

Client Alert

November 2010

New Decree Regulating Rice Exporting Activities

On 4 November 2010, the Government issued Decree No. 109/2010/ND-CP relating to the business of exporting rice ("**Decree No. 109**"). Specifically, Decree No. 109 regulates the business of exporting rice and paddies. Decree No. 109 provides for, among other things, conditions for conducting rice export businesses, registration of rice export contracts and management of rice export prices.

Conditions for conducting rice export business

Under Decree No. 109, enterprises can only engage in the business of exporting rice when satisfying the conditions of having a warehouse of at least 5000 tons of paddy and a grinder with a minimum capacity of 10 tons of paddy/hour. Such enterprises must apply for and obtain a Certificate of Satisfaction of Conditions for Rice Export Business ("**Certificate**") issued by the Ministry of Industry and Trade.

The Certificate will be valid for 5 years and is non-renewable. At least 30 days prior to expiry of such 5-year period, the enterprise must proceed to apply for a new Certificate in order to continue conducting its rice export business.

In addition, rice exporters must meet the condition of maintaining a rice circulation reserve of at least 10% of the total quantity of rice which has been exported by such exporter within the past six months.

Registration of rice export contracts

Within three business days from its signing date, a rice export contract must be registered with the Vietnam Food Association ("**VFA**"). Within two business days, the VFA will register such contract if it satisfies the following conditions:

- i.) the export price is not lower than the minimum export price published by the VFA,
- ii.) such exporter must have at least 50% of the total contractual quantity available (in addition to the compulsory circulation reserve); and
- iii.) compliance with requirements regarding Centralized Rice Export Contracts.

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Management of rice export price

Decree No. 109 also provides for the principles based on which the State would regulate the export price of rice by way of fixing a minimum price (or floor price).

The Ministry of Finance, in coordination with Ministry of Industry and Trade, Ministry of Agriculture and Rural Development, provincial People's Committees and Vietnam Food Association, will issue guidelines on the methods of determining the minimum export price for rice. Based on such guidelines, Vietnam Food Association will, from time to time, publish the minimum export price which will serve as the basis for the execution and registration of rice export contracts by rice exporters.

Decree No. 109 will take effect from 1 January 2011 and will replace Article 10(1) of Decree No.12/2006/ND-CP dated 23 January 2006 guiding the implementation of the Commercial Law on international sale of goods and other regulations not in compliance with this Decree. Rice exporters will have nine months from the effective date of this Decree to apply for the Certificate on satisfaction of conditions for rice export business. Starting 1 October 2011, enterprises will not be allowed to conduct rice export business without such Certificate.

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