

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

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No. 07/2016/ND-CP

Hanoi, January 25, 2016

DECREE

DETAILED REGULATIONS ON ESTABLISHMENT OF REPRESENTATIVE OFFICES OR BRANCHES OF FOREIGN TRADERS IN VIETNAM UNDER LAWS ON COMMERCE

Pursuant to the Law on Government organization dated June 19, 2015;

Pursuant to the Law on Commerce dated June 14, 2005;

*Pursuant to the Resolution No.71/2006/QH11 on ratification of the Protocol on Accession of the
Republic Socialist of Vietnam to World Trade Organization (WTO) dated November 29 11,
2006;*

At the request of the Minister of Industry and Trade;

*The Government issues this Decree detailing the establishment of representative offices and
branches of foreign traders in Vietnam under the Law on Commerce.*

Chapter I

GENERAL PROVISIONS

Article 1. Scope

1. This Decree provides detailed regulations on the establishment, operation, rights and obligations of representative offices and branches of foreign traders in Vietnam under the law on Commerce.
2. Where representative offices or branches of foreign traders specialize in fields prescribed by specialized legislative documents, the establishment of such representative offices or branches shall comply with provisions promulgated in the respective specialized legislative documents.

Article 2. Regulated entities

1. This Decree applies to foreign traders, representative offices and branches of such foreign traders in Vietnam (hereinafter referred to as representative offices and branches).
2. Representative offices and branches of foreign-invested enterprises incorporated in Vietnam shall not be governed by this Decree.

Article 3. The right to establish representative offices or branches of foreign traders in Vietnam

1. Foreign traders are entitled to establish their representative offices or branches in Vietnam according to Vietnam's commitments to treaties to which Vietnam is a signatory.
2. Each foreign trader shall not establish more than one representative office or branch that has the same name within a province or centrally-affiliated city (hereinafter referred to as "province").

Article 4. Obligations of foreign traders to the operation of their representative offices and branches

Foreign traders shall be legally responsible for the entire operations of their representative offices or branches in Vietnam.

Article 5. The power to grant Licenses for Establishment of representative offices

1. The Department of Industry and Trade of the province where the representative office is expected to be located outside industrial parks, export-processing zones, economic zones or hi-tech zones shall grant, re-grant, adjust, extend or revoke the License for Establishment of the representative office and shall have the power to have such representative office shut down in case the establishment of the representative office has not been prescribed by specialized legislative documents.
2. Management Boards of industrial parks, export-processing zones, economic zones or hi-tech zones (hereinafter referred to as Management Boards) shall grant, re-grant, adjust, extend or revoke the License for Establishment of the representative office and shall have the power to suspend the operation of such representative offices located in industrial parks, export-processing zones, economic zones or hi-tech zones in case the establishment of such representative offices has not been prescribed by specialized legislative documents.

Article 6. The power to grant of Licenses for Establishment of branches

The Department of Industry and Trade of the province shall have the power to grant, re-grant, adjust, extend or revoke the License for Establishment of branches and shall have the power to have such branches shut down in case the establishment of such branches has not been prescribed by specialized legislative documents.

Chapter II

REGULATIONS ON GRANT, RE-GRANT, ADJUSTMENT AND EXTENSION OF LICENSES FOR ESTABLISHMENT OF BRANCHES

Article 7. Requirements for grant of Licenses for Establishment of representative offices

Foreign traders shall be granted Licenses for Establishment of representative offices if they satisfy the following requirements:

1. The foreign trader is incorporated and registers for doing business in accordance with provisions of laws of countries or territories being parties to treaties to which Vietnam is a signatory or is recognized by the aforesaid countries or territories;
2. The foreign trader has come into operation for at least 01 year from the date of establishment or registration;
3. The Certificate of Business Registration or the equivalent document is valid for at least 01 more year from the date of submission of the application;
4. The scope of operation of the representative office is consistent with that in Vietnam's Commitments to treaties to which Vietnam is a signatory;
5. Where the scope of operation of the representative office is inconsistent with Vietnam's Commitments or the foreign trader is not located in the country or territory being party to treaties to which Vietnam is a signatory, the representative office can be established only if relevant Ministers, Heads of ministerial agencies (hereinafter referred to as "relevant Ministers") have given approval for establishment of the representative office.

Article 8. Requirements for grant of Licenses for Establishment of branches

Foreign businesses shall be granted Licenses for Establishment of branches if they satisfy the following requirements:

1. The foreign trader is incorporated and registers for doing business in accordance with provisions of laws of countries or territories being parties to treaties to which Vietnam is a signatory or is recognized by the aforesaid countries or territories;
2. The foreign trader has come into operation for at least 05 year from the date of establishment or registration;
3. The Certificate of Business registration or equivalent document is valid for at least 01 more year from the date of submission of the application;
4. The scope of operation of the branch is conformable with Vietnam's Commitments to market access stipulated in treaties to which Vietnam is a signatory shall be consistent with lines of business of the foreign trader;
5. Where the businesses of the representative office is inconsistent with Vietnam's Commitments or the foreign trader is not located in one of countries or territories being parties to treaties to which Vietnam is a signatory, the representative office can be established only if they obtain a prior consent of the relevant Minister for establishment of the representative office.

Article 9. Effective periods of Licenses for Establishment of branches or representative offices.

1. The License for Establishment of a representative office or branch shall be valid for 05 years but not exceeding the remaining effective period of the Certificate of Business Registration or the equivalent (for documents having expiry date);
2. The effective period of an extended License for Establishment of the representative office or branch shall be equal to that of the current license.
3. The extension of the license or establishment of the representative office or branch shall comply with clause 1 hereof.

Article 10. Applications for Licenses for Establishment of representative offices

1. An application for License for Establishment of a representative office:
 - a) An application form for License for Establishment of the representative office using the form promulgated by the Ministry of Industry and Trade and signed by a competent representative of the foreign trader.
 - b) Copies of the Certificate of Business Registration or equivalent documents of the foreign trader;
 - c) A letter of appointment of the head of the representative office;
 - d) Copies of audited financial statements or certificates of fulfillment of tax liabilities or financial obligations of the last fiscal year or equivalent documents as proof of existence and operation of the foreign trader issued or certified by competent authorities where such foreign trader is established;
 - dd) Copies of the passport or ID card (for Vietnamese) or copies of the passport (for foreigners) of the head of the representative office;
 - e) Documents on the expected location of the representative office including:
 - Copies of memorandum of understanding (MOU) or leasing agreements or documents as proof of the right to use a location as the representative office;
 - Copies of documents on the expected location of the representative office in accordance with provisions of Article 28 hereof and related laws.
2. Documents specified in points b, c, d and dd, clause 1 of this Article (for the head of the representative office being foreigners) shall be translated into Vietnamese and certified true in accordance with laws of Vietnam. Documents specified in point b, clause 1 of this Article shall

be certified or legalized by overseas diplomatic missions or Consulates of Vietnam under laws of Vietnam

Article 11. Procedures for grant of Licenses for Establishment of representative offices

1. The foreign trader shall submit the application to the licensing agency where the representative office is expected to be located directly or by post or online (where applicable) .
2. Within 03 working days from the date of receipt of the application, the licensing agency shall examine such application and request the applicant to complete the application (if the application is incomplete) . The request for supplementation to the application shall be made only once during the processing of such application.
3. Apart from those specified in clause 4 of this Article, the licensing agency shall send the applicant a written notification of whether the license or establishment of the representative office is granted or not within 07 working days from the date of receipt of the valid application. In case of rejection, the licensing agency shall send the applicant a written notice in which reasons for rejections shall be specified.
4. For those specified in clause 5, Article 7 hereof and the establishment of representative offices that has not prescribed by specialized legislative documents, the licensing agency shall submit a written request for directions to the relevant Ministry within 03 working days from the date of receipt of the valid application. Within 05 working days from the date of receipt of the request for directions from the licensing agency, the relevant Ministry shall submit the licensing agency a written notification of whether or not they approve for the application . Within 05 working days from the date of receipt of the notification from the relevant Ministry , the licensing agency shall send the applicant a written notice of whether the License for Establishment of the representative office is granted . In case of rejection, the licensing agency shall send the applicant a written notice in which reasons for rejections shall be specified.

Article 12. Applications for Licenses for Establishment of branches

1. An application for the license for establishment of the branch of a foreign trader shall include :
 - a) An application form for license for establishment of the branch using the form promulgated by the Ministry of Industry and Trade and signed by a competent representative of the foreign trader.
 - b) Copies of the Certificate of Business Registration or equivalent documents of the foreign trader;
 - c) A letter of appointment of the head of the branch;
 - d) Copies of audited financial statements or certificates of fulfillment of tax liabilities or financial obligations of the last fiscal year or equivalent documents as proof of existence and

operation of the foreign trader issued or certified by competent authorities where such foreign trader is established;

dd) Copies of the branch charter;

e) Copies of the passport or ID card (for Vietnamese) or copies of the passport (for foreigners) of the head of the branch;

g) Documents on the expected location of the branch including:

- Copies of memorandum of understanding (MOU) or leasing agreements or documents as proof of the right to use a location as the branch;

- Copies of documents on the expected location of the branch under Article 28 hereof and provision of related laws.

2. Documents specified in points b, c, d and dd, Article 1 hereof (for the head of the branch being foreigners) shall be translated into Vietnamese and certified true in accordance with laws of Vietnam. Documents specified in point b, clause 1 of this Article shall be certified or legalized by overseas diplomatic missions or Consulates of Vietnam in accordance with laws of Vietnam.

Article 13. Procedures for Licenses for Establishment of branches of foreign traders

1. The foreign trader shall submit their application to the licensing agency where the representative office is expected to be located directly or by post or online (where applicable).

2. The licensing agency shall examine such application and request the applicant to complete their application within 03 working days from the date of receipt of the application (if the application is incomplete) . The request for supplementation to the application shall be made only once during the processing of such application.

3. Apart from those specified in clause 4 of this Article, the licensing agency shall send the applicant a written notification of whether the license or establishment of the branch is granted or not within 07 working days from the date of receipt of the valid application. In case of rejection, the licensing agency shall send the applicant a written notice in which reasons for rejections shall be specified.

4. For those specified in clause 5, Article 8 hereof and the establishment of branches that has not been prescribed by specialized legislative documents, the licensing agency shall submit a written request for directions to the relevant Ministry within 03 working days from the date of receipt of the valid application. Within 05 working days from the date of receipt of the request for directions from the licensing agency, the relevant Ministry shall submit the licensing agency a written notification of whether or not they approve for the application for the License for Establishment of the branch. Within 05 working days from the date of receipt of the notification from the relevant Ministry , the licensing agency shall send the applicant a written notice of whether the License for Establishment of the representative office is granted. In case of rejection,

the licensing agency shall send the applicant a written notice in which reasons for rejections shall be specified.

Article 14. Cases ineligible for Licenses for Establishment of branches or representative offices

The licensing agency shall refuse to grant the License for Establishment of the representative offices or branches to those that:

1. Fail to satisfy one of requirements stipulated in Articles 7 (for applications for licenses or establishment of representative offices) or fail to satisfy one of requirements stipulated in Article 8 (for applications for licenses or establishment of branches).
2. Apply for the license or establishment of the representative office or branch within 02 years from the date of revocation of the license or establishment of the representative office or branch under Article 44 hereof;
3. Be subject to restrictions from the establishment of representative offices and branches for reasons of national defense and security, social order, social ethics and community health.
4. Be restricted by provisions of laws.

Article 15. Cases of adjustments to Licenses for Establishment of branches or representative offices

Foreign traders shall apply for adjustments to Licenses for Establishment of branches or representative offices in the following cases:

1. Changes in the name or location of the head office of a foreign trader.
2. Changes in lines of business of the foreign trader affecting the operations of its branches in Vietnam.
3. Replacement of the head of the representative office or branch.
4. Changes in the name of the representative office or branch.
5. Changes in the operations of representative offices or branches
6. Change in the location of the representative office.
7. Changes in the location of the branch .

Article 16. Applications for adjustments to Licenses for Establishment of branches or representative offices

1. An application for adjustments to the License for Establishment shall include:

a) An application form for adjustments to the License for Establishment of the representative office using the form promulgated by the Ministry of Industry and signed by a competent representative of the foreign trader.

b) Documents as proof of adjustments. To be specified :

- With regard to adjustments specified in clause 1, Article 15 hereof: copies of legal documents as proof of changes in the name or location of the head office of a foreign trader released by competent authorities.

- With regard to adjustments specified in clause 2, Article 15 hereof: copies of legal documents as proof of changes in the lines of business of the foreign trader released by competent authorities.

- With regard to adjustments specified in clause 3, Article 15 hereof: a letter of appointment of the new head of the representative office or branch; copies of the passport or ID card (for Vietnamese) or copies of the passport (for foreigners) of the new head of the representative office/branch; proof of fulfillment of personal income tax liabilities of the former head of the representative office/branch at the time of changes.

- With regard to adjustments specified in clauses 6 and 7, Article 15 hereof: copies of memorandum of understanding (MOU) or leasing agreements or documents as proof of the right to use a location as the representative office or branch; copies of documents on the expected locations of the representative office or branch under Article 28 hereof and provisions of relevant laws.

c) The original License for Establishment of the branch or representative office.

2. Documents as proof of changes in clauses 1, 2 and 3, Article 15 hereof (if the letter of appointment of the new head of the representative office or branch and copies of the passport of the head being foreigner are made in foreign languages) shall be translated into Vietnamese and certified true in accordance with laws of Vietnam. The proof of changes specified in clauses 1 and 2, Article 15 hereof shall be certified or legalized by overseas diplomatic missions or Consulates of Vietnam in accordance with laws of Vietnam.

Article 17. Procedures for adjustments to Licenses for Establishment of branches or representative offices

1. Within 60 days from the date of changes in items specified in Article 15 hereof, the foreign trader shall apply for adjustments to the License for Establishment of their representative office or branch;

2. The foreign trader shall submit their application to the licensing agency where the representative office is expected to be located directly or by post or online (where applicable).

3. Within 03 working days from the date of receipt of the application, the licensing agency shall examine such application and request the applicant to complete the application (if the application is incomplete) . The request for supplementation to the application shall be made only once during the processing of the application.

4. Apart from those specified in clause 5 of this Article, within 05 working days from the date of receipt of the valid application, the licensing agency shall send the applicant a written notification of whether the adjustments to the license or establishment of the representative office or branch are approved or not. In case of rejection, the licensing agency shall send the applicant a written notice in which reasons for rejections shall be specified.

5. In case of adjustments to the operations of representative offices or branches resulting in the cases specified in clause 5, Article 7 and clause 5, Article 8 hereof for representative offices and branches respectively, and in case of adjustments to the operations of representative offices or branches that have yet to be governed by specialized legislative documents, the licensing agency shall submit a written request for directions to the relevant Ministry within 03 working days from the date of receipt of the valid application. Within 05 working days from the date of receipt of the request for directions from the licensing agency, the relevant Ministry shall submit the licensing agency a written notification of whether they approve for the application for adjustments to the License for Establishment of the branch/ representative office. Within 05 working days from the date of receipt of the notification from the relevant Ministry , the licensing agency shall send the applicant a written notice of whether the adjustments for the License for Establishment of the representative office or branch is approved or not. In case of rejection, the licensing agency shall send the applicant a written notice in which reasons for rejections shall be specified.

Article 18. Cases of re-grant of Licenses for Establishment of branches or representative offices

Foreign traders shall apply for re-grant of the License for Establishment of branches or representative offices in the following cases:

1. Its representative office relocates to another province or territory within the administration of another Management Board.
2. The Licenses for Establishment of the branch or representative office is lost, damaged or destroyed in any form or shape.

Article 19. Applications for re-grant of Licenses for Establishment of branches or representative offices

1. An application for re-grant of the license of establishment of a representative office specified in clause 1, Article 18 hereof shall include:

a) An application form for re-grant of the License for Establishment of the representative office using the form promulgated by the Ministry of Industry and Trade and signed by a competent representative of the foreign trader;

b) An announcement of shutdown of the representative office submitted to the licensing agency in which the representative office is currently located under point a, clause 1, Article 36 hereof.

c) Copies of the existing License for Establishment of the representative office.

d) Copies of documents on the expected location of the representative office under point e, clause 1, Article 10 hereof.

2. An application for re-grant of the license of establishment of representative offices prescribed in clause 1, Article 18 hereof shall include: an application form for re-grant of the License for Establishment of the representative office or branch using the form promulgated by the Ministry of Industry and signed by a competent representative of the foreign trader.

Article 20. Procedures for re-grant of Licenses for Establishment of branches or representative offices

1. The foreign trader whose representative office is prescribed in clause 1, Article 18 hereof shall apply for re-grant of the License for Establishment of their representative office within 30 days from the date on which the notification of shutdown of the representative office is submitted. If the foreign trader fails to apply for re-grant of the License for Establishment of the representative office in the aforesaid time limit, such foreign trader shall apply for the license or establishment of their representative office under Article 10 and Article 11 hereof;

2. The foreign trader shall submit their application to the licensing agency where the representative office is expected to be located directly or by post or online (where applicable).

3. Within 03 working days from the date of receipt of the application, the licensing agency shall examine such application and request the applicant to complete the application (if the application is incomplete) . The request for supplementation to the application shall be made only once during the processing of the application.

4. Within 05 working days from the date of receipt of the valid application, the licensing agency shall re-grant the license or establishment of the representative office to the applicant. In case of rejection, the licensing agency shall send the applicant a written notice in which reasons for rejections shall be specified.

Article 21. Cases eligible for extension of Licenses for Establishment of branches or representative offices

Every foreign trader other than those prescribed in Article 44 hereof shall be eligible for the grant of extension of the license or establishment of the representative office or branch;

Article 22. Applications for extension of Licenses for Establishment of branches or representative offices

1. An application for extension of the License for Establishment shall include:

a) An application form for extension of the License for Establishment of the representative office or branch using the form promulgated by the Ministry of Industry and signed by a competent representative of the foreign trader.

b) Copies of the Certificate of Business registration or equivalent documents of the foreign trader;

c) Copies of audited financial statements or certificates of fulfillment of tax liabilities or financial obligations of the last fiscal year or equivalent documents as proof of existence and operation of the foreign trader issued or certified by competent authorities where such foreign trader is established;

d) Copies of the existing License for Establishment of the branch or representative office

2. Documents specified in point b, clause 1 of this Article shall be translated into Vietnamese and certified or legalized by overseas diplomatic missions or Consulates of Vietnam in accordance with laws of Vietnam. Documents specified in point c, clause 1 of this Article shall be translated into Vietnamese and certified true in accordance with laws of Vietnam.

Article 23. Procedures for extension of Licenses for Establishment of branches or representative offices

1. At least 30 days prior to the expiry of the license, the applicant shall apply for extension of the License for Establishment of the branch or representative office.

2. The foreign trader shall submit their application to the licensing agency where the representative office is expected to be located directly or by post or online (where applicable).

3. Within 03 working days from the date of receipt of the application, the licensing agency shall examine such application and request the applicant to complete the application (if the application is incomplete) . The request for supplementation to the application shall be made only once during the processing of the application.

4. Within 05 working days from the date of receipt of the valid application, the licensing agency shall grant an extension of the license or establishment of the representative office to the applicant. In case of rejection, the licensing agency shall send the applicant a written notice in which reasons for rejections shall be specified.

5. With respect to applications for extension of the License for Establishment of representative offices or branches that have yet to be governed by specialized legislative documents, the licensing agency shall submit a written request for directions to the relevant Ministry within 03

working days from the date of receipt of the valid application. Within 05 working days from the date of receipt of the request for directions from the licensing agency, the relevant Ministry shall submit the licensing agency a written notification of whether they approve for the application for extension of the License for Establishment of the branch or representative office. Within 05 working days from the date of receipt of the notification from the relevant Ministry, the licensing agency shall send the applicant a written notice of whether the extension is granted or not. In case of rejection, the licensing agency shall send the applicant a written notice in which reasons for rejections shall be specified.

Article 24. Submission and retention of licenses

1. The licensing agency shall submit copies of Licenses for Establishment of representative offices to the Ministry of Industry and Trade, relevant Ministry (where relevant), tax authority, statistical agency, department of public security of the province where the representative office is located.
2. The licensing agency shall submit copies of Licenses for Establishment of branch to the relevant Ministry (where relevant), tax authority, statistical agency, department of public security and Department of Trade and Industry of the province where the branch is located or the Management Board (for branches located in industrial parks, export-processing zones, economic zones or hi-tech zones).

Article 25. Notification of representative office or branch information

Within 15 working days from the date of grant, re-grant, adjustment, extension and revocation of the License for Establishment of a representative office or branch, the licensing agency shall publish the following information on its web portal:

1. The name and address of the representative office or branch;
2. The name or address of the head office of the foreign trader.
3. Information on the head of the representative office or branch;
4. The reference number, date of issue and effective period of the Licenses for Establishment of the branch or representative office and licensing agency.
5. The scope of operation of the representative office or branch;
6. Date of re-issue, adjustment, extension or revocation of the License for Establishment of the representative office or branch.

Article 26. Charges for grant, re-grant, adjustment and extension of Licenses for Establishment of branches or representative offices

The Ministry of Finance shall decide charges for grant, re-grant, adjustment and extension of Licenses for Establishment of branches or representative offices.

Chapter III

SCOPE OF OPERATION, RIGHTS AND OBLIGATIONS OF REPRESENTATIVE OFFICES OR BRANCHES

Article 27. Structures of representative offices or branches

1. The organization structure and personnel of a representative office or branch shall be decided by their head office.
2. The employment of foreign workers of representative offices or branches shall comply with legislation on labor and Vietnam's Commitments to treaties to which Vietnam is a signatory;

Article 28. Locations of representative offices and branches

1. Representative offices and branches shall be headquartered at locations that satisfies requirements for security, occupational hygiene and safety and others stipulated in laws of Vietnam.
2. Representative offices or branches shall not lend or sublet their offices.

Article 29. Name of representative offices or branches

1. Representative offices or branches shall be named using letters in Vietnamese alphabet, letters F, J, Z and W, numbers and symbols.
2. The name of a representative office or branch shall be the name of its head office enclosed with the phrases "representative office" or "branch".
3. The nameplate of every representative office or branch shall be put up at their office. The size of the name of the representative office or branch printed in their transaction documents, records and publications shall be smaller than that of its head office .

Article 30. Scope of operation of representative offices

The operation of a representative office shall be solely confined to the conduct of liaison activities, market research, and promotion of its head office's businesses, excluding services the establishment of representative office in which is specified in specialized legislative documents .

Article 31. Scope of branch operation

1. Branches shall provide services other than those specified in specialized legislative documents.

2. Branches are allowed to operate in fields having requirements for operation only if they satisfy all such requirements promulgated by respective laws.

Article 32. Reporting

1. By January 30th of each year, every representative office and branch shall submit operation status reports using the form stipulated by the Ministry of Industry and Trade to the licensing agency by post.

2. Representative offices and branches shall submit reports, documents and explanations for their operation upon the request of competent state regulatory authorities.

Article 33. Heads of representative offices or branches

1. The Head of the representative office or branch shall be responsible for his/her action and the operation of the representative office or branch to his/her head office within the power of attorney.

2. The head of the representative office or branch shall be responsible for his/her activities the scope of authorization.

3. In the absence of the head of the representative office or branch from Vietnam, he/she shall grant the power of attorney to another person. The power of attorney shall be made with the prior consent of the head office. However, the head of the representative office or branch shall be responsible for exercising rights and obligations specified in the power of attorney.

4. Upon the expiry of the power of attorney stipulated in clause 3 hereof, if the head of the representative office or branch has yet to return and no additional power of attorney is made, the current authorized person shall be eligible for exercising rights and obligations as the head of the representative office or branch within the scope of authorization until the head of the representative office or branch returns or the head office appoints another person as the new head of representative offices or branch.

5. If the head of representative offices or branch from Vietnam is absent from Vietnam for a period of longer than 30 days without any authorization, or if the head representative offices or branch is dead, missing, detained, sentenced to prison or has no capacity for action, the head office shall appoint another person as the new head of representative offices or branch.

6. The head of a representative office shall not concurrently hold the following titles:

- a) The head of a branch of the same foreign traders;
- a) The head of a branch of another foreign trader;
- c) The legal representative of the same foreign trader or others;

d) The legal representative of a business organization incorporated in accordance with Laws of Vietnam.

7. If the head office authorizes the head of the representative office to sign, adjust or supplement contracts, the head office shall grant the power of attorney for each conclusion, adjustment, and supplementation.

8. The head of a branch shall not concurrently hold the following titles:

a) The head of a representative office of another foreign trader;

b) The head of a representative office of the same foreign trader;

c) The legal representative of a business organization incorporated under Laws of Vietnam.

Article 34. Rights and obligations of representative offices and branches

1. Rights and interests of representative offices and branches shall be reserved during the operation in Vietnam under laws of Vietnam.

2. Representative offices and branches shall have the rights and obligations prescribed in the Law on Commerce and the license for establishment.

Chapter IV

SHUTDOWN OF REPRESENTATIVE OFFICES OR BRANCHES

Article 35. Shutdown of representative offices or branches

A representative office or branch shall be shut down if:

1. It is requested by its head office;

2. The foreign trader ceases to operate according to laws of the country or territory in which such foreign trader is established or registered.

3. The License for Establishment of the representative office or branch is expired but its head office does not apply for extension of the license.

4. The licensing agency refuses to grant an extension of the expired License for Establishment of the representative office or branch.

5. The License for Establishment of the branch or representative office is revoked as prescribed in Article 44 hereof.

6. The foreign trader or its representative office or branch no longer satisfies one of the requirements stipulated in Articles 7 and 8 hereof.

Article 36. Applications for shutdown of representative offices or branches

1. An application for shutdown of a representative office or branch shall include:

a) A notification of shutdown of the representative office or branch using the form issued by the Ministry of Industry and Trade and signed by a competent representative of the foreign trader, excluding cases specified in clause 5, Article 35 hereof.

b) Copies of written refusals of grant of extension of the license or establishment of the representative office or branch (for those specified in clause 4, Article 35 hereof) or a copy of the decision on revocation of the license for establishment of the representative office or branch released by the licensing agency (for those specified in clause 5, Article 35 hereof);

c) Lists of creditors and the amount of debts, including outstanding taxes and social insurance premiums;

d) Lists of employees and their current benefits;

dd) The original License for Establishment of the branch or representative office.

2. The head of the closed representative office or branch and their head office shall be responsible for the reliability and accuracy of their application for shutdown of the representative office or branch.

3. Where the representative office shuts down to relocate to another province or territory within the administration of another Management Board, the application for shutdown shall only include documents specified in points a and dd clause 1 hereof.

Article 37. Procedures for processing of applications for shutdown of representative offices or branches

1. The foreign trader shall submit the applications for shutdown of their representative office or branch to the licensing agency directly or by post or only (where applicable).

2. Within 03 working days from the date of receipt of the application, the licensing agency shall examine such application and request the applicant to complete the application (if the application is incomplete). The request for supplementation to the application shall be made only once during the processing of the application.

3. Within 05 working days from the date of receipt of the valid application, the licensing agency shall publish the decision on shutdown of the representative office or branch on their portal.

Article 38. Obligations resulting from shutdown of representative offices or branches

1. In addition to the execution of procedures for shutdown of representative offices or branches stipulated in Articles 36 and 37 hereof, the representative office or branch shall publicly put up the notice of the shutdown at their office and fulfill other involving obligations under provisions of laws.

2. Every foreign trader having closed representative offices or branches shall fulfill obligations to contracts and debt settlement including outstanding taxes and settlement of legal benefits of employees working for such representative offices or branches in compliance with provisions of laws.

Chapter V

STATE MANAGEMENT OF REPRESENTATIVE OFFICES OR BRANCHES OF FOREIGN TRADERS IN VIETNAM

Article 39. Responsibilities of Ministry of Industry and Trade

1. Issue application forms for grant, re-grant, adjustment and extension of the license of establishment of representative offices or branches; blank forms of such licenses; reporting forms used for representative offices and branches; and reporting forms used for Departments of Industry and Trade and Management Boards.

2. Publish Vietnam's commitments to representative offices or branches of foreign traders in Vietnam stipulated stated in treaties to which Vietnam is a signatory.

3. Inspect the State management of representative offices or branches of foreign traders nationwide.

4. Take charge of and cooperate with relevant Ministries, regulatory bodies, and local governments to inspect representative offices or branches in some necessary cases or upon requests of Ministries, regulatory bodies, and local governments.

5. Take charge of and cooperate with Ministries, regulatory bodies, and local governments to create database of representative offices or branches.

6. Deal with violations committed by representative offices or branches of foreign traders within the jurisdiction.

Article 40. Responsibilities of relevant Ministries and regulatory bodies

1. Cooperate with the Ministry of Industry and Trade, Departments of Industry and Trade and Management Boards in the grant, adjustment and grant of extension of License for Establishment of representative offices or branches under provisions of clause 4 of Article 11, clause 2 of Article 13, clause 5 of Article 17 and clause 5 of Article 23 hereof.

2. Cooperate with the Ministry of Industry and Trade, Departments of Industry and Trade and Management Boards in the State management of representative offices or branches under provisions of clause 4 of Article 39 and clause 3 of Article 41 hereof.

3. Cooperate with the Ministry of Industry and Trade to create database of representative offices or branches in accordance with the provision of clause 5, article 39 hereof.

Article 41. Responsibilities of People's Committees of provinces

1. Control the operation of representative offices or branches of foreign traders within the province.

2. Direct Departments of Industry and Trade and Management Boards to inspect representative offices or branches in some necessary cases or to conduct inter-sectoral inspection upon requests of regulatory authorities.

3. Cooperate with relevant Ministries and regulatory bodies in the State management of representative offices or branches within the province.

Article 42. Responsibilities of Departments of Industry and Trade

1. Control the operations of representative offices or branches within the province.

2. Annually submit status reports on grant, re-grant, adjustment, grant of extension or revocation of the License for Establishment of representative offices and suspension of representative offices within their province by 30th of January .

Article 43. Handling of violations

Foreign traders and their representative offices or branches offending provisions hereof shall be subject to penalties depending on the nature and severity of the violation under laws on action handling of administrative penalties .

Article 44. Revocation of Licenses for Establishment of representative offices and branches of foreign traders

The License for Establishment of representative offices or branches shall be revoked if such representative offices or branches :

1. Fail to come into operation for 01 year and fail to enter into transactions with licensing agencies.

2. Fail to submit reports on the operation of the representative office or branch for 02 consecutive years.

3. Fail to submit reports stipulated in clause 2, Article 32 hereof to the licensing agency within 06 months from the deadline of submission or at the written request of the licensing agency.

4. Be governed by provisions of laws.

Chapter VI

IMPLEMENTATION

Article 45. Transition provisions

The representative office whose License for Establishment is granted before the effective date of this Decree shall be entitled to continue to operate up to the expiration date of the granted license for establishment.

Article 46. Entry into force

1. This Decree comes into effect from March 10, 2016.

2. This Decree shall replace the Decree No.72/2006/ND -CP dated July 25, 2006 of the Government detailing regulations on establishment of representative offices and branches of foreign traders in Vietnam under the Law on Commerce.

3. The Article 2 of the Decree No. 120/2011/ND -CP amending and supplementing a number of administrative procedures promulgated in Decrees detailing the implementation of the Law on Commerce dated December 16, 2011 by the Government shall be null and void;

Article 47. Implementation organizations

Ministers, Heads of ministerial agencies, Heads of Governmental agencies, Presidents of the People's Committees of provinces and relevant agencies shall be responsible for the implementation of this Decree./.

**ON BEHALF OF THE GOVERNMENT
THE PRIME MINISTER**

Nguyen Tan Dung

