

THE MINISTRIES

THE MINISTRY OF SCIENCE, TECHNOLOGY AND ENVIRONMENT

**DECISION No. 1091/1999/QĐ-BKHCNMT OF
JUNE 22, 1999 PROMULGATING THE
REGULATION ON THE STATE CONTROL OF
IMPORT-EXPORT GOODS QUALITY**

**THE MINISTER OF SCIENCE,
TECHNOLOGY AND ENVIRONMENT**

Pursuant to the Ordinance on Goods Quality of

REGULATION ON THE STATE CONTROL OF IMPORT-EXPORT GOODS QUALITY

*(issued together with Decision No. 1091/1999/QĐ-
BKHCNMT of June 22, 1999 of the Minister of
Science, Technology and Environment)*

1. GENERAL PROVISIONS

1.1. This document stipulates the modes, contents and procedures for the State control of import-export goods quality as well as the powers and responsibilities of the parties involved in the State control of import-

export goods quality.

1.2. This Regulation shall apply to those goods on the "List of import-export goods subject to the State quality control" (hereafter referred to as List of goods subject to the control), announced by the Ministry of Science, Technology and Environment for each period; and shall not apply to import goods being personal luggage, diplomatic goods, sample goods or goods for exhibitions and fairs.

For particular goods, if the specialized managing ministries assigned to manage them under Decree No. 86/CP of December 12, 1995 issue regulations other than those stated herein, the regulations of such specialized managing ministries shall apply.

All importing/exporting organizations and individuals (hereafter referred to as importing/exporting enterprises for short) that possess goods on the above-said List shall have to register for the quality control and be subject to the control by the agencies or organizations defined in Item 1.4 of this Regulation.

1.3. The bases for import/export goods quality control shall be announced in the annual List of goods subject thereto.

1.4. The quality control of those goods on the List of goods subject thereto shall be conducted by the State agency(ies) in charge of the import-export goods control or by the designated expertise organization(s) (hereafter referred collectively to as the control agencies).

The control agencies and expertise organizations shall be nominated by the Ministry of Science, Technology and Environment itself or in coordination with the specialized managing ministries and be publicized together with the List of goods subject to quality control.

The control agencies shall conduct the control according to the control procedures, prescribed by the General Department of Standardization, Metrology and Quality or the specialized managing ministries. The control procedures shall be elaborated under the unified professional guidance of the General Department of Standardization, Metrology and Quality.

1.5 Goods on the List of goods subject to the control shall be issued notices of import-export goods quality control results (hereafter referred to as control result notices for short) by the control agencies, according to the set form. Such a notice may be made in one of the following forms:

- A certificate of import-export goods that meet the quality requirements (according to the control mode stipulated in Items 3.1.1; 3.1.2 and 3.2.1);

- A notice of import-export goods that have gone

through all the quality control procedures (according to the control mode stipulated in Item 3.2);

- A notice of import-export goods exempt from quality control (according to the control mode stipulated in Item 3.2.2).

Basing themselves on the contents of such notices, the customs agencies shall fulfill the customs procedures as prescribed by law.

Where a lot of import/export goods fails to meet the quality requirements, the control agency shall issue a notice thereon to the concerned importing/exporting enterprise and, at the same time, notify this to the specialized standardization, metrology and quality inspectorate or the inspectorate of the specialized managing ministry (hereafter called the specialized inspectorate for short) so that the latter may take appropriate handling measures.

The said notices shall be issued to the lots of import/export goods on the case-by-case basis.

1.6. Import/export goods of the following types shall be exempt from quality control:

- Export goods which have been certified compatible with the Vietnamese Standards (VS) in term of their quality and/or safety, meeting the goods quality requirements in the contracts signed with the importing countries;

- Import goods bearing marks of conformity with the standards of the exporting countries, which have been recognized by the General Department of Standardization, Metrology and Quality and are publicized in each period.

The control exemption procedures are stipulated in Item 3.3 of this Regulation.

1.7. Import/export goods on the List of goods subject to the control, if also on the List of goods within an Agreement on ensuring quality and mutual recognition signed between Vietnam and a foreign country shall be subject to the quality control according to such Agreement.

1.8. The regime of alleviation of import/export goods control:

The regime of alleviation of import/export goods control shall apply to the lots of goods, which, through the supervision (the statistical results of the inspection of import/export goods lots), show their satisfactory and sustainable quality according to the quality norms set in the control bases.

The conditions for application of the regime of alleviation of import/export goods control are stipulated in Item 3.4 of this Regulation.

1.9. Importing/exporting enterprises shall have to create conditions (supply samples, dossiers and

documents as prescribed) for the control agencies to perform their tasks, and at the same time, pay the control and testing fees to the control agencies. The fee levels are stipulated in Item 3.5 of this Regulation.

1.10. The control agencies shall have to register with the Ministry of Science, Technology and Environment (the General Department of Standardization, Metrology and Quality) as well as the specialized managing ministries the lists, titles and specimen signatures of those officials who sign the documents mentioned in Item 1.5 of this Regulation.

2. POWERS AND RESPONSIBILITIES OF THE STATE CONTROL AGENCIES

2.1. Powers

a/ To request the importing/exporting enterprises to supply necessary documents in service of the control.

b/ To get access to places of goods storage, preservation and transportation for control and goods samples.

c/ To effect the goods control according to the provisions in Item 3 of this Regulation.

d/ To issue the control result notices to the importing/exporting enterprises.

e/ To collect the control and testing fees as prescribed by law;

f/ To propose the specialized inspectorates to handle those importing/exporting enterprises that fail to strictly comply with the import/export goods quality control under this Regulation. To request enterprises to take measures to handle import/export goods which fail to meet the quality requirements and monitor the handling as well as the handling results; to propose to the specialized inspectorates measures for handling import/export goods that fail to meet the quality requirements.

2.2. Responsibilities

a/ To conduct the State control within the ambit of assigned responsibilities.

b/ To ensure the accuracy, honesty and objectivity when controlling the import/export goods lots. To strictly comply with the control procedures issued by the General Department of Standardization, Metrology and Quality as well as the specialized managing ministries.

c/ To be subject to the organizational and professional direction and guidance of the General Department of Standardization, Metrology and Quality and/or the specialized managing ministries as defined in Decree No. 86/CP of December 8, 1995 as well as the joint circulars guiding the implementation of this Decree.

d/ To receive and settle the importing/exporting enterprises' complaints about the quality control they have conducted. If damage is caused to importing/exporting enterprises due to their faults in the import/export goods quality control, the control agencies shall have to refund all the testing or control fees to the enterprises and, at the same time, make compensation therefor as prescribed by law.

e/ To keep the control dossiers for 3 years after issuing notices prescribed in Item 1.5 of this Regulation and produce them to the competent agencies when so requested.

f/ To submit quarterly reports on the control activities to the General Department of Standardization, Metrology and Quality and/or the specialized managing ministries with the following contents:

- The volume, quantity and value of each goods category having gone through the control;

- The volume and quantity of the lots of goods of each category, which fail to meet the quality requirements;

- The situation on complaints (if any) by importing/exporting enterprises.

g/ To ask for permission of the Ministry of Science, Technology and Environment (the General Department of Standardization, Metrology and Quality) or the specialized managing ministries in case of:

- The change of the control area;

- The change or addition of their working offices;

- The cessation or termination of their operations;

3. CONTROL MODES, CONTENTS AND PROCEDURES

3.1. Export goods quality control:

The export goods quality control shall only be conducted at the departure port(s) by mode of examining the export goods samples and lots. More concretely:

3.1.1. Examining the export goods samples:

a/ Before exporting goods, the exporting enterprise shall send the export goods samples together with a catalogue thereon as well as the relevant technical documents on the quality of goods mentioned in the contract signed with the importing country.

On the basis of the control contents and requirements and depending on the characteristics of each goods category, the control agency shall determine the quantity of samples to be sent for testing and storing requirements.

b/ The control agency shall conduct the testing of sample goods in terms of the quality norms set for them and notify the testing results to the exporting enterprise

for handling. The testing results showing the goods samples have met the requirements shall serve as basis for comparison with the subsequent export goods lots of the said enterprise. In cases where the goods samples contain the quality norms incompatible with the prescriptions, the control agency shall notify the enterprise thereof so that the latter may re-handle the goods lot and send other goods samples for inspection.

c/ Where the testing results show that the goods samples satisfy the requirements, when the goods are gathered at the border-gate, the exporting enterprise shall notify the control agency thereof and, at the same time, send the latter the following additional dossiers:

- The paper on registration for the State control of import/export goods quality;
- The export contract (duplicate copy);

After receiving the above-said additional dossiers, the control agency shall examine the packing, labeling and outside marks of the actually exported goods, comparing them with the already examined goods samples. If the exported goods conform with the examined goods samples, the control agency shall, within 1 day, issue a control result notice (certifying that the lot of goods has gone through the quality control procedures) which shall serve as basis for the clearance of the customs procedures.

d/ Where the exported goods fail to conform with the already examined goods samples in terms of their packing, labeling and outside marks, the inspection of such goods lot shall comply with the order and procedures prescribed for the export goods lot as mentioned in Item 3.1.2 of this Regulation.

3.1.2. Examining the export goods lots:

a/ Before exporting a lot of goods, the exporting enterprise shall submit the following dossiers to the control agency:

- The paper of registration for the State control of import/export goods quality;
- The export contract (the duplicate copy);
- The certificates (if any) of the goods' compatibility with the Vietnamese Standards and the requirements set for the goods in the contract signed with the importing country.

b/ After receiving a complete dossier, the control agency shall take goods samples, conduct the quality control and publicize the control results 5 days after taking the samples. Where the goods samples meet the quality requirements, the control agency shall issue a control result notice (certifying that the export goods meet the quality requirements). Where the goods samples fail to meet the requirements, the control agency shall issue a notice thereon to the exporting enterprise so that the latter re-handle the lot of goods.

3.2. Import goods quality control:

The import goods quality control shall be conducted at one of the two following places:

- The arrival port, or
- The departure port.

3.2.1. Control at the arrival port:

The control at the arrival port shall be conducted by two modes:

- Examining the import goods samples; and
- Examining the import goods lot.

3.2.1.1. Examining the import goods samples:

a/ Before importing goods, the importing enterprise shall send the import goods samples together with a catalogue thereon supplied by the selling party as well as the relevant technical documents to the control agency.

On the basis of the control contents and requirements and depending on the characteristics of each goods category, the control agency shall determine the quantity of samples to be sent for testing and storing requirements.

b/ The control agency shall conduct the testing according to the quality norms already set for the goods samples and notify the testing results to the importing enterprise so that the latter may be aware of and handle the matters. The testing results showing the goods samples meet the set requirements shall serve as basis for comparison with the subsequent import goods lots of the said enterprise.

c/ Where the testing results show that the goods lot meets the requirements, when the import goods arrive at the border-gate, the importing enterprise shall notify such to the control agency and, at the same time, send the latter the following additional dossiers:

- The paper of registration for the State control of the import/export goods quality;
- The duplicate copy of the goods list (if any), invoices and bills of lading. For goods being lubricants for motors, an import contract (the duplicate copy) is required;
- The deeds (if any) on the goods lot quality, issued at the departure port.

After receiving the above-said additional dossiers, the control agency shall examine the packing, labeling and outside marks of the goods actually imported to the border-gate. Where those goods conform with the already examined goods samples, the control agency shall, within 1 to 2 days, issue a control result notice (certifying that the lot of goods has gone through the quality control procedures) which shall serve as basis for customs procedures clearance.

d/ Where the import goods fail to conform with the examined goods samples in terms of their packing,

labeling and outside marks, the goods lot examination shall comply with the order and procedures for import goods lot examination mentioned in Item 3.2.1.2. of these Regulations.

3.2.1.2. Examining the import goods lot:

a/ Where the importing enterprise fails to send the goods samples for advance examination, when the import goods arrive at the border-gate, such enterprise shall have to notify the control agency thereof and submit the following dossiers:

- The paper of registration for the State control of import/export goods quality;

- The duplicate copy of the goods list (if any), invoices and bills of lading. For goods being motor lubricants, an import contract (the duplicate copy) is required;

- The catalogue or technical documents related to the goods, supplied by the seller.

b/ After fully receiving the above-said dossiers, the control agency shall take goods samples and test them according to the set norms.

Where the testing results conform to the requirements of the import goods control bases, the control agency shall issue a control result notice (certifying that the goods meet the quality requirements for the import) to the enterprise, which shall serve as basis for customs procedures clearance.

Where the testing results fail to meet the requirements of the import goods control bases, the control agency shall notify such to the enterprise and, at the same time to the competent State agencies for handling according to the provisions of law.

c/ The goods sample testing results shall be kept on file by the control agency to serve as a basis for the completion of the control procedures for the enterprise's subsequent goods lots of the same category (which have the same names, symbols and are produced by the same organization).

3.2.2. Control at the departure port:

The import goods control at the departure port shall be effected according to the following order:

3.2.2.1. The Ministry of Science, Technology and Environment (the General Department of Standardization, Metrology and Quality) or the specialized managing ministries (which are assigned to manage the goods) shall publicize lists of the recognized foreign expertise organizations as well as the designated control agencies and expertise organizations, which shall be selected by the importing enterprises to effect the goods inspection at the departure ports.

3.2.2.2. In cases where an importing enterprise selects a foreign expertise organization other than that on the above-mentioned list, such importing enterprise

shall have to provide the Ministry of Science, Technology and Environment (the General Department of Standardization, Metrology and Quality) or the specialized managing ministry the following information and dossiers about such organization for consideration and recognition:

- The name of the expertise organization;

- Its address, head office, telephone and fax numbers;

- The area, scope and objects of its operation;

- Certificates of the compatibility of its quality testing system with the International Organization for Standardization (ISO) 9000; conformity with the ISO/IEC Guide 39; and recognition of its testing laboratory (if any).

On the basis of the information in the dossiers, the Ministry of Science, Technology and Environment (the General Department of Standardization, Metrology and Quality) or the specialized managing ministry shall issue a document, permitting or not permitting the said organization to conduct the examination, and at the same time, notify this to the control agency and the importing enterprise.

3.2.2.3. The importing enterprise shall have to notify the recognized foreign expertise organization of the control bases corresponding to the types of goods on the list of goods subject to the control.

3.2.2.4. When the import goods arrive at the border-gate, the following order and procedures shall apply:

a/ The enterprise shall submit the following additional dossiers:

- The paper of registration for the State control of import/export goods quality;

- The notarized copy of the goods inventory (if any), invoices and bills of lading. For goods being lubricants for motors, an import contract (the duplicate copy) is required;

- The deed on the goods lot quality, issued by the recognized foreign expertise organization, the designated control agency or expertise organization at the departure port.

b/ The control agency shall examine the conformity of the packing, labeling and outside marks of the actually imported goods at the border-gate with the import dossier. If they conform each other, the control agency shall, within 1 to 2 days, issue a control result notice (certifying that the import goods have gone through all the quality control procedures).

c/ Where the results of the examination of the dossiers as well as the packing, labeling and outside marks of the actually imported goods reveal incompatibility, such goods lot shall be subject to the control

procedures mentioned in Item 3.2.1.2 of this Regulation.

d/ The control expenses at the departure port shall be agreed upon between the importing enterprise and the foreign expertise organization or the control agency or expertise organization, which is designated to carry out the control.

3.3. Exemption of import/export goods control:

The objects of control exemption are defined in Item 1.6 of this Regulation.

For the control exemption for each lot of goods, before exporting or importing goods, the exporting/importing enterprise shall file an application for the exemption of import/export goods quality control to the control agency.

After fully receiving and examining the validity of the goods dossier, if deeming that such dossier meets the requirements, the control agency shall, within 1 day, issue a control result notice (on the control exemption for the goods lot of the importing/exporting enterprise) which shall serve as basis for customs procedures clearance.

3.4. The regime of alleviation of the import/export goods control:

Subjects entitled to the control alleviation are defined in Item 1.8 of this Regulation.

The conditions for application and the implementation of the control alleviation regime shall be detailed in the control regulations or procedures (for each type of goods), issued by the General Department of Standardization, Metrology and Quality or the specialized managing ministries according to the following principles:

- Reducing the control frequency (the number of goods lots with samples taken repeatedly for inspection);
- Reducing the quantity of samples taken for inspection;
- Reducing the control norms.

3.5. Import/export goods quality control and testing fees:

The collection, management and use of import/export goods quality control and testing fees shall be stipulated in a circular jointly issued by the Ministry of Finance and the Ministry of Science, Technology and Environment.

4. COMPLAINTS AND THE SETTLEMENT THEREOF

4.1. Within 7 days after receiving a notice that a goods lot fails to meet the quality requirements for import or export as mentioned in Item 1.5. of this

Regulation, the importing/exporting enterprise may request the control agency that has conducted the goods quality control to reconsider the examination results or re-examine the goods, provided that the goods lot is maintained intact. If the re-examination results vary with the results of the first examination, the importing/exporting enterprise shall not have to pay the costs of such re-examination.

4.2. Importing/exporting enterprises may complain about the control agencies' conclusions on their goods, complain or initiate administrative lawsuits against the violation-handling decisions of competent agencies. The complaint and the settlement of complaints, the initiation of lawsuits and the settlement of petitions shall comply with the provisions of law.

5. INSPECTION AND HANDLING OF VIOLATIONS

5.1. If an enterprise, which imports or exports goods on the List of goods subject to the control, violates the provisions of this document and the relevant documents, it shall be sanctioned according to the provisions of the Government's Decree No. 57/CP of May 31, 1997 on sanctions against administrative violations in the field of metrology and goods quality.

5.2. The agencies in charge of import/export goods quality control shall be subject to the inspection and violation handling by the specialized inspectorates regarding the goods quality control, in conformity with the assignment of responsibility for the State management over goods quality.

5.3. The Ministry of Science, Technology and Environment shall coordinate with the specialized managing ministries in designating the control agencies and, at the same time, have the competence to temporarily suspend or revoke the right to the State control of import/export goods quality of the designated control agencies if the latter fail to fully exercise or improperly exercise the assigned State control competence prescribed in this Regulation as well as the relevant documents.

5.4. State officials and employees of the designated control agencies and expertise organizations who, while on duty, show signs of dishonesty in examination and certification or deliberately obstruct the importing/exporting enterprises shall, depending on the seriousness of their violations, be disciplined, administratively sanctioned or examined for penal liability according to the current provisions of law.

*Minister of Science,
Technology and Environment*
CHU TUAN NHA