

dwellings in rural areas.<sup>77</sup> Two additional prime minister decisions concern the provision of credit to commercial traders operating in disadvantaged areas and the interest support to be granted to medium- and long-term dong-denominated loans.<sup>78</sup>

3.83. A Government Decision issued in December 2008 outlines the strategy for local industry development until 2020.<sup>79</sup> The Ministry of Industry and Trade has issued several legal documents, including Decree No. 45/2012/ND-CP on industrial promotion, and Circular No. 46/2012/TT-BCT guiding the implementation of the decree. The Ministry is currently working with other relevant agencies to complete the framework on industrial promotion.

3.84. Assistance measures to support mechanical engineering industries were put forward in early 2009.<sup>80</sup> Eligible investors may, *inter alia*, be able to finance up to 85% of their investment through the Viet Nam Development Bank, obtain grants from the Support Fund for the Development of Science and Technology, and benefit from import duty exemptions or reductions on inputs (while the import duties on their output is set at the maximum rates permitted under Viet Nam's multilateral and preferential obligations). Viet Nam's targets for the development of its chemical and mechanical engineering industries are outlined in Table A3.7. Local authorities have also issued legal instruments to support the Government's strategy. Hence, the People's Committee of Ha Noi provides subsidized credits and support for participation at trade fairs to eligible enterprises.<sup>81</sup>

### 3.4.2 Standards, technical requirements, and conformity assessment

#### 3.4.2.1 Technical barriers to trade

3.85. Viet Nam undertook to comply with the obligations of the TBT Agreement from the date of its accession to the WTO.<sup>82</sup>

3.86. Since its accession, Viet Nam has notified a number of measures to the TBT Committee including, as of end-April 2013:

- a notification that the Directorate for Standards, Metrology and Quality accepted the Code of Good Practice for the Preparation, Adoption and Applications of Standards in Annex 3 to the TBT Agreement<sup>83</sup>;
- notifications under Article 15.2 of the TBT Agreement on measures taken to comply with the TBT Agreement, and that the TBT Viet Nam Office, in STAMEQ, is the notification authority and enquiry point for TBT-related issues<sup>84</sup>; and
- 33 notifications of regular measures (not counting addenda, or corrigenda) covering a variety of products, including a proposed and final technical regulation on alcoholic beverages<sup>85</sup>, which was raised as a specific trade concern in the TBT Committee by several delegations.<sup>86</sup>

<sup>77</sup> Agricultural machinery and rural housing support is governed by Decision No. 497/QD-TTg, 17 April 2009, amended by Decision No. 2213/QD-TTg, and details concerning the implementation in Circular No. 09/2009/TT-NHNN of the State Bank of Viet Nam.

<sup>78</sup> Decisions Nos. 92/2009/QD-TTg, 8 July 2009, and 2072/QD-TTg, 11 December 2009.

<sup>79</sup> Decision No. 160/2008/QD-TTg, 4 December 2008 on the "Approval of the overall strategy and protection policies for industrial production in accordance with international commitments and WTO regulations until 2020".

<sup>80</sup> Prime Minister's Decision No. 10/2009/QD-TTg, 16 January 2009, on Mechanisms supporting the development of key mechanical products and list of key mechanical investment projects for the period 2009-2015.

<sup>81</sup> Programme No. 124/Ctr-UBND, 19 September 2012 of the People's Committee of Ha Noi. Eligible recipients are indicated in Decision No. 25/2008/QD-UBND, 3 October 2008.

<sup>82</sup> WTO document WT/ACC/VNM/48, 27 October 2006, paragraph 303.

<sup>83</sup> WTO document G/TBT/CS/N/175, 20 February 2009.

<sup>84</sup> WTO document G/TBT/2/Add.98, 6 November 2007; Rev.1, 20 February 2009; and Rev.2, 12 September 2012.

<sup>85</sup> WTO document G/TBT/N/VNM/10, 20 March 2010, Add.1, 23 June 2010, which extended the comment period; and Add.2, 28 March 2011, which announced its promulgation and entry into effect on 1 July 2011.

<sup>86</sup> WTO document G/TBT/M/51, 1 October 2010, paras 15-20.

In addition, the Ukraine has made two notifications on agreements with Viet Nam on standardization, metrology, and conformity assessment.<sup>87</sup>

3.87. A number of government agencies are responsible for standards, technical regulations, conformity assessment procedures, and other measures related to technical requirements. These agencies include the Ministries of: Science and Technology; Industry and Trade; Agriculture and Rural Development; Information and Communication; Natural Resources and Environment; Transport; Health; Labour, Invalids and Social Affairs; Culture, Sports and Tourism; and Construction. The Ministry of Science and Technology is responsible for publishing and managing national standards and technical regulations in the *Official Journal*; it is responsible along with the other ministries for developing standards and technical regulations for products and services in its areas of competence.

3.88. The Directorate for Standards, Metrology and Quality (STAMEQ), under the Ministry of Science and Technology, represents Viet Nam in international and regional organizations on issues related to technical requirements (Table 3.9). STAMEQ cannot issue legally binding legislation but it is responsible for preparing draft rules on standards and standards-related issues, which are submitted to the relevant Ministry or the Government for approval.

**Table 3.9 STAMEQ in international and regional standards organizations**

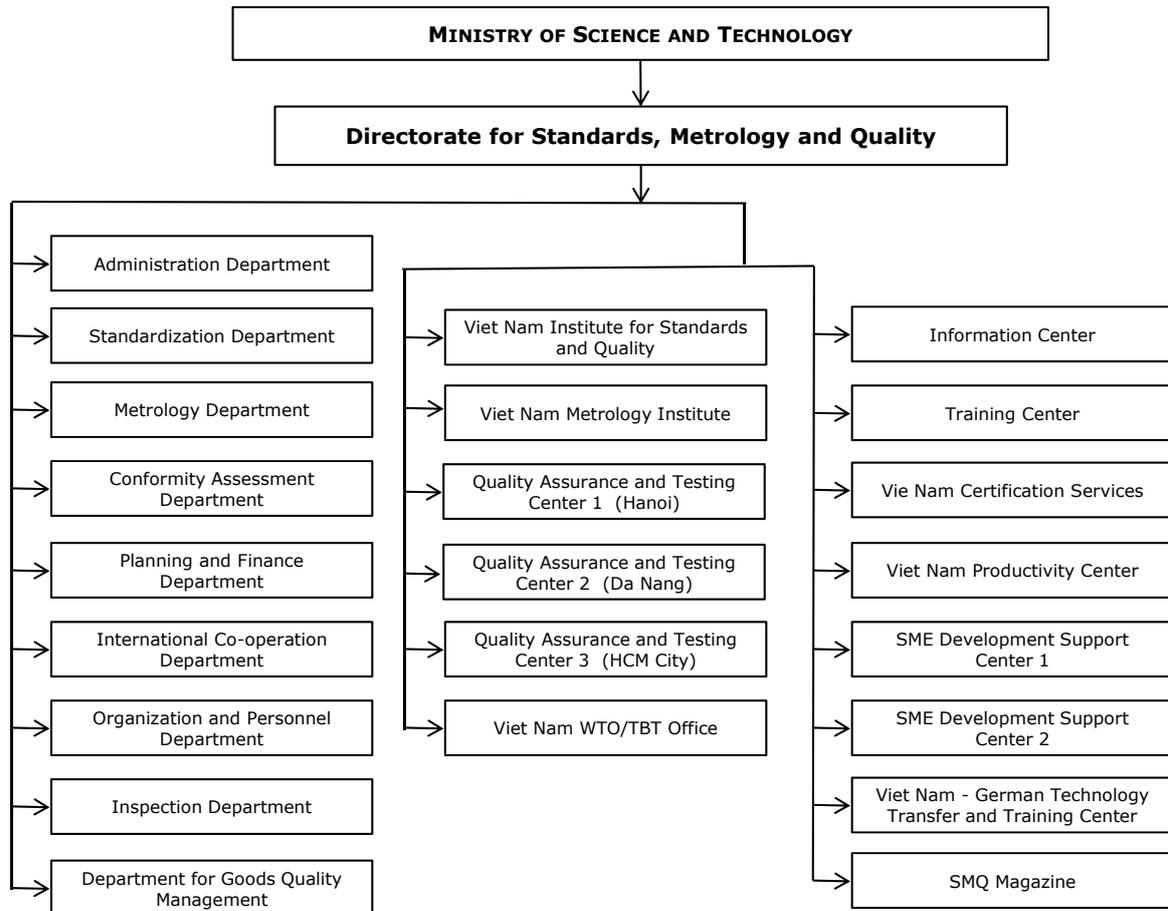
Organization	Status	Date
<b>International</b>		
International Organization for Standardization (ISO)	Member	1977
Codex Alimentarius Commission	Member	1989
International Laboratory Accreditation Co-operation (ILAC)	Member	1992
International Article Numbering (EAN)	Member	1995
International Electrotechnical Commission (IEC)	Associate member	2002
International Organization for Legal Metrology (OIML)	Member	2003
General Conference on Weights and Measures (BIPM)	Associate Member	2003
<b>Regional</b>		
Pacific Area Standards Congress (PASC)	Member	1992
Asia Pacific Metrology Programme (APMP)	Member	1992
Asia Pacific Quality Organization (APQO)	Member	1994
Asia Pacific Laboratory Accreditation Co-operation (APLAC)	Member	1995
ASEAN Consultative Committee for Standards and Quality (ACCSQ)	Member	1995
Asian Productivity Organization (APO)	Member	1996
Asian Pacific Legal Metrology Forum (APLMF)	Member	1996
Asia-Europe Meeting/Trade Facilitation Action Plan/Standards and Conformity Assessment (ASEM/FTAP/SCA)	Member	1996
Technonet Asia (TA)	Member	1998
APEC Subcommittee on Standards and Conformance	Member	1998
Pacific Accreditation Co-operation (PAC)	Member	2003

Source: STAMEQ online information. Viewed at: <http://portal.tcvn.vn/default.asp?action=article&ID=1419> [March 2013]; USAID (2009), *Standards, Metrology, Conformity Assessment and the TBT Agreement, A desk top reference handbook*, STAR - Vietnam p.130. Viewed at: [http://pdf.usaid.gov/pdf\\_docs/PNADP635.pdf](http://pdf.usaid.gov/pdf_docs/PNADP635.pdf) [March 2013]; and international and regional organizations listed in the table.

3.89. Several subsidiary bodies under STAMEQ provide support for the development of standards and technical regulations and are responsible for conformity assessment, quality system certification, product certification, accreditation of testing and calibration laboratories, supervision of quality requirements for goods, and other matters related to standards and technical regulations (Chart 3.3).

3.90. The legislation covering technical barriers to trade is set out in a number of laws (Table 3.10). In addition, official circulars and ministerial decisions provide guidance on the implementation of laws, decrees, and Prime Minister's decisions. These include Circular No. 21/2007/TT-BKHCHN Guiding the Formulation and Application of Standards (as revised by Circular No. 29/2011/TT-BKHCHN), and Decision No. 22/2007/QD-BKHCHN Promulgating the Regulation on Organization and Operation of the Technical Board for National Standards both from the Minister of Science and Technology.

<sup>87</sup> WTO documents G/TBT/10.7/N/69, 26 September 2008, and G/TBT/10.7/N/120, 20 August 2012.

**Chart 3.3 Standards organizational structure in Ministry of Science and Technology**

Source: Viet Nam authorities.

3.91. Under the Law on Technical Regulations and Standards there are two types of technical regulations: national technical regulations (QCVNs); and local technical regulations (QCDPs). In principle, local technical regulations (which are mandatory) may be prepared and approved by local authorities, usually to provide greater details on a national technical regulation in order to meet local conditions.<sup>88</sup> According to the authorities there is only one QCDP in Viet Nam. There are also two different types of standards: national standards (TCVNs); and organization standards (TCCSs).

3.92. Draft national standards are prepared by technical committees through the Viet Nam Standards and Quality Institute (VSQI) in STAMEQ. The drafts are based on proposals from government agencies or the private sector. The VSQI is responsible for organizing the development of TCVNs, providing secretarial support for the technical committees, and planning standardization activities. At the end of 2012, there were 116 national standards technical committees and 52 sub-committees. Draft TCVNs are published on the VSQI website with 60-day comment periods. Each year VSQI publishes a work-programme listing, which is regularly updated. The plan for 2013 includes 813 standards being prepared in various technical committees, proposed by different government ministries.<sup>89</sup>

<sup>88</sup> USAID (2009), p. 130.

<sup>89</sup> Ministry of Science and Technology Decision No 3501/QD/BKHCN, 21 December 2012 (Vietnamese). Viewed at: <http://www.vsqi.gov.vn/news.aspx?Cat=29> [March 2013].

**Table 3.10 Principal legislation on technical measures<sup>90</sup>**

Title	Reference	Note
Prime Minister's Decision on the Implementation of the TBT Agreement	No. 444/2005/QD-TTg	
Prime Minister's Decision on Establishment and Issuance of Statute of Organization and Operation of Vietnam Network of Notification Authorities and Enquiry Points on TBT	No. 114/2005/QD-TTg	
Prime Minister's Decision approving Action Plan on the Implementation of Agreement on Technical Barriers to Trade from 2011-2015	No. 682/QD-TTg	
Prime Minister's Decision approving National Programme on the improvement of products and goods productivity and quality	No. 712/QD-TTg	
Law on Standards and Technical Regulations	No. 68/2006/QH11	Main legal basis for standards and technical regulations
Decree Detailing the Implementation of a Number of Articles of the Law on Standards and Technical Regulations	No. 127/2007/ND-CP	
Law on Products and Goods Quality	No. 05/2007/QH12	Goods in "group 1" are controlled on the basis of standards announced by producers and goods in "group 2" are controlled on the basis of technical regulations established by the competent government agencies
Decree on the Implementation of a Number of Articles of the Law on Product Goods and Quality	No. 132/2008/ND-CP	
Law on Protection of Consumers' Rights	No. 59/2010/QH10	Provides, <i>inter alia</i> , for compensation to consumers for goods and services which do not meet technical standards or norms and for the recall of defective goods
Decree Detailing and Guiding the Implementation of a Number of Articles of the Law on Protection of Consumers' Rights	No. 99/2011/ND-CP	
Decree on Labelling of Goods	No. 89/2006/ND-CP	Provides details of the required size, content, and position of labels. Labels providing compulsory information must be in Vietnamese
Law on Measurement	No. 04/2011/QH13	Establishes the SI system of Units as the legal units of measurement in Viet Nam
Decree detailing and guiding the implementation of a number of Articles of the Law on Measurement	No. 86/2012/ND-CP	
Law on Environmental Protection	No. 52/2005/QH11	Establishes the principles and basic contents of national environmental standards
Law on Construction	No. 16/2003/QH11	Requires that constructions activities must comply with construction rules and standards
Law on Food Safety	No. 55/2010/QH12	Provides for rights and obligations of individuals and organizations to ensure food safety and concerning labelling
Decree detailing and guiding the implementation of a number of Articles of the Law on Food Safety	No. 38/2012/ND-CP	

Source: Viet Nam authorities; and FAOLEX. Viewed at: <http://faolex.fao.org> [May 2013].

3.93. According to the authorities, at the end of 2012 Viet Nam had 6,800 TCVNs in effect, of which 40% were harmonized with international, regional, or foreign standards (up from 25% in 2005).

3.94. Organization standards (TCCS) are developed independently by organizations; STAMEQ has no direct involvement although it does issue guidelines on how they should be developed.

<sup>90</sup> In many cases unofficial translations of laws are available in English from the Ministry of Justice database on legal normative documents: <http://moj.gov.vn/vbpg/en/pages/vbpg.aspx> [February 2013].

3.95. VSQI also provides support for the development of technical regulations which, like TCVNs, are developed by drafting committees made up of government agencies and experts. Proposals for QCVNs are published on the official websites of the relevant ministries, with opportunities to comment either through membership of the technical committee or through comments to the technical committees. The final QCVNs are also published on the official websites of the relevant ministries, normally six months before they become effective. In addition, the Ministry of Science and Technology publishes an annual catalogue of new technical regulations.

3.96. The Bureau of Accreditation (BOA) of the Ministry of Science and Technology runs the Vietnam Laboratory Accreditation Scheme (VILAS), the Viet Nam Certification Accreditation Scheme (VICAS), and the Viet Nam Inspection Scheme (VIAS). At the end of 2012, VILAS had accredited 527 accreditation bodies (one outside Viet Nam); VICAS had accredited 26 certification bodies; and VIAS had accredited 20 accreditation bodies.

3.97. The Metrology Institute (VMI) under STAMEQ is responsible for establishing and maintaining national standards of measurement using the SI system, and calibration of measurement instruments; it also represents Viet Nam in international and regional metrology organizations (Table 3.9). In addition, the VMI has cooperation agreements with national measurement institutes in Australia, China, Germany, Japan, Korea, New Zealand, and the United States. There are ten measurement laboratories in the VMI accredited by the VILAS, each for a different set of SI units.

3.98. There are four product certification bodies under STAMEQ:

- the Viet Nam Certification Centre (QUACERT), which helps enterprises with compliance with national and international standards and practices including certification for meeting Vietnamese, other national, regional, and international standards; and
- three Quality Assurance and Testing Centres (QUATEST 1, 2, and 3), which are responsible for testing imports and exports for compliance with standards and technical regulations

3.99. QUACERT is the certification body for compliance with:

- Vietnamese standards and technical regulations (including VietGAP for good agricultural practice);
- certification of management systems to international standards (ISO 9001, ISO 14001, OHSAS 18001, ISO 22000, HACCP, GMP, ISO 27001, ISO/TS 29001);
- standards in other countries (ASTM, JIS, DIN, GOST, BSI);
- regional standards (EN, CEN) and International standards (ISO, IEC); and
- electrical and electronic equipment under ASEAN EE MRA.<sup>91</sup>

3.100. Under the Law on Products and Goods Quality of 2007, products and goods are divided between Group 1, which are "incapable of causing unsafety", and Group 2, which are "capable of causing unsafety" (defined as "those products and goods which, under rational conditions of transportation, storage, preservation and use for proper purposes, can latently cause harms to humans, animals, plants, assets or the environment").<sup>92</sup> Products in Group 1 are controlled by producers on the basis of applicable standards, while those in Group 2 are controlled on the basis of relevant technical regulations from the competent state agency as well as by producers on the basis of applicable standards. Different ministries are responsible for the control of quality of products and goods under their responsibility, and for issuing lists of products and goods that can cause "unsafety" and are subject to mandatory inspection (Table 3.11).

<sup>91</sup> QUACERT online information. Viewed at: <http://www.quacert.gov.vn/news/vi/1/1/trung-tam-chung-nhan-phu-hop---quacert.aspx> [March 2013].

<sup>92</sup> Law on Products and Goods Quality, A. 3(4).

**Table 3.11 Goods subject to mandatory inspection and quality control (domestically produced, imported, and for export)**

Ministry of Industry and Trade (Circular No. 08/2012/TT-BCT)
Pressure equipment
Lifting equipment for industrial use
Chemicals
Industrial explosives
Oil and gas mining equipment, except for marine exploration and exploitation equipment and facilities
Ministry of Public Security (Circular No. 14/TT-BCA of 2012)
Fire prevention and fighting equipment
Technical equipment
Ammunitions, weapons
Support instruments
Ministry of Information and Communications (Circular No. 20/2011/TT-BTTTT)
Telecommunications terminal equipment
Computers, network and IT equipment
Radio and transmission equipment
Ministry of Health (Circular No. 44/2011/TT-BYT)
Foods
Pharmaceuticals
Vaccines
Medical bio-products
Cosmetics
Drug materials
Drugs for human use
Domestic chemicals
Insecticides
Disinfectants
Medical equipment and facilities
Ministry of Agriculture and Rural Development (Circular No. 50/2009/TT-MARD)
Plants
Animals
Fertilizers
Animal feeds
Plant protection drugs
Veterinary drugs
Bio-products for use in agriculture, forestry or aquaculture
Irrigation works and dykes
Ministry of Science and Technology (Circular No. 01/2009/TT-BKHCHN)
Petrol, diesel, and biofuels
Motorbike helmets
Electrical and electronic products
Electrical wires
Toys
Ministry of Transport
Means of transport
Loading and unloading means and equipment
Specialized transport equipment for construction, marine exploration, and exploitation equipment
Traffic works
Ministry of Construction
Civil works
Industrial works
Technical infrastructure works
Ministry of Defence
Military equipment and facilities
Ammunitions, weapons and products in service of defence
Defence works

Source: Viet Nam authorities; the Law on Products and Goods Quality, and ministerial circulars noted above.

### 3.4.2.2 Sanitary and Phytosanitary Measures

3.101. Viet Nam undertook to comply with the requirements of the SPS Agreement upon its accession to the WTO without recourse to any transitional arrangements.<sup>93</sup> The national enquiry

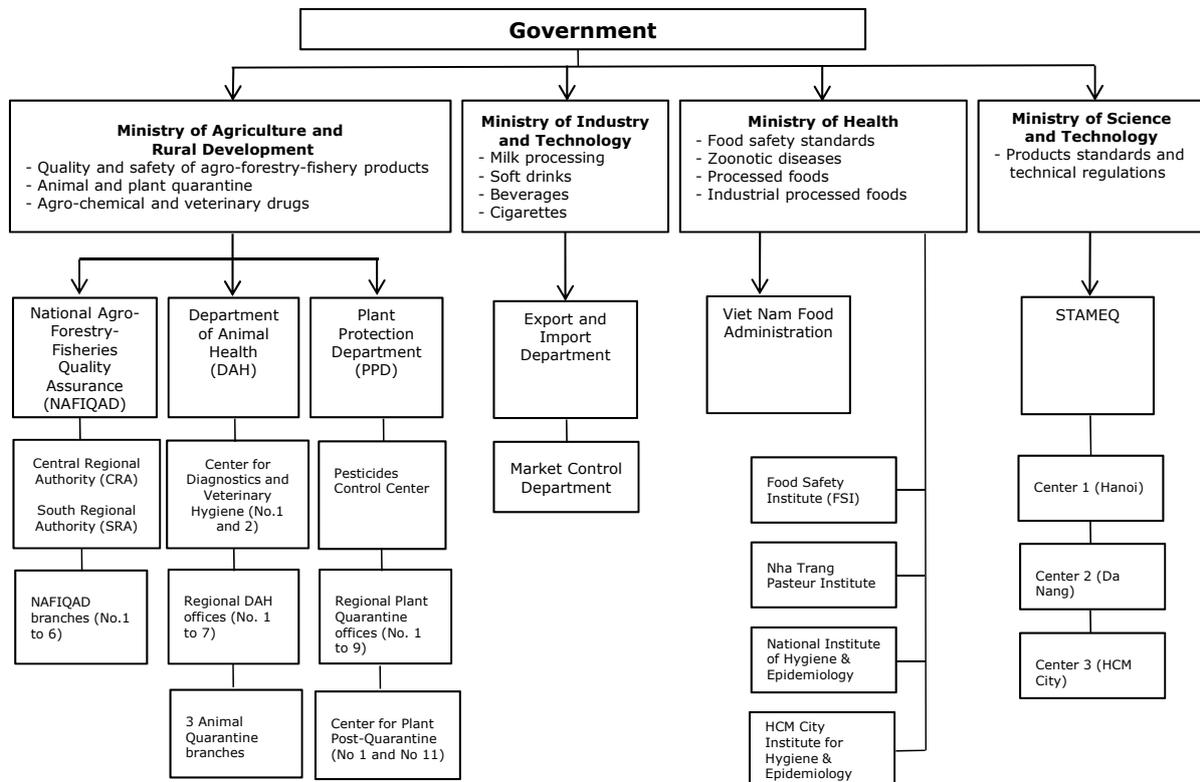
<sup>93</sup> WTO document WT/ACC/VNM/48, 27 October 2006, paragraph 327.

point for SPS matters is the Viet Nam SPS Office in the Ministry of Agriculture and Rural Development.<sup>94</sup>

3.102. Viet Nam has made 42 regular notifications (and addenda to two of these) to the SPS Committee in the WTO. These notifications cover a wide variety of products and SPS-related issues. They also included the Law on Food Safety (No. 55/2010/QH12)<sup>95</sup> and a draft Law on Plant Protection and Quarantine.<sup>96</sup> Several Members have used the SPS Committee on various occasions to raise a specific concern with Viet Nam about its ban on imports of offal products as from 7 July 2010.<sup>97</sup>

3.103. Several government agencies are responsible for SPS-related matters, including the Ministry of Agriculture and Rural Development, the Ministry of Industry and Technology, the Ministry of Health, and the Ministry of Science and Technology (Chart 3.4).

**Chart 3.4 Sanitary and phytosanitary organizational structure**



Source: Viet Nam authorities.

3.104. Under Prime Minister's Decision No. 99/2005/TD-TTg of May 2005, these agencies are required to coordinate with the Ministry of Agriculture and Rural Development and the SPS Office on notifications, which is the notification authority and enquiry point.

3.105. Viet Nam is a member of Codex Alimentarius and the World Organisation for Animal Health (OIE), and a contracting party to the International Plant Protection Convention (IPPC).

3.106. The basic law for SPS-related matters is set out in the ordinances for plant protection and quarantine, and animal health, and laws on food safety and environmental protection. Under each law there are decrees and decisions setting out more details for implementing the law, and official

<sup>94</sup> WTO document G/SPS/ENQ/26, 11 March 2011.

<sup>95</sup> WTO document G/SPS/N/VNM/8, 23 September 2009.

<sup>96</sup> WTO document G/SPS/N/VNM/41, 16 January 2013.

<sup>97</sup> WTO documents G/SPS/R/63, 12 September 2011, paras 60-63; G/SPS/R/64, 17 January 2013, paras 57-60; G/SPS/R/66, 23 May 2012, paras 39-41; G/SPS/R/67, 11 September 2012, paras 31-35 and Corr.1, 18 September 2012, para 35; and G/SPS/R/69, paras 33-35.

circulars provide further clarification on some points of the law (Table 3.12). In addition, technical regulations (QCVN) and standards (TCVN) may apply (see above).

**Table 3.12 Basic SPS Legislation**

Title	Reference	Note
<b>Notifications and enquiry point and the WTO</b>		
Prime Minister's Decision	No. 99/2005/QD-TTg	Establishing the enquiry point and notification authority
Minister of Agriculture and Rural Development's Decision	No. 1733/QD-BNN-TCCB	Organization and operation of the SPS National Office
Prime Minister's Decision	No. 147/2008/QD-TTg	National Action plan for Implementation of commitments under the SPS Agreement
<b>Plant Protection</b>		
Ordinance on Plant Protection and Quarantine	No. 36/2001/PL-UBTVQH10	
Decree on plant quarantine	No. 02/2007/ND-CP as amended by Decree No. 98/2011/ND-CP	Provides for the quarantine of domestic plants and plants that are imported, exported or in transit in Viet Nam. It also sets out treatment for destroying pests and exotic harmful organisms
Decision on HS code of objects target of plant quarantine	No.35/2007/QD-BNN	HS codes of objects for plant quarantine of Viet Nam
Decision regulation on procedures of plant quarantine certificate	No.48/2007/QD-BNN	Plant quarantine certification for imports
Circular import risk assessment	No. 39/2012/TT-BNNPTNT	List of objects requiring risk assessment before being imported
Circular on objects of plant quarantine	No. 40/2012/TT-BNNPTNT	List of objects for plant quarantine
Circular regulation on control of importing plant and plant products	No.13/2011/TT-BNNPTNT	Guidelines for the control of imported plants and plant products
Circular on list of criteria and MRLs in foods derived from plants and plant products	No. 68/2010 /TT- BNNPTNT	Criteria, including minimum residue levels for imported foods and domestic products derived from plants and plant products
<b>Animal Health</b>		
Animal Health Ordinance	No. 18/2004/PL-UBTVQH	
Decree detailing a number of articles of the Animal Health Ordinance	No. 33/2005/ND-CP as amended by Decree No. 119/2008/ND-CP and Decree No. 98/2011/ND-CP	Quarantine of terrestrial animals and animal products
Decree on Administrative Infringement in Veterinary Service	No. 129/2005/ND-CP	
Decision on animal quarantine	No. 45/2005/QD-BNN	List of animals and animal products subject to animal quarantine
Decision on procedures for animal quarantine	No. 15/2006/QD-BNN	Procedures for animal quarantine and animal hygiene
Circular guiding customs clearance of imports and exports subject to quarantine	No. 01/2012/TT-BTC	Sets out procedures for customs clearance and responsibilities of owners of goods and customs departments
Circular on quarantine of aquatic animals and aquatic products	No. 32/2012/TT-BNNPTNT, and No. 06/2010/TT-BNNPTNT as amended by No. 43/2010/TT-BNNPTNT	Aquatic animals and aquatic animal products subject to quarantine and procedures for quarantine
Decision on animal transportation	No. 49/2006/QD-BNN	Guidelines for tracking animal transportation for imports, exports, and domestic transport.
Regulation on documentation	No. 86/2005/QD-BNN	Regulation on documentation for animal quarantine and animal hygiene
Circular regulation on control of importing animal and animal products	No. 25/2010/TT-BNNPTNT	Guidelines for the control of imported animals and animal products
Decision on veterinary drug registration	No. 10/2006/QD-BNN	Registration procedures for veterinary drug production, importation, distribution, material for veterinary drug, bio-products, micro-organisms and chemicals used for veterinary purposes
Decree on management of livestock feed	No. 08/2010/ND-CP	Provides for conditions and responsibilities of feed producers, processors, and traders. Only imports of feed on list of permitted feed may be imported, unless with permission of Minister of Agriculture and Rural Development
<b>Food Safety</b>		
Law on Food Safety	No. 55/2010/QH12	
Decree detailing a number of articles of the Law on Food Safety	No. 38/2012/ND-CP	Sets out rights and obligations associated with food safety in production, trade, transport, testing, risk analysis, and state management of food safety

Title	Reference	Note
Decree on the organizational system of management, inspection and assessment of food safety and hygiene	No. 79/2008/ND-CP	Establishes the Ministry of Health as the state agency primarily responsible for managing food safety of domestic and imported food products, and responsibilities of other agencies
Decree on maximum level of residue of biological and chemical substances allowed in food	No. 46/2007/TD-BYT	
Decision on food additives	No. 3742/2001/QD-BYT	List of permitted food additives
Circular on management of food additives	No. 27/2012/TT-BYT	Management of food additives
Circular on radioactive contamination limit levels in food	No. 17/2011/TT-BYT	Regulates radioactive contamination in foodstuffs
Circular on micro-biological contamination in food	No. 05/2012/TT-BVT	National technical standards for micro-biological contamination of food
Circular guiding food hygiene and safety control of imported foodstuffs of animal origin	No. 25/2010/TT-BNNPTNT	Guidelines for food hygiene and safety control for imported foodstuffs of animal origin under the management of the Ministry of Agriculture and Rural Development
<b>Environmental protection</b>		
Law on Environment Protection	No. 52/2005/QH11	
Decree on biosafety for genetically modified organisms, genetic specimens and products of genetically modified organisms	No. 69/2010/ND-CP	Provides for: risk assessment of GMOs; the basis for biosafety certificates, eligibility for use as food or animal feed; conditions for production, trade, import, export, transportation, and storage; and accreditation of laboratories
Decree detailing and guiding the implementation of a number of articles of the Law on Environmental Protection	No. 80/2006/ND-CP as amended by Decree No. 21/2008/ND-CP, and Decree No. 29/2011/ND-CP	Implements several articles, including strategic environmental assessment; environmental impact assessment

Source: Viet Nam authorities.

3.107. In 2007, it was reported that:

- animal health standards generally observed the standards set out in the OIE Terrestrial Animal Health Code and Aquatic Animal Health Code;
- about 60% of Codex standards had been adopted but the main problem with adopting some standards on maximum residue levels for pesticides, veterinary drugs, and contaminants, was the large number of small farms which make adoption, implementation, and enforcement of higher international standards difficult; and
- the legislation on plant protection had been amended to conform to two of the 27 international standards for phytosanitary measures (on pest-risk analysis) adopted by the IPPC at that time.<sup>98</sup> The authorities stated that since 2007 the legislation on plant protection has been amended and, as of May 2013, it conforms to 15 of the 36 international standards for phytosanitary measures adopted by the IPPC.

3.108. Under Prime Minister's Decision No. 147/2008/QD-TTg, to meet its obligations under the SPS Agreement, Viet Nam is to harmonize its food hygiene and safety and sanitary and Phytosanitary standards with those of Codex Alimentarius, the OIE, and the IPPC. This Decision also sets out objectives for risk assessment, control measures, and institutional capacity, and states that the same standard should be used for exports and domestic consumption.

3.109. A national food safety strategy for 2011-20 was approved in Prime Minister's decision No. 20/QD-TTg of January 2012. The strategy sets a general objective of implementing master plans on food safety from production to consumption by 2015, and controlling food safety over the entire food supply chain by 2020. It also sets out several specific objectives including improving general knowledge of food safety and food safety practices, building capacity for the food safety management system, improving food safety assurance by producers, processors, and traders through certification, and effectively preventing cases of acute food poisoning. To meet these objectives, the strategy includes a comprehensive list of actions to be undertaken by different state agencies, such as improving institutional support for food safety in the regional offices of the Ministry of Health and the Ministry of Agriculture and Rural Development, improving and better

<sup>98</sup> Kennedy (2007), p. 19.

coordinating food safety examinations, improving inspection and control, and elaborating and enforcing technical regulations and requirements.

3.110. Importers of food and agricultural products have to provide the Viet Nam authorities with a number of supporting documents (Table 3.13). Depending on the product, these may include a certificate of free sale (CFS) (Prime Minister's Decision No. 10/2010/QD/TTg), from the competent authorities of the exporting country, stating that the product is produced and freely sold in the country of origin. The list of agricultural goods to which this requirement applies is part of Circular No. 63/2010/TT-BNNPTNT from the Ministry of Agriculture and Rural Development. The products affected are mostly non-food agriculture and fishery products but all products containing genetically modified materials, products that were irradiated, and products that were produced by new technologies require a CFS when imported to Viet Nam.

**Table 3.13 Certificates required for importing food and agricultural products**

Product	Documents	Basis	Government Agency
All processed food items	Certificate of GMP, HACCP, or equivalent	Food safety and hygiene	MOH/VFA
	Certificate of analysis (test results)	Food quality and standards	MOH/VFA
Special foods/functional foods	Certificate of GMP or HACCP or equivalent	Food safety and hygiene	MOH/VFA
	Certificate of analysis	Food quality and standards	MOH/VFA
	Results of clinical test	Food supplemental value functioned to improve human health	MOH/VFA
Special foods/nutritious foods for infants	Certificate of GMP or HACCP, or equivalent	Food safety and hygiene	MOH/VFA
	Certificate of analysis (test results)	Food quality and standards	MOH/VFA
	Certificate of free sale (health certificate)	Food safety, quality and standards	MOH/VFA
Special foods/GM foods and irradiated foods	Certificate of GMP or HACCP or equivalent	Food safety and hygiene	MOH/VFA
	Certificate of analysis (test results)	Food quality and standards	MOH/VFA
	Certificate of free sale	Food safety and quality	MARD
Food ingredients/additives	Certificate of GMP or HACCP, or equivalent	Food safety and hygiene	MOH/VFA
	Certificate of free sale	Food safety and hygiene	MOH/VFA
	Certificate of analysis (test results)	Food quality and standards	MOH/VFA
Feed ingredients	Certificate of HACCP, of GMP, or equivalent	Product quality	MARD/DLP
	Certificate of free sale	Product quality and safety	MARD
	Test results	Product quality, safety and hygiene	MARD/DLP
Plants and plant products with minimum processing (plant genetics including seeds, fruit, vegetable, grain, oilseeds, forest products, etc.)	Phytosanitary certificate	Plant health protection	MARD/ PPD
Forest products	Certificate of free sale	Product Quality Standards	MARD
Processed plant products	Export certificate	Plant Health Protection	MARD/PPD
Animals and animal products, except animal genetics, meat and poultry products	Health certificate with additional requirements depending on the product and place or origin	Animal health protection and human health protection	MARD/DAH
Dairy products	Health certificate	Food safety and hygiene	MARD/DAH
	Certificate of HACCP, of GMP, or equivalent		MOH/VFA
Animal genetics	Health certificate	Animal Health Protection and human health	MARD/DAH
	Certificate of free sale	Product quality and standards	MARD/DLP
			MARD/DAH
			MOH/VFA
	Certificate of analysis (test results)	Food quality, safety, and standards	MOH/VFA
	Health certificate	Animal Health Protection	MARD/DAH
	Certificate of inspection of export animals	Animal Health Protection	MARD/DAH
Meat and poultry products	Animal pedigree document	Genetic Quality	MARD/DLP
	Export certificate	Product quality, safety and hygiene	MARD/DAH
Swine offal products (for heart, liver and kidney only)	Export certificate	Product quality, safety and hygiene	MARD/DAH

Product	Documents	Basis	Government Agency
Aquatic animal products except live aquatic animals	Health certificate (export certificate)	Food safety and hygiene	MARD/NAFIQAD
Live aquatic animals	HACCP certificate or equal document Health certificate	Aqua Health Protection	MARD/DAH

Note: MoH - Ministry of Health, VFA - Viet Nam Food Administration, MARD - Ministry of Agriculture and Rural Development, DLP - Department of Livestock Production, PPD - Plant Protection Department, DAH - Department of Animal Health, NAFIQAD - National Agro Forestry Fisheries Quality Assurance

Source: U.S. Department of Agriculture, Foreign Agricultural Service (2011), *Vietnam Food and Agricultural Import Regulations and Standards - Certification, 2011 FAIRS Export Certificate Report*, GAIN Report Number VM1052, 18 July.

### 3.4.2.2.1 Quarantine

3.111. Imports of plants, plant products, aquatic animals and plants, animals and animal products, and processed food products may be inspected; this may include examination of documentation, and visual inspection before transportation to quarantine where they may be sampled and the samples taken for laboratory testing.

3.112. Under Decree No. 33/2005/ND-CP, as amended by Decree No. 119/2008/ND-CP and Decree No. 98/2011/ND-CP, anyone importing or exporting animals or animal products must inform the DAH or NAFIQAD and present the necessary documents (Table 3.13). For products on the quarantine list and animals or products thereof alien to Viet Nam, DAH or NAFIQAD should reply within five working days informing the owner of the goods of the quarantine agency responsible for conducting quarantine. The quarantine period for animals and animal products, other than breeding animals, may be up to ten days, or longer if the authorities have sufficient reason. For products not on the list, importers and exporters must make a quarantine declaration to the DAH or NAFIQAD and, within one working day, the quarantine agency should notify the owner of the time and place for quarantine, and other details for import or export.

3.113. To import plants or plant products, the importer must make a declaration to the plant quarantine office closest to the point of import at least 24 hours before the import is made. Under the Department of Plant Protection, there are 9 regional plant quarantine sub-departments, over 60 plant quarantine stations, located at various entry points around the country, 2 centres for post-entry quarantine, and a Plant Quarantine Diagnoses Centre.<sup>99</sup>

3.114. According to Decree No. 02/2007/ND-CP, an import consignment of plants: must be accompanied by a phytosanitary certificate from the competent authority of the exporting country (Table 3.13); must be free of regulated pests; must have an import plant quarantine permit from the Department of Plant Protection in the Ministry of Agriculture and Rural Development for objects subject to pest-risk analysis; and wood packaging must undergo phytosanitary treatment. Objects subject to pest-risk analysis include: living plants; fresh fruits; weeds and weed seeds; beneficial organisms, biological agents or living organisms harmful to plant resources; untreated timber; and objects with a high risk of carrying a regulated pest (Circular No. 39/2012/TT-BNNPTNT). Circular No. 40/2012/TT-BNNPTNT contains the list of regulated pests.

3.115. Aquatic animals and aquatic animal products subject to quarantine are set out in Circular No. 32/2012/TT-BNNPTNT, and the procedures for dealing with them are set out in Circular No. 06/2010/TT-BNNPTNT as amended by Circular No. 43/2010/TT-BNNPTNT. Under these procedures importers must register for import quarantine with the Department of Animal Health, and imports may be kept under quarantine for up to ten days, or longer if the authorities have sufficient reason. Among the documents required is a health certificate from the competent authorities of the exporting country. Other documents that may be required depend on several factors, including: whether transportation to a place of quarantine isolation is needed, whether the consignment is a temporary import for re-export, and whether the items are for human consumption. There are 14 laboratories for sampling and testing – 8 under the DAH and 6 under NAFIQAD.

<sup>99</sup> Asia & Pacific Plant Protection Commission online information. Viewed at: <http://www.apppc.org/index.php?id=1110800&L=0> [March 2013]; and Plant Protection Department (Bui Thi Tuyet Nhung - Deputy Director) (2012).

3.116. Imported and domestically produced foods, other than fresh fruits and meat, require a Food Standards Registration Certificate from the Vietnam Food Administration in the Ministry of Health, valid for three years. In addition, imports of a broad range of agricultural products require an automatic import licence from the Ministry of Industry and Trade for each import consignment (Circular No. 27/2008/TD-BCT).<sup>100</sup> An importer must apply to the Ministry for the licence, and provide a business registration certificate, import contract, commercial invoice, payment document (such as a letter of credit), and a bill of lading.

### 3.4.3 Trade-related investment measures

3.117. Prior to its WTO accession, for many years Viet Nam required foreign enterprises established in Viet Nam to be "self balanced" in their needs for foreign exchange. This measure was abolished in 2000 as the Law on Foreign Investment was amended. However, Decision No. 718/2001/QĐ-BKH of the Minister of Planning and Investment linked investment incentives to local content and (80%) export-performance requirements for certain industrial products, e.g. automobiles, motorcycles, construction steel, NPK fertilizer, PVC plastics. The export-ratio requirement was eliminated in 2003, and import-duty preferences linked to local content were removed for motorcycle assembly plants in the same year. For mechanical/electric/electronic industries, the local-content requirements were terminated with effect from 1 October 2006<sup>101</sup>, and the 2005 Investment Law and its implementing Decree did not link the granting of investment licences or the receipt of investment incentives to the acceptance of conditions inconsistent with the WTO Agreement on Trade-Related Investment Measures (TRIMs).

3.118. Viet Nam agreed to comply fully with the WTO TRIMs Agreement from the date of its accession, although for existing beneficiaries the conditioned benefits would be phased out over five years (i.e. by 2012). As a WTO Member, Viet Nam has not notified any new TRIMs or any Vietnamese publications in which TRIMs may be found.<sup>102</sup>

### 3.4.4 Free zones and special economic areas

3.119. Viet Nam has 289 industrial and export-processing zones (as at May 2013), of which 180 are in operation and 109 are undergoing land clearance or are under construction. The 289 zones cover a total surface of 80,700 hectares, of which industrial land accounts for 52,000 hectares. Under Viet Nam's five-year land-use plan (2011-15), and land-use planning until 2020, the area reserved for the development of industrial zones is set to increase to 130,000 hectares by 2015, and to 200,000 hectares by 2020. Viet Nam is also seeking to enhance the quality of investments in the industrial zones, giving priority to high-technology, energy-efficient, and environmentally friendly projects.

3.120. Industrial zones are established by Government Decision or Decision of the Prime Minister. Adopted in March 2008, Government Decree No. 29/2008/ND-CP addresses the development of legal documents on industrial zones, export-processing zones, and economic zones, and provides a legal framework for the local authorities and businesses engaged in the zones. According to the authorities, the Decision also paves the way for the formulation and effective implementation of a one-stop shop management model in the zones.

3.121. Most of the present zones are based in the key economic regions, i.e. in the South (124), North (52), and Central Viet Nam (23). According to Vietnamese data, the proportion of industrial output generated in the industrial zones and export-processing zones rose from 8% in 1996 to 32% in 2010. By December 2012, the zones had attracted 5,074 domestic investment projects

<sup>100</sup> Including all meat and edible meat offal; live fish (except for breeding); fresh, frozen, chilled, dried, salted or in brine, smoked, minced, and whole fish; crab; molluscs; processed meat (sausage); meat, fish, crustacean, or mollusc extract or juices; caviar or caviar substitutes; confectionary items including sugar; chocolate or items including cocoa; preparatory items for pastries; pastas; tapioca and its derivatives; cereal goods (corn flakes); breads, pastries, cakes, and biscuits; extracts, essences, and concentrates of coffee or tea; sauces and seasonings; soups and broths; ice cream and other edible ice; bottled water; beer; wine; vermouth; all fermented beverages; all spirits; and all vinegars.

<sup>101</sup> Decision No. 43/2006/QĐ-BTC, 29 August 2006.

<sup>102</sup> WTO document G/TRIMS/N/2/Rev.20, 3 September 2010.