

CIRCULAR

REGULATIONS ON THE IMPORTATION OF USED MACHINERY, EQUIPMENT AND PRODUCTION LINE
Pursuant to Decree No. 20/2013/ND-CP dated 26 December 02, 2013 of the Government on defining the functions, tasks, powers and organizational structure of the Ministry of Science and Technology;
Pursuant to Decree No. 187/2013/ND-CP November 20, 2013 of the Government on detailing the implementation of the Law on Commerce regarding the international goods sale and purchase and agencies of purchasing, selling, processing and transiting goods with foreign countries;
Pursuant to Decree No. 132/2008/ND-CP dated December 31, 2008 of the Government on detailing the implementation of some articles of the Law on Product Quality and goods;

At the request of the Director of Assessment, Evaluation and Technology Assessment;

The Minister of Science and Technology promulgates the Circular on providing for the importation of used machinery, equipment and production lines.

Article 1. Governing scope

1. This circular provides for the conditions and procedures for the importation of used machinery, equipment and production lines, including spare parts, components and replacement parts.
2. This Circular shall not be applied to the importation of used machinery, equipment and technology lines as follows:
 - a) Transit; temporary import for re-export (excluding processing contracts; imports used for production and investment projects); temporary export and re-import; repair and maintenance service contracts;
 - b) Served for scientific research and technological development for which they can not be produced domestically;
 - c) Transferred from the export processing zones in the country;
 - d) Served for national security and defense;
 - dd) Some aid from foreign non-governmental organizations.

Article 2. Regulated entities

This Circular shall be applied to the state agencies, enterprises, organizations and individuals involved in the importation of used machinery, equipment and production lines in accordance with the provisions of Article 1 in this Circular.

Article 3. Interpretation of terms

In this Circular, the following terms shall be interpreted as follows:

1. "Production line" means a system of equipment, tools and devices, all of which are arranged according to installation diagrams, technological processes to ensure the synchronous operation in the production stage.
2. "Using time" (in years) means a defined period from their manufacturing to importation.
3. "Remaining quality (in percent) compared with the original quality" means the acceptable rate of specifications of used machinery, equipment and production lines compared with these of brand-new machinery, equipment and production lines.

Article 4. Principles of the importation management

1. Encourage enterprises to import new machinery, equipment and production lines, which are manufactured by the advanced technology.
2. Used machinery, equipment and production lines being imported must meet the requirements of quality, safety, energy saving and environment protection.
3. Used machinery, equipment and production lines being imported must meet both the conditions stipulated in this Circular and the current regulations of the Government, ministries and regulatory agencies on the importation of goods.

Article 5. Used machinery, equipment and production lines banned from the importation.

Those banned from the importation shall be specified in the followings:

1. The list of banned imports, issued together with Decree No. [187/2013/ND-CP](#) dated November 20, 2013 by the Government on detailing the implementation of the Commercial Law regarding international goods trading and agent activities of purchasing, selling, processing and transiting goods with foreign goods.
2. The list of used goods banned from import and list of used vehicles banned from import, issued together with Circular No. [04/2014/TT-BCT](#) 2014 dated January 27, 2014 of the Ministry of Industry and Trade on detailing the implementation of several articles of Decree No. [187/2013/ND-CP](#) dated November 20, 2013 of the Government on detailing the implementation of the Commercial Law regarding international goods trading and agent activities for purchasing, selling, processing and transiting goods with foreign countries.
3. The list of used IT products banned from import, issued together with the Circular No. [11/2012/TT-BTTTT](#) dated July 17, 2012 by the Ministry of Information and Communications on specifying the list of used IT products banned from the importation.
4. The list of used goods banned from import, issued by other Ministries and regulatory agencies in compliance with the provisions of Decree No. [187/2013/ND-CP](#) dated November 20, 2013 of the Government on detailing the implementation of the Commercial Law regarding international goods trading and agency's activities of purchasing, selling, processing and transiting goods with foreign countries.

Article 6. Specific requirements for the importation of used machinery and equipment

1. Used machinery and equipment, which are not specified in Article 5 of this Circular and clause 2 of this Article, shall be eligible for the importation if they satisfy the following requirements:

- a) The using time does not exceed 05 years;
- b) The remaining quality gains 80% in comparison with original quality or more.

2. Requirements for several special imports:

a) Used machinery and equipment can be imported if the using time does not exceed more than 03 years and the remaining quality achieves 80% or more in comparison with the original quality, including:

- Machinery and equipment used for agricultural production.
- Machinery and equipment used in beer, wine, alcoholic and non-alcoholic beverage sector.
- Machinery and equipment for postal services: mails and parcels sorting equipment; envelope folding and inserting machines; envelope production machine; conveyor equipment.

b) Used machinery and equipment below can be imported if the using time does not exceed 07 years and the remaining quality gain 80% or more compared with the original quality, including:

- Machinery and equipment in the field of geology and mineral.
- Machinery and equipment for ship building and repair.
- Machinery and equipment for the construction of petroleum and gas complex.
- Machinery and equipment for the construction of traffic infrastructure.
- Machinery and equipment for the printing industry: film and zinc recorder, print formatter, paper die cutting machine, thread or steel bar binding machine, book folding machine and coil inserter.

c) Used machinery and equipment are allowed to be imported if the using time does not exceed more than 10 years and the remaining quality compared with the original quality is 80% or more, including:

- Engines installed in machines used for offshore fishing boats.
- Combined saddle stitching line used in the printing industry.

d) Used machinery and equipment are allowed to be imported if the using time does not exceed 15 years and the remaining quality achieves 80% or more in comparison with the original quality, including: offset printing machine, gravure printing machine, flexo printing machine in the printing industry.

Article 7. Specific requirements of the importation of used technology lines

1. Used technology lines, which are not specified in Article 5 of this Circular and clause 2 of this Article, shall be eligible for the importation if they satisfy the following requirements:

- a) The using time does not exceed 05 years;
- b) The remaining quality gains 80% in comparison with original quality or more;
- c) The utilization of used technology lines have already been specified in the investment documents and sent to the investment management agencies or other competent authorities for their approval;
- d) Those under the sectorial management enforced by ministries and their regulatory bodies;
- dd) The quality must be tested at exporting countries before dismantling, packaging for the importation.

2. Several requirements of special imports:

a) Used technology lines shall be eligible for the importation if the using time does not exceed more than 03 years, the quality of the remaining compared with original quality is 80% or more and adhere to the provisions of Point c , d, dd, Clause 1 of this Article, including:

- Machinery and equipment used in beer, wine, alcoholic and non-alcoholic beverage sector.
- Automatic mail and parcel sorting line in the postal sector.

b) Used technology lines are allowed to be imported if the using time does not exceed more than 10 years and the remaining quality compared to the original quality is 80% or more and must adhere to the provisions of Point c, d, dd, Clause 1 of this Article, including integrated production line in the printing industry.

Article 8. Procedures for the importation of used machinery and equipment

1. Enterprises must apply for the importation at the customs authority where goods are imported. Besides importing documents as prescribed, enterprises must send to the customs authority the following documents:

- a) Technical documentation showing the manufacturing year of machinery and equipment imports;
- b) Quality test certificates issued by the qualified examination organizations under clause 1 of Article 10 of this Circular. In case of the certificates endorsed by eligible foreign assessment organizations specified in Clause 5, Article 11 of this Circular, enterprises must attach a valid copy of the endorsement for the compliance of the management system with international standard ISO / IEC 17020, a version currently endorsed by assessment organizations.

2. The Customs authority shall rely on all submitted documents to identify which used machinery and equipment can meet the import requirements as stipulated in Article 6 of this Circular, and shall perform customs clearance procedures as prescribed by laws.

3. Apart from the aforementioned requirements, enterprises must strictly comply with the prevailing regulations of the Government, ministries and their regulatory bodies on imported machinery and equipment.

Article 9. Procedures for the importation of used technology lines

1. Enterprises must apply for the importation at the customs authority where goods are imported. Besides importing documents as prescribed, enterprises must send to the customs authority the following documents:

- a) Technical documentation showing the manufacturing year of machinery and equipment imports;
- b) Quality test certificates issued by the qualified examination organizations under clause 2 of Article 10 of this Circular. In case of the certificates endorsed by eligible foreign assessment organizations specified in Clause 5, Article 11 of this Circular, enterprises must attach a valid copy of the endorsement for the compliance of the management system with international standard ISO / IEC 17020, a version currently endorsed by assessment organizations.
- c) A written demonstration of investment projects submitted for the approval from the investment agencies or the competent authorities in which a proposed used technology line is shown (a copy).
- d) In respect of the used technology lines under the management of ministries and regulatory agencies, they must have a written permit of import from relevant competent authorities.

2. The Customs authority shall rely on all submitted documents to identify whether used technology lines can meet the import requirements as stipulated in Article 7 of this Circular, and shall perform customs clearance procedures as prescribed by laws.

Article 10. General requirements for assessment certificates

1. Assessment certificates for used machinery and equipment endorsed by the authorized assessment organization. Where the assessment is carried out in exporting countries and in the default of a properly authorized inspector, enterprises are allowed to employ an eligible foreign examination organization for any necessary quality test as regulated in clause 5, Article 11 of this Circular.

2. Quality test certificates for used technology line endorsed by authorized examination organizations or any eligible foreign examiner as stipulated in clause 5, Article 11 of this Circular at the exporting countries before dismantling and packing.

3. In respect of used machinery and equipment, enterprises are encouraged to conduct the quality test in the exporting countries in order to avoid any delay at the border and reduce time of goods storage.

4. During the customs clearance, if the actual quality of machinery, equipment and technology lines is not corresponding to the quality test certificates, the customs authorities are eligible to request a re-examination. Where there is any conflict arising in quality test results between examiners, the Ministry of Science and Technology shall play a significant role in making final decisions.

Article 11. Requirements for examination organizations

1. They must be legal entities under the provisions of laws, specializing in the quality test for machinery, equipment and technological goods.

2. Their capability must meet the requirements specified in the current national standard TCVN ISO/IEC 17020 or international standard ISO / IEC 17020.

3. They must employ a minimum of 02 qualified appraisers who can show:

- a) A university degree or higher and appropriate professional capability in the examination sector;
- b) Minimum 03-year experience working in the relevant field;
- c) A certificate of expertise in the quality test, if required by laws.

4. Quality test methods and procedures for machinery, equipment and technology lines are approved by the heads of examination organizations.

5. In particular, any foreign examiner authorized by the importers to carry out the quality test in exporting countries must meet the following requirements:

- a) They must hold a business registration certificate to practise the quality test for machinery, equipment and technology in the host countries;

b) They must keep a certificate of recognition to ensure their management system to comply with current international standard ISO / IEC 17020, endorsed by a legal accreditation organization, known as a legitimate member of the International laboratory Accreditation Cooperation (ILAC) and / or Asia Pacific laboratory Accreditation Cooperation (APLAC).

6. They must adhere to the principles of independent, unprejudiced and scientific activities and take legal responsibility for the accuracy of the test results.

Article 12. The appointment of examination organizations

1. The appointment of examination organizations shall be carried out by ministries and their regulatory agencies.

2. Ministries and regulatory agencies shall regulate the process and procedures for the appointment of examination organizations who are eligible to carry out the quality test for machinery and equipment under their authority with reference to following documents:

a) Circular No. [09/2009/TT-BKHCHN](#) dated April 8, 2009 of the Ministry of Science & Technology on guiding processes, requirements and procedures for the appointment of an organization of conformity examination and Circular No. 11 / [2011/TT-BKHCHN](#) dated June 30, 2011 of the Ministry of Science and Technology on amending and supplementing several provisions of Circular No. [09/2009/TT-BKHCHN](#) dated April 8, 2009 on guiding processes, requirements and procedures for the appointment of an organization of conformity examination.

b) The Circular No. [27/2007/TT-BKHCHN](#) dated October 31, 2007 of the Ministry of Science and Technology on guiding the signing and implementation of the convention and agreement on mutual recognition of results of conformity examination.

c) The Circular No. [26/2013/TT-BKHCHN](#) dated November 15, 2013 of the Ministry of Science and Technology on regulating processes, requirements and procedures for foreign conformity examiner to carry out the conformity of products and goods according to the national technical regulations enforced by the Ministry of Science and Technology.

3. Ministries and regulatory agencies are responsible to make a public announcement on their electronic portal about information related to the appointed examination organizations in order for relevant state agencies, businesses, organizations and individuals to choose right ones at their discretion. Basic information must include organization's name, address, phone number, email, fax, website and their appointed examination field, sample quality test certificates as well as their specimen signature.

Article 13. Inspection and sanction against violations

1. Agencies, businesses, organizations and individuals involved in the importation of used machinery, equipment and technology lines shall be subject to the inspection of regulatory agencies towards their compliance with the provisions of this Circular.

2. Any violation against statutory regulations in this Circular, depending on its severity, shall be punished according to current legal regulations.

Article 14. Implementation

1. Ministries, regulatory agencies and local authorities must work with the Ministry of Science and Technology to monitor and guide the importation of used machinery, equipment and technology lines in the scope of their administration.

2. Ministries and regulatory agencies must appoint the examination organizations under their management and send attached list of the appointed examiners to the Ministry of Science and Technology for the purpose of general report.

3. The Ministry of Planning and Investment is responsible to publicly disseminate and regularly update the list of domestic machinery, equipment and technology lines.

4. The Ministry of Science and Technology is responsible to publicly announce the list of used machinery, equipment and technology lines banned from the importation in countries where they are eliminated due to their obsolescence, low quality and environment pollution.

5. General Department of Customs must enforce legal procedures for the importation of used machinery, equipment, technology lines as prescribed in this Circular.

6. During the importation of used machinery, equipment and technology lines, if there is any discrepancy arising in the identification of import sectors and requirements, enterprises are obliged to send a written request together with relevant documents to the Ministry of Science and Technology for their consideration and settlement.

7. Where used machinery, equipment and technology lines are determined not to meet the requirement for the using time but repaired, refurbished and finally meet other quality requirements as stipulated in Articles 6 and 7 of this Circular as well as satisfy the requirements for safety, energy saving and environment protection, the Ministry of Science and Technology will take their leading role in seeking a cooperation among relevant Ministries and agencies for consideration and settlement.

8. The Ministry of Science and Technology must assign Department of Technology Assessment and Examination as a central entity to implement this Circular.

Article 15. Effect

1. This Circular shall take effect from September 1, 2014.

2. Transitional provisions:

Where the sale contract has been signed and the goods have been shipped before the effective date of this Circular, it shall not be governed by this Circular.

3. Difficulties that arise during the implementation of this Circular should be reported to the Ministry of Science and Technology for proper amendments. /.

MINISTER

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