

Circular No. 41/2012/TT-BCT of December 21, 2012, providing the export of minerals

Pursuant to the Government's 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 Government's Decree No. 15/2012/ND-CP of March 9, 2012, detailing a number of articles of the Mineral Law;

Pursuant to the Government's Decrees No. 12/2006/ND-CP of January 23, 2006, detailing the implementation of the Commercial Law regarding international goods trading and goods trading agency, processing and transit with foreign parties;

Pursuant to the Prime Minister's Decision No. 2427/QĐ-TTg of December 22, 2011,

approving the mineral strategy through 2020, with a vision toward 2030;

Pursuant to the Prime Minister's Directive No. 02/CT-TTg of January 9, 2012, on strengthening state management of exploration, exploitation, processing, use and export of minerals;

At the proposal of the Director of the Heavy Industry Department,

The Minister of Industry and Trade promulgates the Circular to provide the export of minerals as follows:

Article 1. Scope of regulation

1. This Circular provides the list, standards and quality of exported minerals and conditions for the export of minerals.

2. Exported minerals include metallic minerals, non-metallic minerals and minerals for industrial use.

Coal, petroleum, natural gas, condensate, methane hydrate, mineral water, natural thermal water, minerals used as construction materials and minerals used as raw materials for cement, alloy and metal production are not regulated by this Circular.

3. The export of minerals by temporary import for re-export or processing for foreign traders must comply with the Government's Decree No. 12/2006/ND-CP of January 23, 2006, detailing the implementation of the Commercial Law regarding international goods trading and goods trading agency, processing and transit with foreign parties. When a new

decree supersedes Decree No. 12/2006/ND-CP, the export of minerals mentioned in this Clause must comply with the new decree.

Article 2. Subjects of application

This Circular applies to state management agencies and enterprises involved in the export of minerals.

Article 3. Interpretation of terms

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

1. VILAS standards are standards set by the Vietnam Laboratory Accreditation Scheme.

2. Competent state agencies are central state management agencies (ministries) and People's Committees of provinces or centrally run cities (provincial-level People's Committees).

3. Mineral processing means a process of application of mechanical, physical and chemical methods in a separate or combined manner for changing properties of crude mineral ores in order to obtain one or more products in the form of refined ore, metal, alloy, chemical compound or industrial mineral with specifications and properties suitable to use purposes, and of the use and commercial value higher than crude mineral ores.

Article 4. Conditions for export of minerals

1. Only enterprises may export minerals. Mineral exporters are enterprises established and operating under the Enterprise Law, fully meeting the conditions specified in the

Commercial Law regarding goods import, export, processing and trading agency with foreign parties.

2. Minerals may be exported only if they fully satisfy the following conditions:

a/ Having been processed and listed in the Appendix to this Circular.

b/ Reaching quality standards that are not lower than those specified in the Appendix to this Circular.

c/ Being of lawful origin, specifically:

- Being exploited from mines or mining spots under valid mining licenses or salvage mining licenses granted by competent state agencies; or,

- Being imported lawfully; or,

- Being confiscated for public sale by competent state agencies.

Imported minerals (for re-export or export processing) are regarded lawful if their import declarations are certified by border-gate customs offices (certified copies).

For confiscated or publicly sold minerals, the following documents are required: sale invoices of assets confiscated into the state budget, ex-warehousing bills and written records of handover of assets involved in administrative violations and confiscated for auction (certified copies).

Article 5. Procedures for export of minerals

1. Upon carrying out procedures for export of minerals, in addition to complying with

customs regulations, enterprises shall produce the following documents:

- Card of sample analysis for certifying the quality standard conformity of lots of exported minerals, issued by a laboratory that satisfies the VILAS standards.

- Document proving the lawful origin of exported minerals, specifically:

a/ For mining enterprises: The valid mining or salvage mining license.

b/ For mineral-processing enterprises: The certificate of investment in a processing factory and the lawful contract on mineral purchase or valid documents on the import of minerals (for cases of use of imported minerals specified at Point c, Clause 2 of Article 4).

c/ For commercial enterprises engaged in mineral import and export: The contract on purchase of minerals, enclosed with copies of value-added invoices, or the contract on the entrusted export of minerals, signed with enterprises mentioned at Points a and b of this Clause; or valid documents on purchase of minerals confiscated for public sale by competent state agencies (specified at Point c, Clause 2 of Article 4).

2. When carrying out customs clearance procedures, if a border-gate customs office has grounds to suspect that the lot of exported minerals does not satisfy the quality standards under this Circular, it may grant the customs clearance, and shall make a written record and take mineral samples for reinspection. The inspection is conducted by a laboratory satisfying VILAS standards. If the inspection

result confirms the suspicion, the exporter shall be penalized under current regulations and bear testing costs. If the inspection result shows that the lot of exported minerals satisfies the quality standards, the border-gate customs office shall bear testing costs.

Article 6. Special cases

Enterprises that wish to export the following minerals shall report to the provincial-level People's Committees (of localities where such minerals are exploited or processed) for inspection, certification and making of written request for the Ministry of Industry and Trade's consideration and permission:

- Minerals on the list of minerals eligible for export, processed failing to satisfy the prescribed quality standards due to objective reasons (such as geological features of mines, minerals being by-products recovered from the processing of primary minerals, or recovered tailings which cannot be further concentrated with current technology, etc.).

- Minerals in stock of mines with expired mining licenses.

- Minerals outside the list of minerals eligible for export which are neither domestically demanded nor fully consumed.

- Minerals exported for import of goods necessary for the domestic production.

Based on written requests of provincial-level People's Committees, the Ministry of Industry and Trade shall assume the prime responsibility for, and coordinate with related agencies, in considering and deciding on each case.

Article 7. Reports on export of minerals

1. A report on export of minerals has the following details:

- Types, volumes and export turnover of minerals and the origin of exported minerals.

- The observance of regulations on export of minerals.

2. Reports on export of minerals include:

- Mineral exporters' reports, which must be made periodically. The reporting period is specified by provincial-level People's Committees to meet local management requirements. These reports must be sent to provincial-level Industry and Trade Departments and Natural Resources and Environment Departments in localities from which minerals are exported.

- Summary reports of provincial-level People's Committees (or their assigned functional agencies) in localities from which minerals are exported, which must be made annually (counted from January 1 to December 31) and sent to the Ministry of Industry and Trade before January 15 of the subsequent year (Form 1).

3. Mineral exporters shall take responsibility for the accuracy and truthfulness of reported data and information.

4. Mineral exporters shall make extraordinary reports on export of minerals upon request of a competent state agency to meet management requirements.

Article 8. Management responsibilities

1. The Heavy Industry Department (the

Ministry of Industry and Trade) shall assume the prime responsibility for, and coordinate with related ministries, sectors and localities, in periodically examining the implementation of regulations on export of minerals under this Circular and relevant regulations.

2. Based on the practical mining, processing, domestic consumption and export of minerals, the Heavy Industry Department shall report to the Ministry of Industry and Trade for consideration and amendment and supplementation of this Circular when necessary.

Article 9. Effect

This Circular takes effect on February 4, 2013, and replaces the Ministry of Industry and Trade's Circular No. 08/2008/TT-BCT of June 18, 2008, guiding the export of minerals.

Article 10. Organization of implementation

1. Valid mineral export contracts (under the Ministry of Industry and Trade's Circular No. 08/2008/TT-BCT of June 18, 2008) signed before the effective date of this Circular and not contrary to the Prime Minister's Directive No. 02/CT-TTg of January 9, 2012, and this Circular may continue to be performed.

2. The export of minerals that are lawfully mined and currently in stock from 2012 (for addressing difficulties facing enterprises) complies with the Prime Minister's direction, this Circular and the Ministry of Industry and Trade's guidance.

3. When detecting violations of this Circular, the Ministry of Industry and Trade may request viola-

ting exporters to stop the export of minerals.

in writing to the Ministry of Industry and Trade for consideration and settlement.-

4. State management agencies and enterprises involved in the export of minerals shall implement this Circular. Any problems arising in the course of implementation should be promptly reported

For the Minister of Industry and Trade
Deputy Minister
LE DUONG QUANG

Appendix

List, standards and quality of exported minerals

(To the Industry and Trade Ministry's Circular No. 41/2012/TT-BCT of December 21, 2012)

No.	Exported minerals	Standards and quality	Notes
1	Products processed from titanium ores 1.1 Zirconium powder 1.2. Reconstituted ilmenite 1.3. Grade-I titanium slag 1.4. Grade-II titanium slag 1.5. Refined rutile ore 1.6. Artificial rutile/synthetic rutile 1.7. Refined monazite ore	$ZrO_2 \geq 65\%$, granular size $\leq 75 \mu m$ $TiO_2 \geq 56\%$, $FeO \leq 9\%$, $Fe \leq 27\%$ $TiO_2 \geq 85\%$, $FeO \leq 10\%$ $85\% > TiO_2 \geq 70\%$, $FeO \leq 10\%$ $TiO_2 \geq 83\%$ $TiO_2 \geq 83\%$ $REO \geq 57\%$	
2	Products processed from bauxite ore 2.1. Alumina 2.2. Aluminium hydroxide $Al(OH)_3$	$Al_2O_3 \geq 98,5\%$ $Al_2O_3 \geq 64\%$	
3	Refined copper ore (Nui Phao Mining and Mineral Processing Company)	$Cu \geq 20\%$	Exported till the end of 2015
4	Refined wolframite ore (Nui Phao Mining Mineral and Processing Company)	$WO_3 \geq 55\%$	Exported till the end of 2015
5	Refined bismuth ore	$Bi \geq 70\%$	

6	Refined nickel ore (Ban Phuc Nickel Mines LLC)	Ni \geq 9.5%	
7	Total rare earth oxide powder	TREO \geq 99%	
8	Refined fluoride ore	CaF ₂ \geq 90%	
9	White marble		
	9.1. Powder	granular size < 1mm; whiteness \geq 90%	
	9.2. Lump	granular size 1mm - 40mm; whiteness \geq 85%	Exported till the end of 2015
10	Barite powder	BaSO ₄ \geq 90%, granular size < 1mm	