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IMPORT OF USED MACHINERY, EQUIPMENT AND
TECHNOLOGICAL LINES

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→ Import: Used machinery, equipment and technological lines

On April 19, 2019, the Prime Minister issued Decision 18/2019/QĐ-TTg on the import of used machinery, equipment and technological lines (**Decision 18**). With the purpose of preventing Vietnam from becoming a landfill for outdated machinery, Decision 18 limits the amount of used machinery, equipment and technological lines to be imported into Vietnam. Compared to Circular 23/2015/TT – BKHCN dated November 13, 2015, on the import of used machinery, equipment and technological lines, the new Decision provides stricter conditions, standards and procedures of import to be complied with.

USED MACHINERY, EQUIPMENT AND TECHNOLOGICAL LINES WHICH ARE ALLOWED TO BE IMPORTED

According to Decision 18, it is only permitted to import used machinery, equipment and technological lines stated in HS Chapter 84 and Chapter 85 of the list of exports and imports from and into Vietnam which are intended for manufacturing purposes in Vietnam, and which are not part of the lists of goods banned from import as compiled by the government, the Prime Minister, the relevant Ministries and ministerial agencies. Consequently, used parts and components as provided in Circular 23 may no longer be imported. Decision 18 further restricts the required purpose of import from “manufacturing and trading” to “manufacturing” only.

Furthermore, used machinery, equipment and technological lines are prohibited for import if they:

1. have been discarded by exporting countries because of obsolescence, poor quality causing environmental pollution; or
2. fail to satisfy requirements of safety, energy consumption, and environmental protection prescribed by the applicable legislation.

IMPORT CRITERIA FOR USED TECHNOLOGICAL LINES

Previously, Circular 23 provided the same import criteria for both, used technological lines and used machinery/equipment, focusing on age and on the manufacture complying with National Technical Regulations (QCVN) or, where inapplicable, be compliant with Vietnam’s Standards (TCVN) or the

relevant Standards of the G7 countries. However, Decision 18 differentiates between import criteria for used technological lines and those for used machinery/equipment respectively. Particularly, used technological lines must:

- be manufactured in accordance with either National Technical Regulations (QCVN) or, where inapplicable, comply with Vietnam’s Standards (TCVN) or relevant Standards of the G7 countries or Korea with regard to safety, energy consumption, and environmental protection;
- provide a reasonable remaining capacity, or a performance of at least 85 per cent of its design capacity;
- consume an amount of raw materials or energy that does not exceed 15 per cent of its design consumption level;
- be based on technologies not stated on the list of technologies prohibited or restricted from transferring;
- be based on a technology which is being applied by at least 03 manufacturers of the member countries of the Organization for Economic Cooperation and Development (OECD).

Decision 18 clearly stipulates import criteria for used technological lines to ensure that used technological lines do not have any negative impact on the environment, and in order to eliminate outdated technology. However, the requirement of the technology of the used technological lines being applied by at least 03 manufacturers of OECD member countries may cause some difficulties for the affected companies because there is no further guideline as to which documents are requested in order to meet this requirement.

IMPORT CRITERIA FOR USED MACHINERY AND EQUIPMENT

Used machinery/equipment may be imported if they satisfy the following criteria:

- being manufactured either in accordance with National Technical Regulations (QCVN), or, where inapplicable, in compliance with Vietnam’s Standards (TCVN) or relevant Standards of the G7 countries or Korea with regard to

- safety, energy consumption, and environmental protection;
- their age does not exceed 10 years; in some specific fields such as mechanical engineering, wood production and processing as well as paper and paper pulp production, the age may range from 15 to 20 years.

Please note that the age is calculated from the year of manufacturing to the year of import of the used machinery/equipment. The stipulated maximum age may challenge foreign owned companies that wish to import used machinery/equipment from other countries into Vietnam to establish a manufacturing business in Vietnam. In practice, not all machinery/equipment have been purchased in the manufacturing year, but several years later. Such machinery/equipment though satisfying all other requirements and not detrimentally affecting the environment, may not be imported if their age exceeds the stipulated maximum of 10 years. Despite many experts and companies criticizing this particular provision, claiming it is neither reasonable nor practical, the government insists on the requirements with regard to the maximum age being necessary to protect the environment.

IMPORT OF USED MACHINERY AND EQUIPMENT IN SPECIAL CASES

It is thus remarkable, that a company which is currently operating may be allowed to import used machinery/equipment exceeding the above age limit in order to continue its operation, provided that (i) the remaining capacity or performance must reach at least 85 per cent of its design capacity; and (ii) the amount of raw materials or energy consumed does not exceed 15 per cent of its design consumption level. In such case, a company may submit an application to the Ministry of Science and Technology (MOST) requesting consideration and approval. The application must include an explanation on: (i) the necessity of the used machinery/equipment for the maintenance of the current manufacturing and business operations; (ii) the plan for the further use of the used

machinery/equipment, and (iii) the indispensability of the used machinery/equipment in the technological line. Decision 18 thus fixed some shortcomings of Circular 23 by clarifying the requested documents and the procedure for an application for approval from MOST.

OTHER MATTERS RELATED TO IMPORT DOCUMENTS

Import documents requested for used machinery/equipment:

- Original of the certificate of manufacture about manufacturing year and standards of the used machinery/equipment being compliant with the above mentioned import criteria for used machinery/equipment that has been manufactured in any G7 country or Korea;
- Inspection certificate issued by a designated inspection body for used machinery/equipment that has been manufactured in any G7 country or Korea without certificate of manufacture, or for used machinery/equipment that has been manufactured in a country other than G7 countries and Korea;
- Approval from MOST to import used machinery/equipment exceeding the stipulated age limit.

As to used technological lines, an inspection certificate is requested in all cases.

A list of designated inspection bodies shall be published on the portal of the MOST.

In short, though some issues have not been clarified yet, this Decision does provide some detailed requirements and procedures with regard to the import of used technological lines and used machinery/equipment. It also presents an effort of the Vietnamese government to prohibit outdated, poor quality, polluting and unsafe used machinery/equipment and technological lines from being used in the country. Decision 18 took effect as of June 15, 2019.

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