

FOOD LAW IN VIETNAM

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TABLE OF CONTENTS

INTRODUCTION 1

WHAT IS FOOD? 2

FOOD SAFETY 3

Announcement of conformity to technical specifications or food safety regulations 4

Announcement Procedures 4

LABELING..... 7

ADVERTISING..... 12

RECALL 15

INSPECTIONS 17

IMPORT REQUIREMENTS..... 18

EXPORT REQUIREMENTS 20

AQUATIC PRODUCTS 21

Inspection and Certification of Fishery Aquatic Establishments..... 22

State Inspection and Certification of Aquatic Products Quality 22

Announcement of Quality Standards of Specialty Aquatic Products 24

ENFORCEMENT 25

CONCLUSION..... 29

SCHEDULE..... 30

GLOSSARY

In this book, we define and abbreviate terms the first time that we use them. To make it easier to follow the text, we have prepared this Glossary.

CFS	Certificate of Free Sale
DOC	Department of Construction
DOH	Department of Health
DOIC	Department of Information and Communications
FBO	Food Business Operator
FHSA	Food Hygiene and Safety Administration
GDSMQ	General Department of Standards, Measurements and Quality
GMP	Good Manufacturing Practices
HACCP	Hazard Analysis, Critical Control Point
ISMU	International System of Measuring Units
ISO	International Standardization Organization
LoFS	Law on Food Safety
LoQPG	Law on Quality of Products and Goods
LoSTS	Law on Standards and Technical Specifications
MARD	Ministry of Agriculture and Rural Development
MCST	Ministry of Culture, Sports, and Tourism
MOC	Ministry of Construction
MOCI	Ministry of Culture and Information
MOH	Ministry of Health
MOIC	Ministry of Information and Communications
MOIT	Ministry of Industry and Trade
MONRE	Ministry of Natural Resources and Environment

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MOST	Ministry of Science and Technology
TCCS	Voluntary Standards
TCVN	National Standards

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.”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 with respect to food safety; conditions to ensure the safety of food for manufacturing, doing business in food, and importing or exporting food; advertising and labeling food; testing food; analyzing 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, while the LoFS assigns responsibility for the safety of food to the Ministry of Health (“**MOH**”), Ministry of Agriculture and Rural Development (“**MARD**”), and the Ministry of Industry and Trade (“**MOIT**”).

* This book has been written and updated by lawyers from Russin & Vecchi. It is current though November 2016.

¹ LoQPG, art 68.1

² *Id.*, art 4.3.

³ *Id.*, art 5.2.

⁴ LoFS, art 1.

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.”⁵ 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.⁶

“Nutritional food” is food supplemented with vitamins, mineral substances, and serum antioxidant microminerals in order to prevent the community or a particular group in the community from the shortage of vitamins, substances, and microminerals.⁷

“Functional food” is food used to support the operation of body organs, creates comfort for the body, increases resistance, and reduces pathogenic dangers. It consists of food supplements, health protective food, and medically nutritious food.⁸

“Genetically modified food” is food which consists of one or more materials which have been genetically modified.⁹

“Irradiated food” is food radiated by a form of radioactivity to preserve and prevent food from degenerating.¹⁰ 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 street sides, in public, or in similar places.¹¹

“Packaged food” is completely packaged and labeled food, which may be eaten or processed further.¹²

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 the relevant technical specifications and meet limit requirements for pathogenic microorganisms, 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.¹³ The system of Vietnamese standards includes national standards (“**TCVN**”) and standards applied voluntarily by businesses and individuals (“**TCCS**”).¹⁴ Vietnamese standards are based on international, regional, and foreign standards. Also included are the outcomes of scientific and technological research projects, technical progress, factual experience, and the results of evaluations, tests, experiments, inspections, and appraisals.¹⁵

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 information such 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 prior 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.

Producers and traders of packaged food, additives, food process supporting substances, packing materials, and food containers (“**Products**” for short) for

¹³ LoQPG, art 5.1.

¹⁴ Law on Standards and Technical Specifications 68/2006/QH11 dated 29 June 2006 (“**LoSTS**”), art 10.

¹⁵ *Id.*, art 13.

which technical specifications are available are required to announce that their Products conform to relevant technical specifications before they are circulated in the market. If 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 in the market until the respective technical specifications are promulgated and take effect.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 for receiving announcements of specifications or of conformity with food safety regulations 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 for receiving announcements of specifications or of conformity with food safety regulations submitted by producers or traders of food domestically produced at its locality other than functional food, additives, or substances that support the processing of food.

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

Announcement Procedures¹⁷

In order to announce the conformity of food, the food producer or trader must complete the following steps:¹⁸

- Procedures and dossiers for announcement of specifications conformity

Step 1: Evaluation of conformity with specifications

¹⁶ Decree 38/2012/ND-CP of the Government dated 25 April 2012, providing Detailed Regulations Implementing 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 conformity with food safety regulations, 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 18.

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

Step 2: Announcement of conformity with specifications

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

In cases of self-evaluation, the announcement application includes the announcement form in a prescribed form, details of the food in a prescribed form, food testing results issued within the last 12 months, a quality control plan, a periodic supervision plan, report on the evaluation of conformity with specifications, and a 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 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 an announcement application to the relevant authority.

For imported food (excluding functional and nutritional food), the announcement application includes an announcement 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 from the country of origin and sub-label in Vietnamese, a food sample (from the first import into Vietnam), a certificate of business registration or investment certificate, a certificate on

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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, a 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 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 country of origin and a 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 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), a quality control plan, and a periodic supervision plan.

- Announcement procedures applied to imported products (excluding functional food) of producers for their internal use, of supermarkets, and of hotels 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 testing results of a designated laboratory, an admitted independent laboratory, or a recognized laboratory.

LABELING

The key legislation regarding labeling is Decree 89/2006/ND-CP of the Government, dated 30 August 2006, on the Labeling of Goods (“**Decree 89**”). Decree 89 replaced the Regulations on the Labeling of Goods issued together with Decision 178/1999/QD-TTg of the Prime Minister, dated 30 August 1999. Decree 89 applies to all goods produced in Vietnam for distribution within Vietnam or for export. It applies equally to foreign-made goods imported for sale in Vietnam.¹⁹

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 that 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**”) (as supplemented by Circular 14/2007/TT-BKHCN of the MOST dated 25 July 2007), and in Inter-Ministerial Circular 34/2014/TTLT-BYT-BNNPTNT-BCT of the MOH, the MARD, and the MOIT (“**Circular 34**”). 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
- Country of origin (applicable only to imported goods and goods for export);²⁴

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 17.

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- Weight and volume of the goods²⁵ measured in units recognized by Vietnamese law, under the International System of Measuring Units (“ISMU”);²⁶
- Ingredients, if the product, including seafood, contains food additives.²⁷ Ingredients must be listed in descending order of volume or content (volume percentage) and must include their international code (if any);²⁸
- Principal quality criteria (ie, factors decisive to safety and consumption by humans and the environment²⁹);
- Production date, expiration date, and shelf-life of goods;³⁰
- Storage and usage instructions;³¹ and
- Number of Certificate of Declaration of Conformity or Certificate of Declaration of Conformity with Food Safety Regulations.³²

Decree 89 requires that all letters, numerals, drawings, images, signs, and/or marks that 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 that are not clearly visible may be seen as an administrative violation.

The color of the text of compulsory contents must contrast with the background color of the label.³³ Goods distributed in Vietnam must be labeled 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

²⁵ *Id.*, art 12.2.a.

²⁶ *Id.*, art 15.1.

²⁷ *Id.*, appendix III.

²⁸ *Id.*, art 18.3.a.

²⁹ Decree 89, art 19; Circular 09, art II.7.

³⁰ Decree 89, arts 12.2.b and 12.2.c, art 16.

³¹ *Id.*, art 12.2.e.

³² Inter-Ministerial Circular 34, dated 27 October 2014, on guidance of labeling for foodstuff, food additive, and additive substances for processing packaged foods. arts 5 and 14.

³³ *Decree 89*, art 8.

³⁴ *Id.*, art 9.4.

³⁵ *Id.*, art 9.2.

³⁶ *Id.*, art 5.3.

³⁷ *Id.*, art 9.3.

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The individual or organization responsible for labeling the goods determines the size of a label, but it must be large enough for all compulsory contents to be clearly visible.³⁸

According to Decree 89, Circular 09, and Circular 34, in addition to the compulsory contents listed above, food labels must contain some further information:

- If the name of the ingredients is presented on the label of goods in order to attract attention to the goods, the quantities of each ingredient must be presented. For example, if a phrase such as “rich calcium content” is used, the calcium content must appear on the label;³⁹
- If perfume, sweetener, or color additives are used in the processing of food, the label must clearly state whether such additives are natural, synthetic, or artificial;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 specified;⁴¹
- If there are two or more food additives in a product, they must be listed in proportion to their volumes;⁴²
- The phrase “for food” must accompany food additive substances;⁴³
- The labels of goods and ingredients which are irradiated or genetically modified must be specified in accordance with international treaties to which Vietnam is a party;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;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.⁴⁶

³⁸ *Id.*, art 7.

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 43/2014/TT-BYT of the MOH dated 24 November 2014 (“**Circular 43**”), art 12.

⁴⁶ Decree 89, art 19.3.

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In addition, under the LoFS and Circular 43, labeling of functional food (including supplemental food, health protection food, medical food and special dietary food)⁴⁷, food additives, irradiated food, and genetically modified food must meet the following criteria:⁴⁸

- A label for supplemental food must contain the phrase “supplemental food”;⁴⁹
- A label for health protection food must contain the phrase “health protection food”;⁵⁰
- A label for medical food must contain two contents: (i) the phrase “medical food” to distinguish it from ordinary food, and (ii) the sentence: “used under the medical staff’s supervision”;⁵¹
- A label for special dietary food must contain the phrase “dietary products for [specific users]” to distinguish it from ordinary food;
- 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.

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.⁵²

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

⁴⁷ Circular 43, art 1.1.

⁴⁸ The LoFS, Art 14.2.

⁴⁹ Circular 43, art 9.

⁵⁰ *Id.*, art 11.

⁵¹ *Id.*, arts 13.1 and 13.2.

⁵² Decree 89, art 17.

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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.”⁵³

⁵³ Law No. 09/2012/QH13 on Prevention of the Harmful Effects of Cigarettes of the National Assembly dated 18 June 2012, art 15 and Inter-Ministerial Circular No. 05/2013/TTLT-BYT-BCT of the MOH and the MOIT dated 8 February 2013 guiding the labeling and the printing of health warnings on packs of cigarettes.

ADVERTISING

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 (“**Law on Advertisement**”), Decree 181/2013/ND-CP of the Government dated 14 November 2013 (“**Decree 181**”)⁵⁴; Circular 10/2013/TT-BVHTTDL of the Ministry of Culture, Sports, and Tourism (“**MCST**”) dated 6 December 2013 (“**Circular 10**”)⁵⁵; 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**”)⁵⁶. The contents of an advertisement of any goods, 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.⁵⁷ 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.⁵⁸

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 mainly includes 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;
- Copy of the document showing that the goods conform with technical standards; and
- A color picture of the advertised product, signed by the advertiser.

⁵⁴ Decree 181 provides detailed regulations implementing some articles of the Law on Advertising.

⁵⁵ Circular 10 provides detailed regulations implementing the Law on Advertisement and Decree 181 on legitimate documents, the organization and operation of the Appraisal Council of Advertised Products and the assignment of state management on advertisement

⁵⁶ 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**”)

⁵⁷ Inter-Ministerial Circular 01, art II.1.e.

⁵⁸ Law on Advertisement, art 8.9.

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An advertisement on billboards, placards, or panels requires written agreement from the Department of Construction (“**DOC**”).⁵⁹

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**”).⁶⁰ To advertise a food product or food additive, which 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.⁶¹

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.⁶²

Advertisements of tobacco, alcohol (concentration of alcohol being 15 percent or more); milk products replacing breast milk for under-24-month child, supplemental nutrition products for under-6-month old children, and feeding bottles and artificial teats; prescribed or non-prescribed medicine of which the usage must be restricted or be under supervision of a doctor; sexually stimulating products, sport guns and cartridges, sport rifles and violently stimulating products are prohibited.⁶³ In this regard, 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 or mislead the business capacity or ability to provide products of another organization/individual conducting business, or about the quantity, quality, price, usage, design, package, trademark, origin, type, method of serving or warranty period of products, goods or services which has been registered or declared, are prohibited.⁶⁴

An offshore producer with no establishment in Vietnam can advertise only through a Vietnamese advertising agency.⁶⁵

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 09/2015/TT-BYT of the MOH dated 25 May 2015.

In addition, Circular 10 and in Article 8.11 of the Law on Advertisement, an advertising piece which contains a word/phrase such as “the only”, “the best”,

⁵⁹ Inter-Ministerial Circular 06, art II.1.7.

⁶⁰ *Id.*, art II.1.5.a.

⁶¹ *Id.*, art II. 1.5.d.

⁶² *Id.*, art II.3.1, art II.3.2.

⁶³ Law on Advertisement, art 7.

⁶⁴ *Id.*, art 8.9.

⁶⁵ *Id.*, art 39.

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“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 date of issue.

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;⁶⁶
- Goods that violate applicable technical regulations;⁶⁷
- Goods that violate labeling laws.⁶⁸
- Circulating goods that violate regulations on compulsory contents for labels;⁶⁹
- Goods whose codes and barcodes contain Vietnam’s code (893), but the use of such code is not permitted; goods with codes and barcodes that belong to different enterprises; goods with markings that may be confused with codes or barcodes;⁷⁰
- Goods with foreign codes which are produced in Vietnam only for export if the use of such codes has not yet been allowed by competent foreign agencies or their foreign owners;⁷¹

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

- Expired foods that are in circulation;
- Foods that 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;

⁶⁶ Decree 80, art 18.5.

⁶⁷ *Id.*, art 19.7.

⁶⁸ *Id.*, art. 25.3.

⁶⁹ *Id.*, art 26.7.

⁷⁰ *Id.*, art 27.4.

⁷¹ *Id.*, art 27.4.

RUSSIN & VECCHI

- Imported foods that 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 Law on Consumer Protection,⁷² in case of a defective product, a responsible business organization or individual must publicly announce the 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 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 and method to repair the defect; and
- Measures which should be taken to ensure that consumer interests are protected.

The result of the recall must be reported to the appropriate provincial or central authorities.

⁷² Law no. 59/2010/QH12 dated 17 November 2010 of the National Assembly on Consumer Protection.

INSPECTIONS

Under Decree 38, inspection of food is conducted by the MOH, the MARD, and the MOIT. The Government stipulates the assignment of the competent authorities to conduct the food safety inspection. The State has issued Decree 122⁷³; it provides that the MOH is responsible for inspection of food products.

In general, food safety inspection is conducted by an inspection team or an individual inspector. The team or individual is tasked with: (1) investigating compliance with legislation on technical standards, food safety, advertisements and labeling, and certification of conformity, (2) imposing sanctions, and (3) applying or proposing, in accordance with its authority, measures for preventing or ending a violation. Furthermore, the team or individual may conduct an extraordinary inspection on the entire process of food production, import and export, and trading of food in certain cases as provided in Article 26 of Decree 38.⁷⁴

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 act they consider to be illegal and/or which infringes on their rights and interests.⁷⁵

⁷³ Art 2 and art 16.2 of Decree 122/2014/ND-CP of the MOH dated 25 December 2014 on health inspection (“**Decree 122**”).

⁷⁴ Degree 38/2012/ND-CP. art 16.2.

⁷⁵ 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:⁷⁶

- 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 a relevant ministry;

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

In the event that 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, then international agreements and treaties to which Vietnam is a contracting party will apply.

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

Imported foods are exempt from State inspection for safety purposes in the following cases:⁷⁷

- Personal foods brought by individuals upon entry for private consumption and which are exempt 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 to receive a reduced level of inspection. There are some minor exceptions.

⁷⁶ LoFS, art 38.

⁷⁷ Decree 38, art 14.

Inspection

The MOH recently issued Circular No.52/2015/TT-BYT dated December 21, 2015 in response to growing public concern about an increasing number of food safety violations. Circular 52 revises the inspection methods for imported food.

Common Inspection

Common inspection applies to all foods imported into Vietnam, with the exception of foods subject to tightened and simplified inspections.⁷⁸ The MOH or an authority it designates will inspect dossiers and inspect representative food samples.

Tightened Inspection

Tightened inspections apply to foods that previously failed to meet common inspection requirements or to foods that received a warning from the MOH, the appropriate authority in the foreign country of origin, or from the manufacturer.

Tightened inspection can be changed to normal inspection if subsequent food supply meets the requirements during two consecutive inspections.

Simplified Inspection

Simplified inspections are inspections of dossiers only. They apply for a maximum of 12 months from the date an application for simplified inspection is made.⁷⁹

To apply for simplified inspection, the importer must submit a written request to the Vietnam Food Administration (“VFA”). The VFA will issue an official decision letter within five business days.⁸⁰

⁷⁸ Art 6 of Circular 52/2015/TT-BYT of the MOH dated 21 December 2015 (“Circular 52”)

⁷⁹ Art 5 of Circular 52

⁸⁰ Art 7 of Circular 52

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, an overseas buyer usually asks whether the food exporter is in compliance with International Standardization Organization (“**ISO**”) provisions. Further, the food product must follow HACCP which embodies international standards on hygiene and safety. 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 following Circular 52.⁸¹ According to informal information, the food exporter should request the MOH to issue a CFS along and should provide 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 entitled “**IMPORT REQUIREMENTS**.” A successful examination will help facilitate compliance with the customs procedures that apply to foods for export.

⁸¹ 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**”)⁸² gives the Ministry of Agriculture and Rural Development (“**MARD**”),⁸³ 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.⁸⁴ 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:

- Initial manufacturing premises of aquatic products according to its enterprise registration certificate or investment certificate;⁸⁵
- Fishing vessels with a main engine of at least 90 CV;⁸⁶
- Purchasing, preliminary processing, processing, and/or trading premises of aquatic products;⁸⁷
- Manufacturing and trading premises of aquatic products for export⁸⁸ (hereinafter referred to as a “*Fishery Aquatic Establishment*”);
- A lot in which the aquatic foods are subject to inspection and certification of quality and food safety.⁸⁹

⁸² 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.

⁸³ The MARD is responsible for coordinating state management of aquatic products. See Inter-Ministerial Circular 13/2014/TTLT-BYT-BNNPTNT-BCT of the MOH, MARD and MOIT dated 9 April 2014 guiding the Assignment and Co-ordination of State Management of Food Safety, arts 3.4 and art 4.2.

⁸⁴ Decree 59, art 17.

⁸⁵ Circular 45/2014/TT-BNNPTNT of the MARD dated 3 December 2014 on Inspection of Manufacturing and Trading Establishments of Agricultural Commodities, and Inspection and Certification of Satisfaction on Food Safety Conditions of Manufacturing and Trading Establishments of Agriculture, Forestry and Aquatic Products (“**Circular 45**”), art. 2.3 (a).

⁸⁶ *Id.*, art. 2.3 (a).

⁸⁷ *Id.*, art. 2.3 (b).

⁸⁸ Circular 48/2013/TT-BNNPTNT of the MARD dated 12 November 2013 on Inspection and Certification of Food Safety of Exported Aquatic Products (“**Circular 48**”), art. 2.1 (a).

⁸⁹ *Id.*, art. 2.1 (b), and art. 1 of Circular 25/2010/TT-BNNPTNT of the MARD dated April 8, 2010 on Inspection of Hygiene and Safety of Imported Animal Foods (“**Circular 25**”).

Inspection and Certification of Fishery Aquatic Establishments

Local inspection and certification bodies, along with the National Agro-Forestry-Aquatic Quality Assurance Department are responsible for inspecting and certifying establishments.⁹⁰ There are three types of inspection for Fishery Aquatic Establishments: inspection for clarification, periodic inspection, and unscheduled inspection.⁹¹ With respect to manufacturing and trading premises of aquatic products for export, there are examination process and two types of inspection, including periodic inspection and unscheduled inspection.⁹² Every separate fishery aquatic establishment that is approved for food hygiene and safety standards under inspection for clarification is entitled to a certificate of food safety with a 3-year-term.⁹³ A manufacturing and trading premises of aquatic products for export that is approved for hygiene and safety standards under the examination process is entitled to an approval code attached to a certificate of food safety with 3-year-term.⁹⁴

A Fishery Aquatic Establishment under Article 2.3, Circular 45 which satisfies all food hygiene and safety standards, but which has several minor failures not seriously affecting the food safety and quality will be given a "pass".⁹⁵ An establishment that does not satisfy food hygiene and safety standards will be given a "fail" grade.⁹⁶ A failed Fishery Aquatic Establishment will be re-inspected. A certificate on satisfaction of food hygiene and safety standards and a business registration certificate may be withdrawn, and the establishment may receive an administrative penalty if it fails to satisfy conditions upon re-inspection.

Grades of A, B, or C are given to establishments under Article 8 of Circular 45. 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. Only grade A or grade B establishments meet food hygiene and safety standards.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.⁹⁸ This inspection is made per lot of aquatic products

⁹⁰ Circular 45, art. 5, and Circular 48, art. 5.

⁹¹ Circular 45, art. 6.

⁹² Circular 48, art. 12.

⁹³ Circular 45, art. 18.4 (c).

⁹⁴ Circular 48, art. 17.1 (a).

⁹⁵ Circular 45, art. 8.2.

⁹⁶ Circular 45, art. 8.3.

⁹⁷ Circular 45, arts 8.1 and 8.2.

⁹⁸ Circular No. 08/2016/TT-BNNPTNT dated June 1, 2016, on the Control of Hygiene and Safety of Agricultural Products, Forest Products and Aquatic Products, (art.1), (**"Circular 08"**), Circular 48, art. 2.1 (b) and Circular 25, art. 1.

RUSSIN & VECCHI

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.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 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.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.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 (filing of an original dossier afterward), or online.¹⁰² After on-site inspection, the inspectors grant a health certificate for each lot of the FBOs that fulfills compulsory requirements.

⁹⁹ Circular 48, art. 25.

¹⁰⁰ Circular 8, art. 5.

¹⁰¹ Circular 48, art. 5.2 and art. 8.3(b) of Circular 25.

¹⁰² Circular 48, art. 28.1 (b).

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. These temporary regulations were issued in connection with Decision 425/2001/QD-BTS of the Minister of Aquatic Products dated 25 May 2001 (“**Decision 425**”). This Decision was abrogated by Decision 1149/QD-BNN-PC by MARD dated 23 April 2009. According to Decision 425, the Regulations stipulated 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. Currently, detailed implementing regulations on announcing quality standards for specialty aquatic products are provided in various MARD legislation. For example, MARD Circular 26/2013/TT-BNNPTNT dated 22 May 2013 on Aquatic Breed Management requires producers to announce quality standards of locally-produced aquatic breeds. Importers or distributors must register for inspection of quality of imported aquatic breeds.

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 strictly comply with Vietnamese regulations on food hygiene safety and specific standards applicable to aquatic products. They must also comply with the requirements of the importing countries.¹⁰³

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 48.¹⁰⁴ The Government has taken that step to encourage aquatic products exporters voluntarily to adopt HACCP, GMP, and other international criteria.

¹⁰³ Circular 48, arts 2.1 (b) and 2.2.

¹⁰⁴ Circular 48, art. 2.

ENFORCEMENT

All organizations and individuals have the right to lodge a complaint regarding any violation that relates to the quality of food products.¹⁰⁵ They may even make a complaint regarding food safety, such as wrong-doing by a government official responsible for implementing or enforcing the laws and regulations on the quality of food products.¹⁰⁶ The authorities must respond to such complaints.¹⁰⁷

All individuals and organizations, including foreign individuals and organizations, that commit an administrative violation that relates to the quality of goods will be sanctioned.¹⁰⁸ The Civil Code states that: “individuals, legal persons, etc. that are producers or that do business without ensuring the quality standards of goods and that injure any consumer must compensate” the consumer.¹⁰⁹ 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.¹¹⁰ Once a violation has been discovered, the law gives the government much flexibility in the form and scale of punishment.¹¹¹

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.¹¹²

Administrative violators may be subject to the following remedies: recovery of sums of money illegally gained from the commission of administrative violations, recall of products or goods or recall of measuring devices that violate standards, and so on.¹¹³ Also, products or goods must be destroyed if they are not safe for humans, animals, plants, and the environment.¹¹⁴

¹⁰⁵ Law on the Quality of Products and Goods, art 64.

¹⁰⁶ LoFS, arts 7.1 (dd), 8.1 (d) and 9.1 (d).

¹⁰⁷ Law on the Quality of Products and Goods, art 46.4.

¹⁰⁸ Decree 80/2013/ND-CP dated 19 July 2013 on Administrative Sanctions against Violations in Standards, Measurements and Quality of Products and Goods (“**Decree 80**”), art 2.

¹⁰⁹ Civil Code, art 630.

¹¹⁰ Decree 80, arts 29, 30 & 31.

¹¹¹ *Id.*, arts 2 & 3.

¹¹² *Id.*, art 2.2.

¹¹³ *Id.*, art 2.3.

¹¹⁴ *Id.*, art 20.

RUSSIN & VECCHI

Enforcement agencies are given guidance on which sanctions to impose and on how large a fine should be.¹¹⁵ Generally, the maximum fine is VND100 million for an individual and VND200 million for an organization. The maximum fine for violation of standards or quality of products and goods is VND150 million for an individual, and VND300 million for an organization¹¹⁶. There are some exceptions.

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:¹¹⁷

- 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 committed beyond the legitimate defense limit or beyond requirements of an urgent circumstance;
- The violation is caused by coercion or force;
- The violating party is a pregnant woman, an old or sick person, a diseased person or a disabled person which limits his 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:¹¹⁸
- Organized violations;
- Repeated and/or extensive violations;
- Enticement by the offender of underage persons to commit a violation, or forcing dependent persons to commit a violation;

¹¹⁵ *Id.*, Chapter II.

¹¹⁶ *Id.*, art. 3.

¹¹⁷ Law no. 15/2012/QH13 dated 20 June 2012 on Dealing with Administrative Violations, art 9.

¹¹⁸ *Id.*, art 10.

RUSSIN & VECCHI

- 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 toward 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 conceals 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:¹¹⁹
- Where the offender committed a violation due to urgent circumstances, legitimate defense purposes, unexpected events, unforeseen contingent events;
- 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; or he is under 14 years old so that he has not attained the age for being administratively sanctioned.¹²⁰

Within seven days (or 30 days for complicated cases) the relevant government agency will issue a decision on how to handle the administrative violation.¹²¹

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

¹¹⁹ *Id.*, art 11.

¹²⁰ *Id.*, art 11. A person who is between full 14 and under 16 years old may be administratively sanctioned for an intentional administrative violation. A person who is a full 16 years old or older may be administratively sanctioned for administrative violations.

¹²¹ *Id.*, art 66.1.

RUSSIN & VECCHI

Moreover, individuals who violate regulations on food safety and hygiene may have penal liability. Penalties imposed on offenders under the new Penal Code will be stricter than those in the 1999 Penal Code. The crimes related to food safety and hygiene, under the new Penal Code, are diverse and include the use of banned substances to manufacture or preserve food products; sale of food products with the knowledge that they contain banned substances; manufacturing and trading chemicals, anti-bodies, veterinary medicines, plant protection preparations that are banned from use in producing salt and in the preliminary processing of agricultural, forestal, aquatic products; manufacturing and trading fake goods that are food products or food additives, etc. The penalty for each crime may be five years' imprisonment, 10 years' imprisonment or a life sentence. Fines may range from VND20 million to VND100 million, depending largely on the level of seriousness of the offence.

There are crimes involving manufacturing and banned trading of chemicals, anti-bodies, veterinary medicines, plant protection preparations and involving manufacturing and trading fake goods that are food products or food additives. In such cases, traders that are entities (not only individuals) may have penal liability. That companies can have criminal liability for breaches of regulations on food safety and hygiene is one of the remarkable changes in the new Penal 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 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

Subject	Pages	Name of legal documents	Issued by	Issued on
<i>Food Safety</i>	3	<ul style="list-style-type: none"> • Law on Standards and Technical Specifications 68/2006/QH11 	National Assembly	29 June 2006
	1, 3	<ul style="list-style-type: none"> • Law on the Quality of Products and Goods 05/2007/QH12 	National Assembly	21 November 2007
	1, 2	<ul style="list-style-type: none"> • Law on Food Safety 55/2010/QH12 	National Assembly	17 June 2010
	4	<ul style="list-style-type: none"> • Decree 38/2012/ND-CP providing Detailed Regulations Implementing of some articles of the Law on Food Safety [Amended by Decree 09/2016/ND-CP (effective March 15, 2016)] 	Government	25 April 2012
	4	<ul style="list-style-type: none"> • Circular 19/2012/TT-BYT guiding announcement of standard conformity and announcement of food safety conformity 	MOH	9 November 2012

RUSSIN & VECCHI

<i>Labeling</i>	7, 8, 9, 10	<ul style="list-style-type: none"> Decree 89/2006/ND-CP on the Labeling of Goods [Amended by Decree 36/2016/ND-CP (effective July 1, 2016)] 	Government	30 September 2006
	7, 8, 9	<ul style="list-style-type: none"> Circular 09/2007/TT-BKHHCN guiding a number of Articles of Decree 89/2006/ND-CP, amended by Circular 14/2007/TT-BKHHCN of the MOST dated 25 July 2007 	MOST	6 April 2007
	7	<ul style="list-style-type: none"> Circular 14/2007/TT-BKHHCN amending Circular 09/2007/TT-BKHHCN guiding a number of Articles of Decree 89/2006/ND-CP 	MOST	25 July 2007
	11	<ul style="list-style-type: none"> Law No. 09/2012/QH13 on Prevention of Harmful Effects of Cigarettes 	National Assembly	18 June 2012
	11	<ul style="list-style-type: none"> Inter-Ministerial Circular No. 05 /2013/TTLT-BYT-BCT guiding the label of and printing health warnings on packs of cigarettes 	MOH and MOIT	8 February 2013
	9, 10	<ul style="list-style-type: none"> Circular 43/2014/TT-BYT guiding Management of Functional Foods 	MOH	24 November 2014
	7, 8, 9	<ul style="list-style-type: none"> Inter-Ministerial Circular 34/2014/TTLT-BYT-BNNPTNT-BCT on guidance of labeling for foodstuff, food additive, and additive substances for for processing packaged foods 	MOH, MARD, and MOIT	27 October 2014

RUSSIN & VECCHI

<i>Advertising</i>	12	<ul style="list-style-type: none"> Inter-Ministerial Circular 01/2004/TTLT-BVHTT-BYT guiding Advertising Activities in the Domain of Health 	MOCI, MOH	12 January 2004
	12, 13	<ul style="list-style-type: none"> Inter-Ministerial Circular 06/2007/TTLT-BVHTT-BYT-BNN-BXD guiding One-door Procedures to Grant Advertising Permits 	MOCI, MOH, MARD, MOC	28 February 2007
	12, 13, 14	<ul style="list-style-type: none"> Law on Advertisement No. 16/2012/QH13 	National Assembly	21 June 2012
	12, 13	<ul style="list-style-type: none"> Decree 181/2013/ND-CP providing detailed regulations implementing some articles of the Law on Advertising 	Government	14 November 2013
	12, 14	<ul style="list-style-type: none"> 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 advertisement 	MCST	6 December 2013
	13	<ul style="list-style-type: none"> Circular 09/2015/TT-BYT on certification of advertising contents for special products, goods, services managed by the MOH 	MOH	25 May 2015

RUSSIN & VECCHI

<i>Recall</i>	15	<ul style="list-style-type: none"> • Law on Food Safety 55/2010/QH12 	National Assembly	17 June 2010
	16	<ul style="list-style-type: none"> • Law on Consumer Protection 59/2010/QH12 	National Assembly	17 November 2010
	15	<ul style="list-style-type: none"> • Decree 80/2013/ND-CP on Administrative Sanctions against Violations of Standards, Measurements and Quality of Products and Goods 	Government	19 July 2013
<i>Inspections</i>	17	<ul style="list-style-type: none"> • Law on the Quality of Products and Goods 05/2007/QH12 	National Assembly	21 November 2007
	17	<ul style="list-style-type: none"> • Decree 38/2012/ND-CP providing Detailed Regulations Implementing of some articles of the Law on Food Safety 	Government	25 April 2012
	17	<ul style="list-style-type: none"> • Decree 122/2014/ND-CP on Organization and Operation of Health Inspectorate 	Government	25 December 2014
<i>Import Requirements</i>	18	<ul style="list-style-type: none"> • Decree 38/2012/ND-CP Implementing a number of Articles of the Law on Food Safety 	Government	25 April 2012

RUSSIN & VECCHI

	18	<ul style="list-style-type: none"> • Law on Food Safety 55/2010/QH12 	National Assembly	17 June 2010
	[]	<ul style="list-style-type: none"> • Circular 05/2007/TT-BYT guiding Conditions and Procedures to nominate Organizations to Implement State Inspection on Quality, Hygiene and Safety of Imported Foods 	MOH	7 March 2007
	19	<ul style="list-style-type: none"> • Circular 52/2015/TT-BYT regulating State safety inspection on imported foods, and application, procedure for grant of certificate of export to exported foods under administration of the Ministry of Health 	MOH	21 December 2015
	[]	<ul style="list-style-type: none"> • Circular 19/2012/TT-BYT promulgating on Announcement of Standard Conformity and Announcement of Food Safety Conformity 	MOH	9 November 2012
<i>Export Requirements</i>	[]	<ul style="list-style-type: none"> • Decision 50/2006/QD-TTg promulgating the List of Goods subject to State Quality Examination 	Prime Minister	7 March 2006
		<ul style="list-style-type: none"> • Circular 52/2015/TT-BYT regulating State safety inspection on imported foods, and application, procedure for grant of certificate of export to exported foods under administration of the Ministry of Health 	MOH	21 December 2015

RUSSIN & VECCHI

<i>Aquatic Products</i>	21	<ul style="list-style-type: none"> Decree 59/2005/ND-CP on Conditions of Manufacture and Business of a number of Aquatic Professions, amended by Decree 14/2009/ND-CP dated 13 February 2009 and Decree 53/2012/ND-CP dated 20 June 2012 [most recently amended by Decree 66/2016/NP-CP, effective 1 July 2016] 	Government	4 May 2005
	24	<ul style="list-style-type: none"> Decision 1149/QĐ-BNN-PC abrogating certain legal documents 	MARD	23 April 2009
	21, 22, 23, 24	<ul style="list-style-type: none"> Circular 48/2013/TT-BNNPTNT on Inspection and Certification of Food Safety of Exported Aquatic Products 	MARD	12 November 2013
	[]	<ul style="list-style-type: none"> Inter-Ministerial Circular 13/2014/TTLT-BYT-BNNPTNT-BCT guiding the Assignment and Co-ordination of State Management of Food Safety 	MOH, MARD and MOIT	9 April 2014
	21, 22	<ul style="list-style-type: none"> Circular 45/2014/TT-BNNPTNT on Inspection of Manufacturing and Trading Establishments of Agricultural Commodities, and Inspection and Certification of Satisfaction on Food Safety Conditions of Manufacturing and Trading Establishments of Agriculture, Forestry and Aquatic Products 	MARD	3 December 2014

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	22, 23	<ul style="list-style-type: none"> • Circular 08/2016/TT-BNNPTNT on the Control of Hygiene and Safety of Agricultural Products, Forest Products, Aquatic Products 	MARD	1 June 2016
	21, 23	<ul style="list-style-type: none"> • Circular 25/2010/TT-BNNPTNT on Inspection of Hygiene and Safety of Imported Animal Foods [Amended by Circular 51/2010/TT-BNNPTNT effective 9 August 2010] 	MARD	8 April 2010
<i>Enforcement</i>	25	<ul style="list-style-type: none"> • Civil Code 33/2005/QH11 	National Assembly	14 June 2005
	25	<ul style="list-style-type: none"> • Law on the Quality of Products and Goods 05/2007/QH12 	National Assembly	21 November 2007
	25	<ul style="list-style-type: none"> • Law on Food Safety 55/2010/QH12 	National Assembly	17 June 2010
	[]	<ul style="list-style-type: none"> • Law on Appeal 02/2011/QH13 • Law on Denunciation 03/2011/QH13 	National Assembly	11 November 2011
	26	<ul style="list-style-type: none"> • Law on Dealing with Administrative Violations 15/2012/QH13 	National Assembly	20 June 2012

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	25, 26	<ul style="list-style-type: none">• Decree 80/2013/ND-CP on Administrative Sanctions against Violations in Standards, Measurements and Quality of Products and Goods	Government	19 July 2013
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Legal documents marked “[]” are not cited in each relevant section; they appear only in the SCHEDULE.