

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

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

1. This Circular guides conditions for trading and processing of tobacco raw materials; conditions for manufacture of tobacco products; conditions for import of specialized tobacco machinery and equipment, tobacco raw materials and cigarette paper; management of investment in and use of specialized tobacco machinery and equipment, tobacco production capacity and tobacco product output; conditions for trading in tobacco products; competence, procedures and order of grant of tobacco product trading and processing eligibility certificates and tobacco product manufacture and trading licenses prescribed in the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade.

2. This Circular does not apply to the import of tobacco products as well as the trade of tobacco products at duty free shops.

Article 2. Subjects of application

This Circular applies to domestic and foreign organizations and individuals engaged in the manufacture and trading of tobacco products and other activities related to the manufacture and trading of tobacco products in the Vietnamese territory.

Article 3. Interpretation of terms

THE MINISTRY OF INDUSTRY AND TRADE

Circular No. 02/2011/TT-BCT of January 28, 2011, guiding the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade

Pursuant to the Government's Decree No. 189/2007/ND-CP of December 27, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade;

Pursuant to the Government's Resolution No. 59/NQ-CP of December 17, 2010, on the simplification of administrative procedures under the management of the Ministry of Industry and Trade;

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

In this Circular, the terms below are construed as follows:

1. "Tobacco product-supplying enterprises" are corporations and enterprises which manufacture tobacco products and enterprises which import tobacco products under Decree No. 119/2007/ND-CP.

2. "Copy" referred to in this Circular is made in any of the following forms:

a/ Certified copy (for cases of submitting dossiers by post or via the administrative paper-delivering channel);

b/ Copy enclosed with its original for comparison (for cases of directly submitting dossiers);

c/ Copy scanned from its original (in case of submitting electronic files as allowed by administrative procedures).

Chapter II

TRADING IN TOBACCO RAW MATERIALS

Article 4. Conditions for the grant of tobacco raw material trading eligibility certificates

1. Conditions on business entities

Being traders having a business registration certificate covering tobacco raw material trading.

2. *Conditions on physical foundations, technical equipment and facilities and employees*

a/ Having a raw material trading facility with a sorting and packaging section and raw material warehouse(s) suitable to their business scope, with a total area of at least 500 m²;

b/ Having separate warehouses for tobacco

raw materials. These warehouses must be furnished with a ventilation system and equipment and facilities for the preservation of tobacco raw materials, including: thermometers and hygrometers for checking air temperature and relative humidity in the warehouses; devices for worm, termite and borer extermination; and sufficient racks and shelves for storing tobacco bales which are placed at least 20 cm above the floor and at least 50 cm from the wall or column;

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

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

a/ Places of tobacco raw material purchase must have signboards showing trade names of tobacco raw material traders;

b/ Standards for grading tobacco raw materials must be publicly posted up at places of tobacco raw material purchase according to current regulations, together with sample raw material tobacco leaves;

c/ Traders must have signed tobacco growth investment contracts with tobacco growers in conformity with their business scope.

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

Having sufficient equipment and facilities for fire prevention and fighting and assurance of safety and environmental sanitation in accordance with law.

Article 5. Competence to grant tobacco raw material trading eligibility certificates

Industry and Trade Departments of provinces

and centrally run cities (below referred to as provincial-level Industry and Trade Departments) are competent to grant tobacco raw material trading eligibility certificates to enterprises based in their localities.

Article 6. Dossiers of application for tobacco raw material trading eligibility certificates

A dossier of application for a tobacco raw material trading eligibility certificate comprises:

1. An application for a tobacco raw material trading eligibility certificate (made according to the form provided in Appendix 2 to this Circular *(not printed herein)*).

2. A copy of the business registration certificate.

3. A list of warehouses, workshops, offices and other auxiliary works; their plans and areas.

4. A list of equipment and facilities: the ventilation system; fire prevention and fighting equipment, hygrometers and thermometers, devices for worm, termite and borer extermination and racks or shelves for storing tobacco bales.

5. A list of employees engaged in investment management, technical assistance and raw material purchase, copies of their labor contracts and certificates of training in tobacco growing techniques.

6. Copies of tobacco growth investment contracts signed with tobacco growers.

Article 7. Order of grant of tobacco raw material trading eligibility certificates

1. Within 10 days after receiving a complete and valid dossier, the provincial-level Industry and Trade Department shall consider and grant a tobacco raw material trading eligibility

certificate (made according to the form provided in Appendix 3 to this Circular - *not printed herein*). In case of refusal, it shall reply in writing, clearly stating the reason.

2. For incomplete or invalid dossiers, the provincial-level Industry and Trade Department shall, within 5 days after receiving these dossiers, request in writing their supplementation.

3. Issuance and preservation of tobacco raw material trading eligibility certificates.

A tobacco raw material trading eligibility certificate shall be issued in four copies: Two copies shall be kept at the provincial-level Industry and Trade Department, one sent to the Ministry of Industry and Trade and another sent to the applicant.

Chapter III

PROCESSING OF TOBACCO RAW MATERIALS

Article 8. Conditions for the grant of tobacco raw material processing eligibility certificates

1. Conditions on business entities

a/ Being an enterprise lawfully established and having a business registration certificate covering tobacco raw material processing;

b/ Possessing a tobacco raw material trading eligibility certificate.

2. Conditions on material foundations, technical equipment and facilities and employees

a/ Having a raw material processing facility with sorting, processing and packaging sections and raw material warehouse(s) suitable to their business scope, with a total area of at least 5.000

m²;

b/ Having separate warehouses for unprocessed and processed tobacco raw materials which are suitable to their business scope. These warehouses must be furnished with ventilation systems, thermometers and hygrometers for checking air temperature and relative humidity in the warehouses; devices for worm, termite and borer extermination; sufficient racks or shelves for storing tobacco bales which are placed at least 20 cm above the floor and at least 50 cm from the wall or column;

c/ Having complete specialized machinery and equipment for stemming tobacco leaves or processing tobacco leaves into tobacco shreds or flakes and other substitutes for manufacturing tobacco products. Raw material processing chains must be specialized and ensure industrial sanitation, labor safety and environmental sanitation standards;

d/ Having equipment and facilities for measuring and checking the quality of raw materials before and after they are processed;

e/ All machinery and equipment must be of lawful origin;

f/ Having signed contracts with employees who possess professional qualifications in mechanical engineering, technology or food chemistry.

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

Having satisfied quality and hygiene requirements prescribed in Vietnam standards, in-house standards and current regulations on food quality, hygiene and safety.

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

Having sufficient devices and equipment for fire prevention and fighting and assurance of safety and environmental sanitation in accordance with law.

5. Conditions on business processes suitable to business lines

a/ Places of tobacco raw material purchase must have signboards showing trade names of enterprises trading in or processing tobacco raw materials;

b/ Standards for grading tobacco raw materials must be publicly posted up at places of tobacco raw material purchase according to current regulations, together with sample raw material tobacco leaves;

c/ Tobacco raw material processing traders must sign tobacco growth investment contracts with tobacco growers and contracts on the purchase of tobacco raw materials from tobacco raw material traders in conformity with their business scope.

6. Conditions on locations of processing facilities

Processing facilities must be located in line with the strategy and master plan of the tobacco industry and plans on development of tobacco raw material zones approved by competent authorities.

Article 9. Competence to grant tobacco raw material processing eligibility certificates

The Ministry of Industry and Trade is competent to grant tobacco raw material processing eligibility certificates.

Article 10. Dossiers of application for tobacco raw material processing eligibility

certificates

A dossier of application for a tobacco raw material processing eligibility certificate comprises:

1. An application for a tobacco raw material processing eligibility certificate (made according to the form provided in Appendix 4 to this Circular - *not printed herein*);

2. A copy of the business registration certificate;

3. A list of workshops; sorting, processing and packaging sections; warehouses, offices and other auxiliary works, and their areas and plans;

4. A list of complete specialized machinery and equipment for processing tobacco raw materials; devices 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 and racks or shelves for storing tobacco bales;

5. Documents evidencing the lawful origin of machinery and equipment.

6. A list of employees;

7. Copies of labor contracts signed with employees engaged in investment management, technical assistance and raw material purchase, enclosed with their certificates of training in tobacco growing techniques;

8. Copies of labor contracts signed with employees engaged in tobacco raw material processing, enclosed with their certificates of training in mechanical engineering, technology or food chemistry;

9. Copies of tobacco growth investment contracts, signed with tobacco growers, and

tobacco raw material sale and purchase contracts, signed with tobacco raw material traders;

10. Copies of certificates of standards applicable to products, issued by competent agencies, copies of announcements of standards applicable to their products, enclosed with in-house standards already announced under current regulations of the Ministry of Health.

Article 11. Order of grant of tobacco raw material processing eligibility certificates

1. Within 20 days after receiving a complete and valid dossier, the Ministry of Industry and Trade shall consider and grant a tobacco raw material processing eligibility certificate (made according to the form provided in Appendix 5 to this Circular - *not printed herein*). In case of refusal, it shall reply in writing, clearly stating the reason;

2. For incomplete or invalid dossiers, the Ministry of Industry and Trade shall, within 7 days after receiving these dossiers, request in writing their supplementation.

3. Issuance and preservation of tobacco raw material processing eligibility certificates

A tobacco raw material processing eligibility certificate shall be issued in four copies: Two copies shall be kept at the Ministry of Industry and Trade, one sent to the applying enterprise and another sent to the provincial-level Industry and Trade Department of the locality where the enterprise is based.

Chapter IV

MANUFACTURE OF TOBACCO PRODUCTS

Article 12. Conditions on the grant of

tobacco product manufacturing licenses

1. Conditions on business entities

Being enterprises lawfully established and manufacturing tobacco products before the 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 during 2000-2010.

2. Conditions on investment in and use of home-grown tobacco raw materials

a/ Enterprises shall invest in tobacco growing in the form of direct investment or investment through joint venture with tobacco raw material traders that make direct investment in tobacco growing in conformity with their production and business scope and the approved plan on development of tobacco material zones;

b/ Enterprises shall use home-grown tobacco raw materials for manufacturing tobacco products under the Ministry of Industry and Trade's annual plans, except for manufacturing tobacco products with foreign brands or for export. These plans shall be made in line with the strategy and master plan of Vietnam's tobacco industry and approved plans on development of tobacco raw material zones.

3. Conditions on machinery and equipment

a/ Enterprises manufacturing tobacco products must have specialized machinery and equipment for the principal stages of cigarette rolling and packaging;

b/ At the stages of rolling and packaging cigarettes in packs or cartons, enterprises shall use automatic rolling and packaging machines, except for tobacco products produced by traditional manual methods;

c/ Enterprises must have devices for

measuring and checking quality criteria such as cigarette weight, circumference and decompression. Enterprises may themselves check or hire qualified service providers to check other physical and chemical norms and tobacco hygiene standards. Checking results must be systematically preserved for long-term monitoring;

d/ All machinery and equipment used for manufacturing tobacco products must be of lawful origin.

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

Enterprises must satisfy quality and hygiene requirements as specified by Vietnam standards, in-house standards and the Ministry of Health's regulations on hygiene and safety of tobacco products.

5. Condition on ownership of trademarks

Enterprises must have the right to own or lawfully use trademarks registered and protected in Vietnam.

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

Enterprises must have sufficient devices and equipment for fire prevention and fighting and assurance of safety and environmental sanitation in accordance with law.

Article 13. Competence to grant tobacco product manufacturing licenses

The Ministry of Industry and Trade is competent to grant tobacco product manufacturing licenses.

Article 14. Dossiers of application for tobacco product manufacturing licenses

A dossier of application for a tobacco product manufacturing license comprises:

1. An application for a tobacco product manufacturing license (made according to the form provided in Appendix 6 to this Circular - *not printed herein*).

2. A copy of the business registration certificate.

3. A report on the enterprise's business performance over the last 3 years, clearly stating the production output target (converted output) for each group of tobacco products.

4. A list of machinery and equipment, stating the cigarette production capacity and each stage's capacity calculated in packs of 20 cigarettes and 3 shifts per day over the last 3 years. Documents evidencing the lawful origin of machinery and equipment.

5. Tobacco shred processing contracts and quality inspection service contracts (if any).

6. A list of warehouses, workshops, offices and other auxiliary works and their areas and plans.

7. Copies of certificates of standards applicable to products, issued by competent agencies; copies of announcements of standards applicable to products, enclosed with in-house standards already announced under current regulations of the Ministry of Health.

8. Copies of papers certifying the lawful ownership or use right to trademarks of tobacco products.

9. Copies of documents evidencing investments in the development of tobacco raw material zones.

Article 15. Procedures for the grant of

tobacco product manufacturing licenses

1. Within 20 days after receiving a complete and valid dossier, the Ministry of Industry and Trade shall consider and grant a tobacco product manufacturing license (made according to the form provided in Appendix 7 to this Circular - *not printed herein*). In case of refusal, it shall reply in writing, clearly stating the reason.

2. For incomplete or invalid dossiers, the Ministry of Industry and Trade shall, within 7 days after receiving these dossiers, request in writing their supplementation.

3. Issuance and preservation of tobacco product manufacturing licenses

A tobacco product manufacturing license shall be issued in 4 copies: 2 copies shall be kept at the Ministry of Industry and Trade, one sent to the applying enterprise, and another sent to the provincial-level Industry and Trade Department of the locality where the enterprise is based.

Chapter V

INVESTMENT IN THE MANUFACTURE OF TOBACCO PRODUCTS

Article 16. Capacity of tobacco product manufacture

1. Total production capacity means the production capacity of a complete chain for tobacco product manufacture (with principal machinery and equipment for cigarette rolling and packaging) calculated for 3 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 during 2000-2010.

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

3. Enterprises may make investment to increase their production capacity only if they produce cigarettes for export and shall produce cigarettes for domestic consumption within their determined and announced total production capacity.

Annually, enterprises shall send reports on investment in their cigarette production capacity to the Ministry of Industry and Trade.

Article 17. Investment in the manufacture of tobacco products for export, export processing, intensive investment, renewal of equipment and technologies, and relocation of places of manufacture as planned

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

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

3. After obtaining the 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 which are replaced in the course of investment.

Article 18. Foreign investment in the manufacture of tobacco products

1. Foreign enterprises are only permitted to invest in the manufacture of tobacco products through joint venture or cooperation with domestic enterprises which possess tobacco product manufacturing licenses and within their licensed production capacity and with the State holding a dominant share in the enterprises' charter capital.

2. Foreign investment in the form of joint venture to manufacture tobacco products

a/ Joint-venture parties shall send a dossier of the project on the establishment of the joint venture and the joint-venture contract, enclosed with a written request to the Ministry of Industry and Trade.

Within 30 days after receiving a complete dossier and the written request of the 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 reason;

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, plan on investment in machinery and equipment and disposal of to-be-replaced machinery and equipment;

c/ Only after obtaining the written approval of the Prime Minister, can joint-venture parties

make registration for joint venture establishment according to current investment regulations.

3. Foreign investment in the form of industrial property licensing contracts

a/ Involved parties shall send the whole dossier of the industrial property licensing contract enclosed with a written request to the Ministry of Industry and Trade. Within 30 days after receiving a complete dossier and the written request of the enterprise, the Ministry of Industry and Trade shall submit them to the Prime Minister for consideration and decision. In case of refusal, it shall reply the enterprises in writing, clearly stating the reason;

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

c/ Only after obtaining the written approval of the Prime Minister, can the involved parties perform the industrial property licensing contract;

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

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

Article 19. Tobacco product output

1. Enterprises may not manufacture tobacco products in excess of the capacity stated in their tobacco product manufacturing licenses.

2. Enterprises manufacturing tobacco products bearing foreign brands may not manufacture them in excess of the permitted output.

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

Chapter VI

IMPORT OF SPECIALIZED TOBACCO MACHINERY AND EQUIPMENT, TOBACCO RAW MATERIALS AND CIGARETTE PAPER

Article 20. Management of the import of specialized tobacco machinery and equipment and spare parts, tobacco raw materials and cigarette paper

1. Imported specialized tobacco machinery and equipment and spare parts, tobacco raw materials and cigarette paper are subject to the line management of the Ministry of Industry and Trade.

2. Licensed tobacco groups and corporations which are parent companies shall receive and distribute tobacco raw materials and cigarette paper to their member units which possess tobacco product manufacturing licenses based on their import quotas.

Article 21. Import of specialized tobacco machinery and equipment and their spare parts

1. Enterprises which possess tobacco product manufacturing licenses and tobacco raw material processing eligibility certificates may import specialized tobacco machinery and equipment

suitable to their production capacity.

2. Dossiers of and procedures for the import of specialized tobacco machinery and equipment

a/ The investor shall send a project dossier, comprising a copy of the investment project already approved by a competent authority, a copy of the Ministry of Industry and Trade's written approval of the investment, if any, and a written request for import of machinery and equipment, to the Ministry of Industry and Trade;

b/ Within 7 days after receiving the enterprise's complete dossier, the Ministry of Industry and Trade shall approve or disapprove in writing the enterprise's import of machinery and equipment.

Article 22. Import of tobacco raw materials and cigarette paper for the manufacture of tobacco products for domestic consumption

1. Enterprises possessing tobacco product-manufacturing licenses may import tobacco raw materials and cigarette paper for manufacturing *tobacco products*.

2. Enterprises possessing tobacco raw material processing eligibility certificates may import tobacco raw materials for processing tobacco shreds for plants which have tobacco product-manufacturing licenses under contracts or written agreements.

3. By November 10 at the latest every year, tobacco product-manufacturing enterprises and tobacco shred-processing enterprises shall send to the Ministry of Industry and Trade reports on their needs for import of tobacco raw materials and cigarette paper for the manufacture of tobacco products for domestic consumption and the processing of tobacco shreds in the following year.

Reports must clearly state their production

and business situation, production output and the import of tobacco raw materials and cigarette paper in the reporting year and the estimated production output and needs for tobacco raw materials and cigarette paper in the following year.

4. For tobacco raw materials imported within import quotas, enterprises shall send applications for registration for quota-based import to the Ministry of Industry and Trade.

5. By December 15 at the latest every year, based on the production output and reports of tobacco product-manufacturing enterprises and tobacco raw material-processing enterprises, the domestic supply of raw materials and the total import quotas for tobacco raw materials, the Ministry of Industry and Trade shall issue written notices of import quotas to concerned enterprises and agencies.

6. The total import quotas for tobacco raw materials and import quotas allocated to each enterprise shall be posted on the Ministry of Industry and Trade's website.

7. Imported tobacco raw materials and cigarette paper may only be used for manufacturing tobacco products under manufacturing enterprises' production plans or for processing tobacco shreds under contracts or written agreements signed between tobacco raw material-processing enterprises and tobacco-manufacturing enterprises as prescribed in Clause 2 of this Article and must not be domestically marketed.

Article 23. Import of tobacco raw materials and cigarette paper for the manufacture or processing of tobacco products for export

1. Only enterprises possessing tobacco product-manufacturing licenses may import

tobacco raw materials and cigarette paper to ~~serve~~ the performance of contracts on the manufacture or processing of tobacco products for export.

2. Enterprises shall send contracts on the manufacture or processing of tobacco products for export and written requests for permission to import tobacco raw materials and cigarette paper to the Ministry of Industry and Trade. Based on enterprises' requests, production capacity 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.

3. Tobacco raw materials and cigarette paper imported under this Article may only be used for manufacturing tobacco products for export and must not be domestically marketed or used for manufacturing tobacco products for domestic sale.

Article 24. Import of tobacco raw materials for processing tobacco raw materials for export; performance of contracts on processing of tobacco raw materials for foreign traders

1. Only enterprises having tobacco raw material processing eligibility certificates may import tobacco raw materials for processing tobacco raw materials for export or perform contracts on the processing of tobacco raw materials for export.

2. Enterprises shall send tobacco raw material processing contracts or export processing contracts and written requests to the Ministry of Industry and Trade. Based on enterprises' requests, production capacity and relevant dossiers, the Ministry of Industry and Trade shall, within 7 days after the receipt of

complete dossiers and written requests of enterprises, approve or disapprove in writing the enterprises' performance of those contracts.

Chapter VII

MANAGEMENT OF USE OF SPECIALIZED TOBACCO MACHINERY AND EQUIPMENT

Article 25. Use of specialized tobacco machinery and equipment

1. Enterprises that have tobacco product-manufacturing licenses may use specialized tobacco machinery and equipment for processing tobacco raw materials and manufacturing tobacco products.

2. Enterprises that have tobacco raw material processing eligibility certificates may use specialized tobacco machinery and equipment suitable to the stages of processing tobacco raw materials.

3. Organizations and individuals that have no tobacco product manufacturing license or tobacco raw material processing eligibility certificate may not use specialized tobacco machinery and equipment in any form.

Article 26. Disposal of specialized tobacco machinery and equipment of unlawful origin

1. Specialized tobacco machinery and equipment are regarded as unlawful in the following cases:

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

b/ 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 written approval of the Ministry of Industry and Trade (or the former Ministry of Industry).

2. Specialized tobacco machinery and equipment of unlawful origin shall be confiscated and disposed of under current regulations and may be resold only to enterprises with tobacco product manufacturing licenses.

3. The Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with the Ministry of Public Security and the Ministry of Finance in, inspecting, detecting and disposing of unlawful machinery and equipment used for the manufacture of tobacco products.

Article 27. Sale, export, re-export and liquidation of specialized tobacco machinery and equipment of tobacco product-manufacturing enterprises

1. Enterprises may only sell machinery and equipment which remain usable to enterprises with tobacco product manufacturing licenses, or export or re-export them.

2. Machinery and equipment which are no longer usable must be destroyed under the supervision of a machinery and equipment destruction supervision team set up by the Ministry of Industry and Trade.

3. 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 enterprises' written requests, the Ministry of Industry and Trade shall decide to set up a team in charge of supervising the destruction of machinery and equipment.

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

Chapter VIII

TRADING IN TOBACCO PRODUCTS

Article 28. Conditions for the grant of tobacco product wholesale trade (or wholesale agency) licenses

Traders shall be granted tobacco product wholesale trade (or wholesale agency) licenses if they fully meet the following conditions:

1. Conditions on business entities

Being lawfully established and having a business registration certificate covering sale and purchase of tobacco products.

2. Conditions on business locations

Having fixed business places (covering also retail places, if any) with clear addresses conformable with the approved tobacco product trading network.

3. Conditions on physical foundation and financial capacity

a/ Having warehouses (or storing places) suitable to their business scope and satisfying requirements for the preservation of tobacco products during the storage period;

b/ Having vehicles suitable to their business scope and satisfying requirements of preservation of tobacco products during transportation;

c/ Being financially capable to assure the normal operation of their distribution system.

4. Conditions on organization of the distribution system

Being selected by tobacco product-supplying enterprises or other wholesale traders to act as

wholesale traders (wholesale agents), and **having** organized a stable system for distribution of tobacco products in their locality.

Article 29. Competence to grant tobacco product wholesale trade (or wholesale agency) licenses

1. For wholesale traders (wholesale agents) **conducting** business in 2 or more provinces: Licenses shall be granted by the Ministry of Industry and Trade;

2. For wholesale traders (wholesale agents) **conducting** business in a single province: Licenses shall be granted by the provincial-level Industry and Trade Department of the locality **where** the applying trader is based.

Article 30. Dossiers of application for tobacco product wholesale trade (wholesale agency) licenses

1. An application for a tobacco product wholesale trade (wholesale agency) license (**made** according to the form provided in Appendix 8 to this Circular - *not printed herein*);

2. Copies of the business registration certificate and tax identification number certificate (if any);

3. The letter of introduction of a tobacco product-supplying enterprise or another wholesale trader (if so agreed by the enterprise **that supplies** tobacco products to that trader), **clearly** stating the expected business location;

4. A business plan, covering:

a/ A report on business performance over the **last 3** year, enclosed with copies of sale and purchase contracts (or sale and purchase agency contracts) with sale enterprises (for operating enterprises), clearly stating general data on all

kinds of tobacco products, purchase prices, sale prices and sale and purchase value (total value and value calculated for each tobacco product-supplying enterprise and business location), paid tax amounts, and profits;

b/ The expected business performance of the year following the year when the trader applies for a tobacco product wholesale trade (wholesale agency) license, clearly stating names and addresses of enterprises that will sell goods to the enterprise, kinds of tobacco products, purchase prices, sale prices, and sale and purchase value (total value and value calculated according to each goods-selling enterprise and business location), payable tax amounts and profits;

c/ Forms of organization of goods sale and methods of management of the distribution system;

d/ A list of physical and technical foundations (warehouses, vehicles) and employees involved in tobacco product trading;

e/ A list of traders which belong or will belong to its distribution system and retail shops (if any). Such list must clearly state traders' names and addresses, addresses of tobacco product wholesale and retail shops (if any), tax identification numbers, copies of tobacco product trading licenses (for operating traders) and business locations.

5. Documents evidencing the enterprise's capacity, including:

a/ Documents of warehouses (or storing places), indicating: warehouse use rights (owned or co-owned by the trader or rented for a minimum period of one year), location and storing capacity of warehouses and devices and equipment and techniques applied for

maintaining the quality of tobacco products during storage;

b/ Documents of vehicles, indicating rights to use vehicles (owned or co-owned by the trader or rented for a minimum period of one year), transportation capacity and devices and equipment and techniques applied for maintaining the quality of tobacco products during transportation;

c/ Documents on financial capacity: written certification of own capital or guarantee of goods-selling enterprises or banks where the trader opens accounts on financial guarantee for normal operation of the whole distribution system.

Article 31. Order of grant of tobacco product wholesale trade (wholesale agency) licenses

1. Wholesale traders (wholesale agents) shall send 1 dossier to competent licensing agencies as prescribed in this Circular.

2. Within 15 days after receiving a complete and valid dossier, the licensing agency shall consider and grant a tobacco product trading license (made according to the form provided in Appendix 9 to this Circular - *not printed herein*), to wholesale traders (wholesale agents) conducting business in 2 or more provinces, or the form provided in Appendix 10 this Circular - *not printed herein*), to traders conducting business in a single province. In case of refusal to grant a license, the licensing agency shall reply in writing, clearly stating the reason;

3. For incomplete or invalid dossiers, the licensing agency shall, within 7 days after receiving the dossiers, request in writing their supplementation.

4. Issuance and preservation of tobacco product wholesale trade (wholesale agency) licenses

a/ For licenses granted by the Ministry of Industry and Trade: each license shall be issued in a sufficient number of copies: 3 copies shall be kept at the Ministry and each of the rest shall be sent to the Market Management Department, provincial-level Industry and Trade Departments listed in the license (business locations) and the Industry and Trade Department of the locality where the trader is based, and the applicant;

b/ For licenses granted by provincial-level Industry and Trade Departments: each license shall be issued in 5 copies: 2 copies shall be kept at the licensing Industry and Trade Department, one sent to the Market Management Sub-Department under the licensing Industry and Trade Department, one sent to the Ministry of Industry and Trade, and another sent to the applicant.

Article 32. Conditions for the grant of tobacco product retail trade (or retail agency) licenses

A trader shall be granted a tobacco product retail trade (or retail agency) license if it fully meets the following conditions:

1. Conditions on business entities

Having a business registration certificate covering sale and purchase of tobacco products.

2. Conditions on business locations

Having a fixed business place with a clear address conformable with the approved tobacco product trading network.

3. Conditions on physical foundations

Having a separate place for sale of tobacco products.

4. Conditions on organization of the distribution system

Belonging to the distribution system of a

tobacco product wholesale trader.

Article 33. Competence, dossiers and order for the grant of tobacco product retail trade (retail agency) licenses

Licenses shall be granted by Industry and Trade or Economics Sections (professional bodies under district-level People's Committees – below collectively referred to as Industry and Trade Sections) of districts where traders apply for the opening of tobacco product retail shops.

Article 34. Dossiers of application for tobacco product retail trade (retail agency) licenses.

A dossier of application for a tobacco product retail trade (retail agency) license comprises:

1. An application for a tobacco product retail trade (retail agency) license (made according to the form provided in Appendix 11 to this Circular - *not printed herein*);
2. A copy of the business registration certificate;
3. A letter of introduction of a tobacco product wholesale trader, clearly stating all business places;
4. Documents evidencing the lawfulness of the trader's tobacco product retail places.

Article 35. Order of grant of tobacco product retail trade (retail agency) licenses

1. Traders shall send 1 dossier set to the Industry and Trade Sections of districts where they want to open business places;
2. Within 15 days after receiving a valid and complete dossier, the Industry and Trade Section shall consider and grant a tobacco product retail trade (or retail agency) license (made according

to the form provided in Appendix 12 to this Circular - *not printed herein*). In case of refusal, it shall reply in writing, clearly stating the reason.

3. For incomplete or invalid dossiers, the district-level Industry and Trade Section shall, within 7 days after receiving the dossiers, request in writing their supplementation.

4. Issuance and preservation of tobacco product retail trade (retail agency) licenses

A tobacco product retail trade (retail agency) license shall be issued in 5 copies: 2 copies shall be kept at the district-level Industry and Trade Section, one shall be sent to the superior provincial-level Industry and Trade Department, one to the Market Management Sub-Department under the superior provincial-level Industry and Trade Department, and another to the applicant.

Chapter IX

REPORTING REGULATIONS

Article 36. Reporting regulations applicable to state management agencies in charge of industry and trade at all levels

Within 20 days after the end of a reporting period, state management agencies in charge of industry and trade at all levels shall send biannual and annual reports on business results of traders under their licensing competence to their superior-level state management agencies in charge of industry and trade.

Article 37. Reporting regulations applicable to enterprises

1. Tobacco product-supplying enterprises shall send quarterly reports on the import and use of specialized tobacco machinery and

equipment, tobacco raw materials and cigarette paper imported in the period to the Ministry of Industry and Trade.

2. They shall send biannual and annual reports on their business performance within 10 days after the end of the reporting period to the Ministry of Industry and Trade.

3. In the course of operation, if terminating sale and purchase contracts (or sale and purchase agency contracts) or adjusting (expanding or narrowing) the business scope of a trader within their distribution system, they shall report thereon to the Ministry of Industry and Trade and the provincial-level Industry and Trade Department of the locality where the concerned trader is based in order to carry out procedures for revoking or adjusting the trader's tobacco product trading license and for adjusting or granting a new license to another trader, when necessary. Reports must be sent right after tobacco product-supplying enterprises terminate or adjust contracts signed with wholesale traders.

4. For tobacco product wholesale traders

Within 10 days after the end of a reporting period, they shall send biannual and annual reports on their business results to the Ministry of Industry and Trade and provincial-level Industry and Trade Departments of localities where they conduct business as stated in their tobacco product trading licenses (for traders that directly purchase tobacco products from tobacco product-supplying enterprises and sell these products in 2 or more provinces) or the provincial-level Industry and Trade Department of the locality where they are headquartered as stated in their tobacco product trading licenses (for traders that sell tobacco products in a single province).

5. For tobacco product retail traders

Within 10 days after the end of a reporting period, they shall send biannual and annual reports on their business results and distribution systems (if any) to the licensing district-level Industry and Trade Sections.

Chapter X

VALIDITY DURATION; MODIFICATION, RE-GRANT AND REVOCATION OF TOBACCO PRODUCT MANUFACTURING AND TRADING ELIGIBILITY CERTIFICATES AND LICENSES AND LICENSING FEES

Article 38. Validity duration

A tobacco raw material trading eligibility certificate, tobacco raw material processing eligibility certificate, tobacco product manufacturing license or tobacco product trading license is valid for five (05) years from the date of grant.

Article 39. Modification of tobacco raw material trading eligibility certificates, tobacco raw material processing eligibility certificates, tobacco product manufacturing licenses and tobacco product trading licenses

1. In case there are any changes in the contents of their tobacco raw material trading eligibility certificates, tobacco raw material processing eligibility certificates, tobacco product manufacturing licenses or tobacco product trading licenses, organizations and individuals shall compile and send one dossier set to the licensing state management agency in charge of industry and trade.

2. Such a dossier comprises:

a/ A written request for modification;

b/ A copy of the granted certificate or license;
c/ Documents justifying the need for the modification.

3. Competence for modification comply with the guidance in this Circular.

Within 5 day after receiving a complete and valid dossier, competent agencies shall consider and modify the tobacco raw material trading eligibility certificate, tobacco raw material processing eligibility certificate, tobacco product manufacturing license or tobacco product trading license concerned. In case of refusal, they shall reply in writing, clearly stating the reason.

Article 40. Re-grant of tobacco raw material trading eligibility certificates, tobacco raw material processing eligibility certificates, tobacco product manufacturing licenses and tobacco product trading licenses

1. In case a raw material trading eligibility certificate, tobacco raw material processing eligibility certificate, tobacco product manufacturing license or tobacco product trading license is expired: At least 30 days before the expiration date, the licensed organization or individual shall compile a dossier as guided in this Circular for cases of first-time grant and send such dossier to the licensing state management agency in charge of industry and trade.

2. In case a tobacco raw material trading eligibility certificate, tobacco raw material processing eligibility certificate, tobacco product manufacturing license or tobacco product trading license is lost, partially or wholly destroyed, torn or burnt, the concerned organization or individual shall compile and send to the licensing state management agency in charge of industry and trade one dossier set

of application for re-grant of license, comprising:

a/ A written request for re-grant

b/ A copy of the granted certificate or license (if any).

3. Within 3 days after receiving a complete and valid dossier, the competent agency shall consider and re-grant a tobacco raw material trading eligibility certificate, tobacco raw material processing eligibility certificate, tobacco product manufacturing license or tobacco product trading license. In case of refusal, it shall reply in writing, clearly stating the reason.

Article 41. Revocation of tobacco raw material trading eligibility certificates, tobacco raw material processing eligibility certificates, tobacco product manufacturing licenses and tobacco product trading licenses

Organizations and individuals will have their tobacco raw material trading eligibility certificates, tobacco raw material processing eligibility certificates, tobacco product manufacturing licenses or tobacco product trading licenses revoked if they violate regulations on production and business conditions prescribed by law.

Article 42. Licensing fees

Production and business organizations and individuals that are granted tobacco raw material trading eligibility certificates, tobacco raw material processing eligibility certificates, tobacco product manufacturing licenses or tobacco product trading licenses shall pay fees according to the Ministry of Finance's regulations.

Chapter XI

IMPLEMENTATION PROVISIONS

Article 43. Organization of implementation

1. The Light Industry Department shall, within the scope of its functions and tasks, assume the prime responsibility for, and coordinate with units under the Ministry of Industry and Trade in:

a/ Receiving, examining and appraising dossiers and proposing the Ministry's leadership to approve policies on investment in tobacco production and grant of tobacco raw material processing eligibility certificates and tobacco product manufacturing and trading licenses under its competence as prescribed in this Circular;

b/ Guiding and examining organizations and individuals in the implementation of the provisions of the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade, this Circular and relevant regulations law on tobacco production and trade.

2. The Domestic Market Department shall, within the scope of its functions and tasks, assume the prime responsibility for, and coordinate with units under the Ministry of Industry and Trade in:

a/ Receiving, examining and appraising dossiers and proposing the Ministry's leadership to grant tobacco product wholesale trading (wholesale agency) licenses as prescribed in this Circular;

b/ Guiding and examining organizations and individuals in the implementation of the provisions of the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade, this Circular and relevant regulations on tobacco production and trade.

3. The Market Management Department shall, within the scope of its functions and tasks, assume the prime responsibility for, and coordinate with units under the Ministry of Industry and Trade in:

Inspecting the observance of the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade, this Circular and relevant regulations on tobacco production and trade by concerned organizations and individuals.

4. Provincial-level Industry and Trade Departments shall, within the scope of their functions and tasks, assume the prime responsibility for, and coordinate with relevant agencies in their localities in:

a/ Receiving, examining and appraising dossiers and granting tobacco raw material trading eligibility certificates and tobacco product wholesale trade (wholesale agency) licenses under their competence as prescribed in this Circular;

b/ Organizing, guiding and inspecting district-level Industry and Trade Bureaus in the grant of tobacco product retail trade (retail agency) licenses as prescribed in this Circular;

c/ Guiding and inspecting local organizations and individuals in the implementation of the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade, this Circular and relevant regulations on tobacco production and trade.

5. District-level Industry and Trade Sections shall, within the scope of their functions and tasks, assume the prime responsibility for, and coordinate with relevant agencies in their localities in:

a/ Receiving, examining and appraising

dossiers and granting tobacco raw material trading eligibility certificates and tobacco product wholesale trade (wholesale agency) licenses under their competence as prescribed in this Circular;

b/ Guiding and inspecting local organizations and individuals in the implementation of the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade, this Circular and relevant regulations on tobacco production and trade.

6. Responsibilities of provincial-level People's Committees

Provincial-level People's Committees shall direct provincial-level Industry and Trade Departments to organize the implementation of this Circular; grant tobacco raw material trading eligibility certificates and tobacco product trading licenses and inspect and handle violations of the law on tobacco raw material and tobacco product trading according to their competence.

Article 44. Handling of violations

1. Organizations and individuals that commit acts of violation of this Circular and relevant laws 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.

2. Cadres and civil servants who abuse their positions and powers to act in contravention of this Circular shall, depending on the severity of their violations, be administratively handled or examined for penal liability in accordance with law.

Article 45. Effect

1. This Circular takes effect on March 14,

2011.

2. To annul the Minister of Industry and Trade's Circular No. 14/2008/TT-BCT of November 25, 2008, guiding the implementation of a number of provisions of the Government's Decree No. 119/2007/ND-CP of July 18, 2007, on tobacco production and trade.

3. Individuals and organizations shall regularly report the implementation of this Circular to the Ministry of Industry and Trade and promptly report difficulties and problems to the Ministry of Industry and Trade for supplementation and adjustment.

Article 46. Application of plans

1. The tobacco product trading network plan shall be applied no later than January 1, 2013.

2. The Ministry of Industry and Trade shall elaborate and approve the plan on the tobacco product wholesale trading network nationwide.

3. Provincial-level People's Committees shall work out plans on elaboration and finalization of plans on tobacco product wholesale and retail networks in their respective localities before January 1, 2013, in order to guide traders to implement them.

4. The plan on the tobacco product wholesale trading network nationwide shall be posted on the website of the Ministry of Industry and Trade and plans on tobacco product wholesale and retail networks in provinces and cities shall be posted on the websites of provincial-level Industry and Trade Departments before January 1, 2013.

For the Minister of Industry and Trade
Deputy Minister
HO THI KIM THOA

Appendix 1

(To the Industry and Trade Minister's Circular
No. 02/2011/TT-BCT of January 28, 2011)

LIST OF SPECIALIZED TOBACCO
MACHINERY AND EQUIPMENT

- I. Chain for processing tobacco raw materials
- A. Stage of processing tobacco leaves
1. Leaf tip cutter
 2. Moisturizing cylinder
 3. Leaf fermentation chamber (storing and fermentation silo)
 4. Leaf heat-dryer (heat-drying, cooling, softening)
 5. Leaf load weighting and pressing 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, cooling, softening)
 5. Stem sorter and cleaner
 6. Stem bale weighing and pressing 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 feeding cylinder
 5. Leaf fermentation chamber (storing and fermentation silo)
 6. Metal detector
7. Leaf shredder
 8. Shred expansion equipment
 9. Leaf heat-dryer (heat-drying, cooling, softening)
 10. System of scales
- B. Stemming stage
1. Stemming machine
 2. Cylinder for moisturizing stems for the first time
 3. Stem fermentation chamber (stem storing and fermentation silo)
 4. Cylinder for moisturizing stems for the second time
 5. Stem mill
 6. Stem shredder
 7. Stem expansion equipment
 8. Stem heat-dryer
 9. Stem separator
 10. Stem fermentation chamber (stem shred fermentation silo)
 11. System of scales
- C. Shred blending stage
1. Flavor sprayer
 2. Shred fermentation chamber (shred fermentation silo)
 3. Shred conveying system (aerodynamic or mechanical)
- III. Chains for processing tobacco flakes and other substitutes for manufacture of tobacco products
- IV. Machinery and equipment for cigarette manufacture
- A. Stage of rolling cigarettes and fitting filter tips
1. Cigarette rolling machine

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2. Filter tip fitting machine
 3. Tray feeding machine
 - B. Packaging stage
 1. Pack packaging machine
 2. Pack cellophane wrapping machine
 3. Carton packaging machine
 4. Carton cellophane wrapping machine
 5. Carton boxing machine.-