

Decision No. 39/2012/QĐ-TTg of October 5, 2012, promulgating the Regulation on management of ornamental trees, shade trees and secular trees

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

Pursuant to the December 3, 2004 Law on Forest Protection and Development;

Pursuant to the June 29, 2001 Customs Law; and the June 14, 2005 Law Amending and Supplementing a Number of Articles of the Customs Law;

At the proposal of the Minister of Agriculture and Rural Development,

The Prime Minister decides to promulgate the Regulation on management of ornamental trees, shade trees and secular trees.

Article 1. Promulgated together with this Decision is the Regulation on management of ornamental trees, shade trees and secular trees.

Article 2. This Decision takes effect on December 1, 2012.

Article 3. Ministers, heads of ministerial-level agencies, heads of government-attached agencies, and chairpersons of provincial-level

People's Committees shall implement this Decision.

Prime Minister
 NGUYEN TAN DUNG

Regulation on management of ornamental trees, shade trees and secular trees

(Promulgated together with the Prime Minister's Decision No. 39/2012/QĐ-TTg of October 5, 2012)

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation and subjects of application

1. Scope of regulation: This Regulation provides the management of transportation, storage, trading, export, import, temporary import for re-export, border-gate transfer and transit of ornamental trees, shade trees and secular trees.

2. Subjects of application: This Regulation applies to domestic organizations, population communities, households and individuals and foreign organizations and individuals that trade in these types of tree in the territory of the Socialist Republic of Vietnam.

In case a treaty to which the Socialist Republic of Vietnam is a contracting party contains provisions different from those of this Regulation, such treaty prevails.

Article 2. Interpretation of terms

Terms and expressions referred to in this Regulation are construed as follows:

1. Ornamental trees, shade trees are woody plants with roots, trunk and branches, with or without leaves, and with a trunk diameter at the root flare (the ground position where the tree naturally roots) of at least 25 centimeters (cm) and a trunk length of at least 1 meter (m) from the root flare to the lowest point of branching.

2. Secular trees are woody plants with roots, trunk and branches, with or without leaves, of an age of over 50 years or with a trunk diameter of at least 50 cm at the position of 1.3 m from the root flare.

3. CITES stands for the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

4. CITES permit means a permit granted by the CITES Management Authority of Vietnam for export, import, re-export or introduction from the sea of endangered wild fauna and flora species specified in the CITES appendix.

5. Local forest protection offices include forest protection offices of districts, towns and provincial cities (below collectively referred to as district-level forest protection offices); forest

protection offices of special-use forests and protection forests; and provincial-level forest protection sub-departments, for localities where no district-level forest protection office is established.

Article 3. Certification of origin of ornamental trees, shade trees and secular trees

1. Agencies competent to give certification

a/ District-level forest protection offices or provincial-level forest protection sub-departments, for localities where no district-level forest protection office is established, shall certify the origin of:

Trees exploited from domestic natural forests or densely planted forests and sold by organizations;

Imported trees planted and sold by organizations and individuals;

Trees confiscated from organizations, population communities, households and individuals and later sold.

b/ Forest protection offices of special-use forests and protection forests shall certify the origin of sold trees lawfully exploited from special-use forests or protection forests and confiscated trees according to their handling competence.

c/ People's Committees of communes, wards and townships (below collectively referred to as commune-level People's Committees) shall certify the origin of:

Trees exploited from home gardens, plantations or scattered areas exploited and sold by organizations;

Trees exploited from domestic natural forests, densely planted forests, home gardens, plantations or scattered areas and sold by population communities, households and individuals.

2. Order and procedures for requesting certification

a/ An owner of ornamental trees, shade trees or secular trees shall submit a set of dossier requesting certification of his/her trees directly to a competent state agency defined in Clause 1 of this Article.

b/ An original dossier of request for certification comprises a list of ornamental trees, shade trees or secular trees, made according to the form issued together with this Regulation, value-added invoices or sale invoices as prescribed by the Ministry of Finance (if any) and documents on the origin of such trees.

3. Time limit for certification

a/ The time limit for certification and issuance of results at a certifying agency is 3 working days after receiving a complete dossier as prescribed. In case the dossier is valid and ornamental trees, shade trees or secular trees are of lawful origin, the certification must be given immediately.

In case the dossier is invalid, the dossier-receiving agency shall notify such to the owner

of ornamental trees, shade trees or secular trees and provide guidance for dossier completion.

b/ In case it is necessary to verify the origin of trees before making certification, the dossier-receiving agency shall notify such to the tree owner and verify unclear information on the dossier and the origin, quantity, volume and species of trees. If no violation is detected through the verification, the certification must be given immediately. The time limit for certification in case verification is required is 5 working days after the receipt of a complete and valid dossier.

In case a violation is detected through the verification, a dossier thereof must be made for handling in accordance with law.

c/ The representative of the certifying state agency shall record his/her certification of contents stated by the tree owner in the dossier, including serial numbers and dates of attached invoices and the registered plate number of the transport vehicle (if any); date of certification; his/her signature, full name and position and his/her agency's stamp in the list, and take responsibility before law for the accuracy of certified contents and lawful origin of ornamental trees, shade trees or secular trees.

For certification of origin of ornamental trees, shade trees or secular trees by the commune-level People's Committee (for communes with local forest protection offices) as specified at Point c, Clause 1 of this Article,

the local forest protection officer shall sign in the list. Local forest protection officers shall also take responsibility before law for the accuracy and lawful origin of ornamental trees, shade trees or secular trees.

Article 4. Principles of export, import, temporary import for re-export, transit, border-gate transfer of ornamental trees, shade trees or secular trees

1. Only ornamental trees, shade trees and secular trees planted by organizations, population communities, households and individuals and trees imported for trading may be exported.

2. Upon their export, import, temporary import for re-export, transit or border-gate transfer, ornamental trees, shade trees or secular trees must go through customs procedures and be subject to customs inspection and supervision in accordance with current regulations.

Chapter II

DOSSIERS OF DOMESTIC TRANSPORTATION, STORAGE OR TRADING OF ORNAMENTAL TREES, SHADE TREES AND SECULAR TREES

Article 5. Dossiers of transportation, storage or trading of ornamental trees, shade trees and secular trees exploited from densely planted forests, home gardens, plantations or

scattered areas

1. A dossier of ornamental trees, shade trees or secular trees exploited from densely planted forests and sold by an organization comprises sale invoices or value-added invoices as prescribed by the Ministry of Finance, enclosed with a list of these ornamental trees, shade trees or secular trees certified by the local forest protection office.

2. A dossier of ornamental trees, shade trees or secular trees exploited from home gardens, plantations or scattered areas and sold by an organization comprises sale invoices or value-added invoices as prescribed by the Ministry of Finance, enclosed with a list of these ornamental trees, shade trees or secular trees certified by the commune-level People's Committee.

3. A dossier of ornamental trees, shade trees or secular trees sold by a population community or household or an individual is a list of these ornamental trees, shade trees or secular trees certified by the commune-level People's Committee.

Article 6. Dossiers of transportation, storage or trading of ornamental trees, shade trees and secular trees exploited from natural forests

During their transportation, storage or trading, ornamental trees, shade trees and secular trees of natural forest origin which are

permitted by a competent agency to be fully extracted from land areas reclaimed for forestation, ground clearance for the construction of works or use for other lawful purposes need the following dossiers:

1. A dossier of ornamental trees, shade trees or secular trees sold by an organization comprises sale invoices or value-added invoices as prescribed by the Ministry of Finance, enclosed with a list of these of ornamental trees, shade trees or secular trees certified by the local forest protection office.

2. A dossier for ornamental trees, shade trees or secular trees sold by a population community or household or an individual is a list of these ornamental trees, shade trees or secular trees certified by the commune-level People's Committee.

Article 7. Dossiers of transportation, storage or trading of confiscated ornamental trees, shade trees or secular trees

1. A dossier for ornamental trees, shade trees or secular trees confiscated and sold by a competent state agency comprises sale invoices as prescribed by the Ministry of Finance, enclosed with a list of these trees made by the selling agency.

2. A dossier of ornamental trees, shade trees or secular trees sold by an organization comprises sale invoices or value-added invoices as prescribed by the Ministry of

Finance, enclosed with a list of these trees certified by the local forest protection office.

3. A dossier of ornamental trees, shade trees or secular trees sold by a population community or household or an individual comprises a list of these trees certified by the local forest protection office.

Article 8. Dossiers of transportation, storage or trading of imported ornamental trees, shade trees or secular trees

1. A dossier of ornamental trees, shade trees or secular trees sold by an organization comprises sale invoices or value-added invoices as prescribed by the Ministry of Finance, enclosed with a list of these trees certified by the local forest protection office.

2. A dossier of ornamental trees, shade trees or secular trees sold by an individual is a list of these trees certified by the local forest protection office.

Article 9. Dossier of transportation, storage or trading of ornamental trees, shade trees or secular trees which are temporarily imported for re-export or in transit or border-gate transfer and transported in the Vietnamese territory

1. Customs declaration of these trees certified by a border-gate customs office according to current regulations.

2. Packing list of these trees made by the foreign exporter.

3. Original certificate of quarantine of imported or transited and domestically transported plants as prescribed by the Ministry of Agriculture and Rural Development.

4. Original CITES permit, for plant species on the list in CITES Appendix I or II.

5. For trees temporarily imported for re-export or in transit or border-gate transfer, if unloaded in the course of transportation in the Vietnamese territory for portage or transshipment at a port or station, a dossier for the next step of their import for re-export, transit or border-gate transfer comprises a packing list of trees for each means of transport, enclosed with a certified copy of the dossier of these trees specified in Clauses 1, 2 and 3 of this Article.

Chapter III

IMPORT, EXPORT, TEMPORARY IMPORT FOR RE-EXPORT, TRANSIT AND BORDER-GATE TRANSFER OF ORNAMENTAL TREES, SHADE TREES AND SECULAR TREES

Article 10. Import of ornamental trees, shade trees and secular trees

1. Goods owners shall produce customs dossiers in accordance with current regulations.

In addition, goods owners shall produce original quarantine certificates of imported plants in accordance with regulations of the

Ministry of Agriculture and Rural Development and original CITES permits for plant species on the lists in CITES Appendices I and II.

2. In case imported ornamental trees, shade trees and secular trees are subject to bilateral trade agreements or bilateral agreements between the Socialist Republic of Vietnam and bordering countries, import dossiers and procedures comply with the provisions of such agreements.

Article 11. Export of domestically planted ornamental trees, shade trees and secular trees

Upon carrying out export procedures, goods owners shall produce dossiers of these trees as specified in Article 5, Chapter II of this Regulation and customs dossiers in accordance with current regulations.

In addition, goods owners shall produce original quarantine certificates of exported plants in accordance with regulations of the Ministry of Agriculture and Rural Development and original CITES permits for plant species on the lists in CITES Appendices I and II.

Article 12. Export of ornamental trees, shade trees and secular trees of import origin

In addition to customs dossiers, goods owners shall produce dossiers of these trees as specified in Article 8, Chapter II of this Regulation and certificates of quarantine of imported plants in accordance with regulations

of the Ministry of Agriculture and Rural Development (originals in case of single exportation or copies in case of multiple exportation with originals produced for comparison).

Article 13. Temporary import for re-export, border-gate transfer and transit of ornamental trees, shade trees and secular trees

Upon temporary import for re-export, border-gate transfer or transit of ornamental trees, shade trees and secular trees, their owners shall produce customs dossiers, carry out customs procedures and submit to inspection and supervision by border-gate customs offices in accordance with current regulations.

Chapter IV

ORGANIZATION OF IMPLEMENTATION

Article 14. Responsibilities of ministries and sectors

1. The Ministry of Agriculture and Rural Development shall assume the prime responsibility for, and coordinate with the Ministry of Public Security, the Ministry of Natural Resources and Environment, the Ministry of Finance and the Ministry of Industry and Trade in, directing provincial-level People's Committees in intensifying their direction and inspection to detect and strictly handle organizations and individuals that illegally exploit, transport, store, trade in, import or export ornamental trees, shade trees

and secular trees; and direct the forest protection force, plant quarantine offices and the CITES Management Authority of Vietnam in properly implementing this Regulation.

2. The Ministry of Finance shall direct customs and tax offices in properly implementing this Regulation and relevant regulations on import, export, temporary import for re-export, border-gate transfer and transit of ornamental trees, shade trees and secular trees.

3. The Ministry of Industry and Trade shall direct the market management agency in actively coordinating with related agencies in inspecting the implementation of this Regulation and relevant regulations on circulation and trading of ornamental trees, shade trees and secular trees.

4. The Ministry of Public Security, the Ministry of National Defense and related ministries and sectors shall, within the ambit of their functions, tasks and powers, coordinate with the Ministry of Agriculture and Rural Development in organizing the implementation of this Regulation.

Article 15. Responsibilities of provincial-level People's Committees

Provincial-level People's Committees shall direct their subordinate local People's Committees at all levels in managing the trading of ornamental trees, shade trees and secular trees in accordance with law; and implement

the inter-sector coordination mechanism in the management of the implementation of this Regulation.-

Prime Minister
NGUYEN TAN DUNG