

## From China to Vietnam: Refurbished Goods - 4 Key Points and 4 Typical Cases Businesses Need to Know

Opening the market for refurbished goods from other member countries is Vietnam's commitment when participating in new-generation free trade agreements with high standards and covering many areas such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the Free Trade Agreement between Vietnam and the European Union (EVFTA), or the Free Trade Agreement between Vietnam and the United Kingdom and Northern Ireland (UKVFTA).

For two consecutive years, the Vietnamese government has issued two important decrees, specifically Decree No. 77/2023/NĐ-CP (Decree 77) and 66/2024/NĐ-CP (Decree 66) to regulate the import of refurbished goods. This not only facilitates Vietnamese consumers' access to quality products at more affordable prices but also encourages refurbishment [businesses to invest](#) in technology and production processes to create high-quality refurbished products.

To facilitate compliance and mitigate legal risks, KENFOX IP & Law Office will conduct an analysis of four key provisions pertaining to refurbished goods under Decrees 77 and 66. Additionally, we will examine four illustrative cases involving refurbished goods in China to provide further insights.

### FOUR KEY POINTS ABOUT REFURBISHED GOODS IN VIETNAM

#### 1. REFURBISHED GOODS

Goods are considered refurbished goods when they are made from used parts that have been restored, are listed in the regulated category, and have a lifespan, functionality, quality, and warranty regime equivalent to new goods of the same type. Refurbished goods need to meet the following 5 conditions:

[i] **Origin:** The goods must be composed entirely or partially of used parts or materials that have been restored.

[ii] **List of goods:** The goods must be included in the list of refurbished goods specified in the Appendices attached to Decrees 77 and 66.

[iii] **Shelf life:** Refurbished goods must have a shelf life similar to that of new goods of the same type.

[iv] **Functionality and quality:** Refurbished goods must be able to perform all the functions of new goods of the same type, with unchanged or [similar](#) quality and effectiveness.

[v] **Warranty and maintenance policy:** Refurbished goods must have a warranty and maintenance policy similar to that of new goods of the same type.

#### 2. REFURBISHMENT CODE

The refurbishing enterprise or trademark owner is the entity required to apply for a Refurbishment Code from the Ministry of Industry and Trade. The Refurbishment Code is a mandatory requirement for importing refurbished goods into Vietnam under the CPTPP, EVFTA, and UKVFTA agreements.

This code helps management agencies and consumers identify reputable refurbishment enterprises, ensuring the quality and origin of goods. At the same time, the refurbishment code also helps businesses to enhance their reputation and competitiveness in the market.

##### [i] What is a Refurbishment Code?

- The Refurbishment Code is a unique identifier issued by the Ministry of Industry and Trade to refurbishment enterprises or trademark owners that are organizations.
- This code acts as a certificate, confirming that the business or trademark owner meets the requirements for refurbishment capabilities, warranty policies, and the right to use the trademark as regulated.

##### [ii] Who is eligible to be granted a Refurbishment Code?

- Refurbishment enterprises established and registered to operate abroad.
- Trademark owners that are organizations.
- Both of the above entities must prove their refurbishment capabilities, warranty policies, and the right to use the trademark as regulated.

**[iii] Validity period**

- The Refurbishment Code has a maximum validity period of 05 years from the date of issuance.
- After 05 years, the enterprise or trademark owner needs to renew the code if they want to continue importing refurbished goods.

**[iv] Application and Process for Refurbishment Code Issuance**

- The enterprise or [trademark owner](#) submits an application for a Refurbishment Code to the Ministry of Industry and Trade.
- The application includes documents such as: the application form, business registration certificate, documentation demonstrating refurbishment capabilities, documentation on rules of origin, warranty commitment, and authorization to use the trademark (if any).
- The Ministry of Industry and Trade will review the application and may request an on-site inspection of the refurbishment facility before issuing the code.
- The application processing time is no more than 90 days, except in cases where additional time is needed for on-site inspections or supplementary information.

**[v] Cases of suspension or revocation of refurbishment code**

- Providing false or misleading information in the application.
- Failure to maintain refurbishment capabilities, warranty policy, or the right to use the trademark.
- Refurbished goods violate regulations.
- Failure to cooperate during inspection or assessment processes.
- Refusal to provide warranty or maintenance services for refurbished goods.
- At the request of the enterprise.
- The enterprise is dissolved, bankrupt, or has its business registration certificate revoked.

**3. IMPORT LICENSE**

Refurbished goods can only be imported with a license from the relevant specialized ministry. Specifically, there are two types of import licenses:

**[i] Import license per shipment:**

- Granted for the first import of refurbished goods into Vietnam.
- After 3 shipment-based imports of the same type of refurbished goods (same name, type, and code) by the same enterprise that has been granted a Refurbishment Code, the import license will be converted to a time-limited import license.
- Re-applied in cases where the Refurbishment Code expires, is suspended, or the enterprise is re-issued a Refurbishment Code after it has been revoked.
- However, after re-application, the license will only be converted to a time-limited license after at least 10 shipment-based licenses have been issued.

**[ii] Time-limited import license:**

- Granted after the refurbished goods have been imported 3 times under a shipment-based import license.
- Has a minimum validity period of 12 months, as determined by the licensing authority.
- No limit on the quantity of refurbished goods imported within the validity period of the license.

**Licensing authority:**

- Depending on the type of refurbished goods, the import license will be issued by the relevant specialized management ministry (Ministry of Information and Communications, Ministry of Health, Ministry of Transport, Ministry of Industry and Trade, Ministry of Agriculture and Rural Development).

**Some other important points:**

- The import license for refurbished goods expires when the Refurbishment Code is suspended or revoked.
- In the event that the goods have been loaded onto the means of transport before the Refurbishment Code is suspended or revoked, the importer may request the licensing authority to consider allowing the import of that shipment.

**4. INTELLECTUAL PROPERTY**

Both Decrees emphasize the [protection of intellectual property rights](#) in refurbishment activities, particularly with regard to trademarks. Refurbishing businesses need permission from the trademark owner to use the trademark on refurbished goods, and must also clearly label them to avoid confusing consumers.

**[i] Conditions for granting a Refurbishment Code:** Refurbishing enterprises or trademark owners must prove their right to use the trademark if the refurbished goods bear the trademark of the original goods or of the goods for which the refurbished goods are used as parts, components, or replacement parts. (Article 7.2e, Decree 77 and Article 12, Decree 66).

**[ii] Requirements for the document from the trademark owner:** This document must prove ownership of the trademark and clearly express consent to allow the use of the trademark on refurbished goods. (Article 11, Decree 77 and Article 12, Decree 66).

**[iii] Labeling of goods:** When put into circulation, refurbished goods must display the phrase "Hàng hóa tân trang" (Refurbished goods) on the original label or an additional label in Vietnamese in a clearly visible location. (Article 5.2 of Decree 77 and Article 5.2 of Decree 66).

## FOUR TYPICAL CASES OF REFURBISHED GOODS IN CHINA

### [1] Changing Core Components:

*Case: Domino Printing Sciences vs. Guangzhou Dugao Precision Mechanical and Electrical:* The court held that the modification of the ink system, although not a physically inseparable part, was a core component for the normal operation of the inkjet printer. This modification significantly altered the goods and their quality, constituting [trademark infringement](#).

### [2] Changing Decorative Elements:

*Case: Zhibao Manufacturing Company vs. Li Guangsheng:* The court held that the defendant's laser treatment on the lighter with the logo at the bottom, which caused the treated lighter to lose its original patterns and decorations, constituted a significant alteration and trademark infringement.

### [3] Use of Counterfeit Parts:

*Case: VIVO Mobile Communication vs. Wu Cong, Wu Can & Ors:* The court held that the defendants' use of the plaintiff's registered trademark "VIVO" on the same type of goods without authorization was sufficient to cause confusion and constituted trademark infringement.

### [4] Replacement of Components:

*Case: Rugao Printing Machinery Factory vs. Rugao Yide Materials:* The court held that Yide Company's purchase of used "Silver Pheasant" brand printing machines, removal of the nameplate with the "Silver Pheasant" trademark, replacement of damaged parts, repainting, and selling under its own name was not merely simple repair but an act of trading goods, selling repaired used printing machines as products of Yide Company. This act directly infringed the trademark rights of the trademark owner and [caused damage](#) to the economic interests of the trademark owner.

## Final thoughts

Opening the market for refurbished goods in Vietnam brings great opportunities for businesses, but also poses challenges in terms of legal compliance and intellectual property protection. Businesses need to fully understand the new regulations on refurbished goods, especially regarding refurbishment codes, import licenses, and intellectual property rights. From there, businesses can build appropriate business strategies, ensure product and service quality, and at the same time respect the intellectual property rights of relevant parties.

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