

DECISION

Prescribing the destruction of illegally imported counterfeit and poor-quality cigarettes which are confiscated and the pilot auction of illegally imported good-quality cigarettes which are confiscated for export abroad¹

Pursuant to the June 19, 2015 Law on Organization of the Government;

Pursuant to the June 23, 2014 Customs Law;

Pursuant to the June 18, 2012 Law on Prevention and Control of Tobacco Harms;

Pursuant to the June 20, 2012 Law on Handling of Administrative Violations;

Pursuant to the November 17, 2016 Law on Property Auction;

Pursuant to the Government's Decree No. 08/2015/ND-CP of January 21, 2015, detailing, and providing measures to implement, the Customs Law regarding customs procedures and customs inspection, supervision and control;

Pursuant to the Government's Decree No. 67/2013/ND-CP of June 27, 2013, detailing a number of articles and measures for implementation of the Law on Prevention and Control of Tobacco Harms regarding tobacco business;

Pursuant to the Government's Decree No. 106/2017/ND-CP of September 14, 2017, amending and supplementing a number of articles of the Government's Decree No. 67/2013/ND-CP of June 27, 2013, detailing a number of articles and measures for implementation of the Law on Prevention and Control of Tobacco Harms regarding tobacco business;

At the proposal of the Minister of Finance;

The Prime Minister promulgates the Decision prescribing the destruction of illegally imported counterfeit and poor-quality cigarettes which are confiscated and the pilot auction of illegally imported good-quality cigarettes which are confiscated for export abroad.

Article 1. Scope of regulation

This Decision prescribes:

1. The destruction of illegally imported counterfeit and poor-quality cigarettes which are confiscated.
2. The pilot auction of illegally imported poor-quality cigarettes which are confiscated for export abroad.

Article 2. Subjects of application

1. Enterprises eligible for participating in an auction to buy cigarettes for export abroad specified in Article 4 of this Decision.
2. Competent state agencies involved in the management of the destruction and pilot auction of cigarettes.

Article 3. Principles of implementation

1. Illegally imported cigarettes which are confiscated shall be determined to be counterfeit and poor-quality or good-quality by competent agencies that issue confiscation decisions in coordination with specialized quality assessment agencies.

2. Illegally imported counterfeit and poor-quality cigarettes which are confiscated shall be destroyed under law.

3. The Ministry of Finance shall guide the mechanism for mobilization, management and use of funds for the prevention and combat of cigarette smuggling and combat of counterfeit cigarette production and trade.

4. Illegally imported good-quality cigarettes which are confiscated shall be auctioned for export abroad:

a/ The auction of illegally imported good-quality cigarettes which are confiscated must comply with the law on property auction;

b/ Illegally imported good-quality cigarettes which are confiscated shall be exported through sea and waterway border gates and international airports but not through land border gates and not to bordering countries. In case they are transited through bordering countries, the transit must comply with the goods transit agreements signed between Vietnam and such countries;

c/ The export procedures for illegally imported good-quality cigarettes which are confiscated and sold via auction shall be carried out under the customs law.

5. Proceeds from the auction of illegally imported good-quality cigarettes which are confiscated shall be deposited into a temporary deposit account opened at the State Treasury for spending on the supervision, management, prevention and control of cigarette smuggling.

Article 4. Conditions for participating in auction

Enterprises participating in an auction to buy cigarettes for export must satisfy the conditions prescribed by the law on property auction.

Article 5. Responsibilities of enterprises with winning bids

1. Within 90 days after winning at auction, an enterprise with a winning bid shall carry out procedures for exporting the bought cigarettes abroad under law. Past that time limit, if failing to export them, the enterprise shall destroy such cigarettes under the supervision of the agencies issuing the confiscation decision and other related agencies (if any) under law.

2. When carrying out customs procedures for export, in addition to a set of dossier as prescribed by the customs law, an enterprise with a winning bid shall submit one copy of the contract on purchase and sale of auctioned property to the customs office.

Article 6. Organization of implementation

1. To assign the National Steering Committee for Combating Smuggling, Trade Fraud and Counterfeit Goods to:

a/ Assume the prime responsibility for, and coordinate with provincial-level People's Committees and related ministries and sectors in, examining and monitoring the implementation of this Decision;

b/ Organize the review and evaluation of the implementation of this Decision after the pilot duration.

2. To assign the Ministry of Finance to guide the management and use of the proceeds from the auction of illegally imported good-quality cigarettes which are confiscated for export for the supervision, management, prevention and combat of cigarette smuggling. Pending the availability of this guidance the proceeds from the auction of illegally imported and confiscated cigarettes shall be deposited into a temporary deposit account opened at the State Treasury under regulations.

3. To assign the Ministry of Industry and Trade, Ministry of Public Security and Ministry of National Defense to direct their competent agencies to inform local customs offices of enterprises that win at

auctions of illegally imported cigarettes which are confiscated for monitoring, customs clearance and supervision of the export.

4. To assign provincial-level People's Committees to:

a/ Direct local specialized forces to supervise, manage, count, store and preserve cigarette batches which are illegally imported and confiscated from their seizure to auction;

b/ Direct local forces tasked to combat smuggling, trade fraud and counterfeit goods to organize the destruction of illegally imported cigarettes which are confiscated under law;

c/ Organize the examination and monitoring of the auction of illegally imported good-quality cigarettes which are confiscated for export under this Decision; and promptly report problems and difficulties arising in the course of implementation to the Prime Minister and related ministries.

5. Ministries and sectors shall, based on their functions and tasks, guide the consistent settlement of problems arising in the course of implementation.

Article 7. Effect

1. This Decision takes effect from June 15, 2018, through June 15, 2020.

2. During the effective duration of this Decision, the Prime Minister's Decision No. 2371/QĐ-TTg of December 26, 2014, on destruction of illegally imported cigarettes which are confiscated, will temporarily cease to be effective.

At the expiration of the effective duration specified in Clause 1 of this Article, if there is no decision amending, supplementing or replacing this Decision, the Prime Minister's Decision No. 2371/QĐ-TTg of December 26, 2014, on destruction of illegally imported cigarettes which are confiscated, will apply.

3. The Chairperson of the National Steering Committee for Combating Smuggling, Trade Fraud and Counterfeit Goods, ministers, heads of ministerial-level agencies, heads of government-attached agencies, chairpersons of provincial-level People's Committees and related agencies and units shall implement this Decision.-

Prime Minister
NGUYEN XUAN PHUC