

LEGAL DOCUMENTS

THE GOVERNMENT

Decree No. 95/2012/ND-CP of November 12, 2012, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the Government's Decree No. 36/2012/ND-CP of April 18, 2012, defining the functions, tasks, powers and organizational structure of ministries and ministerial level agencies;

At the proposal of the Minister of Industry and Trade,

The Government promulgates the Decree defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade.

Article 1. Position and functions

The Ministry of Industry and Trade is a governmental agency performing the state management of industry and trade, including the sectors and fields of mechanical engineering, metallurgy, electricity, new energy, renewable energy, oil and gas, chemicals, industrial explosives, mineral mining and processing

industry, consumer industry, food industry and other processing industries, domestic trade and market, import and export, border trade, overseas market development, market management, trade promotion, e-commerce, trade services, international economic integration, competition management, application of safeguard, anti-dumping and anti-subsidy measures, protection of consumer interests; and state management of public services in the sectors and fields under its state management.

Article 2. Tasks and powers

The Ministry of Industry and Trade shall perform the tasks and exercise the powers defined in the Government's Decree No. 36/2012/ND-CP of April 18 2012, defining the functions, tasks, powers and organizational structures of ministries and ministerial-level agencies, and the following specific tasks and powers:

1. To submit to the Government draft laws, ordinances, resolutions, decrees, mechanisms, policies, projects, schemes and other legal documents on the sectors and fields under its state management as assigned by the Government or the Prime Minister.

2. To submit to the Government or the Prime Minister for approval, and organize the implementation of, overall development strategies and master plans; sectoral master plans; regional and territorial master plans, development programs, national target programs, technical-economic programs and important projects in the

sectors and fields under its management.

3. To approve strategies, master plans and programs on the development of the sectors and fields under its state management and investment projects as decentralized or authorized by the Government or the Prime Minister; to inspect and guide the implementation of such strategies, master plans, programs and projects after they are approved.

4. To promulgate circulars, decisions, directives and other documents on state management of the sectors and fields under its management; to direct, guide, inspect and organize the implementation of legal documents under its management; to provide public information, popularize, disseminate and educate about the law on industry and trade.

5. To formulate national standards and promulgate national technical regulations and techno-economic norms in the sectors and fields under its state management; to manage, guide and inspect conditional business lines in the industry and trade sector on the Government- or Prime Minister-issued lists.

6. To grant, modify, revoke and extend licenses or registration certificates for conditional business lines under its state management in accordance with law.

7. To coordinate with the Ministry of Finance and related ministries and sectors in elaborating plans on national reserves of petrol and oil,

industrial explosives and other items according to the Government's regulations.

8. Regarding industrial technical safety and environmental protection:

a/ To manage, inspect and carry out industrial technical safety and environmental protection work in the industry and trade sector in accordance with law;

b/ To propose a list of machinery, equipment and supplies subject to strict labor safety requirements of the industry and trade sector for promulgation by the Ministry of Labor, War Invalids and Social Affairs;

c/ To promulgate inspection processes for machinery and equipment subject to strict labor safety requirements of the industry and trade sector after obtaining appraisal opinions of the Ministry of Labor, War Invalids and Social Affairs;

d/ To guide, examine and inspect the implementation of legal provisions on industrial technical safety and environmental protection under its state management;

e/ To assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment and related ministries and sectors in, directing the development of the environmental industry in accordance with law.

9. Regarding mechanical engineering and metallurgy:

a/ To direct and examine the implementation of strategies, master plans, plans and policies to develop the mechanical engineering and metallurgy industry, key mechanical and mechanical-electronic products and hi-tech products in combination with mechanical techniques, automation and industrial electronics;

b/ To assume the prime responsibility for, and coordinate with related ministries and sectors in, formulating and submitting to competent authorities for promulgation mechanisms and policies for and lists of mechanical, metallurgical, mechanical-electronic, automation and industrial electronic products prioritized for development

10. Regarding supporting industries

a/ To formulate, and examine the implementation of, strategies, master plans, plans and policies to develop supporting industries under its state management;

b/ To assume the prime responsibility for, and coordinate with related ministries and sectors in, formulating and submitting to competent authorities for promulgation mechanisms and policies for and lists of products of supporting industries prioritized for development.

c/ Regarding electricity, new energy, renewable energy and energy conservation:

a/ To approve, and manage the implementation of, electricity development

master plans of provinces and centrally run cities; to publicize a list of electricity works under power development master plans calling for construction investment.

b/ To approve hydropower cascade master plans and new energy and renewable energy master plans;

c/ To perform tasks related to atomic electricity, new energy and renewable energy in accordance with law;

d/ To perform tasks related to electricity dispatch activities in accordance with law;

e/ To manage energy conservation work in the fields under its assigned management in accordance with law.

12. Regarding oil and gas:

a/ To approve plans on early exploitation of oil and gas at oil fields;

b/ To recover oil fields in case contractors fail to develop fields or exploit oil and gas within the approved time limit;

c/ To permit the burning of associated gas;

d/ To summarize and report on the development, exploration, exploitation, domestic sale and export of oil and gas.

13. Regarding mineral mining and processing industry (except minerals used as construction materials and materials for cement production):

a/ To formulate and submit to competent authorities for promulgation or promulgate

according to its competence legal documents on mineral mining and processing industry;

b/ To assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment and related ministries and sectors in, elaborating and promulgating a list of minerals and conditions and criteria for mineral export;

c/ To assume the prime responsibility for, and coordinate with the Ministry of Natural Resources and Environment and related ministries and sectors in, formulating master plans on mineral exploration, mining, processing and use; to organize the implementation of approved strategies, master plans and plans on mineral mining, processing and use according to its competence;

d/ To guide and examine the observance of regulations, techno-economic norms, technologies and safety and sanitation regulations in mineral mining and processing.

14. Regarding chemicals and industrial explosives:

a/ To promulgate according to its competence or submit to the Government or the Prime Minister for promulgation legal documents on the chemical industry and technical regulations on chemical safety; to guide, inspect and summarize the development of the chemical industry; and to manage the chemical industry in accordance with law;

b/ To promulgate a list of industrial explosives

banned or restricted from use; to inspect the observance of regulations on the production, import, export, supply and use of industrial explosives and manage industrial explosives in accordance with law.

15. Regarding food safety; consumer industry, food industry and other processing industries:

a/ To promulgate or submit to competent authorities for promulgation legal documents on food safety; consumer industry, food industry and other processing industries under its state management;

b/ To organize and examine the implementation of strategies, master plans, plans and policies to develop the consumer industry, food industry and other processing industries under its state management;

c/ To manage food safety during the production, processing, preservation, transport, export, import and trading of liquors, beer, beverages, processed milk, vegetable oil, flour or starch products, confectionery and their packages and containers and other food products under its state management;

d/ To manage food safety at markets, supermarkets and establishments belonging to food reserve and distribution systems;

e/ To promulgate regulations on and conduct inspections against fake food and trade fraud on the market for all types of food, food additives, food processing aids, food-packaging tools and food packaging materials;

f/ To provide conditions on testing facilities; to designate testing units and testing and verification units; to announce testing results of food products under its state management

g/ To grant and revoke food safety eligibility certificates for establishments producing, trading, reserving and distributing food products under its state management;

h/ To grant written certifications of contents of advertisements of food products under its state management. For food advertisements containing announcements on health effects of food, the Ministry of Health's written approval is required;

i/ To designate agencies to perform the state inspection of food safety for imported food products under its state management;

j/ To guide and inspect the implementation of the law on food safety, standards and technical regulations on quality of products of the consumer industry, food industry and other processing industries under its state management.

16. Regarding local industry and trade:

a/ To formulate and submit to competent authorities for promulgation or promulgate according to its competence mechanisms, policies, master plans and plans on the development of local industry and trade nationwide; and to guide the implementation of such mechanisms, policies, master plans and plans after they are approved;

b/ To guide and inspect the implementation of regulations on management and master plans on the development of industrial complexes and sectoral and regional master plans in the industry and trade sector nationwide;

c/ To disseminate experiences of production, management, science and technology, investment, training, information provision, exhibitions, fairs and product introduction to local industrial production and trade establishments;

d/ To plan and organize industrial extension activities; to manage national industrial extension funds in accordance with law;

e/ To summarize local industrial and trade development activities nationwide and to manage local industrial complexes and points.

17. Regarding domestic trade and market:

a/ To formulate and submit to competent authorities for promulgation or promulgate according to its competence, and organize the implementation of, mechanisms and policies on development of domestic trade and market; on assurance of the demand-supply balance of goods and essential commodities for mountainous, island and ethnic minority areas in accordance with law; and on transaction modes and business forms in accordance with law;

b/ To assume the prime responsibility for, and coordinate with ministries and sectors in, directing and regulating goods circulation in each period to boost the development of domestic trade and market (including also the goods market and

related trade services);

c/ To monitor and examine domestic trade and market activities related to goods and trade services in the whole country.

18. Regarding goods import and export, border trade and overseas market development:

a/ To formulate and submit to competent authorities for promulgation or promulgate according to its competence and implement mechanisms and policies on goods import and export, border trade and overseas market development;

b/ To manage goods import, export, temporary import for re-export, temporary export for re-import, border gate transfer and transit, border trade, entrustment activities, entrusted import, entrusted export, sale and purchase agency, processing and goods origin;

c/ To promulgate regulations on inbound and outbound trade and distribution services; to manage operations of foreign traders' offices and branches in Vietnam in accordance with law;

b/ To summarize the situation of and plans on goods import and export and border trade in accordance with law.

19. Regarding e-commerce:

a/ To assume the prime responsibility for, and coordinate with related ministries and sectors in, submitting to competent authorities for promulgation or promulgate according to its

competence e-commerce development plans and programs; to examine and guide the implementation of such plans and programs after they are approved;

b/ To formulate and submit to competent authorities for promulgation or promulgate according to its competence mechanisms to encourage, support and direct e-commerce development.

20. Regarding market management:

a/ To guide, examine and control the implementation of legal provisions on goods trading and circulation, price activities on the market, goods import and export activities and trade services; to handle illegal acts according to regulations;

b/ To examine and control the quality of industrial goods circulated on the market, to coordinate with related agencies in examining and controlling food safety management work in its assigned fields in accordance with law;

c/ To assume the prime responsibility for, and coordinate with sectors and localities in, fighting speculation, smuggling, and production and trading of fake and banned goods, trade fraud, and other illegal trading acts.

21. Regarding competition management, trade protection and protection of consumer interests:

a/ To assume the prime responsibility for, and coordinate with related agencies and organizations in, implementing competition and

anti-dumping and anti-subsidy regulations; to propose the application of trade protection measures for Vietnamese exports to foreign countries and safeguard measures against foreign imports into Vietnam, and measures to protect consumer interests in accordance with law;

o/ To investigate, handle, and settle complaints about competition cases; to transfer to competent agencies for handling cases of violating the Competition Law in accordance with law;

e/ To implement mechanisms, policies and regulations on protection of consumer interests in accordance with law.

22. Regarding trade promotion:

a/ To assume the prime responsibility for, and coordinate with related ministries and sectors in, formulating annual national trade promotion plans and programs and organize, guide and examine the implementation of these plans and programs in accordance with law;

b/ To guide and examine contents of and conditions for commercial advertisement, branding, trade fairs and exhibitions, sales promotion, goods display and service introduction at home and abroad in accordance with law;

c/ To manage annual state budget funds for trade promotion activities;

d/ To assume the prime responsibility for, and coordinate with related ministries and sectors in, implementing the national branding

program in accordance with law.

23. Regarding international economic integration:

a/ To formulate and implement mechanisms and policies on international economic integration; to popularize and guide and inspect the implementation of Vietnam's international economic integration commitments;

b/ To summarize, plan, and study and propose negotiations on, and conclusion of or accession to multilateral, bilateral and regional trade treaties within its competence in accordance with law; to negotiate free trade agreements, to negotiate international economic cooperation agreements and market expansion agreements between Vietnam and other countries, blocs of countries or territories;

c/ To represent Vietnam's international economic interests; to propose plans and organize the performance of Vietnam's economic and international trade rights and obligations at the World Trade Organization (WTO), the Association of Southeast Asian Nations (ASEAN), the Asian-Pacific Economic Cooperation (APEC) forum, the Asian-European Meeting (ASEM) and other international economic organizations and forums as assigned by the Prime Minister

24. To guide trade activities of Vietnamese traders and trade promotion organizations and product and goods introduction centers with the participation of Vietnamese traders and state

agencies in foreign countries in accordance with law; to coordinate with the Ministry of Foreign Affairs in managing professional operations of economic and trade sections of overseas Vietnamese representative missions.

25. To summarize, analyze and provide information on industry, trade, market and traders at home and abroad to party and state agencies and economic organizations.

26. To implement international cooperation in the industry and trade sector in accordance with law; to act as the focal point in summarizing and reporting on the use of ODA and foreign direct investment (FDI) capital in the industry and trade sector as well as the sector's offshore investment.

27. To formulate and implement strategies, master plans, plans and roadmaps for scientific and technological development in the industry and trade sector; to conduct scientific research and apply scientific and technological advances in the fields under its state management.

28. Regarding public services:

a/ To perform the state management of public services in the sectors and fields under its state management in accordance with law;

b/ To formulate and promulgate standards, processes, regulations and techno-economic norms on public services in the industry and trade sector;

c/ To guide and support public service

providers in accordance with law.

29. To exercise the rights and perform the responsibilities and obligations of the state owner toward state enterprises and state capital portions invested in other enterprises in accordance with law.

30. To perform tasks and powers toward associations and non-governmental organizations under its state management in accordance with law.

31. To inspect, examine and settle complaints and denunciations, fight corruption and negative practices and handle illegal acts according to its state management functions.

32. To decide on and direct the implementation of its administrative reform program according to the objectives and contents of the state administration reform program already approved by the Government or the Prime Minister.

33. To manage its organizational apparatus, payroll, cadres, civil servants and public employees; to implement salary regimes and policies on preferential treatment, commendation and reward and discipline toward cadres, civil servants and public employees under its management in accordance with law.

34. To manage assigned finances and assets and organize the execution of allocated budgets in accordance with law.

35. To perform other tasks and powers as

assigned by the Government or the Prime Minister and prescribed by law.

Article 3. Organizational structure

1. The Planning Department.
2. The Finance Department.
3. The Organization and Personnel Department.
4. The Legal Affairs Department.
5. The International Cooperation Department.
6. The Human Resource Development Department.
7. The Emulation-Commendation Department.
8. The Science and Technology Department.
9. The Heavy Industry Department.
10. The Light Industry Department.
11. The Domestic Market Department.
12. The Border and Mountainous Trade Department.
13. The Asia-Pacific Market Department.
14. The Europe Market Department.
15. The America Market Department.
16. The Africa, Western and Southern Asia Market Department.
17. The Multilateral Trade Policy Department.

18. The Inspectorate.
19. The Office (with a representation in Da Nang city).
20. The General Department of Energy.
21. The Market Management Department.
22. The Electricity Regulatory Authority of Vietnam.
23. The Vietnam Competition Authority.
24. The Vietnam Trade Promotion Agency.
25. The Import-Export Department.
26. The Local Industry Department.
27. The Industrial Safety Technologies and Environment Agency.
28. The Vietnam E-Commerce and Information Technology Agency.
29. The Vietnam Chemicals Agency.
30. The Southern Affairs Department.
31. The Industrial Strategy and Policy Research Institute.
32. The Trade Research Institute.
33. The Industry and Trade newspaper.
34. The Industry and Trade Review of Vietnam.
35. The Vietnam Institute for Trade and Industry Studying.

The organizations referred to in Clauses 1 thru 30 of this Article shall assist the Minister in

performing the state management functions; the organizations referred to in Clauses 31 thru 35 are non-business units serving the Ministry's state management functions.

The following departments may organize sections:

The Planning Department (4 sections), the Legal Affairs Department (5 sections), the Organization and Personnel Department (4 sections), the International Cooperation Department (3 sections), the Science and Technology Department (4 sections), the Human Resource Development Department (3 sections), the Finance Department (2 sections), the Heavy Industry Department (1 section), the Light Industry Department (2 sections), the Multilateral Trade Policy Department (4 sections), the Domestic Market Department (6 sections), the Border and Mountainous Trade Department (3 sections), the Asia-Pacific Market Department (4 sections), the Europe Market Department (4 sections), the America Market Department (3 sections), and the Africa, Western and Southern Asia Market Department (3 sections).

The Minister of Industry and Trade shall propose to the Prime Minister to define the functions, tasks, powers and organizational structure of the General Department of Energy and issue a list of other public non-business organizations under the Ministry.

The Minister of Industry and Trade shall define the functions, tasks, powers and

organizational structures of units under the Ministry, except the unit referred to in Clause 20 of this Article.

Article 4. Effect

1. This Decree takes effect on December 26, 2012.

2. This Decree replaces the Government's Decree No. 198/2007/ND-CP of December 27, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Industry, and the Government's Decree No. 44/2011/ND-CP of June 14, 2011, amending Article 3 of the Government's Decree No. 198/2007/ND-CP of December 27, 2007, defining the functions, tasks, powers and organizational structure of the Ministry of Industry and Trade.

3. To annul all previous regulations contrary to this Decree.

Article 5. Transitional provisions

1. The General Department of Energy shall continue implementing current regulations until the Minister of Industry and Trade proposes the Prime Minister to decide on its functions, tasks, powers and organizational structure.

2. The Market Management Department, the Electricity Regulatory Authority of Vietnam and the Vietnam Competition Authority shall continue implementing current regulations until the Minister of Industry and Trade decides on their

functions, tasks, power and organizational structures.

Article 6. Implementation responsibility

Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees shall implement this Decree. -

On behalf of the Government
Prime Minister