

DECISION No. 114/2005/QĐ-TTg OF MAY 26,
2005 ESTABLISHING, AND PROMULGATING
THE REGULATION ON ORGANIZATION AND
OPERATION OF, VIETNAM'S NETWORK OF
NOTIFICATION AUTHORITIES AND ENQUIRY
POINTS ON TECHNICAL BARRIERS TO
TRADE

THE PRIME MINISTER

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

*At the proposals of the Minister of Science and
Technology and the Minister of Home Affairs,*

DECIDES:

Article 1.- To establish Vietnam's network of
Notification Authorities and Enquiry Points on
Technical Barriers to Trade.

Article 2.- To promulgate together with this
Decision the Regulation on organization and
operation of Vietnam's network of Notification
Authorities and Enquiry Points on Technical
Barriers to Trade.

Article 3.- This Decision takes effect 15 days
after its publication in "CONG BAO."

Article 4.- The Chairman of the National
Committee for International Economic Cooperation,
ministers, heads of ministerial-level agencies, heads
of Government-attached agencies, and presidents
of provincial/municipal People's Committees shall
have to implement this Decision.

Prime Minister
PHAN VAN KHAI

REGULATION ON ORGANIZATION AND OPERATION OF VIETNAM'S NETWORK OF NOTIFICATION AUTHORITIES AND ENQUIRY POINTS ON TECHNICAL BARRIERS TO TRADE

(Promulgated together with the Prime Minister's Decision No. 114/2005/QĐ-TTg of May 26, 2005)

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

This Regulation provides for the organization, operation and coordination mechanism of Vietnam's network of Notification Authorities and Enquiry Points on Technical Barriers to Trade (hereinafter called Vietnam's TBT network for short) in order to perform fully and in time Vietnam's obligations to notify and enquire into issues related to the implementation of the Agreement on Technical Barriers to Trade (hereinafter called the TBT Agreement for short) of the World Trade Organization (WTO) when Vietnam officially becomes a member of this Organization.

Article 2.- Transparency-related obligations as required by the TBT Agreement

The transparency-related obligations as required by the TBT Agreement which Vietnam commits to perform include:

1. To notify the WTO member countries through the WTO Secretariat of technical regulations and processes of assessing their conformity in forms of their drafts or those which have come into force, promulgated by Vietnamese competent agencies,

which may create technical barriers to trade between Vietnam and the WTO member countries; and at the same time, handle and comment on notifications received from the member countries in order to ensure that technical measures which are being or will be applied by the member countries do not restrict trade between Vietnam and such countries.

The above-said notifications on draft technical regulations and processes of conformity assessment must be sent at least 60 days before they are promulgated.

The notifications shall be made according to forms set by the WTO's TBT Committee in one of the following three languages: English, French or Spanish.

2. To receive and forward other countries' questions or answers as well as Vietnam's answers or questions to necessary addresses, meeting the WTO member countries' and Vietnam's demands for information and transparency on technical barriers.

Chapter II

ORGANIZATION OF THE NETWORK AND TASKS OF THE NOTIFICATION AUTHORITIES AND ENQUIRY POINTS ON TECHNICAL BARRIERS TO TRADE

Article 3.- Organization of the network

Vietnam's TBT network is composed of:

1. The National Standardization, Metrology and Quality Control Notification Authority and Enquiry Point (called Vietnam's TBT Office for short), set up at the General Department of Standardization,

Metrology and Quality Control of the Ministry of Science and Technology under the Prime Minister's decision.

The Minister of Science and Technology shall promulgate the Regulation on organization and operation of Vietnam's TBT Office.

2. Ministerial-level TBT Notification Authorities and Enquiry Points, located at the Ministries of Trade, Industry, Construction, Transport, Post and Telematics, Natural Resources and Environment, Labor, War Invalids and Social Affairs, Health, Agriculture and Rural Development, Fisheries, and Culture and Information.

Basing themselves on their respective functions and management scopes, the above-said ministries shall each assign the TBT notification task to their attached agency; assign the enquiry task to one or several of their attached organizations, or they may assign both of these tasks to the same attached organization. The ministries shall notify the task assignment to the Ministry of Science and Technology for sum-up and report to the Prime Minister.

3. Provincial/municipal (hereinafter referred collectively to as local) TBT Notification Authorities and Enquiry Points, located at provincial/municipal Services of Science and Technology.

Article 4.- Tasks of Vietnam's TBT Office in the network

Vietnam's TBT Office is a national major agency to notify on and enquire into Vietnam's technical regulations, standards and processes of conformity assessment and on other issues related to Vietnam's technical barriers to trade under the WTO's guidance, including:

1. Task of notifying to the WTO member countries through the WTO Secretariat:

a/ To take initiative in reviewing, detecting and notifying on technical regulations and processes of conformity assessment, which can restrict trade of the WTO member countries;

b/ To receive TBT notifications from ministerial-level or local TBT Notification Authorities, process such notifications before forwarding them;

c/ The time limit for notifying on the above-said draft technical regulations and processes of conformity assessment is at least 60 days before the promulgation thereof, except for urgent cases related to health, safety, environmental protection or national security. Such cases shall comply with Clause 10, Article 2 of the TBT Agreement;

d/ To notify bilateral and multilateral agreements which Vietnam has signed and which are related to technical regulations, standards and processes of conformity assessment; on acceptance by domestic standardization agencies or organizations to observe the Good Practicing Regulation in formulation, promulgation and application of standards (Appendix 3 to the TBT Agreement).

2. Enquiry task with the WTO member countries, the interested parties of the WTO member countries and domestic interested parties:

a/ To receive and directly give answers to questions or document-supplying requests from TBT Notification Authorities and Enquiry Points of the WTO member countries or interested parties of the WTO member countries (directly or through the WTO Secretariat) on technical regulations, standards and processes of conformity assessment, which have been being or will be applied in Vietnam;

b/ To receive and forward the WTO member countries' notifications, questions and document-supplying requests to ministerial-level or local TBT Notification Authorities and Enquiry Points by fax or e-mail within 24 working hours after receiving the notifications, and request such authorities or points to give answers;

c/ To send questions or document-supplying requests at Vietnamese interested parties' proposals on technical regulations, standards and processes of conformity assessment mentioned in the WTO member countries' notifications, to the WTO member countries' TBT Notification Authorities and Enquiry Points (directly or through the WTO Secretariat).

3. To coordinate operation, and guide notification and enquiry operations to authorities in the network according to regulations of the Science and Technology Ministry.

4. To study and propose measures to ensure resources to relevant authorities and branches for the efficient operation of the network.

5. To participate in international cooperation activities related to the performance of transparency-related obligations as required by the WTO's TBT Agreement under the assignment by the Ministry of Science and Technology and the General Department of Standardization, Metrology and Quality Control.

Article 5.- Tasks of ministerial-level TBT Notification Authorities and Enquiry Points

The ministerial-level TBT Notification Authorities and Enquiry Points shall perform the notification and enquiry tasks within the scope of management by their respective ministries or branches; perform

their tasks under coordination of Vietnam's TBT Office, and closely coordinate with other agencies in the network according to the provisions of this Regulation, including:

1. Task of notifying to Vietnam's TBT Office:

a/ To take initiative in reviewing, detecting and notifying to Vietnam's TBT Office of technical regulations and processes of conformity assessment within the scope of management by their respective ministries or branches, which can restrict trade of the WTO member countries;

b/ The time limit for notifying the above-said draft technical regulations and processes of conformity assessment is at least 65 days before the promulgation thereof;

c/ To notify Vietnam's TBT Office of bilateral and multilateral agreements signed by the Government or ministries/branches according to their respective competence, which are related to technical regulations, standards and processes of conformity assessment within the scope of management by their respective ministries or branches; on the acceptance by ministerial- or branch-level standardization agencies or organizations to observe the Good Practicing Regulation in formulation, promulgation and application of standards (Appendix 3 to the TBT Agreement).

2. Enquiry task:

a/ To receive and give answers to questions and information related to ministries' or branches' promulgation and application of technical regulations, standards and processes of conformity assessment upon requests sent from Vietnam's TBT Office, or domestic and foreign agencies, organizations or individuals;

b/ To send to Vietnam's TBT Office questions

or document-supplying requests by agencies and organizations under managing ministries or branches, on technical regulations, standards and processes of conformity assessment of the member countries, which are related to operation of ministries or branches;

c/ To receive and forward the WTO member countries' TBT notifications to domestic interested parties, especially enterprises' associations, large enterprises exporting great volume of goods in cases where TBT lawsuits may be initiated, which fall within the scope of management by ministries or branches, by fax or e-mail within 24 working hours after the notifications are received from Vietnam's TBT Office.

3. To closely observe notification and enquiry operations under the guidance of Vietnam's TBT Office.

4. To study and propose resource-related measures to directly managing authorities to ensure the efficient operation.

5. To participate in international cooperation activities related to the performance of transparency-related obligations of the TBT Agreement at the proposal of Vietnam's TBT Office and assignment of directly managing agencies.

Article 6.- Tasks of local TBT Notification Authorities and Enquiry Points

Local TBT Notification Authorities and Enquiry Points shall perform notification and enquiry tasks within the scope of management by localities; perform their tasks under Vietnam's TBT Office's coordination and closely coordinate with other agencies in the network according to the provisions of this Regulation, including:

1. Task of notifying Vietnam's TBT Office:

a/ To take initiative in reviewing, detecting and notifying Vietnam's TBT Office of technical regulations and processes of conformity assessment falling within the scope of management by their respective localities, which can restrict trade of the member countries;

b/ The time limit for notifying the above-said draft technical regulations and processes of conformity assessment is at least 65 days before the promulgation thereof;

c/ To notify Vietnam's TBT Office of bilateral and multilateral agreements signed by provincial-level People's Committees according to their respective competence, which are related to technical regulations, standards and processes of conformity assessment falling within the scope of management by their respective localities; of the acceptance by provincial-level standardization agencies or organizations to observe the Good Practicing Regulation in formulation, promulgation and application of standards (Appendix 3 to the TBT Agreement).

2. Enquiry task:

a/ To receive and give answers to questions and information related to ministries' or branches' promulgation and application of technical regulations, standards and processes of conformity assessment in localities upon requests sent from Vietnam's TBT Office or domestic and foreign agencies, organizations or individuals;

b/ To receive and forward WTO member countries' TBT notifications to domestic interested parties, especially enterprises' associations and large enterprises in cases where TBT international lawsuits or disputes may be initiated, which fall under the management by localities, by fax or e-mail within 24 working hours after the notifications

are received from Vietnam's TBT Office;

c/ To send to Vietnam's TBT Office questions or document-supplying requests by local interested parties on technical regulations, standards and processes of conformity assessment of the WTO member countries.

3. To closely observe notification and enquiry operations under guidance of Vietnam's TBT Office.

4. To study and propose resource-related measures to directly managing agencies to ensure the efficient operation.

5. To participate in international cooperation activities related to the performance of transparency-related obligations of the TBT Agreement at the proposal of Vietnam TBT Office and assignment of directly managing agencies.

Article 7.- Payrolls and working regimes of organizations in the network

TBT Notification Authorities perform the state management function. Payrolls of TBT Notification Authorities are included in the payrolls of the directly managing agencies.

TBT Enquiry Points are non-business units which serve requests of the directly managing agencies. Apart from payrolls allocated by the directly managing agencies, TBT Enquiry Points may recruit laborers under contracts to perform tasks according to assigned functions.

TBT Notification Authorities and Enquiry Points work according to a single-boss regime and are subject to professional and specialized management by the directly managing agencies.

TBT Notification Authorities and Enquiry Points must observe relevant law provisions on financial management.

Article 8.- Codes of National, ministerial-level and local Notification Authorities and Enquiry Points

The TBT National Notification Authority and Enquiry Point is coded TBT-VN.

Ministerial- or provincial-level TBT Notification Authorities and Enquiry Points are coded TBT, followed by codes of ministries or provinces (TBT and ministries' or provinces' codes are connected by a hyphen "-"). In cases where exist many Notification Authorities and Enquiry Points within a ministry or locality, codes of these authorities and points shall be added with codes of agencies managing such authorities and points.

In cases where Notification Authorities and Enquiry Points do not belong to the same organization, codes of Notification Authorities shall be TBTTB, followed by codes of ministries, branches or localities, and codes of Enquiry Points shall be TBTHD, followed by codes of ministries, branches or localities.

The Ministry of Science and Technology shall specify codes of National, ministerial-level and local Notification Authorities and Enquiry Points.

Chapter III

RESPONSIBILITIES OF STATE AGENCIES MANAGING THE NETWORK AND WORKING RELATIONS AMONG ORGANIZATIONS IN THE NETWORK

Article 9.- The Ministry of Science and Technology is a state agency which has the general responsibility to manage the network, promulgate, and examine the implementation of, documents guiding notification and enquiry operations by the network according to the provisions of the TBT Agreement as well as the WTO's relevant guidance

and recommendations.

Article 10.- Working relations among organizations in the network

1. Regarding the performance of the function of external affairs

Vietnam TBT Office is the sole agency performing the function of settling external affairs in notifying Vietnam's technical barriers to trade according to the provisions of the TBT Agreement; ministerial- and provincial-level Notification Authorities and Enquiry Points shall send notifications on technical barriers, which fall under management by their respective ministries, branches or localities, to Vietnam's TBT Office for further sending to the WTO member countries.

2. Regarding the assurance of time and professional and specialized accuracy

Ministerial-level and local Notification Authorities and Enquiry Points shall bear responsibility for the time and the accuracy of the specialized profession under management by their respective ministries, branches or localities when performing notification and enquiry tasks. In cases where professional issues relate to various ministries, branches or localities, the ministries, branches or localities in charge of such professional issues must coordinate with other relevant ministries, branches or localities in handling the issues on the basis of consensus.

In case of failure to reach consensus on the above-said issues, ministries, branches or localities in charge of such professional issues shall consult the TBT Inter-Branch Committee. Conclusions of the TBT Inter-Branch Committee on such professional issues shall serve as a basis for Vietnam's TBT Office to send replies to interested parties.

3. Vietnam's TBT Office shall closely coordinate with the National Sanitary and Phytosanitary (SPS)

Notification Authority and Enquiry Point in fully performing the tasks of notification and enquiry on the TBT Agreement.

4. Vietnam's TBT Office may request central agencies, localities, non-governmental organizations and other organizations involved in the implementation of the TBT Agreement in Vietnam to observe requirements on information transparency and provide necessary information within appropriate time.

Article 11.- Operation conditions

Ministries, branches and provincial-level People's Committees shall have to ensure necessary resources, including personnel, payrolls and material and technical foundations, for the operation of TBT Notification Authorities and Enquiry Points under their respective management.

Funds for operation of TBT Notification Authorities and Enquiry Points shall be apportioned in annual budget plans of ministries, branches and localities.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 12.- Notification Authorities and Enquiry Points in Vietnam's network of TBT Notification Authorities and Enquiry Points shall have to implement the provisions of this Regulation.

The Ministry of Science and Technology and the General Department of Standardization, Metrology and Quality Control shall have to monitor, guide and support the operation of Vietnam's network of TBT Notification Authorities and Enquiry Points according to the provisions of this Regulation.

Prime Minister
PHAN VAN KHAI