

**JOINT CIRCULAR No. 10/2000/TTLT-BTM-BTC-BCA-BKHCNMT OF APRIL 27, 2000 GUIDING  
THE IMPLEMENTATION OF THE PRIME MINISTER'S DIRECTIVE No.31/1999/CT-TTg OF  
OCTOBER 27, 1999 ON COMBAT AGAINST FAKE GOODS PRODUCTION AND TRADING**

In implementation of the Prime Minister's Directive No.31/1999/CT-TTg of October 27,1999 on combat against the fake goods production and trading, the Ministry of Trade, the Ministry of Finance, the Ministry of Public Security and the Ministry of Science, Technology and Environment hereby jointly guide the organization of the implementation thereof as follows:

**I. GENERAL PRINCIPLES**

1. Combating fake goods is the task of all ministries, branches, the People's Committees of all levels, the political and social organizations, the enterprises, business households and the entire population.
2. All acts of producing, processing, packing, assembling, trading in, storing, exporting, importing, transporting, advertising, promoting the sale of, fake goods, when detected, must be severely dealt with according to law. Material evidences being fake goods, means and instruments used in the fake goods production and trading shall all be confiscated (except for special cases to be handled according to separate regulations). Subjects engaged in the production of and/or trading in, fake goods, poor-quality goods shall be administratively sanctioned or examined for penal liability, depending on the seriousness of their violations.
3. When administratively sanctioning acts of producing and/or trading in fake goods, the bodies having handling competence must base themselves on the Government's relevant Decrees on administrative sanctions and strictly adhere to the order, procedures and jurisdiction prescribed in the Ordinance on the handling of administrative violations.
4. If cases and matters show criminal signs of fake goods production and trading under the provisions of the Penal Code, the inspection bodies shall transfer the dossiers together with the material evidences of the violations to the competent bodies for criminal investigation and handling.
5. Organizations and individuals are strictly forbidden to produce and/or circulate goods which fail to meet the quality standards. The quality standards, which include the Vietnamese Standards, the branch's standards, the establishment's standards or international standards, must be strictly met. Production and/or business organizations and individuals must strictly abide by the law provisions on goods trade marks, industrial designs, appellation of goods origins protected by the State as well as the goods-labeling regulations.
6. This Circular does not govern types of goods bearing the fake goods names recognized by customers such as false teeth, imitation antiques, artificial limbs, artificial flowers.

**II. INTERPRETATION OF A NUMBER OF TERMS USED IN THIS CIRCULAR**

- 1. Goods labels** are written scripts, prints, drawings, signs, which are sunk-or emboss-printed directly on or glued, sewn, fastened to goods or packings in order to indicate necessary and principal information on such goods.
- 2. Trademarks** are signs used to distinguish goods or services of the same types of various production and/or business establishments. Trademarks may be words, images or the combination of such elements demonstrated in one or many colors.
- 3. Trade names** are specific names of products or goods, telling the nature of such goods, which are standardized or familiar to consumers.
- 4. Goods origin appellations** are the geographical names of countries, localities, used to indicate the origins of goods from such countries, localities provided that these goods items have the particular characters and natures based on the particular and superior geographical conditions, including natural and human elements or the combination of those both elements.

**5. Industrial designs** are the outer shapes of products demonstrated in lines, forms, blocks, colors or the combination of such elements, which are new to the world and used as models for industrial or handicraft production.

### III. FAKE GOODS

Goods which contain one of the following signs are considered fake goods:

#### *1. Goods fake in quality and utility*

1.1. Goods having no use value or the use value untrue to their natural nature, appellation and utility.

1.2. Goods added with mixtures, additives, which are not allowed for use, thus leading to the quality change; having no or little pharmaceuticals, containing pharmaceuticals other than those inscribed on the labels or packs; having no or not enough active elements, effective elements being not enough to create utility; having active elements, effective elements other than those inscribed on packs.

1.3. Goods containing not enough constituent materials or having them replaced with other raw materials, auxiliaries failing to ensure the quality according to the announced goods quality standards, causing adverse consequences on production, human health, animals, plants or human ecology, environment.

1.4. Goods being on the list of those subject to compulsorily applied standards, which are not applied, thus causing adverse consequences on production, human health, animals, plants or human ecology, environment.

1.5. Goods not yet certified for standard compatibility but using the standard compatibility certificates or seals (for compulsory goods list).

#### *2. Fake in trademarks, industrial designs, sources, origins:*

2.1. Goods having identical or similar trademarks which cause confusion with other people's trademarks being protected for the same types of goods, including trademarks being protected under the international agreements which Vietnam has acceded to, but without permission of the trademark owners.

2.2. Goods having identical or similar signs or packs bearing identical or similar signs, which cause confusion with the protected trade names or the protected goods origin appellations.

2.3. Goods or parts thereof having outer shapes identical to the protected industrial designs but without the permission of the owners of such industrial designs.

2.4. Goods showing signs of counterfeiting in source, origin instructions, causing misunderstanding of the sources, places of production, places of packing, assembling goods.

#### *3. Fake in goods labels*

3.1. Goods having labels identical or similar to the publicized labels of other establishments.

3.2. The indexes inscribed on goods labels are incompatible to the goods quality in order to deceive consumers.

3.3. The contents inscribed on labels were scrubbed, erased, amended or inscribed with the expire dates in order to deceive customers.

#### *4. Printed matters used for the production and/or consumption of fake goods:*

4.1. Assorted decals, product stamps, goods labels, goods label samples, product packs showing signs of violation such as identity or similarity, which cause confusion with goods of the same types, with protected goods labels, industrial designs or goods origin appellation.

4.2. Assorted invoices, vouchers, certificates, stamps, tickets, money, printed matters of money value, other fake printed matters and cultural products.

#### IV. POOR-QUALITY GOODS

Goods showing one of the following signs are considered poor-quality goods:

1. Goods having the use value, utility but the quality norms and constituents are not enough as publicized on good labels or advertised or marketed, but causing no harm to production, human health, animals, plants or human ecology, environment.

2. Goods having one of the quality norms on the list of those compulsorily applied being lower than the publicized minimum quality level but causing no harm to production, human health, animals, plants or human ecology, environment.

3. Goods with their actual qualities lower than the levels inscribed on goods labels or publicized advertisement but causing no harm to production, human health, animals, plants.

4. Old goods renovated, repaired then counterfeited as brand new goods in order to deceive customers and sell them at unit prices of brand new goods.

5. Goods added with mixtures or other raw materials, thus quantitatively changing the goods, but causing no harm to production, human health, animals, plants, or human ecology, environment.

#### V. INSPECTING AND HANDLING FAKE GOODS

1. Subject to the inspection:

- Fake goods, poor-quality goods falling within the scope of inspection and handling under this Circular include goods produced domestically, processed, assembled, packed, warehoused, put on sale, transported en route, displayed for sale, used for sale promotion and export as well as import goods.

2. Geographical areas which need to be inspected:

- Land, air, sea and river border gates, border lines.

- Places where counterfeit stamps, labels, trademarks, packs and/or publications are printed.

- Dens for production, processing, assembly and/or storing of fake goods.

- Main fake goods wholesalers and/or distributors.

- Fake goods retailers and means for transport of fake goods.

3. Assigning geographical areas for inspection and the coordination therein

3.1. Assignment of geographical areas:

- The customs and border guard forces have the responsibility to organize the combat against the export and import of fake goods through border gates, on the land borders and on the sea according to tasks assigned by their respective branches.

- The market control force has the responsibility:

+ To inspect and check the combat against the production and trading of fake goods and poor-quality goods on the domestic markets.

+ To assume the prime responsibility and coordinate with the specialized inspection forces and forces with function to combat fake goods and poor-quality goods in areas under their respective control.

- The police force has the responsibility:

+ To investigate and detect rings and dens of producing and/or dealing in fake goods, particularly counterfeit papers, invoices, stamps, money and printed matters of monetary value.

+ To coordinate with the functional inspection and checking forces in various branches and at various levels in combating fake goods when so requested.

- The specialized inspection and checking forces have the responsibility to organize the inspection and checking of the combat against fake goods within the scope of their specialized State management, and at the same time to coordinate with forces having functions to combat fake goods in conducting investigation and checking when so requested.

### 3.2. Contents of coordination:

- Coordination in the exchange and supply of information on:

+ The situation of fake goods, the operation rules and tricks employed by fake goods producers and dealers.

+ Undertakings, policies and plans of branches and localities, which are related to the combat against fake goods.

- Coordination in inspecting, examining, preventing and handling violations:

+ Working out options and plans for coordination in inspection and examination.

+ Appointing officials to participate in inspection and examination.

+ Providing support in means and fund and creating favorable conditions for the work of inspection and examination.

+ Conducting investigation, verification, gathering of documents, evidence, the expertise and evaluation of fake goods.

+ Organizing the execution or forcible enforcement of sanctioning decisions.

- Coordination in the handling of violations regarding fake goods in complicated cases. Where no agreement can be reached on the handling measures, the cases shall be reported to the Steering Board 31 of the local or central level for decision.

- Coordination in commending organizations and individuals with contributions to detecting, combating and handling violations regarding fake goods.

- Coordination with lawful production and business establishments as well as industrial property owners in determining fake goods.

**4. Goods items:** Including goods items described in Section III and poor-quality goods in Section IV of this Circular, focusing on the inspection and handling of the following goods items:

- Food, processed foodstuff, food additives, drinks.
- Cosmetics.
- Medicines, vaccines and preparations in service of human disease prevention and treatment.
- Agricultural supplies, aquatic products: Plant varieties, animal breeds, fodder, veterinary drugs, vaccines, plant protection drugs, fertilizers, bio-products in service of cultivation and husbandry.
- Invoices, vouchers, money, certificates, publications, art works and other printed matters.
- Construction materials, machinery and spare parts, fuels, raw materials, traffic means.

5. Expertise and assessment of fake goods and poor-quality goods:

5.1. Upon the detection of fake goods and/or poor-quality goods, the functional forces shall have to write the minutes thereon and handle the violations according to regulations. In case of insufficient grounds for confirmation of fake goods and/or poor-quality goods, the samples thereof must be taken and sent to functional State bodies as prescribed for expertise and assessment.

5.2. Functional bodies shall have to expertise and assess the goods and publication samples when so requested by inspection and control agencies.

5.3. Pending the reorganization of the system of expertising and assessing agencies, the quality inspection bodies of the Ministry of Science, Technology and Environment, the Ministry of Trade (the Goods Quality Control and Measurement Department), the Criminological Institute of the Ministry of Public Security and other functional bodies of ministries and branches shall have to conduct the expertise and assessment of samples of fake goods and poor-quality goods prescribed at Point 1, Sections III and IV of this Circular, sent by fake goods inspection and examination agencies of various branches and levels within the time limits prescribed by law and take responsibility for the outcome and their conclusions.

5.4. The Industrial Property Department of the Ministry of Science, Technology and Environment, the provincial/municipal Services of Science, Technology and Environment shall have the responsibility and competence for the expertise and assessment of fake goods prescribed at Point 2, Section III of this Circular.

5.5. The concerned functional bodies shall perform the expertise and assessment of fake goods prescribed at Point 2, Section III of this Circular.

6. Handling of fake goods:

6.1. To be re-exported from Vietnam, for imported fake goods and poor-quality goods being under customs procedures by decisions of competent bodies.

6.2. Organize the destruction according to the current regulations of the State:

- Goods, objects having no use value.
- Goods which fail to ensure the minimum quality level, causing harm to production, human lives and health, animals, plants, human ecology and/or environment.
- Assorted decals, stamps, goods labels, trademarks, goods packings, invoices, vouchers, money and/or printed matters determined as being fake.

6.3. Goods may be circulated but have to satisfy the following conditions:

- Goods which have use value but must have the violation elements (labels, trademarks, packings...) removed from the goods and notification thereon must be made widely to consumers.
- Goods shall be re-processed in order to ensure their legality when being circulated, or shall be made full use of as raw materials.

## VI. FUNDING AND MEANS FOR COMBATING FAKE GOODS

1. Forces with function to inspect, check and combat fake goods to be provided with fund for use in service of the fake goods combat, shall include:

- The customs force.
- The border guard force.
- The police force.
- The market control force.
- The specialized inspection forces.

2. The fund for fake goods combat shall include:

- The State budget allocated according to annual estimates.
- The entire amount of collected administrative violation fines and proceeds from the sale of violation goods, material evidences and means which are confiscated through the handling of fake goods cases, left by the State budget to cover expenses for activities against fake goods.
- Voluntary contributions (if any) of domestic and foreign organizations and individuals.
- Part of the financial support from the local revenues from fake goods combat.

3. The fund for fake goods combat shall be used for the following:

Procurement and repair of means and instruments; the seizure, destruction, loading and unloading, preservation and transportation of violation goods and material evidence; the detection, verification and handling of violations; propaganda, professional training and fostering, preliminary review and review of fake goods combat; organization of information and purchase of information for detection of violations; test, expertise, assessment; extra hour work payment; allowances for officials and employees who get accidents, wounded or dead while performing their duties or for their families; rewards for organizations and individuals with merits in the combat against fake goods production and trading.

## VII. IMPLEMENTATION ORGANIZATION

**1.** In order to organize the implementation of the Prime Minister's Directive No.31-1999/CT/TTg of October 27, 1999 on the combat against fake goods production and trading, and this Circular, the ministries, the ministerial-level agencies, the agencies attached to the Government and the People's Committees of the provinces and centrally-run cities shall have the responsibilities:

*1.1. The Trade Ministry:*

- To assume the prime responsibility in organizing the coordination among the concerned ministries and centrally-run branches in directing the combat against fake goods.
- To assume the prime responsibility in organizing the inspection and supervision of branches and localities in the combat against fake goods.
- To propose policies and necessary measures to combat fake goods in each period, to discuss and reach agreement with ministries and General Departments on proposals made to the Prime Minister and the direction of localities.
- To request the ministries and General Departments to coordinate and provide forces and means for timely prevention and detection of cases of violation related to fake goods, or to join the inter-branch inspection teams when necessary.
- To organize the supply of information, synthesize reports on the situation and combat against fake goods by branches, levels in localities and nationwide for report to the Prime Minister and notification to ministries and branches.
- To periodically organize joint meetings of ministries and General Departments to review and draw experience from the work and to discuss measures for coordination in future direction.

*1.2. The Ministry of Public Security:*

- To investigate and detect subjects and gangs involved in fake goods production and trading, with special attention being paid to types of goods which cause great harms to social security and order.
- To coordinate with the market control force and the specialized inspection forces in the struggle to prevent the production and trading of fake goods, strictly handling elements who oppose persons on official duties, when so requested.
- To join various branches in directing and guiding localities to combat fake goods.

**1.3. The Ministry of Finance** shall guide the management, use and settlement of sources of fund in service of the fake goods combat.

*1.4. The other ministries, the ministerial-level agencies and the agencies attached to the Government shall, according to their assigned tasks in the combat against fake goods, have the responsibilities:*

- To organize the direction of activities against fake goods within their respective State management scopes and specific tasks assigned by the Prime Minister in the above-said Directive.
- To coordinate with the Ministry of Trade as well as concerned ministries and branches in directing the efficient combat against and prevention of fake goods for each goods lines, goods items, in each locality and throughout the country.
- To sum up the fake goods situation and combat within their respective branches and report them to the Ministry of Trade for sum-up report to the Prime Minister.

**1.5. The Vietnam Society for Standards and Consumers Protection, other mass organizations and social organizations** shall, depending on their functions, assigned tasks, have to assist the counter-fake goods forces and mobilize the consumers to actively participate in the combat against fake goods.

*1.6. The provincial/municipal People's Committees shall have to:*

- Organize the popularization of the Prime Minister's Directive, the joint circular guiding the implementation of the Prime Minister's Directive to enterprises, production and business households

and people in their respective localities for their active participation in the combat against and elimination of fake goods.

- Direct various branches and levels in their respective localities in the combat against fake goods.
- Organize the coordination among branches, levels and functional forces in their respective localities for inspection, detection, prevention and timely handling of cases of violation regarding the production, trading, export and/or transport of fake goods.
- Periodically review activities and draw experience therefrom for direction and plan elaboration in each period.
- Sum up the fake goods situation and combat in their respective localities and report them to the Ministry of Trade for sum-up report to the Prime Minister.

*1.7. For production and business establishments:*

- Production and business organizations and individuals must not produce and/or deal in fake goods. All organizations and individuals shall have to take initiative in coordinating with functional bodies in the combat against fake goods, revealing to the inspection and control forces subjects and places involving in fake goods production and trading so that measures shall be taken to prevent them in time.
- Encouraging organizations and individuals engaged in goods production and assembly to apply the measure of stamp affixture to combat imitation of their products. The enterprises' anti-counterfeit stamps must not be identical or similar to the import goods stamps issued by the State.

This Circular takes effect 15 days after its signing. In the course of implementation, any arising difficulties or problems should be reported in time by the branches and localities to the Steering Board 31-TW and the four ministries for solution.

**For the Trade  
Minister  
Vice Minister**

**For the Finance  
Minister  
Vice Minister**

**For the Public Security  
Minister  
Vice Minister**

**For the Science, Technology  
and Environment Minister  
Vice Minister**

***HO HUAN NGHIEM***

***TRAN VAN TA***

***LE THE TIEM***

***BUI MANH HAI***