

**DECREE**  
**PROVIDING FOR**  
**IMPORT AND EXPORT RIGHTS OF FOREIGN BUSINESS**  
**ENTITIES WITHOUT A PRESENCE IN VIETNAM**

The Government

Pursuant to the Law on Organization of the Government dated 25 December 2001;

Pursuant to the Commercial Law dated 14 June 2005;

Pursuant to Resolution 71-2006-QH11 of the National Assembly dated 29 November 2006 on ratification of the protocol on accession by Vietnam to the World Trade Organization (WTO);

Having considered the proposal of the Minister of Trade;

**Decrees:**

**CHAPTER I**

**General Provisions**

**Article 1 Governing scope**

This Decree regulates the right to export and the right to import into Vietnam of foreign business entities which do not have a presence in Vietnam.

**Article 2 Applicable entities**

1. This Decree applies to foreign business entities which do not have a presence in Vietnam from countries and territories which are members of the WTO and from countries and territories which have a bilateral treaty with Vietnam regarding these matters.

2. Other organizations and individuals related to activities of export and import by foreign business entities which do not have a presence in Vietnam shall also be subject to the provisions in this

**Article 3 Interpretation of terms**

In this Decree, the following terms shall be construed as follows:

1. Foreign business entity means a business entity which is established and which has business registration pursuant to foreign law, or whose establishment and business registration is recognized by foreign law.

2. Foreign business entity which does not have a presence in Vietnam means a foreign business entity which does not make a direct investment in Vietnam in the forms stipulated in the Law on Investment and the Commercial Law; and which does

not have a representative office or a branch in Vietnam pursuant to the Commercial Law.

3. Activities of export and import; the right to export; the right to import; and the right to distribute have the same meaning as defined in Decree 23-2007-ND-CP of the Government dated 12 February 2007.

#### **Article 4 Scope of activities of export and import by foreign business entities which do not have a presence in Vietnam**

1. A foreign business entity which does not have a presence in Vietnam shall have the right:

(a) To exercise the right to export [and/or] import when issued with a certificate of registration of right to export [and/or] import types of goods permitted to be exported [and/or] imported pursuant to the law of Vietnam and pursuant to the schedule on commitments to open the Vietnamese market.

(b) To purchase goods in order to export from, and to sell imported goods to Vietnamese business entities which have business registration for such types of goods pursuant to the current law of Vietnam.

3. The Minister of Trade shall be responsible to announce a list of lines of goods and the schedule for opening the market as undertaken in international treaties of which the Socialist Republic of Vietnam is a member.

#### **Article 5 Responsibilities of foreign business entities:**

1. To fully comply with regulations on customs, tax, issuance of import permits, technical criteria, measures for ensuring hygiene of foodstuffs, quarantine of plants and animals and other regulations relating to export and import of goods in compliance with the law of Vietnam and international treaties of which the Socialist Republic of Vietnam is a member.

2. To ensure the accuracy of information and data submitted to the competence agencies of Vietnam.

3. To fully discharge obligations stipulated by the Commercial Law and other relevant laws of Vietnam.

4. To provide periodical reports in accordance with regulations and to provide ad hoc reports at the request of the Ministry of Trade on the status of export and import activities of the foreign business entity.

5. To pay fees and charges for the issuance, re-issuance, amendment, supplementation and extension of certificates of registration of right to export [and/or] import at the level of fees and charges stipulated by the Ministry of Finance.

6. To register a contact address in order for the State administrative agencies of Vietnam to contact the foreign business entity when necessary.

7. To retain source documents and books of account in accordance with the law of Vietnam.

## **CHAPTER II**

Conditions and Procedures for Registration of Right to Export [and/or] Import by Foreign Business Entities without a Presence in Vietnam

**Article 6 Authority to issue certificates of registration of right to export [and/or] import**

1. The Ministry of Trade shall be responsible to administer, issue, re-issue, amend, supplement, extend and revoke certificates of registration of right to export [and/or] import for foreign business entities without a presence in Vietnam.
2. Based on specific conditions and current regulations on delegation of administration, the Minister of Trade may delegate conduct of the procedures stipulated in clause 1 of this article to other State administrative agencies.

**Article 7 Conditions for registration of right to export [and/or] import**

Foreign business entities which do not have a presence in Vietnam shall be permitted to register the right to export [and/or] import into Vietnam when they satisfy the following conditions:

1. They have not been deprived of the right to conduct commercial activities or are not currently subject to a penalty in relation to commercial activities pursuant to foreign law or the law of Vietnam.
2. In the case of a foreign business entity being an individual, he or she does not have a criminal record and his or her civil legal capacity has not been lost or restricted; and in the case of a foreign business entity being an economic organization, its legal representative does not have a criminal record and his or her civil legal capacity has not been lost or restricted.

**Article 8 Application file requesting grant of a certificate of registration of right to export [and/or] import**

1. An application file requesting grant of a certificate of registration of right to export [and/or] import shall contain the following:
  - (a) Written request for the issuance of a certificate on the standard form stipulated by the Ministry of Trade;
  - (b) Explanatory statement and documents proving satisfaction of the conditions stipulated in article 7 of this Decree;
  - (c) Copy people's identity card, passport or other lawful personal identification in the case of a foreign business entity being an individual;
  - (d) Copy business registration certificate or other document of equivalent validity in the case of a foreign business entity being an organization; copy of the people's identity card, passport or other lawful personal identification of the legal representative of the organization; and financial statements and operational report for the previous year;
  - (dd) Document certifying business capital and number of the bank account opened by the foreign business entity in the country or territory where it has business registration.

2. The file stipulated in clause 1 of this article must be prepared in both English and Vietnamese and must be certified by a Vietnamese diplomatic representative office overseas or by a foreign diplomatic representative office in Vietnam and it must be consularized in accordance with the law of Vietnam.

**Article 9 Time-limit for issuance of a certificate of registration of right to export [and/or] import**

1. Within a time-limit of thirty (30) business days from the date of receipt of a valid file, the Ministry of Trade or the agency authorized by it shall issue a certificate of registration of right to export [and/or] import to the foreign business entity. In a case of refusal, the Ministry of Trade or the agency authorized by it shall, also within the above-mentioned time-limit, provide a written notice to the foreign business entity explaining the reasons.

2. In a case where an application file is invalid, then within a time-limit of ten (10) working days from the date of receipt of the file, the Ministry of Trade or the agency authorized by it shall notify the foreign business entity to supplement the file or to prepare a new file.

3. Within a time-limit of five business days from the date of issuance of its certificate of registration of the right to export [and/or] import, the foreign business entity must publicly announce the contents set out in its certificate on three consecutive occasions on the mass media or in three consecutive editions of a newspaper which is published nationwide in Vietnam.

**Article 10 Contents and duration of certificates of registration of right to export [and/or] import**

1. A certificate of registration of the right to export [and/or] import shall contain the following particulars:

(a) Name and residential address or name and head office address of the foreign business entity and its nationality;

(b) Sample signature of a foreign business entity being an individual; or sample signature of the representative of a foreign business entity being an organization in order to exercise the right to export [and/or] import;

(c) Type of goods to be exported [and/or] imported;

(d) Duration [term] of the certificate.

2. The duration [term] of a certificate shall be a maximum of five years.

**Article 11 Exercise of the right to export [and/or] import**

1. After a foreign business entity without a presence in Vietnam is granted a certificate of registration, it must register a tax code number with the tax department of the province or city under central authority where such business entity was issued with its certificate.

2. When exercising the right to export [and/or] import, a foreign business entity without a presence in Vietnam must discharge obligations regarding tax, fees and

charges, and other financial obligations or must implement security measures in compliance with the law of Vietnam before goods shall be granted customs clearance; and the foreign business entity shall be liable for exported [and/or] imported goods in accordance with the law of Vietnam.

3. A foreign business entity without a presence in Vietnam must fully discharge other obligations stipulated by the law of Vietnam.

#### **Article 12 Amendments and additions, and re-issuance of certificates of registration of right to export [and/or] import**

1. A foreign business entity without a presence in Vietnam shall have the right to make a written request to the certificate-issuing agency to amend or supplement its certificate of registration of the right to export [and/or] import when there is a change in any of the items stipulated in sub-clauses (a), (b) and (c) of article 10.1 of this Decree.

2. A foreign business entity shall have the right to make a written request to the certificate-issuing agency to re-issue its certificate if the original certificate is lost, torn, burnt or otherwise destroyed.

3. Within a time-limit of fifteen (15) working days from the date of receipt of a written request and a valid application file, the certificate-issuing agency shall make the amendment or addition to the certificate or shall re-issue the certificate to such foreign business entity.

4. Within a time-limit of five working days from the date a certificate is amended or added to, the foreign business entity must make a public announcement of the amended or supplementary items in the certificate as stipulated in article 9.3 of this Decree.

#### **Article 13 Extension of certificates of registration of right to export [and/or] import**

1. At least sixty (60) days prior to expiry of a certificate, a foreign business entity without a presence in Vietnam may request an extension of its certificate if it satisfies the following conditions:

(a) The conditions stipulated in article 7 of this Decree;

(b) It has fully discharged all its obligations owing to the State and to other organizations and individuals related to export [and/or] import activities in accordance with the law of Vietnam and the provisions of this Decree;

(c) It has not been dealt with for a breach pursuant to article 15.2 of this Decree.

2. An application file for extension of a certificate of registration of right to export [and/or] import shall comprise:

(a) Written request for extension on the standard form stipulated by the Ministry of Trade;

(b) Report on export [and/or] import activities from the date of issuance of the certificate until the

date of the request for extension, on the standard form stipulated by the Ministry of Trade;

(c) Copy of the issued certificate.

3. An application for extension of a certificate must be prepared in both English and Vietnamese and must be certified by a Vietnamese diplomatic representative office overseas or by a foreign diplomatic representative office in Vietnam and it must be consularized in accordance with the law of Vietnam.

4. The time-limits regarding issuance of an extended certificate shall be the same as stipulated in article 9 of this Decree.

5. The duration [term] of an extended certificate shall be five years.

6. Within a time-limit of five working days from the date of extension of a certificate, the foreign business entity must make a public announcement of the items set out in the certificate as stipulated in article 9.3 of this Decree.

#### **Article 14 Termination of the right to export [and/or] import into Vietnam**

1. The right to export [and/or] import into Vietnam shall be terminated in the following circumstances:

(a) On expiry of the duration stipulated in the certificate without any request for extension or without any extension being granted by the certificate-issuing agency;

(b) At the request of the business entity;

(c) Pursuant to a decision of a competent State administrative agency of Vietnam as a result of a breach of law constituting a crime; or on revocation of the certificate; or on failure to ensure the conditions for registration stipulated in article 7 of this Decree.

2 If the right of a foreign business entity to export [and/or] import is terminated pursuant to clause 1 of this article, then such entity shall be responsible to fully discharge all its debts and other obligations owing to the State and to related organizations and individuals in Vietnam.

3. In a case of termination of the right pursuant to sub-clauses (a) or (b) of clause 1 of this article, then at least sixty (60) days before the proposed date of termination the foreign business entity must provide a written notice about such termination to the certificate-issuing agency and make a public announcement on three consecutive occasions on the mass media or in three consecutive editions of a newspaper which is published nationwide in Vietnam.

### **CHAPTER III**

#### **Dealing with Breaches and Resolution of Complaints and Denunciations**

##### **Article 15 Dealing with breaches**

1. Any foreign business entity which does not have a presence in Vietnam and which breaches the law shall, depending on the nature and seriousness of the breach, be subject to an administrative penalty or be prosecuted for a criminal offence in accordance with the law of Vietnam.

2. The certificate of registration of the right to export [and/or] import of a foreign business entity which does not have a presence in Vietnam shall be revoked in the following circumstances:

- (a) Fraudulent declaration in the application file requesting grant of the certificate;
- (b) Incorrect activities in terms of the items specified in the certificate;
- (c) Failure to provide a periodical report or an ad hoc report at the request of the Ministry of Trade, for a period of two years;
- (d) Other cases in which the law of Vietnam stipulates that a business registration certificate shall be revoked.

#### **Article 16 Resolution of complaints and denunciations**

Resolution of complaints and denunciations by a foreign business entity which does not have a presence in Vietnam or by another organization or individual related to activities of export and import by foreign business entities which do not have a presence in Vietnam shall be implemented in accordance with the law on complaints and denunciations.

### **CHAPTER IV**

#### **Implementing Provisions**

#### **Article 17 Effectiveness**

This Decree shall be of full force and effect after fifteen (15) days from the date of its publication in the Official Gazette.

#### **Article 18**

- 1. The Ministry of Trade shall provide guidelines for implementation of the right to export [and/or] import stipulated in this Decree.
- 2. The Ministry of Finance shall provide guidelines on customs procedures and duty applicable to goods exported and imported by foreign business entities which do not have a presence in Vietnam; and shall preside over co-ordination with the Ministry of Trade in providing specific guidelines on administering fees for issuance, re-issuance, amendment, supplementation and extension of certificates of registration of right to export [and/or] import for foreign business entities pursuant to this Decree.
- 3. The State Bank shall provide guidelines on the foreign exchange regime applicable to activities of export and import by foreign business entities which do not have a presence in Vietnam pursuant to this Decree.
- 4. Ministers, heads of ministerial equivalent bodies, heads of Government bodies and chairmen of people's committees of provinces and cities under central authority shall be responsible for implementation of this Decree.

**On behalf of the Government  
Prime Minister**

**NGUYEN TAN DUNG**