



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

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Ministry of Agriculture and Forestry

No. 0039/MAF

Vientiane Capital, date **11 January 2012**

MINISTERIAL DECISION ON
THE BASIC PRINCIPLES FOR THE APPLICATION OF SANITARY AND
PHYTOSANITARY MEASURES IN PLANT AND ANIMAL PRODUCT
ADMINISTRATION

- Pursuant to Law on Plant Protection No. 06/NA, dated 09 December 2008;
- Pursuant to Law on Animal Husbandry and Veterinary Matters No. 03/NA, dated 25 July 2008;
- Pursuant to Decree on the Notification and Enquiry of Trade Related Information of the Lao PDR No. 363/PM, dated 19 August 2010; and
- Pursuant to Request from the Department of Planning, Ministry of Agriculture and Forestry No.0090/DOP, dated: 09 January 2012.

The Minister of Agriculture and Forestry hereby issues a Decision as follows:

SECTION 1

GENERAL PROVISIONS

Article 1. Purpose

This Decision sets out basic principles on the application of sanitary and phytosanitary measures, management and implementation of such principles to protect human, animal and plant health in the Lao People's Democratic Republic (Lao PDR) from the risks and dangers that may arise from the domestic and cross-border movements of animals, agricultural and forestry products. This Decision also aims at improving related measures of the country to be in line with international agreements and treaties to which the Lao PDR is a party and to avoid the creation of unnecessary barriers to trade.

Article 2. Interpretation of Terms

Terms used in this Decision shall have the following meanings:

1. **Sanitary** means cleanliness, hygiene and safety from the risks of toxins, residues and diseases affecting human and animal health;
2. **Phytosanitary** means ensuring the cleanliness and safety of life and health of plants, plant products, and other articles from pests and plant diseases, including the control of pesticides, chemicals and other contaminants in plants;
3. **Contaminant** means residue of pesticides and veterinary medicines or substance unintentionally added;

4. **Other articles** means the list of items defined in the Law on Plant Protection;
5. **Plant pests**¹ means insects, dangerous types of plants, including virus, fungi, bacteria, parasites and others diseases harmful to plants and environment;
6. **Plant and Animal Product** means goods from plants and animals, including fish and aquatic animals existing in the country or imported from other countries under the supervision of the Agriculture and Forestry Sector of Lao PDR;
7. **Sanitary and Phytosanitary (SPS) Measures** means any measures used to protect the country from the following four risks:
 - Protect the human, animal or plant life or health in Lao PDR from the risks that may occur from plant or animal products that may have pests, diseases and microorganism that may carry or cause the establishment or spread of animal or plant pests or diseases;
 - Protect the life or health of human or animals in Lao PDR from the risks of additives, contaminants, toxins and microorganism causing human and animal diseases that may be contained in food and drinks of human and animal food;
 - Protect the life or health of human in Lao PDR from the risks and outbreak of human diseases that may result from any plant and animal products;
 - Protect or mitigate the risks and outbreak from insects or pests in the Lao PDR that may result from any domestic plant or animal products or those imported from other countries;
8. **Application of sanitary and phytosanitary measures** means the enforcement of the legislation to achieve risk protection, including the issuance of laws, decrees, decisions, regulations, requirements, standards, instructions, procedures, methods, testing, inspection, certification, and quarantine, including defining requirements for movement and transportation, data collection, taking random samples for testing, risk management, packaging system and food safety labeling;
9. **Treaty** means any relevant international treaty to which Lao PDR is a party;
10. **SPS Enquiry Point** refers to an organ established at the Ministry of Agriculture and Forestry where its location, roles and activities are defined in the Decision No. 1502/MAF dated 23 June 2011;
11. **Transparency** means the notification of information related to sanitary and phytosanitary measures which are being prepared, have been approved and promulgated by the Lao PDR to public, domestic and foreign organizations and businesses; and which may be used as official reference and are predictable;
12. **Codex Alimentarius Commission** is the international standard-setting body that establishes international standards, guidelines and recommendations for food safety, including for food additives, veterinary drug and pesticide residues, contaminants, methods of analysis and sampling, and codes and guidelines of hygienic practice;
13. **World Organization for Animal Health (Organization International des Epizooties: OIE)** means the international standard-setting body that establishes international standards, guidelines and recommendations for animal health and zoonoses, including methods of analysis, sampling and guidelines on good practices for animal production and etc;

¹ “plant pest” and “pest” may be used interchangeably.

14. **International Plant Protection Convention (IPPC)** means an international convention on plant health aiming to protect domestic and wild plants from the establishment and spread of diseases and pest;
15. **Risk assessment** means the assessment of the likelihood of entry, establishment or spread of a pest or disease within Lao PDR; and the analysis of associated potential biological and economic consequences; including the assessment of the potential for adverse effects on human and animal health within Lao PDR arising from the presence of additives, contaminants, toxins or disease caused by microorganisms in food, beverages or animal feedstuff to be used as a ground to introduce sanitary or phytosanitary measures.
16. **Appropriate level of sanitary or phytosanitary protection** means the level of protection determined by the authorities of Agriculture and Forestry and Public Health of Lao PDR, including the level of residue from pesticides, volume of additives in food, residue from veterinary medicines, and the amount of microorganism, etc in food, beverages, and plant and animal products to protect the life or health of humans, animals or plants for safety.

SECTION 2

BASIC PRINCIPLES ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

Article 3. Principles

Basic principles on the application of SPS measures are:

1. Necessity;
2. Based on scientific evidence;
3. Harmonization;
4. Recognition;
5. Non-discrimination;
6. Transparency;
7. Control, inspection and approval
8. Compliance with laws, regulations and treaties.

Article 4. Necessity

Sanitary and phytosanitary measures shall be applied only to the extent necessary and ensure the prevention from risks that may affect human, animal or plant life or health and the nation. These measures shall not create unnecessary barriers to trade and shall be technically and economically feasible.

Article 5. Based on Scientific Evidence

Sanitary and phytosanitary measures applied shall be based on scientific evidence or justification. In the absence of adequate scientific information, such measures shall be based on other additional pertinent information and that most relevant to the fact. The additional information to be used as the basis shall be from risk assessment within a reasonable period and meet the results and objectives of the risk assessment at the time.

Article 6. Harmonization

All measures applied shall be harmonized with relevant international or regional standards, guidelines or recommendations. Where Lao PDR could not apply standards in line with international standards, relevant regional standards shall be applied. In case international and regional standards could not be applied or used as a basis, the measures shall be based on the outcomes of risk assessment by the risk assessment methods recommended by the relevant international organizations.

Lao PDR may protect its sanitary and phytosanitary standards at a higher level than international standards only if there has been scientific analysis and research conducted to justify the higher standards in line with the principles defined in this Decision.

In order to upgrade the safety level of food, medicines, and plant and animal products up to international standards, the relevant administrations in charge of sanitary and phytosanitary measures shall actively cooperate with international and regional organizations, including the Codex Alimentarius Commission (Codex), the Office International Epizootics (OIE), the International Plant Protection Convention (IPPC) and organizations under ASEAN and other organization to which Lao PDR is a party.

Article 7. Recognition

The administration in charge of SPS activities recognize any SPS measure used by any exporting country as equivalent if the standards achieve the appropriate level of SPS protection in the Lao PDR and have passed the inspection and certification procedures in the exporting country according to regulations. Such recognition shall be formalized by a bilateral agreement.

The recognition also includes notification of the exporting country regarding to animal disease-free or pest-free areas or areas of low pest or disease prevalence, including the demonstration of evidence that such areas are being established or are likely to remain pest- or disease-free areas or areas of low pest or disease prevalence.

Article 8. Non-discrimination

The application of any SPS measure shall be applied in a non-discriminatory manner between Lao PDR and foreign countries or between different trading partners or shall not be applied in a manner that would constitute a disguised restriction on international trade. If any discrimination is applied, it shall not be done in an arbitrary or unjustified manner.

Article 9. Transparency

All measures used to manage sanitary or phytosanitary measure shall be applied in a transparent manner. The preparation, adoption and application of a measure shall be officially and widely published and notified. Within the process of preparation or before its adoption, it shall be notified to relevant parties for comments with a period of at least sixty (60) days. Once the measure is approved, it shall be widely disseminated through formal media for at least one hundred eighty (180) days before enforcement.

If it is necessary to apply measures urgently to protect human, animal or plant life or health, the notification for public comments before promulgation could be exempted and such urgent measures shall be applied immediately while its promulgation shall be clearly explained to the public regarding the urgent reasons and shall be followed by instructions and a list of the plant and animal products which subject to the application of the urgent measures.

Article 10. Control, Inspection and Approval

Procedures and methods for the control, inspection and approval related to the application of SPS measures, including sampling, testing and certification on plant and animal products shall be applied according to the provisions of the Agreement on the application of SPS measures inter alia as follows:

1. The procedures for inspection and certification shall be applied immediately on non-discriminatory basis;
2. The certification shall be published and reported in written form without delay;
3. Information requirements shall be limited to the extent necessary for the procedures only, and confidentiality for information for imported products shall be treated no less favorably than for domestic products and in such a manner that legitimate commercial interests are protected;
4. For the application of sanitary and phytosanitary measures, it shall have a re-inspection mechanism for comments requested for re-inspection or to monitor the improvement of the operations of entrepreneurs.

Article 11. Compliance with Laws, Regulations and Treaties

Any sanitary or phytosanitary measure shall comply with laws and regulations and treaties to which Lao PDR is a party with the following requirements:

- Measures to protect human, animal and plant life or health shall comply with relevant laws and regulations of the Lao PDR;
- Where any provision of any of such laws or regulations is incompatible with any provision of any treaty, the provision of such a treaty shall apply until the incompatible provision of such a law or regulation is repealed or amended to be compatible with the relevant provision of such an treaty;
- Where any provision is not defined in laws and regulations of Lao PDR, the relevant provisions in a treaty shall apply until an equivalent and compatible law or regulation of the Lao PDR enters into force.

SECTION 3

MANAGEMENT AND IMPLEMENTATION OF SANITARY AND PHYTOSANITARY PRINCIPLES

Article 12. Management and Implementation Authorities

The management and implementation of SPS principles include:

1. Agriculture and Forestry Sector:

The Cabinet, Planning Department, Agriculture Department, and Livestock and Fisheries Department; Provincial and Capital Agriculture and Forestry Department; District Agriculture and Forestry Offices.

2. Public Health Sector:

The Food and Drugs Department;

3. Other Relevant Sectors are:

- The Industry and Commerce Sector;
- The Science and Technology Sector; and
- Other sectors as necessary for each period.

Article 13. Duties of the Agriculture and Forestry Sector

1. The Cabinet of the Ministry of Agriculture and Forestry shall support and coordinate with relevant departments to research contents of the principles and establish plans for the amendment of legislation, strategies and the development of Agriculture and Forestry Sector management mechanism in order to apply basic principles defined in this Decision effectively;
2. The Department of Planning, Ministry of Agriculture and Forestry shall propose the organizational structure, define roles of the Enquiry Point and coordinate with other relevant departments and sectors to establish Contact Points in order to answer questions and provide information on the application of principles effectively;
3. The Department of Livestock and Fisheries, and the Department of Agriculture, Ministry of Agriculture and Forestry have the following duties:
 - Review measures being enforced, if they are not adequate, additional measures shall be developed to ensure that principles defined in this Decision are fully and completely applied;
 - Amend the existing measures that are inconsistent with the principles defined in this Decision;
 - Monitor and report to the relevant units of the Minister of Agriculture and Forestry immediately on the progress and any inconsistencies with this Decision;
 - Disseminate this Decision and relevant measures to other sectors and the public as required by their own duties and responsibilities;
 - Coordinate with the Planning Department and other relevant sectors to ensure the implementation of its duties effectively;
4. Provincial and Capital Agriculture and Forestry Offices have the following duties:
 - Regularly monitor and report the progress and any non-compliance issues of the implementation of this Decision to relevant authorities in accordance with their own jurisdictions vertically and horizontally;
 - Disseminate this Decision and relevant measures to the district agriculture and forestry offices and other relevant authorities in the provincial level and to the public within their own jurisdictions;
 - Coordinate with other line authorities, if necessary, to ensure their effective performance; and
 - Follow guidance of the Ministry of Agriculture and Forestry in relation to this Decision.

5. District agriculture and forestry offices have the following duties:
 - Monitor and report the implementation of this Decision to the relevant provincial, capital agriculture and forestry offices via the livestock and fishery authority (in case of animal related matters) or the agriculture authority (in case of plant related matters);
 - Coordinate with other line authorities, if necessary, to ensure effective performance within its own district;
 - Disseminate this Decision to relevant authorities and to the public within its own district as appropriate;
 - Follow guidance of the higher level in relation to this Decision.

Article 14. Cooperation with the Public Health Sector

In order to achieve fruitful outcomes in the implementation of the basic principles defined under this Decision, the authorities in charge of the management and application of sanitary and phytosanitary principles of the Agriculture and Forestry Sector shall establish a close cooperation mechanism with the Public Health Sector by engaging the Food and Drug Department under Ministry of Public Health as a contact point in order to effectively and fully implement the sanitary and phytosanitary measures in the Lao PDR.

Article 15. Cooperation with Other Relevant Sectors

1. Cooperation with the Industry and Commerce Sector:
 - The authorities in charge of the management and application of sanitary and phytosanitary principles of the Agriculture and Forestry Sector shall coordinate and provide information to the SPS and Technical Barriers to Trade (TBT) Notification Unit in order to provide SPS information of the Lao PDR to domestic and foreign individuals, legal entities and organizations in a prompt and effective manner;
 - Cooperate with the concerned authorities of the Industry and Commerce Sector to define lists of goods, regulations and policies to support entrepreneurs and the public to participate in the application of sanitary and phytosanitary measures effectively;
2. Cooperation with the Science and Technology Sector:
 - The authorities in charge of the management and application of sanitary and phytosanitary principles of the Agriculture and Forestry Sector shall coordinate with the Science and Technology Sector in order to establish a coordination mechanism between the SPS Enquiry Point and TBT Enquiry Point to be able to manage and inspect aiming at facilitating trade and avoiding overlapping operations;
 - Cooperate with concerned authorities of the Science and Technology Sector to define lists of goods, regulations and policies to support entrepreneurs and the public to participate in the application of sanitary and phytosanitary measures effectively;

Article 16. Development and Improvement of SPS Measures

The authorities in charge of the management and application of sanitary and phytosanitary principles of the Agriculture and Forestry Sector shall strictly carry out

its duties and actively research or amend relevant legislations, regulations, standards and instructions under their jurisdiction [to be] in compliance with the principles on the application of SPS measures defined in this Decision completely as well as to establish a development strategy for the basic technical infrastructure, management tools and building of capacity of the personnel to modernize SPS activities of the country to be recognized by international community.

SECTION 4

FINAL PROVISIONS

Article 17. Implementation

The Cabinet of the Ministry, Department of Planning, Department of Agriculture, Department of Livestock and Fisheries of the Ministry of Agriculture and Forestry, in collaboration with the agriculture and forestry offices at the provincial and district levels throughout the country, the Public Health Sector and other relevant sectors, shall implement this Decision effectively.

Article 18. Effectiveness

This Decision shall enter into force from the date of its signature.

(On behalf of) **Minister of the Agriculture and Forestry**

(Stamped and Signed)

Dr. Phouangparisack Pravongviengkham