

THE MINISTRY OF INDUSTRY AND
TRADE - THE MINISTRY OF NATURAL
RESOURCES AND ENVIRONMENT

**Joint Circular No. 34/2012/TTLT-
BCT-BTTMT of November 15, 2012,
guiding the conditions for import of
scraps for use as production
materials**

*Pursuant to the November 29, 2005 Law
on Environmental Protection;*

*Pursuant to the June 14, 2005 Commercial
Law;*

*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, and Decree No. 44/2011/
ND-CP of June 14, 2011, amending and
supplementing Article 3 of Decree No. 189/
2007/ND-CP;*

*Pursuant to the Government's Decree No.
25/2008/ND-CP of March 4, 2008, defining
the functions, tasks, powers and organiza-
tional structure of the Ministry of Natural
Resources and Environment, which was
amended and supplemented in Decree No. 19/
2010/ND-CP of March 8, 2010, and Decree
No. 89/2010/ND-CP of August 16, 2010;*

*Pursuant to the Government's Decree No.
12/2006/ND-CP of January 23, 2006,
detailing the Commercial Law regarding
international goods sale and purchase and
goods sale and purchase, processing and*

transit agency with foreign parties:

In furtherance with the Prime Minister's directions in Official Letter No. 61/TTg-KTTH of January 12, 2010, guiding the import of scraps:

The Minister of Industry and Trade and the Minister of Natural Resources and Environment jointly promulgate the Circular guiding the implementation of Article 43 of the Environmental Protection Law regarding business conditions for organizations and individuals importing scraps for use as production materials as follows:

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular guides the import of scraps for use as production materials, including:

1. Conditions on organizations and individuals (below referred to as traders) that import scraps.
2. Conditions on scraps permitted for import.
3. Dossier of application for a certificate of eligibility for importing scraps; the order and procedures for examination and grant of certificates of eligibility for importing scraps.
4. Customs dossiers and procedures for inspection, customs clearance and handling of imported scraps.

Article 2. Subjects of application

This Circular applies to the import of scraps and does not apply to the temporary import for

re-export, border-gate transfer and transit through the Vietnamese territory of scraps.

Article 3. Interpretation of terms

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

1. Scraps are products and materials weeded out from the process of production or consumption and recovered for use as production materials.
2. Traders directly using imported scraps as production materials are traders that have production establishments and use imported scraps as materials to produce products at their production establishments.
3. Traders undertaking the entrusted import of scraps are traders that import scraps under import entrustment contracts signed with traders directly using imported scraps as production materials.
4. Traders entrusting the import of scraps are traders that directly use scraps as production materials but do not directly import scraps but entrust the import thereof to other traders.
5. Certificate of eligibility for importing scraps (referred to as certificate for short) is a certificate issued to a trader that meets all the conditions specified in this Circular, has production establishments and uses imported scraps as production materials at its establishment.

Chapter II

SCRAP IMPORTERS AND SCRAP IMPORT CONDITIONS

Article 4. Conditions on traders importing scraps

A decision on deprivation of the right to use a certificate must be sent to the agency having granted such certificate and the trader concerned for notification, and to the customs office for halting the import of scraps.

Article 7. Dossiers of application for certificates

A dossier of application for a certificate must be made in 1 (one) set comprising:

1. An application for a certificate (made according to the form provided in Appendix 1 to this Circular).

2. The business registration certificate (or enterprise registration certificate) and tax identification number registration certificate (copies bearing the trader's certification and true-copy stamp).

3. Any of the following documents: decision approving the environmental impact assessment report; written certification of the environmental standard satisfaction registration document; written certification or notification of acceptance of the environmental protection commitment document; decision approving, or written certification of, the environmental protection plan (copy bearing the trader's certification and true-copy stamp).

4. Results of the latest environmental quality supervision at the production establishment, which is conducted within six (6) months before the date of application for a certificate (copy bearing the trader's certification and true-copy stamp).

Article 8. Order and procedures for grant and modification of certificates

1. A trader that wishes to directly import scraps for use as production materials or entrust the import thereof shall send a dossier of application for a certificate to the provincial-level Natural Resources and Environment Department of the locality in which its production establishment is located.

In case imported scraps are used as production materials at different production establishments in different localities, the trader shall apply for a certificate for each production establishment.

2. Within 5 working days after receiving a dossier (calculated based on the arrival date stamp), the provincial-level Natural Resources and Environment Department shall consider the dossier's completeness and validity under Article 7 of this Circular and issue a notice of to be modified or supplemented contents, if any, to the trader.

3. Within 15 working days after receiving a complete and valid dossier (calculated based on the arrival date stamp), the provincial-level Natural Resources and Environment Department shall examine the dossier's conformity with the conditions specified at Points a, b, c and d, Clause 1, Article 4 of this Circular and:

a/ In case of eligibility, grant a certificate (made according to the form provided in Appendix 2 to this Circular) to the trader. A certificate is valid for three (3) years from the date of its grant and may not be extended.

b/ In case of ineligibility, issue a written reply to the trader, clearly stating the reason for refusal to grant a certificate.

4. A trader that has an expired certificate or that wishes to modify or supplement Items 1 thru 4 of the granted certificate shall make a dossier of application for a new certificate as specified in Article 7 of this Circular. The order and procedures for grant of new certificates or modification and supplementation of granted certificates comply with Clauses 1 and 2 of this Article.

5. A trader whose certificate is lost, torn or burnt and unusable shall make a dossier as specified in Article 7 of this Circular and send it to the agency having granted the certificate to apply for a new certificate. The order and procedures for re-grant of certificates comply with Clauses 1 and 2 of this Article. The validity duration of a re-granted certificate must not exceed the remaining validity duration of the granted certificate.

Chapter IV

DOSSIER AND PROCEDURES FOR EXAMINATION AND CUSTOMS CLEARANCE OF IMPORTED SCRAPS

Article 9. Customs dossier of imported scraps

In addition to the customs dossier specified by the current customs law, traders importing scraps shall submit to customs offices:

1. For a trader directly importing scraps for use as production materials:

a/ A valid certificate (copy bearing the trader's certification and true-copy stamp);

b/ A notice of the import of scraps for use as production materials (made according to the form provided in Appendix 3 to this Circular);

c/ A legal commitment on financial issues (made according to the form provided in Appendix 4 to this Circular).

2. For a trader undertaking the entrusted import of scraps:

a/ A valid certificate granted to the trader entrusting the import of scraps (copy bearing the trader's certification and true-copy stamp);

b/ A notice of import of scraps for use as production materials (made according to the form provided in Appendix 3 to this Circular);

c/ A legal commitment on financial issues (made according to the form provided in Appendix 4 to this Circular).

Article 10. Procedures for inspection, customs clearance and handling of imported scraps

1. The procedures for customs clearance of imported scraps must be carried out at border-gate customs offices.

2. For imported scraps subject to specialized appraisal before customs offices decide on customs clearance:

a/ Customs offices shall base themselves on environment-related national technical regulations applicable to imported scraps or corresponding descriptions of scraps on the list of scraps permitted for import and form a specialized appraisal council to evaluate the imported scraps' satisfaction of environmental protection requirements. The appraisal council's conclusions serve as grounds for customs offices and related agencies to handle the imported scrap batch;

b/ If disagreeing with the appraisal council's conclusions, traders may request customs offices to conduct specialized verification according to environment-related national technical regulations applicable to imported scraps or corresponding descriptions of scraps on the list of scraps permitted for import at one of verification units announced by the Ministry of Natural Resources and Environment. The verification results serve as grounds for customs offices and related agencies to issue decisions on the handling of the imported scrap batch.

Chapter V

IMPLEMENTATION RESPONSIBILITIES

Article 11. Responsibilities of the Ministry of Natural Resources and Environment

1. To assume the prime responsibility for, and coordinate with related agencies in, guiding the import of scraps for use as production materials in conformity with this Circular and the Environmental Protection Law's provisions on environmental protection.

2. To make statistics, and monitor the import and use of scraps as production materials nationwide.

3. To assume the prime responsibility for, and coordinate with ministries and functional sectors in, adjusting, and adding scraps which are newly needed during the production process to, the list of scraps permitted for import.

4. To examine and designate imported scrap verification organizations.

Article 12. Responsibilities of the Ministry of Industry and Trade

To coordinate with the Ministry of Natural Resources and Environment and related ministries, sectors and localities in managing the import of scraps for use as production materials under its line management.

Article 13. Responsibilities of provincial-level Natural Resources and Environment Departments

1. To participate in disseminating information about the implementation of this Circular within the scope of their management.

2. To actively coordinate with customs offices and other related agencies in their localities upon receiving requests for coordinated inspection of imported scraps.

3. To examine and grant certificates of eligibility for importing scraps to traders having production establishments located in their localities upon request; to carry out periodical and irregular examination, if requested, of the observance of environmental protection regulations by traders importing scraps for use as production materials.

4. To assume the prime responsibility for, and coordinate with provincial-level Industry and Trade Departments in, making and sending annual reports on the import and use of scraps and environmental issues concerning imported scraps (according to the form provided in Appendix 5 to this Circular) to the Ministry of Natural Resources and Environment, the Ministry of Industry and Trade and provincial-level People's Committees before January 31 of the subsequent year.

Article 14. Responsibilities of provincial-level Industry and Trade Departments

1. To participate in disseminating information about the implementation of this Circular within the scope of their management.

2. To actively coordinate with customs offices and other related agencies in their localities upon receiving requests for coordinated inspection of imported scraps.

3. To coordinate with provincial-level Natural Resources and Environment Departments in making and sending annual reports on the import and use of scraps and environmental issues concerning imported scraps (according to the form provided in Appendix 5 to this Circular) to the Ministry of Natural Resources and Environment, the Ministry of Industry and Trade and provincial-level People's Committees before January 31 of the subsequent year.

Article 15. Responsibilities of traders

1. For traders directly importing scraps for use as production materials:

a/ To meet and maintain the conditions specified in Clause 1, Article 4 of this Circular;

b/ To import only scraps of the types permitted for import;

c/ To use imported scraps as production materials at their establishments;

d/ To implement their legal and financial commitments;

e/ Annually, before December 31, to make and send reports on the import and use of scraps in the year (according to the form provided for

in Appendix 6 to this Circular) to provincial-level Trade and Industry Departments and Natural Resources and Environment Departments for summarization.

2. For traders undertaking the entrusted import of scraps:

a/ To import only scraps of the types permitted for import;

b/ To deliver imported scraps only to traders entrusting the import of scraps;

c/ To implement their legal and financial commitments.

d/ Annually, before December 31, to make and send reports on the import and use of scraps in year (according to the form provided for in Appendix 6 to this Circular) to provincial-level Trade and Industry Departments and Natural Resources and Environment Departments for summarization.

Chapter VI

IMPLEMENTATION PROVISIONS

Article 16. Effect

1. This Circular takes effect on January 1, 2013, and replaces Joint Circular No. 02/2007/TTLT-BCT-BTNMT of August 30, 2007, of the Ministry of Industry and Trade and the Ministry of Natural Resources and Environment, guiding Article 43 of the Environmental Protection Law regarding criteria and conditions for import of scraps.

2. Traders that have been granted certificates under Joint Circular No.02/2007/TTLT-BCT-

BTNMT of August 30, 2007, of the Ministry of Industry and Trade and the Ministry of Natural Resources and Environment, may further import scraps within the remaining validity duration of their certificates. After their certificates expire, traders may import scraps only after obtaining certificates prescribed by this Circular.

Article 17. Implementation responsibilities

1. Provincial-level People's Committees shall direct the implementation of this Circular.

2. Provincial-level Natural Resources and Environment Departments and Industry and Trade Departments, traders directly importing scraps for use as production materials, traders undertaking the entrusted import of scraps and related organizations and individuals shall implement this Circular.

3. Any problems or difficulties arising in the course of implementation should be reported to the Ministry of Natural Resources and Environment and the Ministry of Industry and Trade for prompt settlement.-

*For the Minister of
Industry and Trade*
Deputy Minister
NGUYEN CAM TU

*For the Minister of Natural
Resources and Environment*
Deputy Minister
BUI CACH TUYEN

(All the appendices to this Circular are not translated).