

THE PRIME MINISTER

No.10/2010/QG-TTG

SOCIALIST REPUBLIC OF VIET NAM

Independence - Freedom - Happiness

Hanoi, February 10, 2010

DECISION

ON CERTIFICATES OF FREE SALE FOR EXPORTS AND IMPORTS

THE PRIME MINISTER

*Pursuant to the December 25, 2001 Law on Organization of the Government;
Pursuant to the November 21, 2007 Law on Product and Goods Quality;
Pursuant to the June 29, 2006 Law on Standards and Technical Regulations;
Pursuant to the June 14, 2005 Pharmacy Law;
Pursuant to the June 14, 2005 Commercial Law;
Pursuant to the August 7, 2003 Ordinance on Food Hygiene and Safety;
At the proposal of the Minister of Industry and Trade,*

DECIDES:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Decision prescribes the issuance of certificates of free sale (CFS) for domestic products and goods for export and the requirement on CFSs for imports for sale in Vietnam.

Article 2. Subjects of application

This Decision applies to state management agencies, traders, manufacturers and organizations and individuals involved in product and good quality in Vietnam.

Article 3. Competence to manage CFSs for imports and issue CFSs for exports

1. The competence to manage CFSs for imports and issue CFSs for exports is specified in Appendix I to this Decision.

2. The agencies referred to in Clause 1 of this Article shall clearly publicize addresses of places for registering trader dossiers; issuing CFSs for exports; and examining CFSs for imports.

Article 4. Interpretation of terms

In this Decision, the terms below are construed as follows:

1. Certificate of free sale means a certificate issued by a competent state agency of the exporting country to the exporter of the product or goods stated in the CFS, certifying that such product or goods is manufactured and permitted for free sale in the exporting country.

CFSs also include particular certificates, certificates fully containing the contents of a CFS and other certificates with similar contents.

2. CFS management and issuing agencies are competent state agencies referred to in Article 3 of this Decision.

3. CFS applicants include exporters, manufacturers and lawfully authorized representatives of exporters or manufacturers.

Chapter II

ISSUANCE OF CFSs FOR EXPORTS

Article 5. Conditions for obtaining a CFS

A product or goods domestically produced for export may be issued a CFS when it satisfies the following conditions:

1. Its exporter requests for a CFS.
2. Its applied standards have been announced under current law.

Article 6. Information of CFSs

1. A CFS is valid for two (2) years from the date of issuance.
2. A CFS must be made in English on A4-size white paper and contain at least the following details:
 - a/ Name of the CFS issuing agency (issuer);
 - b/ Its reference number;
 - c/ Date of its issuance;
 - d/ Name of the certified product or goods;
 - e/ Type or group of the certified product or goods;
 - f/ Name and address of the manufacturer;
 - g/ Statement that the product or good is manufactured and freely sold on the market of the country of manufacture;
 - h/ Full name, signature and title of the CFS-issuing person and seal of the CFS issuer.

3. Other particular information of each CFS issuer may be included in a CFS depending on management requirements.
4. CFS issuers shall themselves print CFS forms which must fully contain the details specified in Clauses 1 thru 3 of this Article.
5. When an importing country requests the trader to submit this country's CFS form, the CFS issuer may issue the CFS according to the requested form.

Article 7. Responsibilities of CFS applicants A CFS applicant shall:

1. Register a trader dossier with the CFS issuer under Article 9 of this Decision.
2. Submit a CFS application dossier to the CFS issuer under Article 10 of this Decision.
3. Prove the exports' satisfaction of CFS issuance requirements as requested by the CFS issuer.
4. Take responsibility before law for the accuracy and truthfulness of declarations related to his/her/its CFS application.
5. When detecting errors in a CFS due to the trader's fault, notify such to the CFS issuer for issuance of a new CFS; and return the faulty CFS to the CFS issuer for cancellation.
6. Pay charges and fees for CFS issuance under current law.

Article 8. Responsibilities of CFS issuers A CFS issuer shall:

1. Guide CFS applicants upon request.
2. Receive and examine trader dossiers and CFS application dossiers.
3. Verify goods quality when necessary.
4. Issue CFSs when goods meet the requirements on CFSs under this Decision.
5. When detecting errors in a CFS due to its fault, notify and immediately issue a new CFS to the trader; revoke and cancel the faulty CFS.

Article 9. Registration of trader dossiers

1. A CFS applicant shall register the trader dossier with the CFS issuer when applying for a CFS for the first time and may only be considered for CFS issuance when having registered such dossier. A trader dossier comprises:

a/ Written registration of the specimen signature of the person authorized to sign the CFS application and the seal of the trader (Appendix 2 to this Decision, not printed herein):

b/ Business registration certificate of the trader (certified true copy);

c/ Certificate of tax identification number registration (certified true copy);

d/ List of production establishments (if any) of the trader (Appendix III to this Decision, not printed herein).

2. Any changes in a trader dossier shall be reported to the CFS issuer where the dossier has been registered prior to CFS application. When there is no change, a trader dossier shall still be updated once every two (2) years.

3. An applicant who applies for a CFS at an agency other than the one at which he/she/it has earlier registered the trader dossier shall submit a written request to and register the trader dossier at that agency.

Article 10. CFS application dossiers A CFS application dossier comprises:

a/ A fully and properly completed CFS application form (made according to the form in Appendix IV to this Decision, not printed herein).

2. A certified copy of the written announcement of applied standards for the product or goods enclosed with the way of presentation (on the goods label or packing or document attached to the product or goods).

3. Other papers depending on particular requirements of the CFS issuer.

Article 11. Submission of CFS application dossiers

When a CFS applicant submits a CFS application dossier, the dossier recipient shall check the dossier and issue a receipt slip or another document to the applicant on either of the following activities:

1. Receiving the dossier, if it is complete and valid under Article 10 of this Decision.

2. Returning the dossier and requesting supplementation of documents, if the dossier is incomplete and invalid.

Article 12. CFS issuance

1. A CFS shall be issued within five (05) working days after a CFS applicant submits a complete and valid dossier under Article 10 of this Decision.

2. A CFS issuer may make inspection visits to the place of manufacture when finding that examination of the dossier does not provide sufficient grounds for CFS issuance or when detecting signs of violation of previously issued CFSs.

3. CFSs for products or goods shall be issued in the number of copies requested by the trader.

4. When detecting that a product or goods is ineligible for obtaining a CFS under Article 5 of this Decision, a CFS issuer shall make a written refusal to issue a CFS for such product or goods.

Article 13. CFS re-issuance

1. When a CFS is lost, missing or damaged, the exporter may submit an application for a certified true copy of the original CFS to the CFS issuer. Based on the dossier filed at the CFS issuer, this agency shall issue a copy which must bear the phrase "certified true copy." This copy has the date of issuance and validity duration of the original CFS and is issued within the effective time of the original CFS.
2. The time to re-issue a CFS must not exceed five (05) working days after a CFS applicant submits an application for a certified true copy of the original CFS to a CFS issuer.

Article 14. Revocation of issued CFSs

1. A CFS issuer shall revoke an issued CFS when:
 - a/ The exporter or CFS applicant falsifies documents;
 - b/ The CFS is issued to a product or goods which fails to conform with its announced applied standards;
 - c/ The CFS is issued ultra vires.
2. A CFS holder shall return the issued CFS to the CFS issuer within five (05) working days after receiving the revocation notice of the CFS issuer. When it is impossible to revoke such CFS, the CFS issuer shall issue a notice of the invalidity of the CFS specified in Clause 1 of this Article to concerned organizations and individuals.

Article 15. Online CFS issuance

CFSs may be issued via the internet. Online CFS issuance procedures shall be specifically guided by line ministries.

Article 16. Charges and fees for CFS issuance

Charges and fees for CFS issuance shall be specified by the Ministry of Finance.

Chapter III

IMPORTS SUBJECT TO CFS REQUIREMENT

Article 17. Imports subject to CFS requirement as a basis for competent state agencies to issue other certificates under current law

1. Lists of imports subject to CFS requirement as a basis for competent state agencies to issue other certificates under current law shall be provided by competent state agencies defined in Appendix 1 to this Decision.
2. Importers of products and goods on the lists referred to in Clause 1 of this Article shall submit CFSs to competent state agencies under current law.

Article 18. CFSs for imports

1. CFSs issued by exporting countries or territories must fully contain the details specified in Clause 2, Article 6 of this Decision.
2. A CFS may be used for one or more lots of imports under regulations of competent state agencies.
3. Certified true copies of CFSs for imports may be used as original CFSs.

Article 19. Consular legalization

When so requested by concerned competent state agencies, CFSs issued by exporting countries or territories shall be consularly legalized under law except cases of exemption from consular legalization under treaties to which Vietnam is a contracting party or on the reciprocity principle.

Article 20. Responsibilities of competent state agencies for CFSs for imports

1. Concerned competent state agencies shall examine the conformity of imports with their CFSs.
2. When doubtful about the truthfulness of CFSs for imports or when imports fail to conform with their CFS, concerned competent state agencies may send a written request for verification together with a copy of the CFS in question to the CFS issuer of the exporting country or territory. Such request must clearly state the reason for verification and specify the information of the CFS to be verified.

Article 21. Rejection of CFSs for imports

Competent state agencies may reject CFSs for imports when these CFSs are certified by CFS issuers of exporting countries as untruthful.

Chapter IV

HANDLING OF VIOLATIONS AND COMPLAINTS

Article 22. Handling of violations

1. All violations of provisions on CFSs under this Decision shall, depending on their severity, be administratively handled or examined for penal liability under current law.
2. Cadres, civil servants and individuals under agencies authorized to issue CFSs and state agencies with competence related to CFSs for imports that violate this Decision or abuse their posts and powers to issue CFSs at variance with this Decision, cause difficulties to or obstruct the issuance of CFSs, or commit other violations when on duty shall be disciplined, administratively sanctioned or examined for penal liability, depending on the nature and severity of their violations. When such violations harm the interests of the State or agencies, organizations or individuals, they shall compensate for damage under law.

Article 23. Settlement of complaints about CFS-related matters

When being refused to obtain CFSs for exports or have CFSs recognized for imports, CFS applicants or importers may lodge complaints under the law on complaints and denunciations.

Chapter V

ORGANIZATION OF IMPLEMENTATION

Article 24. Preservation of dossiers

1. CFS application dossiers shall be kept by CFS applicants and CFS issuers for at least three (03) years from the date of issuance.
2. CFSs for imports shall be kept by importers for at least three (03) years from the date of import.

Article 25. Responsibilities of ministries and branches

1. The Ministry of Industry and Trade shall assume the prime responsibility for managing, coordinating and issuing CFSs and implementing CFS mechanisms in Vietnam.
2. Ministries and branches shall guide and prescribe the issuance and examination of CFSs for products and goods under their management under Article 3 of this Decision.

Article 26. Effect

This Decision takes effect on May 1, 2010.

Article 27. Implementation responsibilities

Ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees and concerned organizations and individuals shall implement this Decision.

**FOR THE PRIME MINISTER
DEPUTY PRIME MINISTER**

Hoang Trung Hai

ANNEX I

COMPETENCE TO MANAGE CFSs FOR IMPORTS AND ISSUE CFSs FOR EXPORTS (To the Prime Minister's Decision No 10/2010/QĐ-TTg of February 10, 2010)

Ministries' and branches' competence to manage CFSs for imports and issue CFSs for exports is specified for goods items as follows:

1. The Ministry of Health:

a/ Functional food, micronutrient-added food, supplementary food, food additives, drinking water, daily-life water, natural mineral water; cigarettes; pest-killing and sterilization chemicals and preparations for domestic and medical use;

b/ Drugs, cosmetics;

c/ Medical equipment.

2. The Ministry of Agriculture and Rural Development:

a/ Plant varieties, animal breeds; agricultural, forestry and aquatic products, salt; cattle, poultry and livestock;

b/ Agricultural, forestry and aquatic supplies; fertilizer; livestock feed and materials for livestock feed production;

c/ Products from culture, harvest, processing, preservation and transportation in agriculture, forestry and fisheries, and salt;

d/ Additives and chemicals used in agriculture, forestry and fisheries; plant and animal protection drugs;

e/ Fishing tools and equipment subject to strict fishery safety requirements.

3. The Ministry of Transport:

All types of means of transport, equipment, loading and construction equipment exclusively used in transport (other than those used for defense and security purposes and fishing vessels) and technical equipment exclusively used in the transport sector.

4. The Ministry of Construction:

Building materials.

5. The Ministry of Industry and Trade:

a/ Chemicals, industrial explosive materials;

b/ Machinery and equipment subject to strict labor safety requirements under the Ministry's state management;

c/ Products of consumer goods, food and other processing industries under law.

d/ Other products and goods not falling under the management of the ministries and agencies specified in this Appendix.

6. The Ministry of Labor, War Invalids and Social Affairs:

a/ Machinery, equipment and supplies subject to strict labor safety requirements; personal protection equipment for laborers;

b/ Particular labor safety products under law.

7. The Ministry of Information and Communications:

a/ Press products; publications; post and delivery;

b/ Telecommunications equipment;

c/ Post, telecommunications, electronic and information technology products;

d/ Radio transceivers.

8. The Ministry of Natural Resources and Environment:

a/ Natural resources, minerals;

b/ Topography and cartography.

9. The Ministry of Education and Training:

a/ Textbooks, course books and teacher manuals;

b/ Teaching equipment, educational toys under the Ministry's state management under law.

10. The Ministry of Culture, Sports and Tourism:

a/ Cultural, literary and arts publications;

b/ Equipment for training and competition of physical training and sports establishments and sport games.

11. The State Bank of Vietnam:

Equipment exclusively used in the banking sector.

12. The Ministry of National Defense:

Military means and equipment, weapons and ammunitions and products used for defense and defense works other than state secrets.

13. The Ministry of Public Security:

Fire prevention and fighting equipment, technical equipment, weapons, materials, explosive materials, supporting tools and other products used by people's police forces other than state secrets.

14. The Ministry of Science and Technology:

Nuclear radioactive safety equipment: measuring equipment and devices and other products and goods other than those specified in Clauses 1 thru 13 and products and goods in the defense, security and state secret domains.-