

THE GOVERNMENT

DECREE No. 02/2007/ND-CP OF JANUARY 5, 2007, ON PLANT QUARANTINE

THE GOVERNMENT

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

Pursuant to the August 8, 2001 Ordinance on Plant Protection and Quarantine;

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

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

This Decree provides for the quarantine of plants which are imported, exported, transferred from border gate to border gate, temporarily imported for re-export, temporarily exported for re-import or transited, for quarantine of indigenous plants and treatment of articles subject to plant quarantine.

Article 2.- Subjects of application

This Decree applies to all domestic and foreign organizations and individuals engaged in plant quarantine activities in the Vietnamese territory. When a treaty to which Vietnam has signed or acceded otherwise provides for, the provisions of that treaty prevail.

Article 3.- Interpretation of terms

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

1. *Harmful organisms* means any species, strains or biological types of fauna, flora or microorganisms which cause harms to plants or plant products, including insects, diseased fungi, nematodes, bacteria, viruses, phytoplasma, weeds, rats and other organisms which are harmful to plant resources (below called pests for short).

2. *Plant quarantine objects* (also called plant quarantine pests) means those pests which may cause serious harms to plant resources in a region where such organisms have not yet appeared or have appeared in narrow distribution and must be officially controlled.

3. *Regulated pests other than plant quarantine pests* means those pests whose presence among plants used for sowing or growing may cause unacceptable economic impacts and must be controlled within the territory of the country of importation.

4. *Regulated pests* include plant quarantine pests and those other than plant quarantine pests.

5. *Foreign harmful organisms* (also called *foreign pests*) means those pests which have not yet been identified scientifically and have never been found in the country.

6. *Useful organisms* include viruses, bacteria, nematodes, fungi, insects, animals and other organisms which may help restrict harms caused by pests to plant resources.

7. *Articles subject to plant quarantine* (below called *articles for short*) include plants, plant products, means of production, preservation or transport or other articles which possibly carry regulated pests.

8. *Pest-infection status* means the extent and nature of articles' infection with harmful organisms.

9. *Article inspection* means investigation, observation, monitoring, sampling, analysis,

expertise and research in order to determine the pest infection status.

10. *Disinfection* means the annihilation of organisms which cause harms to articles.

11. *Fumigation* means a measure of disinfection with the fumigation of toxic chemicals.

12. *Epidemic nidus* means a place where exists one or several kinds of pests on the promulgated list of plant quarantine pests or list of regulated pests other than plant quarantine pests.

13. *Epidemic region* means a spatial area contaminated with epidemic niduses as certified by competent plant quarantine bodies.

14. *Lot of articles* means a certain quantity of articles with similar conditions and factors on epidemic susceptibility.

15. *Plant quarantine station* means a place where articles subject to plant quarantine are inspected before they are moved.

16. *Pest risk analysis* means the process of assessing biological or scientific or economic evidences to determine whether a pest should be regulated and whether plant quarantine measures should be intensified against it.

17. *Pest-free region* means a region where scientific evidences show that no specific pest exists and these conditions will be maintained officially.

18. *Equivalence of plant quarantine measures* means the state of application of different plant quarantine measures, which bring about the same results.

19. *Supervision of pests* means the process of collecting and recording data on the appearance or non-appearance of pests through investigation, monitoring or other procedures.

20. *Harmonization of plant quarantine measures*

means the establishment, recognition and application of plant quarantine measures of different countries based on international standards.

21. *Plants* mean trees and parts of living trees, including seeds and plasma, which may be used for breeding.

22. *Plant products* mean unprocessed materials of plant origin and processed products of plant origin, which, due to the nature of products or processing process, may pose the threat of introduction and spread of pests.

23. *New plant varieties imported for the first time* means those plant varieties which have not yet included in the list of plant varieties allowed for production and trading.

24. *Plant quarantine measures* mean official regulations and procedures aimed to prevent the introduction and/or spread of pests or to restrict economic impacts of pests which must be controlled.

25. *Place of origin* means a place where articles subject to plant quarantine are sowed or grown or where articles for the first time created the pest infection status.

26. *Separated quarantine area* means an area where plants are grown and plant products are preserved in isolation from the outside environment in the quarantine duration.

27. *Import plant quarantine permit* means a legal document which permits the import of a lot of articles suitable with the set plant quarantine requirements.

Article 4.- Responsibility of article owners

1. To monitor, prevent and annihilate harmful organisms, treat infected articles and those which fail to meet the import or export criteria, or transport them out of epidemic regions under plant quarantine regulations.

When infected articles of different owners must be treated simultaneously while the owners cannot reach mutual agreement on the treatment thereof, plant quarantine bodies shall make decisions and the owners shall abide by such decisions.

2. To regularly monitor organisms harmful to plant resources of their own or under their direct management.

Where concentrate articles which are imported, transited or transported from epidemic regions, the above-mentioned monitoring must comply with the requirements and guidance of competent state agencies in charge of plant protection and quarantine.

3. When detecting or suspecting of a regulated pest on the promulgated list or foreign harmful organisms, the article owner or the detector shall apply necessary measures to annihilate such organisms and prevent the spread of the pest and concurrently report it to the competent state agency in charge of plant protection and quarantine or to the nearest local administration.

4. To take measures for the treatment of articles according to regulations of the competent state agency in charge of plant protection and quarantine.

5. To pay plant quarantine charges according to regulations and pay all article-treatment expenses. When article owners are not available, owners or operators of the means of transport and article preservers shall implement regulations on plant quarantine with regard to the means and articles they transport or preserve and pay article-treatment expenses.

6. To supply necessary information on plant protection and quarantine to the Vietnamese state management agency specialized in plant protection and quarantine such as information on plants and plant products, production areas, cultivation methods, list of pests, packing of goods, export programs, import policies and relevant documents.

7. To create conditions for plant quarantine officers to perform their duties such as opening and closing means of transport, storehouses, bales of goods, supply of human resources for inspection, sampling of articles; monitoring and inspecting articles in the course of cultivation, use and preservation.

Article 5.- Responsibilities of plant quarantine agencies

1. To guide, supervise and certify the application of measures to monitor, prevent, annihilate and treat articles. To directly treat infected articles which must be urgently treated and of which the owners are incapable of treating them.

2. To conduct article quarantine and grant plant quarantine certificates.

3. To supply necessary information on plant protection and quarantine to countries of importation according to agreements on food hygiene and safety and plant quarantine as well as international conventions on plant protection.

4. To formulate and manage pest-free regions according to Vietnamese standards.

5. To consider, assess and recognize the equivalence of plant quarantine measures applicable to imported and exported articles of other countries.

6. To apply urgent measures to prevent the introduction and spread of pests when necessary.

7. To harmonize plant quarantine measures according to standards, guidance and recommendations of the international convention on plant protection.

8. To coordinate with plant quarantine bodies of countries of exportation in inspecting and treating import and export articles in countries of exportation in some cases according to bilateral and multilateral agreements.

Article 6.- Responsibilities and powers of plant quarantine officers

While performing their duties, plant quarantine officers have the following responsibilities:

1. To conduct plant quarantine in accordance with legal provisions on plant protection and quarantine.

2. To wear uniform, badges, rank insignia and plant quarantine cards.

3 To be entitled to enter places where exist articles subject to plant quarantine.

4. For secret security and defense places and other special cases, they must be given conditions and guidance for duty performance by competent agencies managing those places in order to satisfy both requirements of confidentiality and plant quarantine.

Article 7.- Responsibilities of state agencies and People's Committees at all levels

1. The Minister of Agriculture and Rural Development shall, in each period, determine and promulgate:

a/ A list of regulated pests;

b/ A list of articles subject to plant quarantine and articles subject to pest risk analysis before they are imported into Vietnam.

2. Customs offices shall coordinate with plant quarantine bodies in inspecting and supervising articles. Customs procedures shall be completed for plant quarantine articles only after all plant quarantine procedures have been carried out. The contents of plant quarantine declarations are stated in the entry-exit declaration forms.

For articles which are forced by plant quarantine bodies to be re-exported, destroyed or which, after quarantine, are permitted under conclusion for import or export, plant quarantine bodies shall notify such to customs offices at border gates where exist the import or export articles. Customs offices and

concerned agencies shall coordinate with plant quarantine bodies in settling and handling concerned matters at the request of plant quarantine bodies.

3. Transport, post, police, border-guard and market management authorities as well as relevant agencies shall, within the ambit of their assigned functions and tasks, coordinate with plant quarantine bodies in inspecting, preventing and handling acts of violating the regulations on plant quarantine.

4. People's Committees of all levels shall direct relevant agencies in their localities in carrying out the work of plant quarantine in accordance with legal provisions on plant protection and quarantine.

Article 8.- Plant quarantine procedures

1. Article owners or their authorized persons shall:

a/ Make declaration with the nearest plant quarantine bodies at least 24 hours before importing or exporting articles;

b/ Fill in the entry-exit declaration forms and be inspected on the spot by plant quarantine bodies with regard to hand luggage and luggage sent by means of transport containing articles;

c/ Submit plant quarantine registration papers or plant quarantine certificates issued by Vietnamese plant quarantine bodies together with customs dossiers in order to carry out customs clearance procedures for articles being import goods or packed together with other import goods (except for hand luggage and luggage sent by means of transport of passengers on entry);

d/ Submit together with customs dossiers plant quarantine certificates issued by Vietnamese plant quarantine bodies if so requested by countries of importation in order to carry out customs clearance procedures for articles being export goods or packed together with other export goods (except for hand luggage and luggage sent by means of transport of passengers on exit).

2. Plant quarantine bodies shall inspect, review and give results within 24 hours after inspecting articles. When it is necessary to prolong this process beyond 24 hours, plant quarantine bodies shall notify such to article owners.

3. The inspection of articles and compilation of plant quarantine dossiers shall apply uniformly throughout the country.

Article 9.- Prohibited acts

1. Bringing into Vietnam regulated pests on the lists specified at Point a, Clause 1, Article 7 of this Decree or foreign harmful organisms which are alive in any growth period.

2. Bringing regulated pests which are alive and on the lists specified at Point a, Clause 1, Article 7 of this Decree to areas not yet infected with pests.

3. Bringing into Vietnam articles on the list of those subject to pest risk analysis specified at Point b, Clause 1, Article 7 of this Decree.

4. Bringing into Vietnam plants with soil in any form.

Chapter II

QUARANTINE OF IMPORT PLANTS

Article 10.- Import conditions

Articles imported into Vietnam must fully satisfy the following conditions:

1. Being granted plant quarantine certificates by competent plant protection agencies of countries of exportation or certificates of equivalent value.

2. Being free from regulated pests on the lists specified at Point a, Clause 1 of this Decree and from foreign harmful organisms; if infected with pests, such articles must be treated thoroughly.

3. Being granted import plant quarantine permits

for articles subject to pest risk analysis before those articles are imported into Vietnam.

4. For materials packed with import timber, they must be treated with plant quarantine measures according to regulations.

Article 11.- Procedures for the grant of import plant quarantine permits for articles subject to pest risk analysis

1. Organizations and individuals shall submit applications for plant quarantine permits, made according to a set form, to plant quarantine bodies.

2. They shall supply all information on the import articles according to the provisions of Clause 6, Article 4 of this Decree.

3. Plant quarantine bodies shall carry out pest risk analysis for the import articles.

4. If the results of pest risk analysis show that concerned articles are susceptible to pests, plant quarantine bodies shall not grant import plant quarantine permits to applying organizations or individuals.

Article 12.- Quarantine of import plants

1. When articles are imported to the first border gate, their owners shall carry out import plant quarantine procedures in accordance with the provisions of Article 8 of this Decree.

2. Plant quarantine bodies shall conduct quarantine at the first border-gate. In special cases, the plant quarantine procedures shall be carried out at other places with adequate conditions for isolation.

3. When means of waterway transport carry articles subject to plant quarantine to buoy zero, the means owners shall make declaration with Vietnamese plant quarantine bodies for the latter's inspection; if no plant quarantine pests are found, such means may enter ports; if regulated pests are

found, they must be treated thoroughly. The quarantine of import articles transported by means of waterway transport shall be conducted at Vietnamese ports.

4. Articles temporarily imported or temporarily exported must go through plant quarantine procedures like import articles.

Article 13.- Imported plant varieties and useful organisms

1. When importing plant varieties and useful organisms, organizations and individuals must fully satisfy the conditions specified in Article 10 of this Decree and observe the following provisions:

a/ For imported plant varieties, the plant quarantine procedures must be carried out at border gates indicated by plant quarantine bodies;

b/ For plant varieties on the list of those permitted for production or business, after plant quarantine procedures are completed, they must be transported and sowed at places already registered with plant quarantine bodies and concurrently declared with competent state agencies in charge of plant protection and quarantine in concerned localities for further monitoring and inspection of harmful organisms.

c/ For new plant varieties imported for the first time, they can be sowed only in separate plant quarantine areas in accordance with regulations of plant quarantine bodies for monitoring of harmful organisms;

d/ In some special cases, the import of plant varieties and useful organisms must be approved by the Minister of Agriculture and Rural Development. The Ministry of Agriculture and Rural Development shall specify special cases permitted for import under the provisions of this Clause.

2. When importing plant varieties and useful organisms, organizations and individuals must abide by the monitoring time limit set for each plant group under regulations.

3. The Ministry of Agriculture and Rural Development shall specify a time limit for monitoring each group of plants and useful organisms and standards of a separate plant quarantine area.

Article 14.- Supervision, transportation, preservation and use of imported articles

1. Plant quarantine bodies shall supervise the quarantine of import articles from the time those articles are brought into the Vietnamese territory.

2. Article owners must acquire plant quarantine certificates from Vietnamese plant quarantine bodies and abide by all the contents of those certificates in the process of transportation, preservation and use of articles.

Chapter III

QUARANTINE OF EXPORT PLANTS

Article 15.- Grounds for quarantine of exported plants

Plant quarantine bodies shall conduct the quarantine of export articles in the following cases:

1. It is so required by sale and purchase contracts or treaties.

2. It is so requested by article owners.

Article 16.- Quarantine of exported plants

1. Article owners shall notify in advance the nearest plant quarantine bodies and carry out plant quarantine procedures according to the provisions of Article 8 of this Decree when the export articles arrive at the last border gate or at the place from which they shall be exported to foreign countries.

2. Plant quarantine bodies shall conduct the quarantine at border gates where article owners have made registration. When the quarantine has been conducted at inland production establishments or

preservation places, article owners shall present plant quarantine certificates at the last border gates for export.

Article 17.- Supervision of exported articles

1. Plant quarantine bodies shall supervise the quarantine of exported articles from the time these articles are inspected and granted plant quarantine certificates till the time they are transported out of the Vietnamese territory.

2. Exported article owners having plant quarantine certificates shall, in the process of transporting articles from export plant quarantine stations to foreign countries, abide by all the contents of their certificates.

Chapter IV

QUARANTINE OF TRANSITED PLANTS

Article 18.- Conditions for the quarantine of transited plants

1. Having plant quarantine certificates granted by competent plant quarantine bodies of the countries of origin.

2. The transited or keeping of articles in storehouses or yards in the Vietnamese territory must be approved by Vietnamese plant quarantine bodies.

3. Transited articles must be packed strictly according to the commodity specifications in order to avoid the spread of harmful organisms in the process of transportation and storage.

Article 19.- Quarantine of transited plants

1. When transited articles enter the first Vietnamese border gate, their owners must make declaration with the nearest plant quarantine bodies and present plant quarantine certificates of the countries of origin.

2. Vietnamese plant quarantine bodies shall supervise articles, inspect means of transport and the outer appearance of articles according to regulations.

3. If detecting that transited articles are packed at variance with plant quarantine regulations, accompanying no plant quarantine certificates of the countries of origin, Vietnamese plant quarantine bodies shall inspect those articles and means of transport or suspend the transportation till those articles are packed properly according to regulations. Plant quarantine bodies shall inspect and supervise transited articles so as to grant transited plant quarantine certificates.

Chapter V

QUARANTINE OF DOMESTIC PLANTS

Article 20.- Contents of the quarantine of domestic plants

1. Administering regulated pests in Vietnam and useful organisms.

2. Administering and applying treatment measures when detecting epidemic niduses.

3. Working out and implementing programs on investigation, supervision and effective prevention and annihilation of regulated pests for imported plant varieties and plant products kept in storehouses.

Article 21.- Procedures for the quarantine of domestic plants

1. The declaration, inspection, treatment and grant of quarantine certificates for domestically transported plants shall comply with the provisions of Article 8 of this Decree.

2. For plant varieties produced in the country and transported domestically, which do not originate from epidemic regions or cross epidemic regions,

the completion of plant quarantine procedures is not required.

Article 22.- Supervision of the quarantine of domestic plants

1. To inspect, monitor and supervise the situation of pests on imported plant varieties and plant products kept in storehouses.

2. When plant varieties or useful organisms are imported to localities for sowing or use, the supervision is provided for as follows:

a/ Checking imported plant quarantine certificates granted by Vietnamese plant quarantine bodies for imported articles, plant varieties or useful organisms;

b/ Monitoring, supervising places of sowing or use;

c/ Sanctioning administrative violations and quarantining lots of imported articles which do not go through the import plant quarantine in accordance with legal provisions on plant protection and quarantine.

3. To delimit the boundaries of epidemic regions and domestic plant quarantine stations when transporting articles out of epidemic regions; conduct inspection, grant plant quarantine certificates for domestically transported articles and supervise the transportation of articles out of epidemic regions.

4. To check plant quarantine certificates and monitor, supervise the lots of articles which are brought from epidemic regions to localities.

5. To decide on measures to treat those articles which are infected with regulated pests; to guide and supervise article owners in the application of treatment measures.

6. Where exist epidemic niduses and signs of their prevalence into epidemic regions, competent state agencies in charge of plant protection and quarantine

shall immediately report such to competent agencies for announcement of epidemics in accordance with the provisions of Article 11 of the Ordinance on Plant Protection and Quarantine.

Chapter VI

TREATMENT OF ARTICLES SUBJECT TO PLANT QUARANTINE

Article 23.- Treatment of articles subject to plant quarantine

1. The treatment of articles covers the reprocessing, selection, discard, cleansing, disinfection, return to places of origin, destruction and other measures aimed at annihilating regulated pests.

2. The application of treatment measures in plant quarantine shall comply with the regulations of plant quarantine agencies.

Article 24.- Treatment of imported articles

1. The treatment of articles infected with regulated pests and foreign harmful organisms is provided for as follows:

a/ If articles are infected with pests on Vietnam's list of plant quarantine pests which, however, do not exit in the Vietnamese territory, or infected with foreign harmful organisms, they may not be imported but must be returned to their places of origin or destroyed. When they can be thoroughly treated with other measures, plant quarantine bodies shall consider and decide on the application of those measures;

b/ If articles are infected with pests on Vietnam's list of plant quarantine pests which already exist in narrow distribution in the Vietnamese territory, or infected with pests on the list of regulated pests other than plant quarantine pests, thorough treatment measures shall be decided by plant quarantine

bodies. When Vietnamese conditions do not permit the treatment, the articles shall be returned to their places of origin or destroyed.

2. For articles drifted, dropped, discarded or released from overseas to Vietnam, plant quarantine bodies shall assume the prime responsibility for, and coordinate with local administrations and concerned agencies in, treating them.

Article 25.- Treatment of exported, transited and domestic articles

1. The treatment of exported articles shall be conducted at the request of article owners or according to the requirements of countries of importation or trading contracts.

2. When articles transit Vietnam, if infected with plant quarantine pests in Vietnam or packed at variance with commodity specifications, article owners shall apply measures to treat them or repack them properly according to regulations.

3. The treatment of articles infected with pests in domestic plant quarantine shall comply with decisions of competent state agencies in charge of plant protection and quarantine.

Article 26.- Conditions for fumigation

Organizations engaged in fumigation activities must satisfy the following conditions:

1. The persons directly managing and administering fumigation must possess practice certificates.

2. The persons conducting fumigation must possess fumigation cards.

3. They have technical processes, means and equipment in service of fumigation according to regulations of competent state management agencies.

4. They can ensure environmental hygiene, labor

safety, fire prevention and fighting conditions according to regulations of competent state management agencies.

5. Their working places, equipment and chemical storehouses are approved in writing by competent state agencies.

The Minister of Agriculture and Rural Development shall specify the grant of fumigation practice certificates, fumigation cards as well as technical processes, means and equipment in service of fumigation.

Article 27.- Conditions for the grant of fumigation practice certificates

1. Having professional qualifications of university or higher degree in chemicals or plant protection.

2. Having at least three-year working experience in the concerned domain.

3. Having health certificates, granted by medical agencies of district or higher level.

Article 28.- Conditions for the grant of fumigation cards

1. Having gone through fumigation training, have professional qualifications and skills examined by specialized state management agencies.

2. Having health certificates granted by medical agencies of district or higher level.

Article 29.- Powers and obligations of organizations conducting fumigation activities

1. Organizations conducting fumigation activities may start operations only when they satisfy all the conditions prescribed in Article 26 of this Decree and commit to strictly comply with those conditions throughout the process of operation.

2. They shall grant fumigation certificates for

articles subject to plant quarantine.

3. When applying fumigation measures to articles infected with plant quarantine pests, they shall be subject to supervision by plant protection agencies.

4. Their application of fumigation measures must not effect the quality of goods, articles and health of the community. They shall take responsibility for the results of fumigation.

Chapter VII

IMPLEMENTATION PROVISIONS

Article 30.- Implementation effect

This Decree takes effect 15 days after its publication in "CONG BAO" and replaces the Regulation on plant quarantine promulgated together with the Government's Decree No. 58/2002/ND-CP of June 3, 2002. All previous regulations contrary to the provisions of this Decree are annulled.

Article 31.- Responsibilities for implementation

The Minister of Agriculture and Rural Development shall guide the implementation of this Decree.

Ministers, heads of ministerial-level agencies, heads of government-attached agencies and presidents of provincial/municipal People's Committees shall implement this Decree.

On behalf of the Government

Prime Minister

NGUYEN TAN DUNG