents for labels;\(^{74}\)
- 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;\(^{75}\)
- goods with foreign codes which are produced in Vietnam only for export if the use of such codes has not yet been allowed in writing by competent foreign agencies or their foreign owners;\(^{76}\)

The 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 to applicable technical regulations;
- foods created from new technology, the circulation of which is not allowed;
- spoiled foods;
- foods made of a prohibited substance or which contain polluting agents which exceed applicable limits;

---

\(^{71}\) Decree 80, art 18.5.
\(^{72}\) Id, art 19.7.
\(^{73}\) Id, art. 25.3.
\(^{74}\) Id, art 26.7.
\(^{75}\) Id, art 27.4.
\(^{76}\) Id, art 27.4.
imported foods which contain polluting agents which can cause personal injury and which have been identified publicly as harmful by the exporting country, by another 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 newspaper 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:

1. Description of the product to be recalled;
2. Reason for the recall and warnings of injury which may be caused by the defective product;
3. Time, location, and form of the recall;
4. Time and method to repair the defect; and
5. Measures which should be taken to ensure that consumers’ interests are protected.
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.\(^{77}\) The MOH is authorized to conduct inspections of the hygiene and safety of local and imported foods that are circulating in the market.\(^{78}\) The MOIT is responsible for issues involved in the manufacture, sale, and circulation of foods.\(^{79}\) 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.\(^{80}\) The Ministry of Natural Resources and Environment (“MNRE”) exercises state management of environmental protection in the manufacture and trade of foods.\(^{81}\) However, in practice, any one of these five ministries can initiate an inspection regarding foods.

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, in accordance with its authority, measures for preventing or ending a violation.

Based on the above, matters which may be investigated during inspections include:

- 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;
- whether equipment used to measure and/or weigh goods provide accurate results; and
- whether the method of production, sale, or purchase of goods in the market are compliant with regulations.


\(^{78}\) Id, art 2.1.

\(^{79}\) Id, art 2.3.

\(^{80}\) Id, art 2.2.

\(^{81}\) Id, art 2.5.
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 against an administrative decision or an act of an agency or officer which they consider to be illegal and/or which infringes their rights and interests.\(^\text{82}\)

\[^{82}\text{LoQPG, art 64.1.}\]
IMPORT REQUIREMENTS

All imported goods are subject to the regulations described above. Food imported into Vietnam must meet the following additional safety assurance conditions:83

- a technical regulation conformity announcement must be registered at a competent state agency before the food is imported;
- the food importer must obtain a notice of satisfaction of import requirements issued by a designated inspection agency for each goods lot as prescribed by relevant ministers;

In addition to the conditions prescribed above, imported functional food, micronutrient-fortified food, genetically modified food, and irradiated food must be accompanied a certificate for free sale or health certificate.

If the Vietnamese government has not yet promulgated relevant technical regulations applicable to certain imported foods, food additives, processing aids, imported food-packaging tools, food packages, or containers, international agreements and treaties to which Vietnam is a contracting party will apply.

The procedures to announce technical regulation conformity of imported foods are discussed above in the subsection entitled Announcement Procedures, p 4.

Imported foods are exempt from State inspection of their safety in the following cases:84

- Personal foods brought by individuals upon entry for private consumption within international norms are exempted from import duties;
- Foods in diplomatic or consular bags;
- Foods in transit and trans-shipment;
- Foods stored in bonded warehouses;
- Foods to be used as prototypes or research samples;
- Foods to be used as samples displayed in fairs or exhibitions.

Foods imported from countries which have concluded treaties on mutual recognition of food safety certification with Vietnam are eligible for inspection reduction, except in cases where a threat or a violation on Vietnamese law on food safety has been discovered.

83 LoFS, art 38.
84 Decree 38, art 14.
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 critical points in the process that may pose a food safety hazard. Processors are responsible for producing safe, 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 a sales contract that 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 a quality examination under the MOH. Export requirements that relate to foods are the same as those discussed in the section titled “IMPORT REQUIREMENTS.” A successful examination will help facilitate compliance with customs procedures which apply to foods for export.

---

85 There are no specific provisions on application procedures.
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”), along with other ministries, bodies, and 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:

- The registered manufacturing and trading premises of aquatic products, and fishing vessels with a main engine of at least 50 CV (hereinafter referred to “Fishery Aquatic Establishment”);  

- The lot where the aquatic foods are subject to inspection and certification of quality and food safety.

Inspection and Certification of Fishery Aquatic Establishment

Local inspection and certification bodies, along with the National Agro-Forestry-Aquatic Quality Assurance Department are responsible for inspecting and certifying establishments. With respect to the Fishery Aquatic Establishment, there are three types of inspection: inspection for assessment and clarification, periodic inspection, and unscheduled inspection. Every separate fishery aquatic establishment that is approved for food hygiene and safety standards under inspection for assessment and clarification is entitled to an approval code attached to a certificate with 3-year-term. For many aquatic

---

86 Decree 59 has been amended by Decree 14/2009/ND-CP dated 13 February 2009 and Decree 53/2012/ND-CP dated 20 June 2012.

87 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.

88 Decree 59, art 17.


90 Id, art. 2.2, and art. 1 of Circular 25/2010/TT-BNNPTNT by MARD dated April 8, 2010 on Inspection Hygiene and Safety of Imported Animal Foods (“Circular 25”).

91 Id, art 5.

92 Id, art 11.

93 Id, art. 16.1(a).
foods, inspections will take the form of either documentation or specimen inspection.\textsuperscript{94}

A Fishery Aquatic Establishment under Article 2.1, Circular 55 which satisfies all food hygiene and safety standards, but which has several minor failures will be given a "pass".\textsuperscript{95} However, if an establishment does not satisfy food hygiene and safety standards, if correction in a short time is not possible, and continued production would have a serious impact on food hygiene and safety standards, such an establishment will be given a “fail” grade.\textsuperscript{96} A failed Fishery Aquatic Establishment will be re-inspected. Any issued certificate on satisfaction of food hygiene and safety standards or business registration certificate with be withdrawn, and be subject to an administrative penalty if it still fails to satisfy the conditions upon re-inspecting.

Grades of A, B, or C are given to establishments under Article 15 of Circular 55. Grade A means that the establishment satisfies all food hygiene and safety standards. Grade B establishments satisfy food hygiene and safety standards, but have some minor failures. 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). Only grade A or grade B establishments meet food hygiene and safety standards.\textsuperscript{97}

**State Inspection and Certification of Aquatic Products Quality**

Aquatic products, whether produced for domestic consumption, export, or import, are subject to regulations which apply to inspection and certification of food hygiene and safety.\textsuperscript{98} This inspection is made per lot of aquatic products and a certificate of aquatic products quality will be granted per lot. A single Health Certificate is granted to each lot of aquatic products for export.\textsuperscript{99} There are no regulations on the quantity and size of containers for aquatic 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

\textsuperscript{94} Id, art 24.  
\textsuperscript{95} Id, art. 15.2.  
\textsuperscript{96} Id, art 15.3.  
\textsuperscript{97} Id, arts 15.1 and 15.2.  
\textsuperscript{98} Id, art. 1.  
\textsuperscript{99} Id, art. 27.1.
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.

The following authorities are responsible for the hygiene, safety inspection, and certification of aquatic products:

- Division on Agro-Forestry-Fisheries Quality Assurance or authorities which are assigned by the Department of Agriculture and Rural Development to control the quality, hygiene, and safety of aquatic products before they are put into circulation for domestic consumption. In addition, the Agro-Forestry-Fisheries Quality Assurance Department may conduct unannounced inspections as assigned by the MARD.\(^\text{100}\)

- 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, and aquatic products recalled or returned from foreign countries.\(^\text{101}\)

With respect to aquatic products for export, the 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.\(^\text{102}\) After on-site inspection, the inspectors grant a health certificate for each lot of the FBOs that fulfills compulsory requirements.

**Announcement of Quality Standards of Specialty Aquatic Products**

There are separate regulations for specialty aquatic products, called Temporary Regulations on Announcing Quality Standards of Specialty Aquatic Products.\(^\text{103}\) 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

---

\(^{100}\) *Id.*, art. 5 and art. 21, and Circular 61/2012/TT-BNNPTNT dated November 13, 2012 of the MARD on the control of hygiene and safety of aquatic products before circulation for domestic consumption, art. 5.

\(^{101}\) *Id.*, art. 5 and art. 8.3(b) of Circular 25.

\(^{102}\) *Id.*, art 9.4.

\(^{103}\) 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.
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 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:  

- 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. Furthermore, if the standards set by the applicant meet either a Vietnamese standard or an international standard, the applicant should include such additional information.

In addition, the application should include:

- 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 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.

---

104 Id, art 7.  
105 The applicant is the producer if the specialty aquatic product is locally produced. The importer or the distributor is the applicant if the specialty aquatic product is imported.  
106 Id, art 10.1.  
107 Id, art 10.2.
In fact, establishments which export aquatic products must strictly comply with Vietnamese regulations on food hygiene safety and specific standards applicable to aquatic products. They must also comply with requirements of importing countries.\textsuperscript{108}

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 Circular 55.\textsuperscript{109} The Government has taken that step to encourage aquatic products exporters voluntarily to adopt HACCP, GMP, and other international criteria.

\textsuperscript{108} Circular 55, art. 22.2.
\textsuperscript{109} \textit{Id}, art. 2.1.
ENFORCEMENT

All organizations and individuals have the right to lodge complaints regarding violations that relate to the quality of food products.\textsuperscript{110} They may even make a complaint regarding wrong-doing by a government official responsible for implementing or enforcing the laws and regulations on the quality of food products.\textsuperscript{111} The authorities must respond to such complaints.\textsuperscript{112}

All individuals and organizations, including foreign individuals and organizations, that commit an administrative violation that relates to the quality of goods will be sanctioned.\textsuperscript{113} The Civil Code 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.\textsuperscript{114} Inspectors who specialize in technology and science (such as inspectors, Chief Inspectors and Head of a delegation of inspection of the Department of Science and Technology, Head of a delegation of inspection of the General Department of Standards, Metrology and Quality, Chief Inspectors and Head of a delegation of inspection of the MOST, Manager of the General Department of Standards, Metrology and Quality), presidents of People’s Committees of all levels, the police, the customs department, market management agencies, and certain specific inspection agencies have the right to deal with administrative violations.\textsuperscript{115} Once a violation has been discovered, the law gives the government much flexibility in the form and scale of punishment.\textsuperscript{116}

Depending on the nature and severity of violations which involve standards, measurements, and quality, an organization or individual may be subject to one or more specific types of 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.\textsuperscript{117}

Apart from principle and additional sanctions, administrative violators may be subject to the following 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.\textsuperscript{118} Also,

\textsuperscript{110} Law on the Quality of Products and Goods, art 64.
\textsuperscript{111} Ordinance on Hygiene and Safety of Foods, art 49.1.
\textsuperscript{112} Law on the Quality of Products and Goods, art 46.4.
\textsuperscript{113} Decree 80/2013/ND-CP dated 19 July 2013 on Administrative Sanctions against Violations in Standards, Measurements and Quality of Products and Goods ("\textbf{Decree 80}") , art 2.
\textsuperscript{114} Civil Code, art 630.
\textsuperscript{115} Decree 80, arts 29, 30 & 31.
\textsuperscript{116} \textit{Id}, arts 2 & 3.
\textsuperscript{117} \textit{Id}, art 2.2.
\textsuperscript{118} \textit{Id}, art 2.3.
products or goods must be destroyed if they are not safe for humans, animals, plants, and the environment.\textsuperscript{119}

Enforcement agencies are given guidance as to which sanctions to impose or how large a fine should be.\textsuperscript{120} Generally, the maximum fine in measurement for an individual is VND100 million, and VND200 million for an organization. The maximum fine in standard or quality of products and goods for an individual is VND150 million, and VND300 million for an organization, except for several specific cases.\textsuperscript{121}

The regulations do list extenuating and aggravating circumstances, as well as situations where sanctions are not to be applied. Such regulations are general and refer to violations of many laws, not just to violations related to food.

Extenuating circumstances include:\textsuperscript{122}

- 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 of the violation;
- The violation is committed in a state of nervous excitement caused by the illegal acts of other persons;
- The violation is caused by coercion or force;
- 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:\textsuperscript{123}

- Organized violations;
- Repeated and/or extensive violations;
- Enticement by the offender of under age persons to commit a violation, or forcing dependent persons to commit a violation;

\begin{footnotes}
\item[119] Id, art 20.
\item[120] Id, Chapter II.
\item[121] Id, art. 3.
\item[122] Law no. 15/2012/QH13 dated 20 June 2012 on Dealing with Administrative Violations, art 9.
\item[123] Id, art 10.
\end{footnotes}
● Utilizing someone who is mental ill or who has impaired cognitive abilities, or
impaired ability to control his or her behavior;

● Conduct abusive and defamatory actions to a person who is on duty;

● Undertakes administrative violations with hooligans;

● The offender abuses a position of power in committing 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;

● The violation is committed while the offender is serving a criminal sentence or
subject to an administrative penalty;

● The offender attempts to evade responsibility for or conceal the violation;

● Violations are large in scale or in value; and

● Violations affect a large number of people, children, the elderly, the disabled, or
pregnant women.

Situations where no sanction should be applied include: 124

● 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 behavioral
control. 125

Within 10 days (or 30 days for complicated cases) the relevant government
agency will issue a decision on how to handle the administrative violation. 126

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

124 Id, art 3.6.
125 Id, art 3.6.
126 Id, art 56.1.
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 system 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 adequate to regulate the quality of food products. There is a clear recognition of this, but, as is often the case in Vietnam, the process of change and implementation is measured, deliberate, and time-consuming.
## SCHEDULE
List of cited Laws, Ordinances, Decrees, Circulars and Regulations classified by subject and by chronological order

<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>● Decree 63/2012/ND-CP providing the Functions, Duties, Authorities and Organization of the MOH</td>
<td></td>
<td>Government</td>
<td>31 August 2012</td>
<td></td>
</tr>
<tr>
<td>● Decree 38/2012/ND-CP providing Detailed Regulations Implementing of some articles of the Law on Food Safety</td>
<td></td>
<td>Government</td>
<td>25 April 2012</td>
<td></td>
</tr>
<tr>
<td>● Circular 19/2012/TB-BYT guiding announcement of standard conformity and</td>
<td></td>
<td>MOH</td>
<td>9 November 2012</td>
<td></td>
</tr>
<tr>
<td>Safety and Hygiene</td>
<td>6</td>
<td>Law on Food Safety</td>
<td>National Assembly</td>
<td>17 June 2010</td>
</tr>
<tr>
<td>-------------------</td>
<td>---</td>
<td>--------------------</td>
<td>--------------------</td>
<td>--------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Law on Consumer Protection</td>
<td>National Assembly</td>
<td>17 November 2010</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Circular 15/2012/TT-BYT promulgating Regulations on General Conditions of Food Safety applicable to Food Processing Establishments</td>
<td>MOH</td>
<td>12 September 2012</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Decision 02/2007/QD-BYT promulgating Regulations on Hygiene and Safety of Cigarette Products, amended by Inter-Ministerial Circular 05/2013/TTLT-BYT-BCT guiding the label of and printing health warnings on packs of cigarettes of the MOH and MOIT dated 8</td>
<td>MOH</td>
<td>15 January 2007</td>
</tr>
<tr>
<td>Date</td>
<td>Details</td>
<td>Authority</td>
<td>Date</td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------</td>
<td>---------------</td>
<td></td>
</tr>
<tr>
<td>Document</td>
<td>Description</td>
<td>Authority</td>
<td>Date</td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>-------------</td>
<td>-----------</td>
<td>------------</td>
<td></td>
</tr>
<tr>
<td>●</td>
<td>Inter-Ministerial Circular 01/2004/TTLT-BVHTT-BYT guiding Advertising Activities in the Domain of Health</td>
<td>MOCI, MOH</td>
<td>12 January 2004</td>
<td></td>
</tr>
<tr>
<td>●</td>
<td>Decree 21/2006/ND-CP on the Business and Use of Nutritious Products for Infants</td>
<td>Government</td>
<td>27 February 2006</td>
<td></td>
</tr>
<tr>
<td>●</td>
<td>Law on Advertisement No. 16/2012/QH13</td>
<td>National Assembly</td>
<td>21 June 2012</td>
<td></td>
</tr>
<tr>
<td>●</td>
<td>Circular 08/2013/TT-BYT guiding food advertising under the control of MOH</td>
<td>MOH</td>
<td>13 March 2013</td>
<td></td>
</tr>
<tr>
<td>●</td>
<td>Decree 181/2013/ND-CP providing detailed regulations implementing some articles of the Law on Advertising</td>
<td>Government</td>
<td>November 14, 2013</td>
<td></td>
</tr>
<tr>
<td>●</td>
<td>Circular 10/2013/TT-BVHTTDL provides detailed regulations implementing the Law on Advertisement and Decree 181 on legitimate documents, the organization and operation of Appraisal Council of Advertised Products and the assignment of state management on</td>
<td>MCST</td>
<td>December 6, 2013</td>
<td></td>
</tr>
<tr>
<td>Advertisement</td>
<td>Recall 12-13</td>
<td>Decree 80/2013/ND-CP on Administrative Sanctions against Violations of Standards, Measurements and Quality of Products and Goods</td>
<td>Government</td>
<td>19 July 2013</td>
</tr>
<tr>
<td>---------------</td>
<td>------------</td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>------------</td>
<td>---------------</td>
</tr>
<tr>
<td></td>
<td>13-14</td>
<td>Law on Food Safety 55/2010/QH12</td>
<td>National Assembly</td>
<td>17 June 2010</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Law on Consumer Protection</td>
<td>National Assembly</td>
<td>17 November 2010</td>
</tr>
<tr>
<td>Import</td>
<td>15-17</td>
<td>Decree 163/2004/ND-CP Implementing a number of Articles of the Law on the Quality of Products and Goods</td>
<td>Government</td>
<td>7 September 2004</td>
</tr>
<tr>
<td>Requirements</td>
<td></td>
<td>-------------------------------------------------------------------------------------------------</td>
<td>------------</td>
<td>---------------</td>
</tr>
<tr>
<td>Category</td>
<td>Document</td>
<td>Authority</td>
<td>Date</td>
<td></td>
</tr>
<tr>
<td>-------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>-----------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>Export Requirements</td>
<td>Circular 19/2012/TT-BYT promulgating on Announcement of Standard Conformity and Announcement of Food Safety Conformity</td>
<td>MOH</td>
<td>November 9, 2012</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Decision 50/2006/QD-TTg promulgating the List of Goods subject to State Quality Examination</td>
<td>Prime Minister</td>
<td>7 March 2006</td>
<td></td>
</tr>
<tr>
<td></td>
<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>
<td>MOH</td>
<td>7 March 2007</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Decision 23/2007/QD-BYT promulgating Regulations on State Inspection of the Quality of Hygiene and Safety of Imported foods</td>
<td>MOH</td>
<td>29 March 2007</td>
<td></td>
</tr>
<tr>
<td>Aquatic Products</td>
<td>Decision 50/2006/QD-TTg promulgating the List of Goods subject to State Quality Examination</td>
<td>Prime Minister</td>
<td>7 March 2006</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Decree 59/2005/ND-CP on Conditions of Manufacture and Business of a number of Aquatic Professions, amended by Decree 53/2012/ND-CP on the amendment of some articles in aquatic area dated 20 June 2012</td>
<td>Government</td>
<td>4 May 2005</td>
<td></td>
</tr>
<tr>
<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>
<td>MOH, MOAP</td>
<td>8 December 2005</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Circular 55/2011/TT-BNNPTNT of the MARD providing the inspection, certification of quality and safety of aquatic products</td>
<td>MARD</td>
<td>3 August 2011</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decision 1149/QD-BNN-PC abrogating certain legal documents</td>
<td>MARD</td>
<td>23 April 2009</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Enforcement</strong></td>
<td>23-25</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Law on Dealing with Administrative Violations 15/2012/QH13</td>
<td>National Assembly</td>
<td>20 June 2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Civil Code 33/2005/QH11</td>
<td>National Assembly</td>
<td>14 June 2005</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Law on Appeal 02/2011/QH13</td>
<td>National Assembly</td>
<td>11 November 2011</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Law on Denunciation 03/2011/QH13</td>
<td>National Assembly</td>
<td>11 November 2011</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decree 75/2012/ND-CP providing and implementing a number of Articles of the Law on Appeal</td>
<td>Government</td>
<td>3 October 2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decree 76/2012/ND-CP providing and implementing a number of Articles of the Law</td>
<td>Government</td>
<td>3 October 2012</td>
<td></td>
<td></td>
</tr>
<tr>
<td>on Denunciation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>-----------------</td>
<td>--</td>
<td>--</td>
<td></td>
<td></td>
</tr>
<tr>
<td>● Decree 08/2013/ND-CP on Administrative Sanctions against Violations in Standards, Measurements and Quality of Products and Goods</td>
<td>Government</td>
<td>19 July 2013</td>
<td></td>
<td></td>
</tr>
<tr>
<td>● Law on Food Safety 55/2010/QH12</td>
<td>National Assembly</td>
<td>17 July 2010</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>