

THE MINISTRY OF INDUSTRY AND TRADE**CIRCULAR No. 01/2007/TT-BCT OF AUGUST 29, 2007, GUIDING THE IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE GOVERNMENT'S DECREE No. 119/2007/ND-CP OF JULY 18, 2007, ON TOBACCO PRODUCTION AND TRADE****THE MINISTRY OF INDUSTRY AND TRADE**

Pursuant to Resolution No. 01/2007/QH12 of July 31, 2007 of the first session of the XIIth National Assembly of the Socialist Republic of Vietnam, on the Government's organizational structure and the number of Deputy Prime Ministers for the XIIth tenure;

Pursuant to the Government's Decree No. 86/2002/ND-CP of November 5, 2002, defining the functions, tasks, powers and organizational structure of ministries and ministerial-level agencies;

Pursuant to the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade

The Ministry of Industry and Trade guides in detail a number of articles of the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade, as follows:

I. GENERAL PROVISIONS

1. This Circular guides conditions for trading and processing of tobacco raw materials and conditions for production of tobacco products; competence, order and procedures for grant, adjustment, extension and revocation of certificates of eligibility for trading and processing of tobacco raw materials and permits for production of tobacco products; conditions for import and use of machinery and equipment for exclusive use in tobacco industry, tobacco raw materials and cigarette

paper; management of investment, production capacity and output of tobacco products; management, inspection, disposal and liquidation of machinery and equipment for exclusive use in tobacco industry.

2. This Circular applies to domestic and foreign organizations and individuals involved in tobacco production and trade and related activities in the Vietnamese territory.

3. Activities of trading in or processing tobacco raw materials constitute a conditional business line. Organizations and individuals of all economic sectors may only trade in or process tobacco raw materials when obtaining certificates of satisfaction of business conditions granted by a competent state agency and maintain all these conditions throughout the course of operation.

4. The State holds monopoly in production of tobacco products. Only enterprises that are granted permits for production of tobacco products by the Ministry of Industry and Trade may produce tobacco products. Enterprises engaged in production of tobacco products shall comply with the guidance in this Circular.

Foreign-invested enterprises engaged in production of tobacco products may produce tobacco products within the scope of their investment licenses and shall comply with the provisions of Vietnamese law and the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade.

The State controls the supply of tobacco products to the market and performs the state commercial management of imported tobacco products.

5. Special-use tobacco machinery and equipment (specified in an appendix to this Circular, *not printed herein*), tobacco raw materials, cigarette paper (paper for rolling tobacco shreds of a cigarette) are imports subject to specialized management by the Ministry of Industry and Trade.

6. Investment in the processing of tobacco raw materials and the production of cigarette paper must be in line with the Strategy and the Master Plan of tobacco industry and the planning on development

of tobacco material zones.

7. Investment in the production of tobacco products must be in line with the strategy and the master plan of tobacco industry approved by the Prime Minister and ensure that the tobacco product output does not exceed the total production capacity determined and announced by the Ministry of Industry and Trade.

II. TRADING IN TOBACCO RAW MATERIALS

A. Conditions for being granted a certificate of eligibility for trading in tobacco raw materials

1. Condition on business entity

Any trader that has business registration for trading in tobacco raw materials.

2. Condition on material foundation, technical equipment and facilities and personnel

a/ Having a raw material trading establishment with a sorting and packaging section and raw material warehouses, which must be large enough (of a total area of 500 sq meters or more) and suitable to the business scale;

b/ Having separate warehouses for tobacco raw materials which are furnished with a ventilation system, and equipment and facilities for preservation of tobacco raw materials, including: thermometers and hygrometers for checking air temperature and humidity in warehouses; devices for worm, termite and borer extermination; sufficient shelves or pallets for storing tobacco loads which must be arranged at least 20 cm from the ground surface and at least 50 cm from walls or columns;

c/ Having contracts with employees who have professional qualifications or skills or experience in investment management, technical assistance or raw material collection and purchase.

3. Conditions on business processes suitable to business lines of tobacco raw material purchase and sale

a/ Place(s) of tobacco raw material purchase must have signboards showing the trade name of the trader trading in tobacco raw materials;

b/ Standards for grading tobacco raw materials must be publicly posted up at place(s) of tobacco raw material purchase according to current regulations, with sample raw material tobacco leaves shown;

c/ The trader must have tobacco growth investment contracts with tobacco growers, which are suitable to the business scale.

4. Condition on environmental protection and fire and explosion prevention and fighting

Having sufficient devices and equipment for fire prevention and fight, and assurance of safety and environmental sanitation under law.

B. Competence, order and procedures for grant of certificates of eligibility for trading in tobacco raw materials

1. Provincial/municipal Industry Services shall grant certificates of eligibility for trading in tobacco raw materials.

2. A dossier of application for a certificate of eligibility comprises:

a/ An application for a certificate of eligibility for trading in tobacco raw materials;

b/ A valid copy of the business registration certificate;

c/ Documents concerning business criteria and conditions specified in this Circular, including:

- A list of areas and a plan of warehouses, workshops, offices and other auxiliary works.

- A list of equipment and facilities: the ventilation system; fire prevention and fighting equipment; hygrometers and thermometers; devices for worm, termite and borer extermination; shelves and pallets for storing tobacco loads.

- Contracts with employees and staffs engaged in investment management, technical assistance and raw material collection and purchase.

- Tobacco growth investment contracts with tobacco growers.

- A valid copy of the certificate of assurance of fire safety granted by a competent police department.

3. Order and procedures for grant of eligibility certificates

a/ Within 15 days after receiving a complete and valid dossier of application, the provincial/municipal Police Department shall consider and grant a certificate of eligibility for trading in tobacco raw materials. In case of refusal, the provincial/municipal Police Department shall reply in writing, clearly stating the reason.

b/ For incomplete or invalid dossiers, the provincial/municipal Police Department shall, within 7 days after receiving those dossiers, request in writing the dossier supplementation.

4. An eligibility certificate is made in four copies: Two copies shall be kept at the provincial/municipal Industry Service, one copy sent to the Ministry of Industry and Trade, and another sent to the applicant trader.

5. An eligibility certificate is valid for five years. Thirty days before the expiration of the certificate, the trader holding this certificate shall send a written request for certificate renewal to the provincial/municipal Industry Service for consideration and renewal.

6. Traders that commit serious violations of provisions on business conditions and other provisions in this Circular or relevant provisions of law will have their eligibility certificates revoked.

III. PROCESSING OF TOBACCO RAW MATERIALS

A. Conditions for being granted a certificate of eligibility for processing tobacco raw materials

1. Condition on business entity:

Being an enterprise established under law and having business registration for purchase and sale or processing of tobacco raw materials; and having a

certificate of eligibility for trading in tobacco raw materials.

Certificates of eligibility for processing tobacco raw materials shall be granted only to enterprises engaged in raw material processing and equipped with chains of machinery and equipment of stemming tobacco leaves or processing tobacco leaves into tobacco shreds or pads and other substitutes for the production of tobacco products.

2. Condition on material foundation, technical equipment and facilities and personnel

a/ Having a raw material processing establishment with sorting, processing and packaging sections and raw material warehouses, which must be suitable to the business scale and located on a total area of 5,000 sq meters or more;

b/ Having separate warehouses for unprocessed and processed tobacco raw materials which are suitable to the business scale. These warehouses must be furnished with ventilation systems, thermometers and hygrometers for checking air temperature and humidity in warehouses; devices for worm, termite and borer extermination; sufficient shelves or pallets for storing tobacco loads which must be arranged at least 20 cm from the ground surface and at least 50 cm from walls or columns;

c/ Having contracts with employees who have professional qualifications or skills or experience in investment management, technical assistance for growers or raw material purchase and processing;

d/ Having complete specialized machinery and equipment for processing tobacco raw materials.

Raw material processing chains must be specialized and ensure industrial sanitation, labor safety and environmental sanitation standards;

e/ Having equipment and facilities for measurement and checking of quality of raw materials before and after they are processed;

f/ All machinery and equipment must be of lawful origin.

3. Condition on quality, hygiene and safety of tobacco products

Tobacco raw material processing enterprises must satisfy quality and hygiene requirements according to Vietnam standards and institutional standards as well as the Ministry of Health's regulations on food quality, hygiene and safety.

4. Condition on environmental protection and fire and explosion prevention and fighting:

Tobacco raw material processing enterprises must have sufficient fire prevention and fighting devices and equipment and assure environmental safety and sanitation under law.

5. Condition on business processes suitable to the business line

a/ Place(s) of tobacco raw material purchase must have signboards showing the trade name of the enterprise trading in or processing tobacco raw materials;

b/ Standards for grading tobacco raw materials must be publicly posted up at place(s) of tobacco raw material purchase according to current regulations, with sample raw material tobacco leaves shown;

c/ The tobacco raw material trader must have tobacco growth investment contracts with tobacco growers and contracts on purchase of tobacco raw materials, which are suitable to the business scale.

6. Condition on locations of processing establishments

Processing establishments must be located in line with the Strategy and Master Plan of tobacco industry and the planning on development of tobacco raw material zones approved by the competent authority.

B. Competence, order and procedures for grant of certificates of eligibility for processing tobacco raw materials

1. The Ministry of Industry and Trade shall grant certificates of eligibility for processing tobacco raw materials.

2. A dossier of application for a certificate of eligibility for processing tobacco raw materials comprises:

a/ An application for an eligibility certificate;

b/ A valid copy of the business registration certificate;

c/ A valid copy of the certificate of eligibility for trading in tobacco raw materials;

d/ Documents concerning business criteria and conditions, including:

- A list of areas and a plan of workshops; sorting, processing and packaging sections; warehouses; offices and other auxiliary works.

- A list of equipment: complete specialized machinery and equipment for processing tobacco raw materials; equipment for checking the quality of raw materials before and after they are processed; the ventilation system; fire prevention and fighting equipment; hygrometers and thermometers; devices for worm, termite and borer extermination; shelves and pallets for storing tobacco loads.

- Documents evidencing the lawful origin of machinery and equipment.

- Written announcements of quality and hygiene standards in conformity with Vietnam standards and institutional standards, and the Ministry of Health's regulations on food quality, hygiene and safety.

- Contracts with employees engaged in investment management, technical assistance and raw material purchase and processing.

- Tobacco growth investment contracts with tobacco growers. Raw material purchase and sale contracts with tobacco raw material traders.

- A valid copy of the decision approving the environmental impact assessment report or the registration certificate of the environmental protection commitment granted by a competent agency.

- A valid copy of the certificate of assurance of fire safety granted by a competent firefighting police department.

3. Order and procedures for grant of certificates of eligibility for processing tobacco raw materials

a/ Within 30 days after receiving a complete and valid dossier of application, the Ministry of Industry and Trade shall consider and grant a certificate of eligibility for processing tobacco raw materials. In

case of refusal, the Ministry of Industry and Trade shall reply in writing, clearly stating the reason.

b/ For incomplete or invalid dossiers, the Ministry of Industry and Trade shall, within 7 days after receiving those dossiers, request in writing the dossier supplementation.

4. An eligibility certificate is made in four copies: Two copies shall be kept at the Ministry of Industry and Trade, one copy sent to the applying enterprise and another sent to the Industry Service of the locality where the enterprise is located.

5. An eligibility certificate is valid for five years. Thirty days before the expiration of the certificate, the enterprise shall send a written request for certificate renewal to the Ministry of Industry and Trade for consideration and renewal.

6. Enterprises that commit serious violations of provisions on business conditions and other provisions in this Circular or relevant provisions of law, are dissolved or fall bankrupt will have their eligibility certificates revoked.

IV. PRODUCTION OF TOBACCO PRODUCTS

A. Conditions for being granted permits for production of tobacco products

1. Condition on business entity

Any enterprise established under law and engaged in production of tobacco products before the date of issuance of the Government's Resolution No. 12/2000/NQ-CP of August 14, 2000, on the national policy for prevention and combat of tobacco harms in the 2000-2010 period.

2. Condition on investment in and use of domestically grown raw material tobacco:

a/ Enterprises producing tobacco products must invest in tobacco growing in the form of direct investment or investment through joint ventures with tobacco raw material traders that make direct investment in tobacco growing suitable to enterprises' production and business scales and the approved

planning on development of tobacco raw material zones;

b/ Enterprises producing tobacco products must use domestically grown raw material tobacco for the production of tobacco products according to the Ministry of Industry and Trade's annual plans, except for tobacco products with international brands or for export. These plans must be in line with the Strategy and the Master Plan of Vietnam's tobacco industry and the approved planning on development of tobacco raw material zones.

3. Condition on machinery and equipment

a/ Enterprises producing tobacco products must have specialized machinery and equipment for main stages of shred processing, cigar or cigarette rolling and packaging;

b/ Shred processing must be completely carried out by equipment, including steamer, moisturizer, raw material intake, leaf storing and annealing silo, shredder, shred heat-dryer, softener, flavor sprayer, mixer and weight scales.

The shred processing chain must be specialized and installed at a place where industrial sanitation, labor safety and environmental sanitation standards are satisfied;

c/ Enterprises that have no shred processing chains must enter into shred processing contracts. Units undertaking to process shreds must satisfy the conditions specified at Point b above;

d/ At the stages of rolling and packaging cigars or cigarettes into packs or cartons, enterprises must use automatic rolling and packaging machines, except for tobacco products produced by traditional manual methods;

e/ Enterprises producing tobacco products must have checking devices for measurement and checking of quality standards, such as cigar or cigarette weight, circumference and decompression. Enterprises may themselves check or hire checking service providers to check other physical and chemical standards and tobacco hygiene standards. Checking results must be systematically preserved for long-term monitoring;

f/ All machinery and equipment used for production of tobacco products must be of lawful origin.

4. Condition on quality, hygiene and safety of tobacco products

Enterprises producing tobacco products must satisfy quality and hygiene requirements according to Vietnam standards, institutional standards and the Ministry of Health's regulations on hygiene and safety of tobacco products.

5. Condition on ownership of trademarks

Enterprises producing tobacco products must own or be licensed to lawfully use trademarks registered and protected in Vietnam.

6. Condition on environment and fire and explosion prevention and fighting

Enterprises producing tobacco products must have sufficient fire prevention and fighting devices and equipment and assure environmental safety and sanitation in accordance with law.

B. Competence, order and procedures for grant of permits for production of tobacco products

1. The Ministry of Industry and Trade shall grant permits for production of tobacco products.

2. A dossier of application for a permit for production of tobacco products comprises:

a/ An application for a permit for production of tobacco products;

b/ A valid copy of the business registration certificate;

c/ Documents concerning business criteria and conditions specified in this Circular, including:

- A report on the enterprise's business operation results for the last three years, clearly stating the production output target (converted output) for each group of tobacco products.

- A list of machinery and equipment, stating the cigarette production capacity and each stage's capacity calculated in packs of 20 cigarettes and three working shifts per day for the last three years.

Documents evidencing the lawful origin of machinery and equipment.

- Shred processing contract and quality checking service contract (if any).

- A list of areas and a plan of warehouses, workshops, offices and other auxiliary works.

- A valid copy of the quality registration certificate or the quality standard conformity announcement.

- Valid copies of papers certifying the lawful ownership or use right to trademarks for tobacco products.

- A valid copy of the decision approving the environmental impact assessment report or the registration certificate of the environmental protection commitment granted by a competent agency.

- A valid copy of the certificate of assurance of fire safety granted by a competent firefighting police department.

3. Procedures for grant of permits for production of tobacco products

a/ Within 30 days after receiving a complete and valid dossier of application, the Ministry of Industry and Trade shall consider and grant a permit for production of tobacco products. In case of refusal, the Ministry of Industry and Trade shall reply in writing, clearly stating the reason.

b/ For incomplete or invalid dossiers, the Ministry of Industry and Trade shall, within 7 days after receiving those dossiers, request in writing the dossier supplementation.

4. A permit is made in four copies: Two copies shall be kept at the Ministry of Industry and Trade, one copy sent to the applying enterprise, and another sent to the Industry Service of the locality where the enterprise is located.

5. A permit for production of tobacco products is valid for five years. Thirty days before the expiration of the permit, the enterprise shall send a written request for permit renewal to the Ministry of Industry and Trade for consideration and renewal.

6. Enterprises producing tobacco products that

commit serious violations of provisions on conditions for production of tobacco products and other provisions in this Circular, are merged or dissolved will have their permits revoked.

V. INVESTMENT IN PRODUCTION OF TOBACCO PRODUCTS

A. Capacity of production of tobacco products

1. Total production capacity means the production capacity of a complete chain for production of tobacco products (main machinery and equipment for cigar or cigarette rolling and packaging) and calculated for three working shifts per day by the time of issuance of the Government's Resolution No. 12/2000/NQ-CP of August 14, 2000, on the national policy on prevention and combat of tobacco harms in the 2000-2010 period.

2. The Ministry of Industry and Trade shall announce the total production capacity of each unit as a basis for investment in the production of tobacco products and import of specialized tobacco machinery and equipment.

a/ Enterprises may invest in raising their production capacity if they produce cigarettes for export and may only produce and sell cigarettes at home within their determined and announced total production capacity;

b/ Annually, units shall send reports on cigarette production capacity investment to the Ministry of Industry and Trade.

B. Provisions on investment in the production of tobacco products for export, export processing, intensive investment, renewal of equipment and technologies, and relocation of production places under planning

1. Investors shall send their investment reports and written requests to the Ministry of Industry and Trade for approval of investment directions. Within 15 days after receiving written requests of enterprises, the Ministry of Industry and Trade shall reply in writing. In case of refusal to approve, it shall also reply, clearly

stating the reason.

2. A written request must state the name and location of the project, relevant principal technical parameters, production scale and output, tentative plan on disposal of replaced machinery and equipment (in case of replacement investment).

3. After obtaining written approval of the Ministry of Industry and Trade, enterprises shall make investment according to the order and procedures for investment and capital construction specified by law.

4. Enterprises shall report to the Ministry of Industry and Trade on the disposal of specialized tobacco machinery and equipment replaced in the course of investment.

C. Foreign investment in production of tobacco products

Foreign investment in the production of tobacco products may be licensed only in the form of joint venture or cooperation with enterprises possessing tobacco production permits and within the licensed production capacity.

1. Joint ventures with foreign parties for investment in the production of tobacco products

a/ Joint-venture parties shall send dossiers for establishment of joint ventures and joint-venture contracts enclosed with written requests to the Ministry of Industry and Trade.

Within 30 days after receiving complete dossiers and written requests of enterprises, the Ministry of Industry and Trade shall submit them to the Prime Minister for consideration and decision. In case of refusal, it shall reply in writing, clearly stating the reasons.

b/ A written request must state the name and location of the project, relevant principal technical parameters, operation scope and objectives, production scale and output of each kind of tobacco products, tentative plans on investment in machinery and equipment and disposal of replaced machinery and equipment.

c/ After obtaining written approval of the Prime Minister, joint-venture parties shall make registration

for joint venture establishment according to current provisions of law on investment.

2. Foreign investment in the form of processing, production cooperation or industrial property licensing contracts

a/ Involved parties shall send the whole dossiers of processing, production cooperation or industrial property licensing contracts enclosed with written requests to the Ministry of Industry and Trade.

Within 30 days after receiving complete dossiers and written requests of enterprises, the Ministry of Industry and Trade shall submit them to the Prime Minister for consideration and decision. In case of refusal, it shall reply enterprises in writing, clearly stating the reasons;

b/ A written request must state principal contents of the processing, production cooperation or industrial property licensing contract; production scale and output of each kind of tobacco products, and tentative plans on investment in machinery and equipment and disposal of replaced machinery and equipment (if any);

c/ After obtaining written approval of the Prime Minister, involved parties shall may perform the processing, production cooperation or industrial property licensing contract;

d/ Enterprises currently producing tobacco products under processing, production cooperation or industrial property licensing contracts with foreign parties shall send all dossiers and written requests as specified at Points a and b above to the Ministry of Industry and Trade for consideration and determination of the production scale and output of each kind of tobacco products.

3. When making intensive investment, enterprises shall report to the Ministry of Industry and Trade on results of disposal of specialized tobacco machinery and equipment which are no longer used or are liquidated, and take full responsibility for the disposal.

D. Production output of tobacco products

1. Enterprises may not produce tobacco products in excess of their production capacity stated in their permits for production of tobacco products.

2. Enterprises producing foreign-brand tobacco products may not produce them in excess of the permitted output. For foreign tobacco brands under which permitted outputs of products are not yet determined, enterprises shall send all dossiers as specified in Section C of Part V above to the Ministry of Industry and Trade for consideration and determination of the production scale and output.

3. Annually, enterprises shall send their statistical reports on the output of each kind of tobacco products to the Ministry of Industry and Trade.

VI. IMPORT OF SPECIALIZED TOBACCO EQUIPMENT, TOBACCO RAW MATERIALS AND CIGARETTE PAPER

1. Specialized tobacco machinery and equipment, tobacco raw materials and cigarette paper are imports subject to specialized management by the Ministry of Industry and Trade.

Enterprises having permits for production of tobacco products may import the above goods.

Enterprises having eligibility certificates for processing tobacco raw materials may import specialized tobacco machinery and equipment of various kinds suitable to the stages of tobacco raw material processing, and import tobacco raw materials.

The Vietnam Tobacco Corporation shall receive and distribute import quotas to its member units.

2. Enterprises eligible for import of specialized tobacco machinery and equipment, tobacco raw materials and cigarette paper may directly or entrust import and export business units to import these goods.

3. Import of specialized tobacco machinery and equipment

a/ Imported specialized tobacco machinery and equipment must be suitable to the production capacity of enterprises producing tobacco products;

b/ Investors shall send project dossiers already approved by competent authorities, copies of the Ministry of Industry and Trade's written approvals

and written requests for import of machinery and equipment to the Ministry of Industry and Trade;

c/ Within 7 days after receiving complete dossiers of enterprises, the Ministry of Industry and Trade shall base themselves on approved investment projects, approve or disapprove in writing the import of machinery and equipment by the enterprises.

4. Import of tobacco raw materials and cigarette paper for domestic production and sale of cigarettes

a/ By November 10 every year, enterprises producing tobacco products or processing tobacco raw materials shall send reports on their needs for import of tobacco raw materials and cigarette paper of the following year to the Ministry of Industry and Trade;

b/ For raw material tobacco leaves imported within their import quotas, enterprises shall send applications for registration for quota-based import to the Ministry of Industry and Trade;

c/ By December 15 every year, based on the production output and the Vietnam Tobacco Corporation's report on domestic supply of raw materials and the total import quota for raw material tobacco leaves, the Ministry of Industry and Trade shall issue written notices on import quotas to concerned enterprises and agencies;

d/ Imported tobacco raw materials and cigarette paper may only be used for the production of tobacco products under production plans of enterprises and must not be sold on the market.

5. Import of tobacco raw materials and cigarette paper for export production

Enterprises shall send export production contracts and written requests for permission for import of tobacco raw materials and cigarette paper to the Ministry of Industry and Trade. Based on these requests, the production capacity of enterprises and relevant dossiers, the Ministry of Industry and Trade shall, within 7 days after receiving complete dossiers and written requests of enterprises, notify in writing import plans to concerned enterprises and agencies.

6. For contracts for export processing of tobacco raw materials for foreign traders

Only enterprises having permits for production of tobacco products or certificates of eligibility for processing tobacco raw materials may perform contracts for export processing of tobacco raw materials.

Enterprises shall send export processing contracts and their written requests to the Ministry of Industry and Trade. Based on these requests and the production capacity of enterprises and relevant dossiers, the Ministry of Industry and Trade shall, within 7 days after receiving complete dossiers and written requests of enterprises, permit or refuse in writing to permit enterprises to perform those contracts.

7. Quarterly, enterprises producing tobacco products shall report on the import and use of specialized tobacco machinery and equipment, tobacco raw materials and cigarette paper imported in the quarter to the Ministry of Industry and Trade.

VII. MANAGEMENT, CONTROL AND DISPOSAL OF SPECIALIZED TOBACCO MACHINERY AND EQUIPMENT

1. Use of specialized tobacco machinery and equipment

a/ Enterprises having permits for production of tobacco products may use specialized tobacco machinery and equipment for processing tobacco raw materials and producing tobacco products;

b/ Enterprises having certificates of eligibility for processing tobacco raw materials may use specialized tobacco machinery and equipment suitable to the stages of processing tobacco raw materials;

c/ Organizations and individuals having no permits for production of tobacco products or certificates of eligibility for processing tobacco raw materials may not use specialized tobacco machinery and equipment in any form.

2. Specialized tobacco machinery and equipment not of lawful origin must be confiscated and disposed of according to law.

a/ Specialized tobacco machinery and equipment are regarded as unlawful in the following cases:

- They were imported before the date of issuance of the Prime Minister's Directive No. 13/1999/CT-TTg of May 12, 1999, without valid import papers and procedures.

- They were imported after the effective date of the Prime Minister's Directive No. 13/1999/CT-TTg of May 12, 1999, without valid import papers and procedures and written approvals of the Ministry of Industry and Trade (former Ministry of Industry).

b/ Confiscated specialized tobacco machinery and equipment shall be disposed of under current regulations and may be permitted to be sold only to enterprises with permits for production of tobacco products.

3. The sale, export, re-export and liquidation of specialized tobacco machinery and equipment of enterprises producing tobacco products comply with relevant provisions of law and the following provisions:

a/ Enterprises may only sell machinery and equipment which remain usable to enterprises with cigarette production permits, or export or re-export them to foreign countries;

b/ Machinery and equipment which are no longer usable or are liquidated must be destroyed under the supervision of a liquidation council set up by the Ministry of Industry and Trade;

c/ Enterprises shall compile liquidation dossiers for machinery and equipment that need to be liquidated, work out liquidation plans and send them together with written requests for liquidation to the Ministry of Industry and Trade. Within 15 days after receiving written requests of enterprises, the Ministry of Industry and Trade shall make decision to set up a liquidation council in charge of supervising the destruction of machinery and equipment;

d/ Enterprises shall report on results of machinery and equipment sale and liquidation to the Ministry of Industry and Trade.

4. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with the Police, Market Management and Customs in, organizing inspection, detection and disposal of unlawful machinery and equipment for production

of tobacco products.

VIII. IMPLEMENTATION PROVISIONS

1. Organization of implementation

The Department for Consumer Goods and Food Industry shall assume the prime responsibility for, and coordinate with units under the Ministry of Industry and Trade in:

- Organizing the receipt of dossiers, inspecting, supervising, examining and submitting to the Ministry's leadership for approval investment policies of tobacco industry, production capacity and output of tobacco products; granting certificates of eligibility for processing tobacco raw materials and permits for production of tobacco products; managing the import and use of specialized tobacco machinery and equipment, tobacco raw materials, cigarette paper, and contracts for export processing of tobacco raw materials; inspecting, disposing of and liquidating specialized tobacco machinery and equipment under this Circular.

- Organizing, guiding and inspecting organizations and individuals in the implementation of the provisions of the Government's Decree No. 41/2007/ND-CP of July 18, 2007, on tobacco production and trade, this Circular and relevant provisions of law on tobacco production and trade.

Provincial-level Industry Services shall organize the receipt, inspection, supervision and examination of dossiers and grant certificates of eligibility for trading in tobacco raw materials under this Circular.

2. Handling of violations

Organizations and individuals that commit acts of violation of this Circular and relevant provisions of law shall, depending on the severity of their violations, be disciplined, administratively sanctioned or examined for penal liability. If causing damage, they shall pay compensations therefor according to law.

3. Implementation effect

This Circular takes effect 15 days after its publication in "CONG BAO." All previous stipulations on tobacco production and trade which

are contrary to this Circular are annulled.

Within 90 days after the effective date of this Circular, traders that currently trade in tobacco raw materials, satisfy all the conditions specified in Section A of Part II and wish to continue their business shall submit dossiers of application for certificates of eligibility for trading in tobacco raw materials to the Industry Services of the provinces or centrally run cities where they have made business registration. These traders may continue their operation until the Industry Services grant or refuse to grant such certificates.

Within 90 days after the effective date of this Circular, enterprises that satisfy all the conditions for processing tobacco raw materials specified in Section A of Part II and wish to continue producing or processing tobacco raw materials shall submit dossiers of application for certificates of eligibility for processing tobacco raw materials to the Ministry of Industry and Trade. These traders may continue their operation until the Ministry of Industry and Trade grant or refuse to grant such certificates.

Within 90 days after the effective date of this Circular, enterprises that satisfy all the conditions for production of tobacco products specified in Section A of Part IV and wish to continue producing tobacco products shall submit dossiers of application for permits for production of tobacco products to the Ministry of Industry and Trade. These traders may continue their operation until the Ministry of Industry and Trade grant or refuse to grant such permits.

Organizations and individuals engaged in the trading or processing of tobacco raw materials; investment in or production of tobacco products; import of specialized tobacco machinery and equipment, tobacco raw materials and cigarette paper shall strictly comply with the guidance in this Circular.

Problems arising in the course of implementation should be reported by concerned organizations and individuals to the Ministry of Industry and Trade for timely settlement.

For the Minister of Industry and Trade
Vice Minister
CHAU HUE CAM

APPENDIX

LIST OF SPECIALIZED TOBACCO MACHINERY AND EQUIPMENT

(Attached to the Ministry of Industry and Trade's Circular No. 01/2007/TT-BTC of August 29, 2007)

I. CHAIN FOR PROCESSING TOBACCO RAW MATERIALS

A. Stage of processing tobacco leaves

1. Leaf tip cutter
2. Moisturizing cylinder
3. Leaf annealing chamber (storing and annealing silo)
4. Leaf heat-dryer (heat-drying, refrigeration, softening)
5. Leaf load weighing and compressing system

B. Stage of processing tobacco stems

1. Cylinder for moisturizing stems for the first time
2. Cylinder for moisturizing stems for the second time
3. Stem-leaf separating system
4. Stem heat-dryer (heat drying, refrigeration, softening)
5. Stem sorter and cleaner
6. Stem load weighing and compressing system

II. CHAIN FOR PROCESSING TOBACCO SHREDS

A. Leaf stage

1. Vacuum steaming equipment
2. Leaf tip cutter
3. Leaf moisturizing cylinder
4. Raw material intake cylinder
5. Leaf annealing chamber (storing and annealing silo)
6. Metal detector

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|--|---------------------------------------|
| 7. Leaf shredder | 3. Carton packaging machine |
| 8. Shred heaving equipment | 4. Carton cellophane wrapping machine |
| 9. Leaf heat-dryer (heat-drying, refrigeration, softening) | 5. Carton boxing machine.- |
| 10. System of weight scales | |

B. Stemming stage

1. Stemming machine
2. Cylinder for moisturizing stems for the first time
3. Stem annealing chamber (stem storing and annealing silo)
4. Cylinder for moisturizing stems for the second time
5. Stem mill
6. Stem shredder
7. Stem heaving equipment
8. Stem heat dryer
9. Stem separator
10. Stem annealing chamber (stem shred annealing silo)
11. System of weight scales

C. Shred mixing stage

1. Flavor sprayer
2. Shred annealing chamber (shred annealing silo)
3. Shred conveying system (aerodynamic or mechanical)

III. MACHINERY AND EQUIPMENT FOR PRODUCTION OF CIGARETTES**A. Stage of rolling cigarettes and fitting filter tips**

1. Cigarette rolling machine
2. Filter tip fitting machine
3. Tray intake machine

B. Packaging stage

1. Pack packaging machine
2. Pack cellophane wrapping machine