

**Draft 6**

**DECREE**  
**providing detailed provisions of the Commercial Law on**  
**Representative Offices and Branches of foreign business entities in Vietnam**

**THE GOVERNMENT**

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

Pursuant to the Commercial Law dated 14 June 2005;

On the proposal of the Minister of Trade,

**DECREES:**

**Chapter I**  
**GENERAL PROVISIONS**

**Article 1. Governing Scope**

1. This Decree provides detailed provisions for the Commercial Law on the establishment, operations, and rights and obligations of representative offices and branches of foreign business entities in Vietnam.

2. Representative offices and branches of foreign invested enterprises established in Vietnam shall not fall under the governing scope of this Decree.

**Article 2. Right to establish representative offices and branches of Foreign business entities in Vietnam**

1. A foreign business entity may establish in Vietnam representative offices (hereinafter referred to as *representative offices*) in accordance with Articles 16, 17, 18 and 22 of the Commercial Law and the provisions hereof.

2. A foreign business entity may only establish branches in Vietnam (hereinafter referred to as *branches*) under Vietnam's commitments in international treaties of which Vietnam is a member to carry out activities of purchase and sale of goods and other activities directly related to purchase and

sale of goods in accordance with Article 16, 19, 20 and 22 of the Commercial Law and the provisions hereof.

The Minister of Trade shall promulgate the list of sectors in which foreign business entities may establish branches under international treaties to which Vietnam is a member together with the roadmap for implementation of the commitments thereunder.

3. A representative office and a branch is a dependant entities of a foreign business entity; and it is prohibited to establish a representative office or a branch under such representative office or branch.

4. Representative offices and branches of foreign business entities operating in specific commercial sectors which have been governed by other legal normative documents shall remain to comply with those legal normative documents.

### **Article 3. Agencies issuing registration certificates to establish representative offices and branches**

1. The Ministry of Trade shall issue, re-issue, amend, supplement, extend and withdraw registration certificates to establish branches operating in the sectors specified in Article 2.2 hereof.

2. The provincial Departments of Trade or the Departments of Trade and Tourism (jointly referred to hereinafter as **provincial Departments of Trade**) shall be responsible to issue, re-issue, amend, supplement, extend and withdraw registration certificates to establish representative offices.

3. In cases specified in Article 2.4 hereof, the competent State agency under a specialized legal normative document shall be responsible to manage and provide guidelines on the operations of representative offices and branches in such sectors.

## **Chapter II ISSUING, RE-ISSUING, AMENDING, SUPPLEMENTING AND EXTENDING REGISTRATION CERTIFICATES TO ESTABLISH REPRESENTATIVE OFFICES AND BRANCHES**

### **Article 4. Conditions for the issue of registration certificates to establish representative offices and branches**

1. Any foreign business entity which satisfies all of the following conditions shall be issued with a registration certificate to establish a representative office in Vietnam:

a. It has being an economic organization which is duly established or existing under the law of the country or the territory (hereinafter collectively referred to as *country*) where such foreign business entity is established.

b. It has been operating for no less than one (1) year since the date of its legal establishment under the law of its country.

2. Any foreign business entity which satisfies all of the following conditions shall be issued with a registration certificate to establish a branch in Vietnam:

a. It has being an economic organization which is duly established or existing under the law of the country where such foreign business entity is established.

b. It has been operating for no less than five (5) years since the date of such establishment.

3. A registration certificate to establish a representative office or a branch in Vietnam of a foreign business entity shall be valid for 5 years provided that it will not expire after the expiry date of the business registration certificate or the equivalent documentation of the foreign business entity in the foreign country where the term is stipulated under the laws of such country.

#### **Article 5. Request documentation for a registration certificate to establish a representative office or a branch**

1. Request documentation for a registration certificate to establish a representative office shall comprise the following:

a. An application for a registration certificate to establish its representative office signed by the authorized representative of the foreign business entity in the form published by the Ministry of Trade.

b. A copy of the business registration certificate or an equivalent document of the foreign business entity which is certified by the local authorized body where the foreign business entity is established. If the business registration certificate or an equivalent document provide for a term, that term must be valid at least for one more year.

c. An audited financial statement or an equivalent document of the foreign business entity proving the actual existence and operations of the foreign business entity for the preceding year.

2. Request documentation for a registration certificate to establish a branch shall comprise the following:

a. An application for a registration certificate to establish a branch signed by the authorized representative of the foreign business entity in the form published by the Ministry of Trade.

b. A copy of the charter of the branch including provisions on the scope of authority of the head of the branch.

c. A copy of the business registration certificate or an equivalent document of the foreign business entity which is certified by the local authorized body where the foreign business entity is established. If the business registration certificate or an equivalent document provide for a term, that term must be valid at least for three more years.

d. An audited financial statement or an equivalent document of the foreign business entity proving the actual existence and operations of the foreign business entity for the preceding year.

3. Those papers referred to in clauses 1b and 1c and clauses 2b, 2c and 2d of this Article must be translated into Vietnamese which translation must be authenticated by the Vietnamese diplomatic representative agency overseas and must be consularized in accordance with the Vietnamese law.

#### **Article 6. Cases where registration certificate to establish a representative office or a branch shall not be issued**

The agency issuing registration certificates to establish representative offices and branches shall not issue such registration certificate to a foreign business entity in the following cases:

1. There is evidence that the establishment of such representative office or branch may be detrimental to the national defense, security, order, social safety, historical, cultural, ethnic and fine traditions of Vietnam and Vietnamese people's health, or to the natural resources and the environment;

2. The request for the issuance of such registration certificates to establish a representative office or a branch is made within 2 years as of the date the

former registration certificate to establish a representative office or a branch of the foreign business entity is withdrawn in accordance with Article 30.2 hereof;

3. The foreign business entity intends to trade in only goods and services falling under the list of goods and services prohibited from business in accordance with the laws of Vietnam;

4. The foreign business entity fails to satisfy the conditions set out in Article 4 hereof;

5. The request documentation submitted is invalid and fails to be appropriately supplemented as requested by the competent authority; and

6. other cases in accordance with the laws.

**Article 7. Time limit for issuing a registration certificate to establish a representative office or a branch**

1. The foreign business entity shall submit request documentation for a registration certificate to establish a representative office or a branch to the agency issuing registration certificates as referred to in Article 3 of this Decree.

2. Within fifteen (15) days from the date of receipt of complete and valid documents, the relevant provincial Department of Trade shall complete the assessment and issue to the foreign business entity with a registration certificate to establish a representative office and forward copies of the registration certificate to the Ministry of Trade, the people's committee of the province or city (hereinafter referred to as the *provincial people's committee*), the provincial tax office, statistical office and the police where the office of the representative office is located.

3. Within 15 days as of the date of receipt of complete request documentation, the Ministry of Trade shall complete its assessment and issue to the foreign business entity a registration certificate to establish a branch and forward copies of the registration certificate to the provincial People's Committee, the provincial tax office, statistical office and the police office where the office of the representative office is located.

4. If the request documentation is invalid, within three working days from the date of receipt of such documents, the agency issuing registration certificates must notify in writing to the relevant foreign business entity for supplement and completion of the documents.

5. The time limits set out in clauses 2 and 3 of this Article shall not include the period of time in which the foreign business entity supplements or completes

the request documentation for a registration certificate to establish a representative office or a branch.

6. Upon expiry of the time limits set out in clauses 2 and 3 of this Article, if a registration certificate is not granted, the agency authorized to issue a registration certificate shall inform the applicant in writing the reason for not granting the registration certificate.

### **Article 8. Notification of the operations of a representative office or a branch**

1. Within forty five (45) days from the date of issue of its registration certificate, a representative office or a branch must publish in hardcopy or electronic newspaper in 3 consecutive issues the following information:

a. Name and address of the office of the representative office or the branch;

b. Name and address of the head office of the foreign business entity;

c. The head of the representative office or the branch;

d. Serial number and date and duration of the registration certificate to establish a representative office or a branch and the agency issuing registration certificates;

e. Contents of operations of the representative office or branch.

2. Within the time limit set out in clause 1 of this Article, the representative office must commence its official operations and notify to the provincial Department of Trade in respect of its commence of operations at its office as registered.

3. Within the time limit set out in clause 1 of this Article, a branch must commence its official operations and must send a notice to the Ministry of Trade and the provincial Department of Trade where the branch is located on its commence of operations at its office as registered.

### **Article 9. Establishment of the management team of a representative office or a branch**

1. The management team and the appointment of the leader of a representative office or a branch shall be decided by the foreign business entity.

2. The number of foreigners working at a representative office or a branch must be in line with the provisions of the laws on labor and international

commitments of Vietnam under international treaties to which Vietnam is a member.

**Article 10. Amending and supplementing a registration certificate to establish a representative office or a branch**

1. In the cases specified below, a foreign business entity must carry out the procedures for amending or supplementing the registration certificate to establish a representative office or a branch at the competent authorities within 10 days as of the date of such changes:

a. Change the head of the representative office or the branch.

b. Relocation of the head office of the foreign business entity that do not lead to any change in the nationality of the foreign business entity.

c. Relocation of the representative office within the same province or city.

d. Relocation of the branch within Vietnam;

dd. Change the name or contents of operations of a representative office or a branch.

2. Request documentation for amending and supplementing a registration certificate to establish a representative office or a branch shall include:

a. An application for amending and supplementing the registration certificate to establish a representative office or a branch in the form published by the Ministry of Trade which is signed by the authorized representative of the foreign business entity;

b. the original of the registration certificate to establish a representative office or a branch as issued.

3. Within ten (10) days from the date of receipt of the eligible request documentation from a foreign business entity, the agency issuing registration certificates is responsible for amending or supplementing the registration certificate to establish a representative office or a branch and must forward copies of the registration certificate as amended or supplemented to the relevant bodies referred to in Articles 7.2 and 7.3 of this Decree.

**Article 11. Re-issuing a registration certificate to establish a representative office or a branch**

1. In the cases below, a foreign business entity must carry out the procedures for re-issuing a registration certificate to establish a representative office or a branch at the competent authority within 15 days as of the date such change takes place:

a) Change the office of the representative office from a province or city to another province or city;

b) Change the name, nationality of the foreign business entity;

c) Change the operation contents of the foreign business entity.

2. Where a registration certificate to establish a representative office or a branch is lost, torn, burnt, or otherwise destroyed, the foreign business entity must carry out the procedures for re-issuance of a registration certificate to establish a representative office or a branch at the competent authority within 30 days as of the date such change takes place.

**Article 12. Request documentation for the re-issuance of a registration certificate to establish a representative office or a branch**

1. Request documentation for re-issuance of a registration certificate to establish a representative office or a branch in cases referred to in Article 11.1.a shall include:

a) an application for re-issuance of a registration certificate to establish a representative office or a branch in the form published by the Ministry of Trade which shall be signed by the authorized representative of the foreign business entity;

b) certification of the agency issuing the former registration certificate to establish a representative office or a branch on removal of the registration of the representative office in the former location;

c) a notarized copy of the registration certificate to establish a representative office or a branch as granted.

2. Request documentation for re-issuance of registration certificate to establish a representative office or a branch referred to in Article 11.1.b and c shall include:

a) an application for re-issuance of a registration certificate to establish a representative office or a branch in the form published by the Ministry of Trade which shall be signed by the authorized representative of the foreign business entity;

b) a copy of the business registration certificate or the equivalent document of the foreign business entity certified by the competent authority where the foreign business entity is established. Documents stipulated in this item must translate into Vietnamese which translation must be authenticated by the Vietnamese diplomatic representative agency overseas and must be consularized in accordance with the Vietnamese law.

c) the original of the registration certificate to establish a representative office or a branch as granted.

3. Request documentation for re-issuance of a registration certificate to establish a representative office or a branch in cases specified in Article 11.2 shall include:

a) an application for re-issuance of a registration certificate to establish a representative office or a branch in the form published by the Ministry of Trade which shall be signed by the authorized representative of the foreign business entity;

b) the original of the registration certificate to establish a representative office or a branch as granted in case of torn (if any).

**Article 13. Procedures for re-issuance of a registration certificate to establish a representative office or a branch**

1. In case of a change of the location of the office as set out in Article 11.1.a hereof, the foreign business entity shall carry out the procedures for terminating the operations of the representative office at the relevant provincial Department of Trade and requesting re-issuance of a registration certificate to establish a representative office or a branch at the provincial Department of Trade where the office will be relocated.

Within 05 working days as of the receipt of the request for relocation of the office to another province or city, the provincial Department of Trade where the representative office of the foreign business entity is currently located shall be responsible for issuing a written certification on the removal of the registration certificate to establish the representative office as granted in such location.

Within 05 working days, as of receipt of the complete request documentation from the foreign business entity as stipulated in Article 12.1, the provincial Department of Trade where the foreign business entity plans to move the office to shall be responsible for re-issue a registration certificate to establish a representative office for a duration not exceeding the remaining period of the

granted registration certificate to establish a representative office and give notices to the agencies specified in Article 7.2 hereof.

2. Within 10 days, as of receipt of the complete request documentation from the foreign business entity as stipulated in Article 12.2 and 12.3, the agency issuing the registration certification shall be responsible to re-issue a registration certificate for a duration not exceeding the remaining period of the granted registration certificate to establish a representative office or a branch and give notices to the agencies specified in Article 7.2 and Article 7.3 hereof.

#### **Article 14. Extending registration certificates to establish representative offices or branches**

1. A foreign business entity which satisfies all of the following conditions shall be extended its registration certificate to establish a representative office in Vietnam:

a) Where the foreign business entity wants to further operate in Vietnam in the form of a representative office or a branch.

b) Where the foreign business entity remains in operations under the law of the country of the foreign business entity establishment.

c) Where the foreign business entity has not committed any serious breaches of the Vietnamese law with respect to the operations contents of the representative office or a branch.

2. Request documentation for extending a registration certificate to establish a representative office or a branch shall include:

a) An application for extending the registration certificate to establish its representative office or branch in the form stipulated by the Ministry of Trade and signed by the authorized representative of the foreign business entity.

b) Audited financial statements or the equivalent of the foreign business entity proving the actual existence and operations of the foreign business entity for the preceding year. Those papers referred to in this clause must be translated into Vietnamese which translation must be authenticated by the Vietnamese diplomatic representative agency overseas and must be consularized in accordance with the Vietnamese law.

c) Operations report of the representative office or a branch up to the point of application for extension of the registration certificate to establish a representative office or a branch.

d) The original registration certificate to establish a representative office or a branch as granted.

3. No later than 30 days prior to the expiry of the registration certificate to establish a representative office or a branch, the foreign business entity must carry out the procedures for extension of the same.

4. State competent authorities shall have to carry out the procedures for extending registration certificate to establish a representative office or a branch in accordance with the provisions of Article 7 hereof.

5. Upon expiry of the time limit as stipulated in this Article, if no registration certificate to establish a representative office or a branch is issued, the competent authority must give a written reply to the foreign business entity specifying the reasons for such refusal.

6. The agency issuing registration certificate to establish a representative office or a branch shall be responsible to give notices to the agencies stipulated in Articles 7.2 and 7.3 hereof on the extension or non-extension of a registration certificate to establish a representative office or a branch.

**Article 15. Fee for issuing, re-issuing, amending, supplementing or extending registration certificates to establish representative offices and branches**

1. A foreign business entity shall pay fees for issuing, re-issuing, amending, supplementing or extending its registration certificate to establish a representative office or a branch.

2. The Ministry of Finance shall, in coordination with the Ministry of Trade, specify the specific amounts of and the management of fees for issuing, re-issuing, amending, supplementing or extending registration certificate to establish a representative office or a branch.

**Chapter III**  
**CONTENTS OF OPERATIONS, RIGHTS AND OBLIGATIONS OF REPRESENTATIVE OFFICES AND BRANCHES**

**Article 16. Contents of Operations of a Representative Office**

Operations of a representative office cover the following:

1. To execute functions as a liaison office;

2. To promote and develop cooperation projects for the foreign business entity in Vietnam;

3. To conduct market research, and promote opportunities for sales and purchases and consumption of goods and commercial services for the foreign business entity that the representative office acts as representative;

4. To monitor and active the implementation of contracts executed by the foreign business entity for which it represent, with Vietnamese partners or related to Vietnam;

5. Other activities in accordance with Vietnamese legislation.

### **Article 17. Contents of operations of a branch**

1. A branch is operated such activities as specified in the registration certificate to establish a branch and in accordance with the provisions of Article 2.2 hereof.

2. Where a branch operates in fields subject to conditional business under the laws, then the branch can only carry out such activities if it satisfies all the applicable conditions in accordance with the laws.

Conditions to carry out business means the requirements that the branch must satisfy or comply with in order to carry out a specific business activity, as shown in the form of a business license, a certificate of eligibility for doing business, a practice permit, certificate of professional insurance, required charter capital or other requirements in accordance with the laws on enterprise.

### **Article 18. Registration of tax codes and import-export codes by a branch**

Before operate its business, a branch shall register for a tax code. Where a branch is permitted to operate its business in import-export, then it must registers for an import-export code in accordance with the laws.

### **Article 19. Opening of accounts**

1. A representative office can open accounts for payments in foreign currencies and accounts in payments in Vietnamese Dong - originated foreign currency at banks permitted to do business in Vietnam, and such accounts shall only be used for the unique purpose of the representative office's operations.

2. A branch can open payment accounts in foreign currencies and Vietnamese Dong at banks permitted to do business in Vietnam to serve the operations of the branch.

In special cases, a branch may open an offshore account after having obtained approval from the State Bank. A branch shall be responsible for reporting to the State Bank of Vietnam regarding the operations of such offshore bank accounts.

3. The opening, use and closure of accounts by a representative office or a branch shall comply with the regulations of the State Bank of Vietnam.

### **Article 20. Regime on operation reports**

1. On an annual basis, before the last working day of January of the following year, a representative office or a branch must forward a written report on its operations to the agency issuing its registration certificate to establish a representative office or a branch.

2. A branch shall comply with the regulations on financial reports, and reporting and statistic regimes in accordance with the laws of Vietnam.

3. Where necessary, in accordance with the law of Vietnam, a representative office or a branch must provide reports or documents or explain certain issues related to its operations to the competent State management agency at its request.

### **Article 21. Compliance with the relevant laws on the operations of a representative office or a branch**

A representative office or a branch must comply with all relevant stipulations of the laws on operations, including:

1. provisions on remittance of assets of a representative office or a branch and profits of a branch overseas;

2. provisions on taxes, fees, charges, accounting and statistics;

3. provisions on labour;

4. provisions on foreign exchange;

5. provisions on land;

6. other relevant provisions.

## **Article 22. Rights and obligations of a representative office and its employees**

A representative office and its employees shall exercise rights and perform obligations as stipulated in the Commercial Law and the following specific provisions:

1. A representative office is not permitted to act as representative for another business entity and not permitted to re-rent out its office.

2. The head of the representative office is not entitled to concurrently hold the following positions:

a) The head of the branch in Vietnam

b) The legal representative for signing contracts without specific written power of attorney of the foreign business entity;

c) The legal representative of an enterprise duly established under the Vietnamese law.

3. If the foreign business entity authorizes the legal representative of the representative office to enter into contracts or to amend or supplement the signed contracts, such written authorization must be made on the basis of each occasion of entering into, amending or supplementing those contracts.

## **Article 23. Rights and obligations of a branch and its employees**

A branch and its employees shall exercise rights and perform obligations as stipulated in the Commercial Law and the following specific provisions:

1. A branch is not permitted to act as representative for another business entity and not permitted to re-rent out its office.

2. The head of a branch is not entitled to concurrently hold the following positions:

a) The head of the representative office of the same foreign business entity in Vietnam;

b) The head of the representative office or branch of another foreign business entity in Vietnam;

## **Article 24. Termination of operations of representative offices and branches**

1. A representative office or a branch shall terminate its operations in the following cases:

a. At the request of the foreign business entity which is approved by the competent authority;

b. Where the foreign business entity terminates operations in accordance with the laws of the country of establishment.

c. Upon expiry of its registration certificate and an extension application is not made;

d. Upon expiry of its registration certificate and the extension application is not approved by the agency issuing registration certificate to establish a representative office or a branch;

dd. The registration certificate to establish a representative office or a branch is withdrawd in accordance with Article 30.2 hereof.

2. Within 30 days before the anticipated termination of operations of a representative office or a branch as set out in clauses 1.a, 1.b, and 1.c of this Article, the foreign business entity must forward a notice in writing on such termination to the agency issuing registration certificates to establish representative offices and branches, its creditors, and employees of the a representative office or a branch, and other persons with related rights, obligations and benefits. Such notice shall specify the anticipated time for termination of operations of a representative office or a branch, and must be posted up to the public at the office of the representative office or branch and published on a hardcopy or electronic newspapers for 03 consecutive issues;

3. Within 15 days as of the date on which a decision is made not to extend a registration certificate to establish a representative office or a branch or to retrieve a registration certificate to establish a representative office or a branch in accordance with the provisions of clauses 1.d, and 1.dd of this Article, the agency issuing registration certificates to establish a representative office or a branch must announce on a hardcopy or electronic newspaper for 03 consecutive issues on termination of operations of the a representative office or a branch and specify the time for such termination.

4. Within 15 days as of the date on which the foreign business entity and its representative office, branch complete obligations in accordance with the

provisions of Article 25.3 or Article 25.4, the agency issuing registration certificate to establish a representative office or a branch shall delete the registration to establish a representative office or a branch from the Registration List.

5. Within 15 days as of the date on which delete the registration to establish a branch, the Ministry of Trade shall be responsible for notify the termination of operations of a branch to the provincial People Committee, Department of Trade, provincial tax office, statistical office and the police office where the office of the representative office is located.

Within 15 days as of the date on which delete the registration to establish a representative office, the provincial Department of Trade shall be responsible for notify the termination of operations of a branch to Ministry of Trade and the provincial People Committee, provincial tax office, statistical office and the police office where the office of the representative office is located.

#### **Article 25. Obligations of foreign business entities regarding their representative offices and branches**

1. A foreign business entity shall be responsible before the laws of Vietnam for all operations of its representative office or branch in Vietnam.

2. The head of a representative office or a branch shall be responsible for his/her activities and operations of the representative office or branch in accordance with the Vietnamese laws if any activity is carried out beyond the scope of authorization.

3. No later than 15 days before a representative office or a branch terminates operations in accordance with items a, b and c of Article 24.1 hereof, the foreign business entity and his/her representative office or branch must settle their liabilities and other debts with the State of Vietnam and other relevant organizations and individuals in Vietnam in accordance with the laws.

4. Within 60 days after a representative office or a branch terminates operations in accordance with items d and dd of Article 24.1 hereof, the foreign business entity and his/her a representative office or a branch must settle their liabilities and other debts with the State of Vietnam and other relevant organizations and individuals in Vietnam in accordance with the laws.

### **Chapter IV STATE MANAGEMENT OF REPRESENTATIVE OFFICES AND BRANCHES**

## **Article 32. State Management Functions of the Operations of Representative Office and Branches of the Ministry of Trade**

1. To preside and coordinate with ministries and sectors in drafting and submitting to competent agencies for promulgation legal normative documents concerning representative offices and branches; or to promulgate those documents within the scope of its power;

2. To be responsible for management and provision of guidelines on issuing, re-issuing, amending, supplementing, extending and withdrawing a registration certificate to establish a representative office or a branch;

3. To conduct examinations and inspections of State management activities by provincial Department of Trade in respect of the operations of representative offices and branches nationwide;

4. To preside and coordinate with concerned ministries, sectors and localities in examining and inspecting representative offices and branches where necessary or at the request of each ministry, sector or locality;

5. To preside and coordinate with ministries, sectors and localities in developing a national database on representative offices and branches;

6. To deal with breaches of the laws on representative offices and branches within the scope of its power.

## **Article 27. Responsibility of provincial People's Committees**

1. Instruct the Department of Trade to carry out examinations, to issue, amend, supplement, extend and withdraw registration certificates to establish representative offices in accordance with Article 3 of this Decree.

2. Carry out State management, within the scope of their powers, of operations of representative offices and branches in their localities.

3. Instruct the Department of Trade to inspect and examine a representative office or a branch where necessary or organise inter-branch inspection and examination delegations upon request of specialised agencies of the locality.

## **Article 28. Responsibilities of provincial Departments of Trade**

1. Assessing, issuing, amending, supplementing, extending, and withdrawing registration certificates to establish representative offices in accordance with the provisions in Article 3 hereof.

2. Inspecting and examining representative offices and branches where necessary in accordance with the laws or participating in inter – branch inspection and examination delegations under a decision of the provincial People’s Committee.

3. Provide annual reports to the Ministry of Trade on the issue, amendment, supplement, extension and revocation of registration certificates to establish representative offices in their localities.

4. Coordinate with the Ministry of Trade in developing a database on representative offices and branches in their localities.

### **Article 29. Provisions on Inspection and Examination**

1. During its operations, a representative office or a branch must be subject to inspection and examination by such agencies as stipulated in Articles 26, 27, and 28 hereof and such other competent authorities in accordance with the laws of Vietnam. Inspection and examination of representative offices and branches must comply with the assigned functions, authority and procedures and legislation in inspection and examination.

2. The decision maker of an inspection or examination that does not comply with the provision of laws, or those abuse inspection and examination to harass the operations of a representative office or a branch shall be penalized according to the seriousness of the faults and may be handled under criminal proceedings and will have to pay compensation according to laws if damage is caused.

### **Article 30. Dealing with breaches**

1. Foreign business entities, representative offices or branches which commit a breach of the provisions hereof and the following acts of breach, depending on the nature and seriousness of the breach, shall be subject to administrative penalty in accordance with the law on settlement of administrative breaches:

a) making false, inaccurate or in-timely declaration in the contents or changes in the request documentation for issuance, re-issuance, amending, supplementing and extending registration certificate to establish a representative office or a branch;

b) failing to conduct operations within the period stipulated after the issuance of a registration certificate to establish a representative office or a branch;

c) failing to give a notice to the agency issuing the registration certificate to establish a representative office or a branch within the time limit stipulated on the time for commencing operations;

d) failing to have any office of the a representative office or a branch or re-rent out the office of the representative office or branch;

dd) not sending periodical reports on the operations of a representative office or a branch to the agency issuing the registration certificate to establish a representative office or a branch as stipulated;

e) not sending reports or providing documentation or explanation on issues relating to the operations of the a representative office or a branch at the request of the competent State agency;

g) not carrying out the procedures for amending, supplementing, re – issuing registration certificate to establish a representative office or a branch as stipulated herein;

h) erasing and changing the contents of the granted registration certificate to establish a representative office or a branch;

i) operating in contrary to the contents of operations of a representative office or a branch as specified in the registration certificate to establish a representative office or a branch;

k) failing to perform or to inappropriately performing the procedures for termination of operations in accordance with the provisions hereof;

l) breaching the obligations of a representative office or a branch and of its employees in accordance with the provisions hereof;

m) continuing operations after the termination of operations of the foreign business entity;

n) continuing operations after the competent State agency has removed the registration to establish a representative office or a branch;

o) other violations under this Decree.

2. A representative office or a branch shall have its registration certificate to establish a representative office or a branch retrieved in one of the following cases:

a) failing to carry out official operations within 6 months as of the issue of the registration certificate to establish a representative office or a branch;

b) ceasing operations for over 6 consecutive months without noticing the agency issuing the registration certificate to establish a representative office or a branch;

c) failing to submit periodical reports on operations of the a representative office or a branch for 2 consecutive years;

d) failing to send reports upon request of the competent authorities within 6 months as of the date of the written request;

dd) operating for such functions other than those of a representative office or a branch in accordance with the laws.

3. Employees of a representative office or a branch committing a breach of this Decree, depending on the nature and seriousness of the breach, shall be subject to administrative penalty or be prosecuted for criminal liability in accordance with the law.

4. A foreign business entity carrying out operations in Vietnam under the form of a representative office or a branch without obtaining a registration certificate to establish a representative office or a branch must cease such operations and shall be dealt with in accordance with the laws of Vietnam.

### **Article 31. Complaints and Denunciation**

Foreign business entities shall have the right to complain, and make denunciations against decisions and actions that are unlawful, harassment by officials and state agencies. Complaints and denunciation shall follow legislation on complaints and denunciation.

## **Chapter V IMPLEMENTING PROVISIONS**

### **Article 32. Enforceability**

1. This Decree shall come into force 15 days after having been published in the Official Gazette

2. This Decree shall replace the provisions related to representative offices, branches of foreign business entity of the Decree 45/2000/ND-CP dated September 06, 2000 of the Government providing for representative offices, branches of foreign business entities and foreign tourism enterprises in Vietnam.

3. All other legal documents on representative offices and branches of foreign business entities in Vietnam that are contrary to the provisions hereof shall be hereby made null and void.

### **Article 33. Transitional provisions**

1. Any representative office or a branch establish prior to the date of validity of this Decree shall be entitled to continue operate in accordance with the contents of the granted licenses and shall carry out the procedures for re-issuance of a registration certificate to establish a representative office or a branch in accordance with the provisions hereof within 6 months as of the date this Decree takes effect.

2. Branches of foreign tobacco companies which have been establish before the effective date of this Decree shall operate in accordance with separate regulations of the Prime Minister.

### **Article 34. Organization of Implementation**

1. The Minister of Trade shall provide implementing guidelines for this Decree.

2. Ministers, heads of ministerial agencies, chairpersons of people's committees of provinces and cities under central authorities shall be responsible for the implementation of this Decree.

**Distribution list:**

- Executive Board of the Central Committee of the Communist Party,
- Prime Minister, Vice Prime Ministers,
- Ministries, ministerial agencies, government agencies,
- People's Councils and People's Committees of Provinces and Cities under central authority,
- Office of the Central Committee and Committees of the Communist Party,
- Office of the National Assembly,
- Office of the President,
- Supreme People's Procuracy,
- Supreme People's Court,
- National Offices of Mass Organizations,
- Official Gazette,
- Filed at archive office.

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Phan Van Khai**