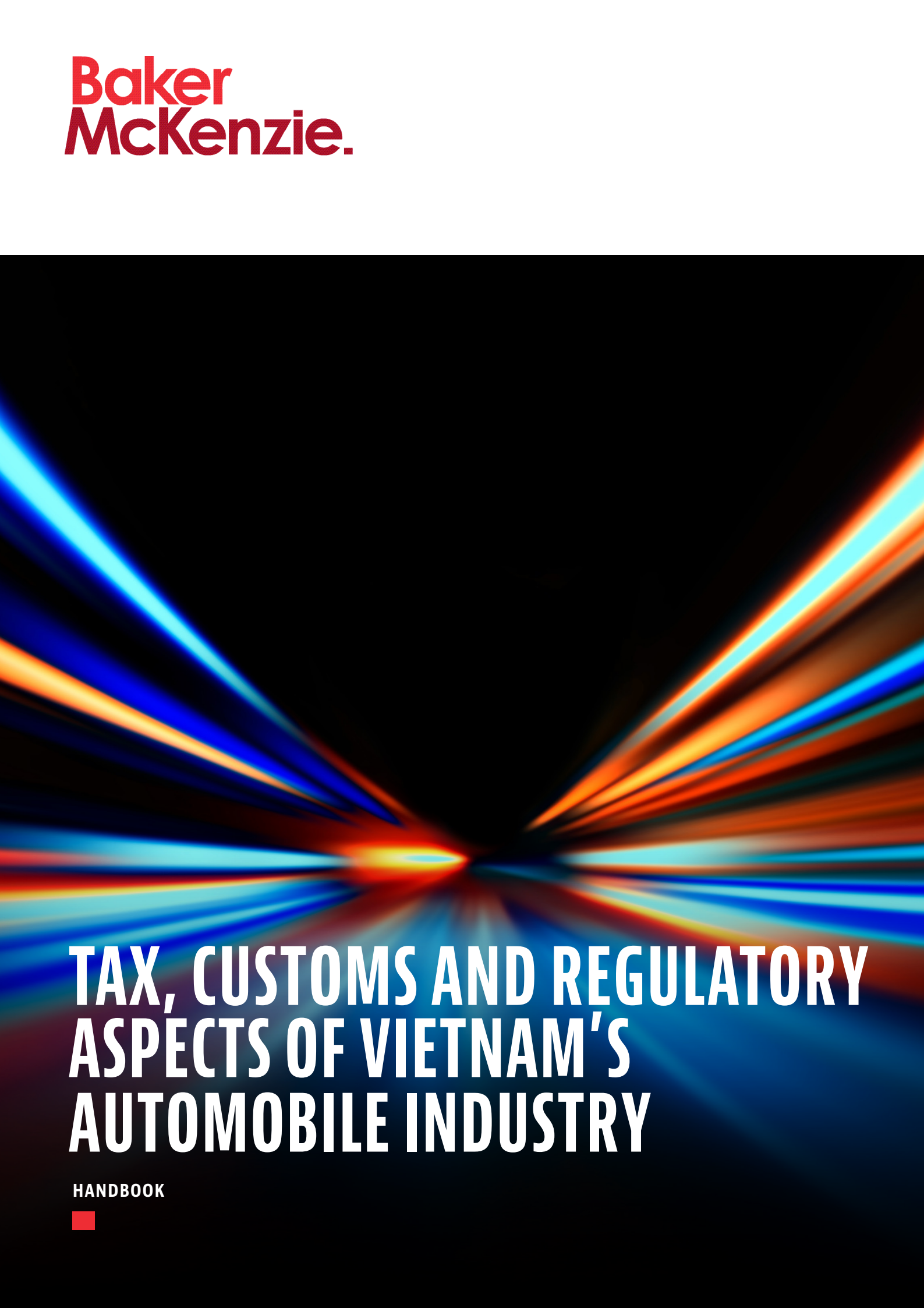




TAX, CUSTOMS AND REGULATORY ASPECTS OF VIETNAM'S AUTOMOBILE INDUSTRY

HANDBOOK



Handbook Tax, Customs and Regulatory Aspects of Vietnam's Automobile Industry

By **Baker McKenzie Vietnam** | November 2020

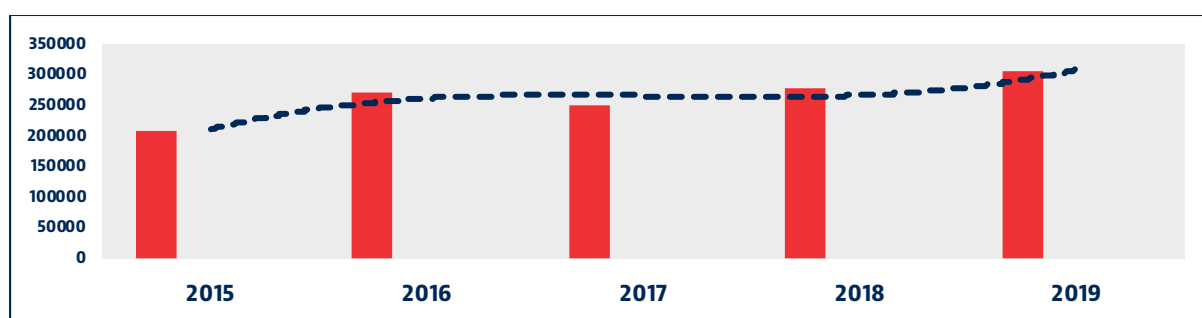
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Introduction

The Handbook: Tax and Regulatory Aspects of Vietnam's Automobile Industry aims to provide readers an initial view of key legal aspects that affect Vietnam's automobile industry. The handbook does not aim to provide a comprehensive and exhaustive set of legal issues that investors may encounter during its operation in Vietnam. The facts and legal issues presented are only updated by the time of this handbook's publication and should thus be used for reference ONLY.

Vietnam's automotive industry has experienced steady progress, maintaining growth at approximately 10% per year in the period between 2015 and 2019. According to the Vietnam Automobile Manufacturers' Association (VAMA), automotive sales in Vietnam increased to 306,073 vehicles sold in FY 2019,¹ an increase of 11% as compared with the same period in 2018.



With a population of nearly 100 million and a sustainable economy, this growth trend is expected to continue. Vietnam's Industrial Policy and Strategy Institute predicts 750,000 to 800,000 vehicles will be sold annually by 2025,² given the fact that the level of car ownership in Vietnam remains low compared to other countries in the region and the world. This expected growth is despite the many challenges the sector faces in terms of capital, technology, human resources, supportive industries, government policies, infrastructure and environmental impact.

The development of Vietnam's automotive industry continues to be one of the government's main focuses. In mid-2014, Vietnam's Prime Minister passed the auto development strategy by 2025 with a vision towards 2035 with an aim to enable Vietnam to build a strong auto industry and become part of the world's auto production chain in 2026. As envisioned in the auto strategy, Vietnam would manufacture some 227,000 vehicles by 2020, and more than 1.5 million cars a year in 2035.³ In the strategy, 35% of car parts would be made in Vietnam by 2020. Supportive industries are projected to bring in export revenue of USD 10 billion by 2035. To achieve these goals, the Prime Minister asked for a consensus among ministries, especially the Ministry of Industry and Trade and the Ministry of Finance, and in coordination with relevant agencies, to review and revise the applicable mechanisms and policies, particularly those on taxes and fees and other issues in relation to the auto industry in order to move the industry forward.

In February 2016, the Prime Minister introduced Decision No. 229/QĐ-TTg, specifying incentives relating to finance, trade promotion, land and taxation for the automotive industry. Accordingly, automotive companies engaged in the manufacture, purchase and use of certain types of 'priority' vehicles (e.g., small vans used in

¹ VAMA Sales Report (December 2019) <http://vama.org.vn/Data/upload/files/2019/Thang-12/Cover%20Letter%20Sales%20report%20-%20December%202019%20-%20ENG.pdf>

² Vietnam's Automobile Industry and Opportunities for EU Investors <https://www.vietnam-briefing.com/news/vietnam-s-automobile-industry-opportunities-eu-investors.html/>

³ Decision No. 1168/QĐ-TTg dated 16 July 2014;

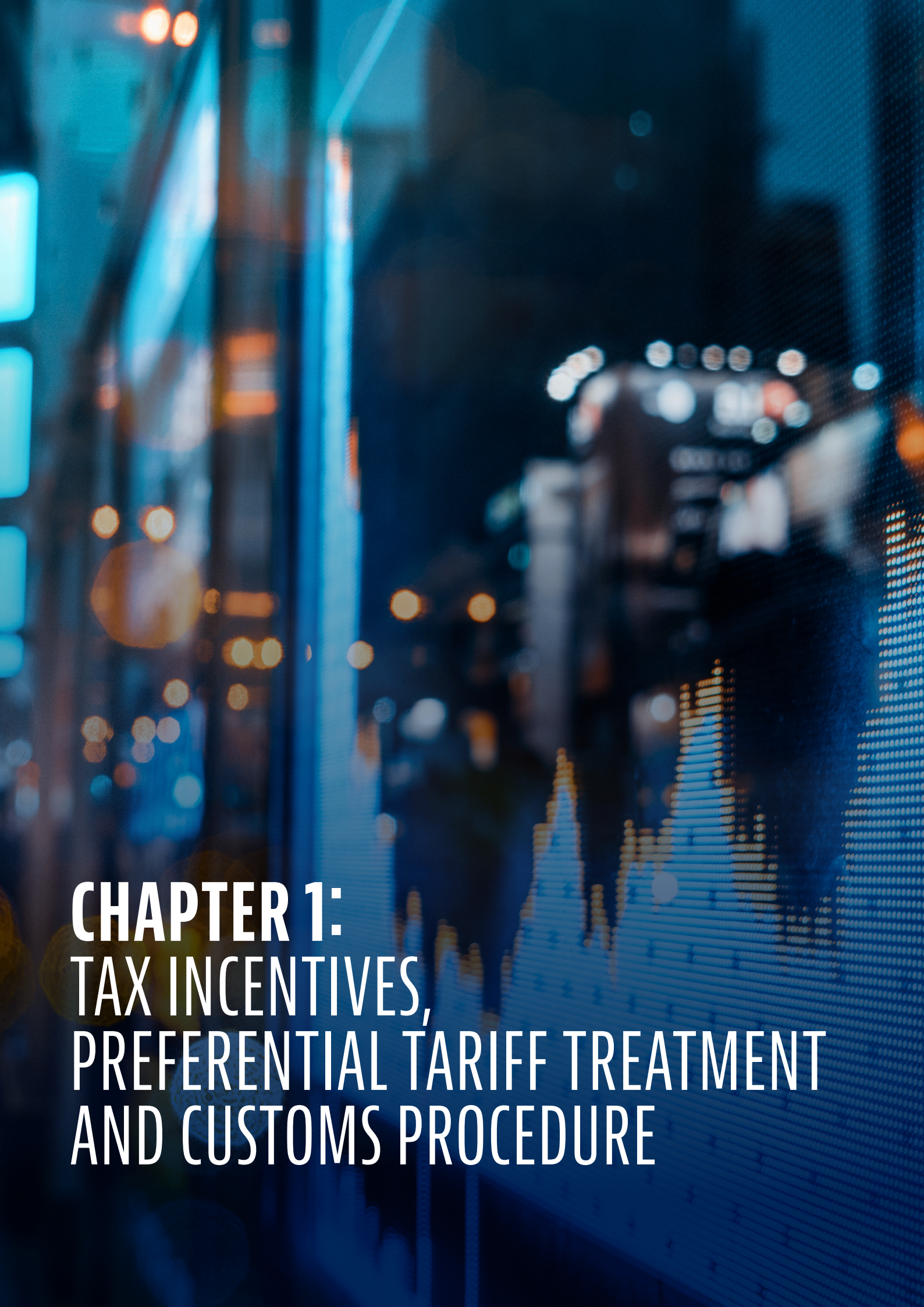
agriculture with a capacity of 3 tonnes, medium- and short-distance passenger vehicles, cars with nine or fewer seats and cylinder capacity of 1500 cc, and certain other specialised vehicles) will be entitled to appropriate and attract incentives.

Vietnam remains an automobile assembling, rather than automobile manufacturing, country. The vast majority of automobile parts used by in-country automobile manufacturers are imported. The import of completely built units (**CBU**) is also growing faster than domestically assembled units. This trend is likely to accelerate as a result of Vietnam's tariff reduction commitments under the Association of Southeast Asian Nations Agreement on Trade in Goods (**ATIGA**) and other free trade agreements. In order to cope with this trend, the government introduced Decree No. 125/2017/ND-CP, which grants a five-year 0% import duty for automobile parts that have not been domestically manufactured but imported into Vietnam for car assembly and manufacture.

The government continues its support of the automobile industry by granting in May 2020 an import duty of 0% for imported parts and materials used by the automobile supportive industries by 2024.⁴

Further support is in the pipeline as the Ministry of Finance is proposing an exemption on Special Consumption Tax on the value of parts manufactured domestically, imposed on domestically assembled cars.

⁴ Decree No. 57/2020/ND-CP;



CHAPTER 1: TAX INCENTIVES, PREFERENTIAL TARIFF TREATMENT AND CUSTOMS PROCEDURE

Chapter 1: Tax incentives, preferential tariff treatment and customs procedure

1. Taxes applicable to the automotive industry

For the purpose of this section, the definition of “automobiles” is limited to passenger automobiles for the transport of less than 10 passengers, excluding specialized automobiles.

1.1 Tax and duty incentives for automobile manufacturing

Pursuant to the current Investment Law,⁵ tax incentives for investment projects consist of corporate income tax (CIT) incentives, import duty incentives, and non-agricultural land use tax incentives.

(a) CIT incentives

CIT incentives consist of preferential tax rate, tax exemption and tax reduction. Investment projects are eligible for CIT incentives if they fulfil investment conditions in terms of industry sector, location, or large-scale investment capital applicable to manufacturing projects.

In the category of industry sector, under the current Investment Law,⁶ automobile manufacturing investment projects are among preferential investment sectors. Nonetheless, pursuant to CIT regulations,⁷ CIT incentives are only granted to an automobile supportive industry that manufactures products that have not been manufactured domestically by 01 January 2015, or are subject to European Union standards or equivalent. The new Investment Law is effective on 01 January 2021.

In the category of location, automobile manufacturing investment projects located in geographic areas with especially harsh socio-economic conditions, economic zones, high-tech zones, and geographic areas with harsh socio-economic conditions (“preferential areas”) are entitled to the following CIT incentives⁸:

Project	Reduced tax rate	Tax exemption	50% tax reduction
New investment projects in geographic areas with especially harsh socio-economic conditions, Economic Zones, and High-Tech Zones	10% for 15 years	4 years	50% for the next 9 years
New investment projects in geographic areas with harsh socio-economic conditions	17% for 10 years from 2016	2 years	50% tax for the next 4 years

⁵ Article 15.1, Investment Law.

⁶ Article 16.1.c, Investment Law.

⁷ Article 19, Circular No. 78/2014/TT-BTC (as amended by Article 11.1.g, Circular No. 96/2015/TT-BTC).

⁸ Article 11.1, Circular No. 96/2015/TT-BTC, and Article 19.4, Circular No. 78/2014/TT-BTC.

CIT incentives do not apply to investment projects of large-scale investment capital that manufacture goods subject to Special Consumption Tax, such as automobiles.⁹

To that end, an automobile manufacturing investment project can only be eligible for CIT incentives if it is located in the aforementioned preferential areas. Otherwise, the applicable standard CIT rate is 20%.

(b) Import duty incentives

As a preferential investment sector,¹⁰ an automobile manufacturing investment project will be entitled to import duty exemption for the importation of fixed assets, which include the following¹¹:

- Machines/equipment, spare parts/parts for assembly of, or use with such machines/equipment; materials for the production of machines/equipment or spare parts/parts of such machines/equipment
- Specialized transportation vehicles as a part of technological lines, directly used in manufacturing activities of the project
- Construction materials that have not been domestically manufactured

Preferential import duty rates of 0%¹² shall be granted to imported auto parts under HS heading 98.49 in the following circumstances:

- The automobile manufacturer makes a commitment regarding environmental emission standards of manufactured/assembled cars (i.e., Euro 4 from 2018 to 2021 and Euro 5 from 2022 onwards)
- The production/assembly volume meets the following:

Up to nine-seat passenger car of cylinder capacity not exceeding 2,500 cc and fuel consumption of less than 7.5 l per 100 km

Roadmap	2018		2019		2020		2021		2022	
	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec
Minimum total production	8,000	8,000	8,500	8,500	10,000	10,000	11,500	11,500	13,500	13,500
Minimum production of each vehicle model under commitment	3,000	3,000	3,500	3,500	4,000	4,000	4,500	4,500	5,000	5,000

⁹ Article 19.1.dd, Circular No. 78/2014/TT-BTC (as amended by Article 11.1, Circular No. 96/2015/TT-BTC, and Article 4.7.a, Circular No. 83/2016/TT-BTC).

¹⁰ Article 16.1.c, Investment Law.

¹¹ Article 16.11, Law on Export/Import Duties.

¹² Article 1.6, Decree No. 125/2017/ND-CP.

Trucks with gross weight of up to 5 metric tons

Roadmap	2018		2019		2020		2021		2022	
	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec
Minimum total production	3,500	3,500	4,000	4,000	4,500	4,500	5,500	5,500	6,500	6,500
Minimum production of 2 vehicle models	2,000	2,000	2,500	2,500	3,000	3,000	3,500	3,500	4,000	4,000

Trucks with gross weight of more than 5 metric tons

Roadmap	2018		2019		2020		2021		2022	
	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec
Minimum total production	2,500	2,500	3,000	3,000	3,500	3,500	4,500	4,500	5,500	5,500
Minimum production of 2 vehicle models	1,000	1,000	1,200	1,200	1,400	1,400	1,700	1,700	2,000	2,000

Minibus

Roadmap	2018		2019		2020		2021		2022	
	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec
Minimum total Production	400	400	450	450	500	500	600	600	700	700
Minimum production of at least 1 vehicle model	150	150	200	200	250	250	300	300	350	350

Bus

Roadmap	2018		2019		2020		2021		2022	
	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec
Minimum total production	800	800	850	850	1,000	1,000	1,200	1,200	1,400	1,400
Minimum production of at least 1 vehicle model	450	450	500	500	600	600	700	700	800	800

- The automobile manufacturer or other entities authorized/entrusted by automobile manufacturers directly conducts the importation.
- The imported parts have not been manufactured domestically.

Starting 10 July 2020, Decree No. 57/2020/ND-CP has loosened the aforementioned minimum production requirements by reducing the minimum production volume and adding incentives for electric hybrid cars and cars using biological fuel or natural gas,¹³ as follows:

Roadmap	2020		2021		2022	
	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec	By 30 Jun	By 31 Dec
Minimum production of each vehicle category	125	125	125	125	125	125

(c) *Non-agricultural Land Use Tax*

Investment projects in sectors set forth in Section B Annex I of Decree No. 118/2015/ND-CP guiding the implementation of the Investment Law will be entitled to a 50% reduction on non-agricultural Land Use Tax.¹⁴ As mentioned, automobile manufacturing is included in this Section.

1.2 Import/export duties on automobiles

Current regulation¹⁵ imposes a flat Most-Favoured Nation (MFN) rate of 70% ("preferential import duty rate") on passenger cars under HS heading 8703 imported into Vietnam in the form of CBU, including the following and with exception on a limited number of car models:

- Automobiles with spark-ignition internal combustion reciprocating piston engine

¹³ Point b.12, Section 3.2 under HS Chapter 98, Decree No. 57/2020/ND-CP.

¹⁴ Article 6.2, Circular No. 83/2016/TT-BTC.

¹⁵ Decree No. 57/2020/ND-CP.

- Automobiles with compression-ignition internal combustion piston engine (diesel or semi-diesel)
- Electrically-powered automobiles

Vietnam does not impose export duty on automobiles.

1.3 Value Added Tax ("VAT")

Importation and supply of automobiles are subject to VAT at the standard rate of 10%.¹⁶

Export of automobiles is subject to 0% VAT except for sale to entities in non-tariff zones.¹⁷

1.4 Special Consumption Tax

Special consumption tax ("SCT") is imposed on the production or import of automobiles with less than 24 seats.¹⁸

Automobiles will not be subject to SCT where they are produced for export, excluding sales to export processing enterprises.¹⁹

From 1 January 2018, the SCT rates on automobiles for carrying persons with 24 seats or fewer are as follows²⁰:

Types of automobiles	Tax rate (%)
(a) Automobiles for carrying persons with nine seats or fewer, except for those in points e, f and g	
– With cylinders of 1,500 cm ³ or less	35
– With cylinders over 1,500 cm ³ to 2,000 cm ³	40
– With cylinders over 2,000 cm ³ to 2,500 cm ³	50
– With cylinders over 2,500 cm ³ to 3,000 cm ³	60
– With cylinders over 3,000 cm ³ to 4,000 cm ³	90
– With cylinders over 4,000 cm ³ to 5,000 cm ³	110

¹⁶ Article 11, Circular No. 219/2013/TT-BTC.

¹⁷ Article 9.1 and article 9.3, Circular No. 219/2013/TT-BTC

¹⁸ Article 2.1.d, Law on Special consumption tax.

¹⁹ Article 3.1, and 3.5, Law on Special consumption tax.

²⁰ Law No. 106/2016/QH13.

Types of automobiles	Tax rate (%)
– With cylinders over 5,000 cm ³ to 6,000 cm ³	130
– With cylinders more than 6,000 cm ³	150
(b) Automobiles for carrying persons with 10 to fewer than 16 seats, except for those in points e, f and g	15
(c) Automobiles for carrying persons with 16 to fewer than 24 seats, except for those in points e, f and g	10
(d) Automobiles for carrying persons and commodities, except for those in points e, f and g	
– With cylinders of 2,500 cm ³ or less	15
– With cylinders of over 2,500 cm ³ to 3,000 cm ³	20
– With cylinders of over 3,000 cm ³	25
(e) Automobiles operated by gasoline in combination with electrical power and biological power in which the power from gasoline is not more than 70%	70% of the tax rate of an automobile of the same type in points a, b, c and d
(f) Automobiles operated by biological power	50% of the tax rate of an automobile of the same type in points a, b, c and d
(g) Automobiles operated by electrical power	
– For carrying persons with 9 seats or fewer	15
– For carrying persons with 10 to fewer than 16 seats	10
– For carrying persons with 16 to fewer than 24 seats	5
– Designed for carrying persons and commodities	10

Types of automobiles	Tax rate (%)
(h) Motor home without distinction of cylinder volumes	75

Imported automobiles are subject to SCT at two stages. When automobiles are imported, they will be subject to SCT at the import stage, which is assessed based on dutiable price plus import duty ("**import SCT**").²¹ When importers sell imported automobiles, SCT will be assessed again based on the sale price before VAT and SCT ("**distribution SCT**").²² Importers can deduct import SCT already paid from distribution SCT to arrive at the SCT amount payable upon selling of the imported goods.²³

1.5 Environmental Protection Tax

Automobiles are currently not subject to Environmental Protection Tax.²⁴

2. Roadmap for duty reduction

Vietnam is a signatory to various international agreements that provide for special preferential customs duties, including the ASEAN Trade in Goods Agreement (**ATIGA**), the ASEAN-Korea Free Trade Agreement (**AKFTA**), the ASEAN-China Free Trade Agreement (**ACFTA**), the ASEAN-Japan Comprehensive Economic Partnership (**AJFTA**), the ASEAN-Australia-New Zealand Free Trade Area (**AANZFTA**), the ASEAN-India Free Trade Agreement (**AIFTA**), the Vietnam-Japan Economic Partnership Agreement (**VJEPA**), the Vietnam-Chile Free Trade Agreement (**VCFTA**), the Vietnam-Korea Free Trade Agreement (**VKFTA**), the Vietnam-Eurasian Economic Union Free Trade Agreement (**VEAEU FTA**), the Comprehensive and Progressive Agreement For Trans-Pacific Partnership (**CPTPP**), and the Free Trade Agreement between Vietnam and European Union (**EVFTA**).

2.1 ATIGA

Import duties applicable to all passenger automobiles in 2017 were 30%. This rate is reduced to 0% from 01 January 2018.²⁵

2.2 AANZFTA

Import duties applicable to all passenger automobiles will be maintained at base rates higher than the current MFN rate until 2021 and fixed at the rate of 50% in 2022 and subsequent years.²⁶

2.3 ACFTA

Pursuant to ACFTA commitments,²⁷ all passenger automobiles under consideration are listed in the Highly Sensitive List, with the commitment that MFN tariff rates will be reduced to 50% or less starting no later

²¹ Article 2.1.2, Circular No. 130/2016/TT-BTC.

²² Article 2.1.1, Circular No. 130/2016/TT-BTC.

²³ Article 1, Circular No. 20/2017/TT-BTC.

²⁴ Article 3, Law on Environmental Protection Tax.

²⁵ Decree No. 129/2016/ND-CP.

²⁶ AANZFTA, Annex 1.

²⁷ ACFTA, Annex 2, Article 3(iii).

than 1 January 2018. To that end, the import duty rate applied in 2018 to all passenger automobiles was 50%.²⁸ Import duty rates for years after 2018 are likely to remain unchanged.

2.4 AIFTA

Passenger automobiles are categorized in the Exclusion List, which will be subject to an annual tariff review with a view to improving market access.²⁹ Pursuant to Vietnam's latest tariff schedule³⁰ under the AIFTA, passenger automobiles are still excluded from the scope of commitment.

2.5 AJFTA

Passenger automobiles are classified under the tariff lines indicated with "X" and will be excluded from any tariff commitment.³¹

2.6 AKFTA

Passenger automobiles are listed in Group E, Appendix 2, which includes tariff lines exempted from tariff concession.³²

2.7 VCFTA

Passenger automobiles are classified under the tariff lines indicated with "X" and will be excluded from any tariff commitment.³³

2.8 VJEPA

Most passenger automobiles are classified under the tariff lines indicated with "X" and will be excluded from any tariff commitment.³⁴

The following HS codes are subject to negotiation between parties in the fifth year from the entry into force of the Agreement (1 October 2009):

8703.33.52: Other vehicles, with compression ignition internal combustion piston engine (diesel or semi-diesel): Motor cars (including station wagons, SUVs and sports cars, but not including vans) of a cylinder capacity exceeding 3,000cc;

Under Vietnam's latest tariff schedule,³⁵ however, the aforementioned HS code has not been included in the scope of commitment.

²⁸ Decree No. 128/2016/ND-CP.

²⁹ AIFTA, Annex 1, Article 1.e.

³⁰ Decree No. 126/2016/ND-CP.

³¹ AJFTA, Part 11, Section 1 and Section 2.

³² AKFTA, Annex 2.

³³ VCFTA, Schedule of Vietnam.

³⁴ VJFTA, Annex 1.

³⁵ Decree No. 125/2016/ND-CP

2.9 VKFTA

Import duties applicable to all passenger automobiles will be maintained at base rates higher than the current MFN rate,³⁶ except for the following:

Automobiles with spark-ignition internal combustion reciprocating piston engine of a cylinder capacity exceeding 3,000 cc		
Motor cars (including station wagons, SUVs and sports cars, but not including vans); four-wheel drive	8703.24.51	Y-10: Customs duties on originating goods will be eliminated in 10 equal annual stages, from the base rate of 68% beginning on the date this agreement entered into force (20 December, 2015), and such goods will be free of customs duty effective 1 January of year 10 (1 January, 2024).

2.10 VEAU FTA

The VEAU FTA was entered into by Vietnam, the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation. It became effective on 5 October 2016.

Under the VEAU FTA, Vietnam commits to eliminate tariffs on certain automobiles, as follows³⁷:

Description	HS code	Tariff rate
Other vehicles, with spark-ignition internal combustion reciprocating piston engine; motor cars (including station wagons, SUVs and sports cars, but not including vans)		
Of a cylinder capacity not exceeding 1,800 cc	8703.23.61	1 Jan 2017: 53.8% 1 Jan 2018: 47.1% 1 Jan 2019: 40.4 %
Of a cylinder capacity exceeding 1,800 cc but not exceeding 2,000 cc	8703.23.62	1 Jan 2020: 33.6 % 1 Jan 2021: 26.9 % 1 Jan 2022: 20.2 %
Of a cylinder capacity exceeding 2,000 cc but not exceeding 2,500 cc	8703.23.63	1 Jan 2023: 13.5 % 1 Jan 2024: 6.7 % 1 Jan 2025: 0%
Of a cylinder capacity exceeding 2,500 cc	8703.23.64	1 Jan 2026: 0%
Others:	8703.23.91, 8703.23.92, 8703.23.93, 8703.23.94	

³⁶ VKFTA, Annex 2A - Section A.

³⁷ VEAU FTA, Annex 1.d.

Description	HS code	Tariff rate
Other vehicles, with compression-ignition internal combustion piston engine (diesel or semi-diesel); motor cars (including station wagons, SUVs and sports cars, but not including vans)		
Of a cylinder capacity exceeding 2,500 cc but not exceeding 3,000 cc	8703.33.53, 8703.33.54	1 Jan 2017: 53.8% 1 Jan 2018: 47.1% 1 Jan 2019: 40.4 %
Of a cylinder capacity exceeding 3,000 cc:	8703.33.55, 8703.33.59	1 Jan 2020: 33.6 % 1 Jan 2021: 26.9 % 1 Jan 2022: 20.2 %
Others:	8703.33.91, 8703.33.99	1 Jan 2023: 13.5 % 1 Jan 2024: 6.7 % 1 Jan 2025: 0% 1 Jan 2026: 0%

2.11 CPTPP

Entering into force on 14 January 2019, the CPTPP offers the following phase-out for a number of automobiles, as follows:

Description	HS code	Tariff rate for Mexico	Tariff rate for Canada, Australia, Japan, New Zealand, and Singapore
Motor cars and other motor vehicles principally designed for the transport of persons (other than those under heading 87.02), including station wagons and racing cars			
With spark-ignition internal combustion reciprocating piston engine			
Of a cylinder capacity not exceeding 1,000 cc	8703.21.24A	14 Jan 2019: 70% 1 Jan 2020: 70% 1 Jan 2021: 70%	14 Jan 2019: 70% 1 Jan 2020: 70% 1 Jan 2021: 63%
Of a cylinder capacity exceeding 1,000 cc but not exceeding 1,500 cc	8703.22.19A	1 Jan 2022: 63% 1 Jan 2023: 56% 1 Jan 2024: 49% 1 Jan 2025: 42%	1 Jan 2022: 56% 1 Jan 2023: 49% 1 Jan 2024: 42% 1 Jan 2025: 35%
Of a cylinder capacity not exceeding 1,800 cc	8703.23.61A	1 Jan 2026: 35% 1 Jan 2027: 28% 1 Jan 2028: 21%	1 Jan 2026: 28% 1 Jan 2027: 21% 1 Jan 2028: 14%
Of a cylinder capacity exceeding 1,800 cc but not exceeding 2,000 cc	8703.23.62A	1 Jan 2029: 14% 1 Jan 2030: 7% 1 Jan 2031: 0%	1 Jan 2029: 7% 1 Jan 2030: 0%

Description	HS code	Tariff rate for Mexico	Tariff rate for Canada, Australia, Japan, New Zealand, and Singapore
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With compression-ignition internal combustion piston engine (diesel or semi-diesel)

Of a cylinder capacity not exceeding 1,500 cc	8703.31.20A	14 Jan 2019: 70% 1 Jan 2020: 70% 1 Jan 2021: 70%	
Of a cylinder capacity not exceeding 2,000 cc	8703.32.52A	1 Jan 2022: 63% 1 Jan 2023: 56% 1 Jan 2024: 49% 1 Jan 2025: 42% 1 Jan 2026: 35% 1 Jan 2027: 28% 1 Jan 2028: 21% 1 Jan 2029: 14% 1 Jan 2030: 7% 1 Jan 2031: 0%	

Motor cars and other motor vehicles principally designed for the transport of persons (other than those under heading 87.02), including station wagons and racing cars; other vehicles, with spark-ignition internal combustion reciprocating piston engine:

Of a cylinder capacity exceeding 2,000 cc but not exceeding 2,500 cc	8703.23.63A	14 Jan 2019: 70% 1 Jan 2020: 70% 1 Jan 2021: 63.6% 1 Jan 2022: 57.2% 1 Jan 2023: 50.9% 1 Jan 2024: 44.5% 1 Jan 2025: 38.1% 1 Jan 2026: 31.8% 1 Jan 2027: 25.4% 1 Jan 2028: 19% 1 Jan 2029: 12.7% 1 Jan 2030: 6.3% 1 Jan 2031: 0%	14 Jan 2019: 70% 1 Jan 2020: 63.6% 1 Jan 2021: 57.2% 1 Jan 2022: 50.9% 1 Jan 2023: 44.5% 1 Jan 2024: 38.1% 1 Jan 2025: 31.8% 1 Jan 2026: 25.4% 1 Jan 2027: 19% 1 Jan 2028: 12.7% 1 Jan 2029: 6.3% 1 Jan 2030: 0%
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2.12 EVFTA

The EVFTA entered into force on 01 August 2020, and offers tariff phase-out for most of automobiles in 11 years after its entry into force, at the base rate of 78%. It means that import duty rate for cars imported from the EU market will be equally reduced every year, and become 0% by 01 January 2031, which is somehow similar to those under the CPTPP.

3. Import procedures for automobiles

3.1 Import permit/license

Automobiles are not subject to any import permit/license to be imported into Vietnam.³⁸

3.2 Quality inspection

Imported automobiles are subject to quality inspection. The quality of imported brand-new motor vehicles is managed using the following³⁹:

- For an exporting country applying the type approval method, the quality administration authority shall carry out type assessment according to the results of the safety and environmental protection inspection and the testing of representative samples and results of the production conformity assessment.
- For an exporting country applying the self-certification method, the quality administration authority shall carry out type assessment according to the results of the safety and environmental protection inspection as well as the testing of representative samples, and by testing samples collected in the market.

The maximum frequency of type assessment is 36 months.

In order to import automobiles, importers are required to apply for quality inspection by submitting an application dossier that includes the following⁴⁰:

- Prescribed Inspection Registration Application
- Type approval certificate of tyres, side mirrors, headlight, windshield
- Certificate of Conformity
- Commercial Invoice or equivalent
- VIN decoding
- Vehicle information prescribed form
- Technical and Specification Report
- Customs Declaration Form
- Emission Test Certificate
- Safety Test Certificate

³⁸ Decree No. 69/2018/ND-CP.

³⁹ Article 6, Decree No. 116/2017/ND-CP as amended by Decree No. 17/2020/ND-CP.

⁴⁰ Article 4.2, Circular No. 03/2018/TT-BGTVT, as amended by Circular No. 05/2020/TT-BGTVT.

3.3 Customs documentation

Importers of automobiles are required to submit the following documents for customs clearance purposes⁴¹:

- (a) Customs Declaration Form
- (b) Commercial Invoices (if the buyer has to pay the seller)
- (c) Bill of Lading or equivalent transport documents
- (d) Notice of Inspection Exemption or Inspection Result
- (e) Investment Registration Certificate and Trading License

Trading License applies when foreign-invested companies import automobiles for distribution in Vietnam.

- (f) Certificate of Origin (C/O)

A C/O is required under the following circumstances:

- The imported goods originate in a country or group of countries that enter into agreements in an application of preferential tariff with Vietnam under Vietnam's law and international agreements to which Vietnam is a signatory, if the importer wishes to apply such preferential treatment.
- The imported goods are announced by Vietnam or international organizations as threats to social safety, public health or environmental safety.
- The goods are imported from countries subject to Vietnam's anti-dumping duty, countervailing duty, anti-discrimination tax, safeguard duty, and duties applied within tariff-rate quota.
- The imported goods are subject to regulations on import management under Vietnam law or international agreements to which Vietnam is a signatory.

- (g) Customs Value Declaration

Customs value declaration is normally required only when the declared value is not accepted.

As listed above, a commercial contract does not appear as a document to be submitted to customs authority for customs clearance purposes in regular international sale and purchase transactions. Nonetheless, as a matter of practice, the customs authority still requires the submission of commercial contracts.

3.4 Customs Procedures⁴²

The customs dossier must be submitted to customs authorities before the arrival of the goods, or within 30 days after their arrival.⁴³

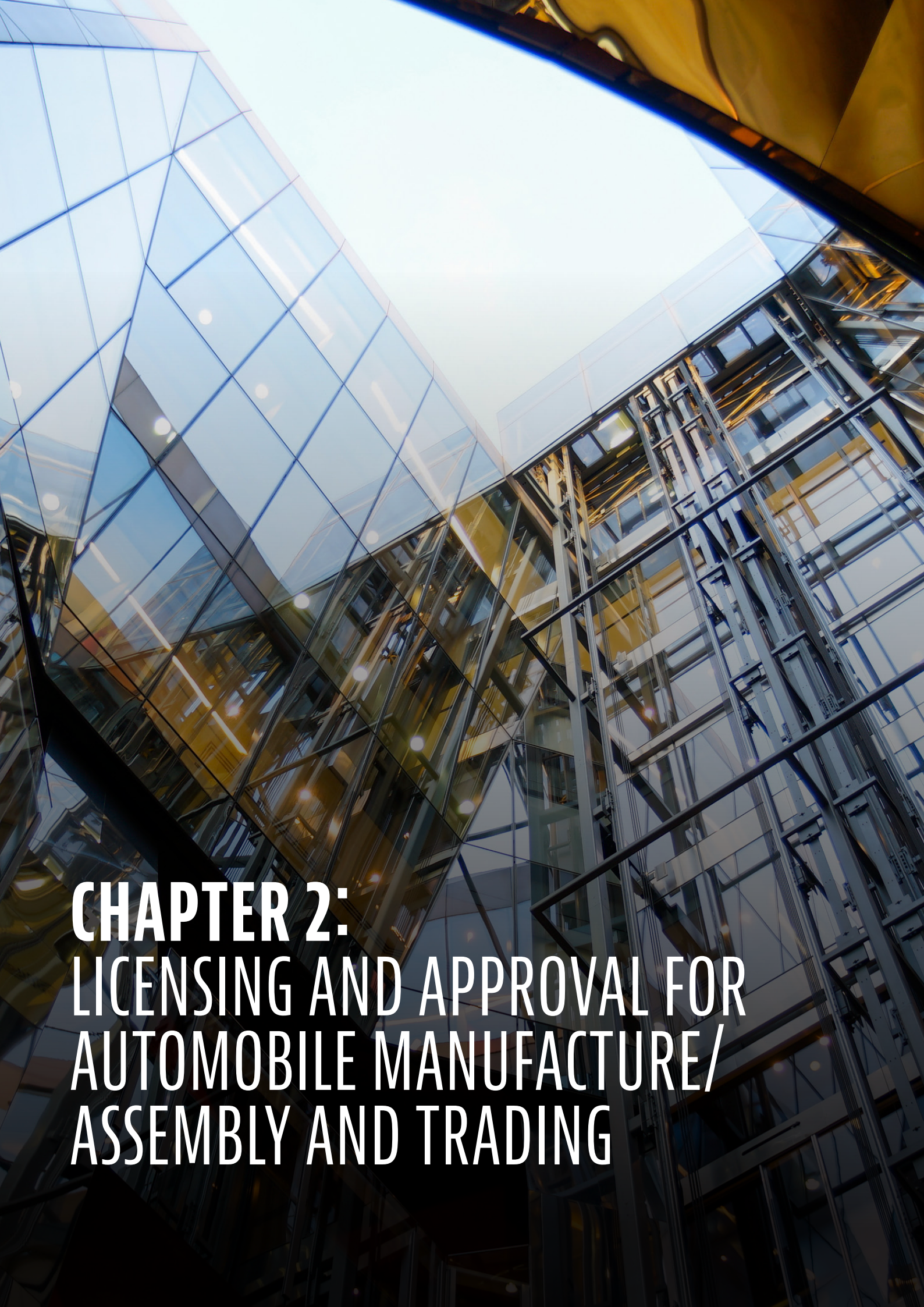
Upon receipt of the customs dossier, the customs authorities will review the dossier to verify the name, HS code, tariff rate, customs value, origin, etc., and decide if the goods are subject to physical inspection.

If the goods are eligible for release, importers will be required to pay applicable taxes. Once the customs procedures are completed, the goods are cleared from customs custody.

⁴¹ Article 1.5, Circular No. 39/2018/TT-BTC.

⁴² Articles 24 to 34, Circular No. 38/2015/TT-BTC, as amended by Circular No. 39/2018/TT-BTC.

⁴³ Article 18.8, Circular No. 38/2015/TT-BTC.



CHAPTER 2: LICENSING AND APPROVAL FOR AUTOMOBILE MANUFACTURE/ ASSEMBLY AND TRADING

Chapter 2: Licensing and approval for automobile manufacture / assembly and trading

Apart from an Enterprise Registration Certificate and Investment Registration Certificate, which recognize the establishment and registration of the company and the automobile manufacturing project, the manufacturer needs to obtain the primary registration, licenses, approvals and permits, as follows, in order to operate its automobile factory:

- For construction, environmental protection and fire safety compliance
 - Environmental Impact Assessment Report
 - Permit for Waste Water Discharge
 - Register of Hazardous Waste Generator
 - Certificate of Fire Safety Design Approval
 - Fire Safety Acceptance
 - Approval of the Construction Project and Preliminary Design
 - Approval of the Technical Design and Design Drawings
 - Construction Permit
- For the purpose of automobile production
 - Certificate of Qualification for Automobile Manufacture and Assembly
 - Confirmation on Conformity to Criteria for Automobile Manufacture and Assembly Enterprises
 - Certificate of Design Appraisal
 - Report of Sample Testing Result
 - Type Approval Certificate
 - Conformity of Production
 - Template of Certificate of Conformity
 - Energy Label Registration
 - Certificate of Automobile Warranty and Maintenance Station (as necessary)

1. Criteria and conditions for the manufacturer of automobile assembly

The criteria for automobile manufacturing or assembly enterprises are currently stipulated under Decree No. 116/2017/ND-CP, issued by the government on 17 October 2017, which stipulates the regulatory conditions for automobile manufacturing and assembling businesses. On 5 February 2020, the government issued Decree No. 17 to amend a number of conditions set forth under Decree No. 116.

Under the Investment Law (as amended in 2016), automobile manufacture and assembly are conditional businesses. Accordingly, Decree No. 116 requires automobile manufacturers and assemblers to comply with the regulatory conditions set forth therein and obtain from the Ministry of Industry and Trade (MOIT) a Certificate of Qualification for Automobile Manufacturing and/or Assembly.

We summarize below the regulatory conditions for automobile manufacturing and assembling businesses under Decree No. 116⁴⁴.

- (1) An eligible manufacturer or assembler must have the necessary right to use: (i) factories; (ii) assembly lines; (iii) welding lines; (iv) painting lines; (v) quality inspection lines; and (vi) test-run roads that meet the respective minimum requirements under Annex I of Decree No. 116. We note that many of these requirements are similar to the criteria stipulated under Decision No. 115.
- (2) The company must have an automobile warranty; maintenance station(s), which can be owned by the manufacturer/assembler, leased from a third party, or part of the company's network of authorized service stations, which in turn must meet the conditions applicable to warranty and maintenance stations under Decree No. 116.
- (3) Technicians in charge of the manufacturing and/or assembly lines must have a university-level degree majoring in engineering or automobile, and have at least five years' working experience in the field of automobile manufacture and/or assembly.
- (4) The company must have sufficient manpower and plans to ensure labour safety and hygiene.
- (5) The company must meet the fire fighting and prevention as required by law.
- (6) The company must have proper documents relating to environmental protection with regard to its factories, which are approved by the relevant authorities.

However, on 05 February 2020,⁴⁵ the regulatory conditions (3) to (6) were eliminated.

Furthermore, within 12 months after obtaining the Certificate of Qualification for Automobile Manufacture and Assembly, the company must establish a quality management system in its production in accordance with ISO 9001:2015 or its equivalent.⁴⁶

To obtain the Certificate of Qualification for Automobile Manufacture and Assembly, the company must submit an application dossier to the MOIT. Within five working days from receipt of the dossier, the MOIT will notify the company of the date it will conduct an inspection at the company's factories, which should be no later than 15 working days from the date of such notification. The certificate will be issued within five working days from the date of favorable inspection results.⁴⁷

⁴⁴ Article 7 and Annex I, Decree No. 116/2017/ND-CP.

⁴⁵ Article 2.2, and Article 21.2, Decree No. 17/2020/ND-CP.

⁴⁶ Article 13.3, Decree No. 116/2017/ND-CP.

⁴⁷ Article 8, Decree No. 116/2017/ND-CP.

2. Technical regulations applied in automobile quality inspection

For the purpose of obtaining the Type Approval Certificate and then issuing a certificate of conformity, the inspection must be carried out in accordance with the national technical regulation QCVN 09:2015/BGTVT on National technical regulation on safety and environmental protection for automobiles. Additionally, there are certain relevant national technical regulations, as follows, that automobile manufacturing or assembly enterprises are required to comply with during this inspection process:

- QCVN 05: 2009/BGTVT: National technical regulation on emission of gaseous pollutants from assembly-manufactured automobiles and new imported automobiles; and QCVN 86:2015/BGTVT: National technical on the fourth level of gaseous pollutants emission for new assembled, manufactured and imported automobiles
- QCVN 35: 2010/BGTVT: National technical regulation on optical characteristics of road vehicle headlamps
- QCVN 32:2011/BGTVT: National technical regulation on safety glazing equipped on vehicle or UNECE No. 43: Uniform provisions concerning the approval of safety glazing materials and their installation on vehicles, equivalent or higher version
- QCVN 33:2011/BGTVT: National technical regulation on rear view mirrors for automobiles or UNECE No. 46: Uniform provisions concerning the approval of devices for indirect vision and of motor vehicles with regard to the installation of these devices, equivalent or higher version
- QCVN 34:2011/BGTVT: National technical regulation on pneumatic tyres for automobiles or UNECE No. 30: Uniform provisions concerning the approval of pneumatic tyres for Motor vehicle and their trailer or UNECE No. 54: Uniform provisions concerning the approval of pneumatic tyres for commercial vehicles and their trailers, equivalent or higher version
- QCVN 52:2013/BGTVT: National technical regulation of motor vehicle structure with regard to the prevention of fire risks or UNECE No. 34: Uniform provisions concerning the approval of vehicles with regard to the prevention of fire risks, equivalent or higher version
- QCVN 53:2013/BGTVT: National technical regulation on the burning behaviour of materials used in the interior structure of certain categories of motor vehicles or UNECE No. 118 Uniform technical prescriptions concerning the burning behaviour and/or the capability to repel fuel or lubricant of materials used in the construction of certain categories of motor vehicles, equivalent or higher version
- QCVN 78:2014/BGTVT: National technical regulation on light alloy wheels for automobiles or UNECE No. 124: Uniform provisions concerning the approval of wheels for passenger cars and their trailer, equivalent or higher version

Moreover, there are national standards (TCVN) related to automobiles and the production thereof, which are generally applied on a voluntary basis or for the purpose of definition.⁴⁸

⁴⁸ By law, national standards are generally applied on a voluntary basis unless otherwise stipulated by law or in national technical regulations.

3. Conditions for automobile trading

Automobile trading is also subject to Trading License. Particularly, Decree No. 116 sets forth the conditions for automobile trading as follows⁴⁹:

- (1) The company must have automobile warranty and maintenance station(s), which can be owned by the manufacturer/assembler or leased from a third party, or be part of the company's network of authorized service stations that must meet the conditions applicable to warranty and maintenance stations under Decree No. 116.
- (2) The company must be authorized by the foreign manufacturer to conduct product recall in Vietnam.

⁴⁹ Article 15, Decree No. 116/2017/ND-CP.



CHAPTER 3: **PRODUCTION, PRODUCT QUALITY** **AND POST-SALE SERVICES**

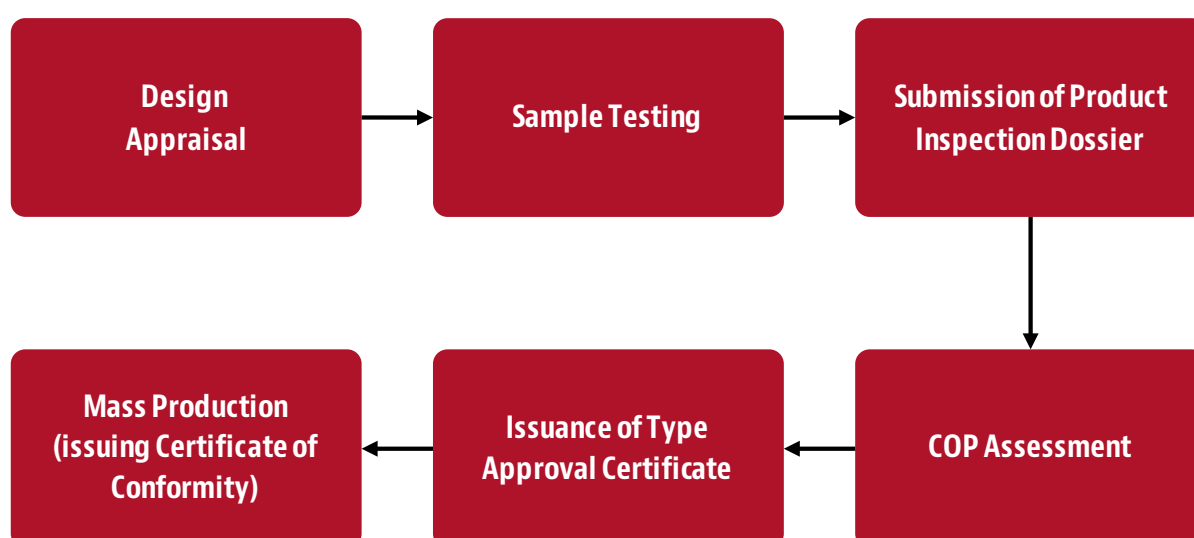
Chapter 3: Production, product quality and post-sale services

1. Processes of quality inspection and application for type approval certification for locally manufactured vehicles

An automobile manufacturer must follow quality inspection procedures on technical safety and environmental protection and obtain a Type Approval Certificate for the automobile model. This certificate is the fundamental document that allows the manufacturer to proceed with the manufacture of an automotive model. After that, for every automobile of the same model, the manufacturer will need to issue a Certificate of Conformity to certify that the automobile has passed the final conformity inspection. This certificate will be used by the consumer for ownership registration.

The application process for a Type Approval Certificate is described below.

Figure 1: Quality inspection process for locally manufactured automobiles



1.1 Application for Certificate of Design Appraisal

As the first step in the application process for a Type Approval Certificate, an automobile designer (or the manufacturer, if it meets relevant statutory requirements to design the product) needs to file an application with the Vietnam Register (VR) to request for an appraisal of its design.

The application dossier for Type Approval Certificate includes the following⁵⁰:

- A request for appraisal of product design stipulated in Appendix XI of Circular No. 25
- A written description of the technical design and technical drawings as required in Appendix II of Circular No. 25
- A copy of the specifications and technical features of the modules and systems relevant to the contents of the design calculations

⁵⁰ Article 4.1, Circular No. 25/2019/TT-BGTVT.

The automobile designer (or manufacturer) can submit the application dossier to the VR physically or online via the VR's official website. If the dossier is in paper form, the designer must submit two dossier sets (or three sets if the designer is not the manufacturer).⁵¹

The VR will review, examine and cross-check the contents of the product design application against the current technical standards, technical regulations and rules promulgated by the Ministry of Transport (MOT) on automotive products.⁵²

The VR will either issue the Certificate of Design Appraisal for the relevant product or reject the application after 10 days of reviewing.

Please note that the manufacturer must keep the design dossier for at least five years after the manufacturer notifies the VR of its cease of the production of the related product.⁵³

Notably, automotive products manufactured or assembled under the designs and trademarks of a foreign country might be exempted from this design appraisal requirement if the following documents are provided⁵⁴:

- A copy certified by the technology transferor of technical drawings, which must display the general layout of the automobile; its basic dimensions; assembly position and dimensions of seats and/or beds; assembly position and dimensions of lights and rear-view mirrors; entire width of the cabin and dimensions of trunks for carrying cargo (in the case of a cargo vehicle); dimensions and positions of doors, emergency exits, side step bars and walkways; and dimensions and position of the luggage hold (in the case of a passenger vehicle)
- A copy certified by the technology transferor of the specifications and technical features of the manufactured, assembled automobiles
- A copy certified by the technology transferor of the Type Approval Certificate issued by the competent foreign authority

1.2 Sample Testing⁵⁵

Automobiles and certain parts (originally equipped parts or spare parts) that are listed in Appendix IV of Circular No. 25/2019/TT-BGTVT, such as tyres, windshields and headlamps, are subject to sample testing.

The manufacturer is required to bring samples to a testing agency approved and designated by the VR. The sample testing will involve tests of, among other things, vehicle identification number, weight and size of the automobile, and gaseous pollutants emission.⁵⁶ A full list of the items and objects subject to sample testing can be found in Appendix IV of Circular No. 25.

As a matter of practice, the VR may at this stage request a first-time manufacturer to submit evidence of its compliance with the criteria for automobile manufacturing or assembly enterprises (discussed in Chapter 2 above). It remains to be seen whether the VR will allow a manufacturer to instead present its Certificate of Qualification for Automobile Manufacture and Assembly for this purpose.

⁵¹ Article 5, Circular No. 25/2019/TT-BGTVT.

⁵² Article 5, Circular No. 25/2019/TT-BGTVT.

⁵³ Article 19.10, Circular No. 25/2019/TT-BGTVT.

⁵⁴ Article 4.2, Circular No. 25/2019/TT-BGTVT.

⁵⁵ Article 6, Circular No. 25/2019/TT-BGTVT.

⁵⁶ Annex IV, Circular No. 25/2019/TT-BGTVT.

Upon the testing of samples against the technical standards, technical regulations and other regulations by the MOT, the testing agency will issue a Report on Sample Testing Results, which is valid for 36 months from the signing date.⁵⁷

1.3 Application for Type Approval Certificate

After obtaining the Certificate of Design Appraisal and the Report on Sample Testing Results, the manufacturer will put together product inspection dossiers for the tested automobiles and parts and submit them to the VR for Type Approval Certificate(s) application of the respective product(s).

The product inspection dossier for automobiles includes the following⁵⁸:

- An application form as stipulated in Appendix XI of Circular No. 25
- A sheet of specifications of automobiles to be manufactured and assembled in the form stipulated in Appendix V of Circular No. 25, enclosing a photo of the entire vehicle and photo of notable equipment (if any)
- A copy of the Report on Sample Testing Results
- A copy of the Certificate of Design Appraisal, written descriptions of technical design and technical drawings appraised by VR or supplemented documents (in the case of exemption from design appraisal as discussed in Section 1.1 above)
- A list of modules and systems used for the manufacture or assembly of automobiles, whether locally manufactured or imported, in the form stipulated in Appendix VI of Circular No. 25, enclosing the corresponding document for each part (except for the engine) as specified in Article 7.2 of Circular No. 25
- A copy of written description of the method and position for stamping chassis number and engine number

The product inspection dossier for parts includes the following⁵⁹:

- An application form as stipulated in Appendix XI of Circular No. 25
- A sheet of technical specifications of the parts, enclosing a photo of the entire product
- A copy of the Report on Sample Testing Results
- Technical drawings with product specifications; and a description of signs and numbers stamped on the product (if any)
- A copy of import goods declaration (if any)

After receiving a sufficient product inspection dossier, the VR will, upon agreement with the manufacturer, fix a date for assessment regarding Conformity of Production ("**COP assessment**") at the manufacturer's factory (as discussed in subsection 1.4 below).

⁵⁷ Article 6.3, Circular No. 25/2019/TT-BGTVT.

⁵⁸ Article 7.2, Circular No. 25/2019/TT-BGTVT.

⁵⁹ Article 7.1, Circular No. 25/2019/TT-BGTVT.

Within three working days after the VR receives the sufficient and valid product inspection dossier and the manufacturer passes the COP assessment, the VR will issue the Type Approval Certificate.

Please note that the manufacturer must keep the product inspection dossier and data relevant to product quality assurance for at least five years after the manufacturer notifies the VR of its cessation of production or cessation of import of the related product.⁶⁰

1.4 COP Assessment

The VR will assess the manufacturer's ability to conduct product quality inspection during mass production prior to the issuance of Type Approval Certificate, based on IATF 16949 on *Requirements regarding the quality control system for manufacturers and service providers relating to components in the automotive sector*. In particular, the VR will inspect, among others, the manufacturing and assembling processes, product quality control process, human resources for manufacturing, assembling and product quality control, quality control equipment. The manufacturer will pass this COP assessment if it satisfies the requirements on process, equipment and human resources in relation to quality inspection as stated in Article 8.2 of Circular No. 25. Specifically, for the COP assessment of imported parts manufactured in a country having a mutual recognition agreement with Vietnam, the provisions of such mutual recognition agreement shall be implemented instead.

The COP assessment can be waived for product types that are manufactured or assembled under a technological process that is simpler than, or not materially different from, the technological process and quality control process that have been assessed for another product type. The COP assessment can be waived for the types of parts that have been registered in accordance with the import goods declaration.⁶¹

Please note that the manufacturer must keep the COP dossier for at least three years from the date of release from factory. The manufacturer must ensure that the data is traceable in order to serve any product recall (as discussed in section 2 below) when cancelling such data.⁶²

1.5 Mass production and Certificate of Conformity⁶³

Subsequent to the issuance of the Type Approval Certificate, the manufacturer can proceed with mass production of the relevant products. However, it must conduct quality inspection for each product and ensure that the products satisfy technical standards and regulations as described under the application dossier for Type Approval Certificate and the samples that have been approved.

Each automobile will go through a final quality inspection before delivery out of the factory ("**conformity inspection**") conducted by the manufacturer, given that the Report on Sample Testing Results is still valid.

For each manufactured automobile that passes the conformity inspection, the manufacturer must put together a dossier that includes the Certificate of Conformity, the user's manual and the warranty book or slip.

The manufacturer must report and transmit the data relevant to the conformity inspection to the VR. The VR shall establish an inspection team for irregular inspection if the inspection results show that the

⁶⁰ Article 19.9, Circular No. 25/2019/TT-BGTVT.

⁶¹ Article 8.4, Circular No. 25/2019/TT-BGTVT.

⁶² Article 19.6, Circular No. 25/2019/TT-BGTVT.

⁶³ Article 10, Circular No. 25/2019/TT-BGTVT.

manufacturer breached the regulations on product quality or if it receives grounded complaints about product quality on the market or a written request from a state authority.

Please note that the manufacturer must keep the data of Certificates of Conformity for at least three years from the date of release from the factory. The manufacturer must ensure that the data is traceable in order to serve any product recall (as discussed in section 2 below) when cancelling such data.⁶⁴

2. The manufacturer's obligation to recall defective products

Under the Consumer Protection Law, "defective goods" means goods failing to ensure safety for consumers and endangering their lives or health or causing loss and damage to their properties, even when such goods are manufactured properly and in accordance with the current technical standards or criteria but the defect remains undiscoverable at the time the goods were supplied to the consumer.

Defective goods include: (i) mass-produced goods in which a defect arises from the technical design; (ii) singly produced goods in which a defect arises out of the process of manufacturing, processing, transport or storage; or (iii) goods with the potential to cause danger when used, which fails to have adequate instruction or warnings for consumers.⁶⁵

Generally, if the above-mentioned defect is detected, the manufacturer and/or importer of the products have the following obligations⁶⁶:

- To promptly take all necessary measures to cease the supply of the defective goods in the market
- To make continuous public announcements regarding the defective goods in daily newspapers, radio or television
- To recall the defective goods and bear the related expenses
- On completion of the recall, to submit a report on the recall outcome to the provincial People's Committee or the MOIT

The following defective products are subject to recall by the automobile manufacture or assembly enterprises⁶⁷:

- Products violating the current regulations, technical regulations and standards that are mandatorily applicable to such products
- Products causing danger to lives and properties due to technical defects during the design and manufacturing process
- Products that have not caused any loss of lives and properties but may cause danger in certain conditions when they are used

The VR can, based on the laws, the technical regulations and standards, and the information and investigation results, request the manufacturer to compulsorily conduct product recalls.

⁶⁴ Article 19.6, Circular No. 25/2019/TT-BGTVT.

⁶⁵ Article 3.3, Consumer Protection Law.

⁶⁶ Article 22, Consumer Protection Law.

⁶⁷ Article 15, Circular No. 25/2019/TT-BGTVT.

When a technical defect of products that were already distributed to the market is detected, the manufacturer must take the following actions⁶⁸:

- Suspend further delivery of products of the same type
- Notify its distributors in writing and request them to suspend the sale of such products within five working days from the date of detecting the defect
- Send written reports to the VR on the causes of the technical defect, the proposed remedy, the quantity of products to be recalled, and the specific recall plan within 14 working days from the date of detecting the defect
- Announce on mass media
- Submit written reports on the recall results to the VR within 30 days from the completion of the recall
- Bear all expenses related to the product recall

Any violation of the product recall may subject the manufacturer to a suspension or revocation of the related Type Approval Certificate, depending on the level of violation.⁶⁹

3. Manufacturer's warranty and maintenance obligations

3.1 Maintenance obligations

In respect of automotive products, maintenance is defined as a back-up task that must be done after a certain operation interval in order to maintain the best technical conditions of the vehicle.⁷⁰

There are two categories of maintenance, namely "regular maintenance," which is conducted by the owner/driver of the vehicles, and "periodical maintenance," which is carried out by the automobile service workshops.⁷¹ The maintenance items and schedule will primarily follow the instruction of the manufacturer, if available. Otherwise, the service workshop will determine the maintenance items and follow the maintenance schedule stipulated in Circular No. 53/2014.⁷² For example, the maximum maintenance interval allowed for non-commercial, low-land running passenger cars is 10,000 kilometres or six months, whichever condition comes first.⁷³

The service workshop must make a record on vehicle inspection and confirmation of technical conditions before and after performing the periodical maintenance. Additionally, the results of the periodical maintenance must be recorded in the maintenance and repair booklet.⁷⁴

After the periodical maintenance, the service workshop must issue a minutes of delivery, which specifies the warranty term and post-service warranty conditions. The warranty term for automobile maintenance (and

⁶⁸ Article 16, Circular No. 25/2019/TT-BGTVT

⁶⁹ Article 13, Circular No. 25/2019/TT-BGTVT

⁷⁰ Article 3.1, Circular No. 53/2014/TT-BGTVT.

⁷¹ Articles 5, 6, Circular No. 53/2014/TT-BGTVT.

⁷² Article 6, Circular No. No. 53/2014/TT-BGTVT.

⁷³ Annex II to Circular No. No. 53/2014/TT-BGTVT.

⁷⁴ Article 8, Circular No. 53/2014/TT-BGTVT.

repair) services must be no less than two months or 1,500 kilometres of vehicle running distance from the delivery date, whichever condition comes first.⁷⁵

3.2 Warranty obligations

Under Decree No. 116, automobile manufacturers and assemblers are required to warrant new automobiles for at least three years or 100,000 kilometres (for car); two years or 50,000 kilometres (for coach); and one year or 30,000 kilometres (for other automobiles), whichever comes first. Additionally, the company must publicize the information on the warranty period, the scope and conditions of warranty, the addresses of the relevant warranty and maintenance stations, and other information necessary for the warranty and maintenance of the vehicles.⁷⁶

During the warranty period, if a buyer discovers a defect in the product, the buyer has the right to require the seller to repair the product free of charge, or reduce its price or replace it with another product. Otherwise, the buyer can return the product in exchange for a refund.⁷⁷

Of note, the Consumer Protection Law imposes stricter warranty obligation on business entities that manufacture or sell the product towards consumers. In particular, if the parties agree on the warranty of the product, these entities have to carry out the following:⁷⁸

- Inform the consumer of the conditions, period, location and procedures of the warranty
- Fully comply with the warranty obligations
- When the product is being repaired under the warranty arrangement, supply customers with a similar product for temporary use, or propose other solutions acceptable to the customers
- Exchange the product for a new one or recall the product and refund money to the customer if the defects cannot be repaired or remedied at the expiry of the warranty repair period
- Exchange the product for a new one or recall the product and refund money to the customer if the defects cannot be repaired or remedied after at least three warranty repair attempts
- Bear all costs arising from the repair and the transportation of the product to the place of warranty and from that place to the customer's residence

Additionally, if the product is repaired under the warranty during its warranty period, the period of repair will be excluded from the warranty period. If the product is replaced with a new one in accordance with the warranty obligations, the warranty period will restart from the date of replacement.

3.3 Conditions for warranty and maintenance station

We note that the company operating an automobile warranty and maintenance station must meet the conditions stipulated under Decree No. 116 and obtain the Certificate of Warranty and Maintenance Station from the VR.

The conditions applicable to warranty and maintenance stations are stipulated in Article 21 of Decree No. 116 and include, amongst others, lawful use right of the land where the station is located and compliance with

⁷⁵ Article 6.5, Circular No. 53/2014/TT-BGTVT.

⁷⁶ Article 4, Decree No. 116/2017/ND-CP.

⁷⁷ Article 447, Civil Code 2015.

⁷⁸ Article 21, Consumer Protection Law.

the national standard TCVN 11794:2015 – *Motor vehicles and the similarities service workshops. General requirements*.

4. Discarded vehicles

Decree No. 116 provides that every automobile manufacturer and/or assembler is obligated to collect and handle discarded vehicles according to relevant environmental regulations, and they have to bear the costs for doing so.⁷⁹ Failure to observe this requirement may result in a temporary suspension, or even termination, of the Certificate of Qualification for Automobile Manufacture and Assembly.⁸⁰

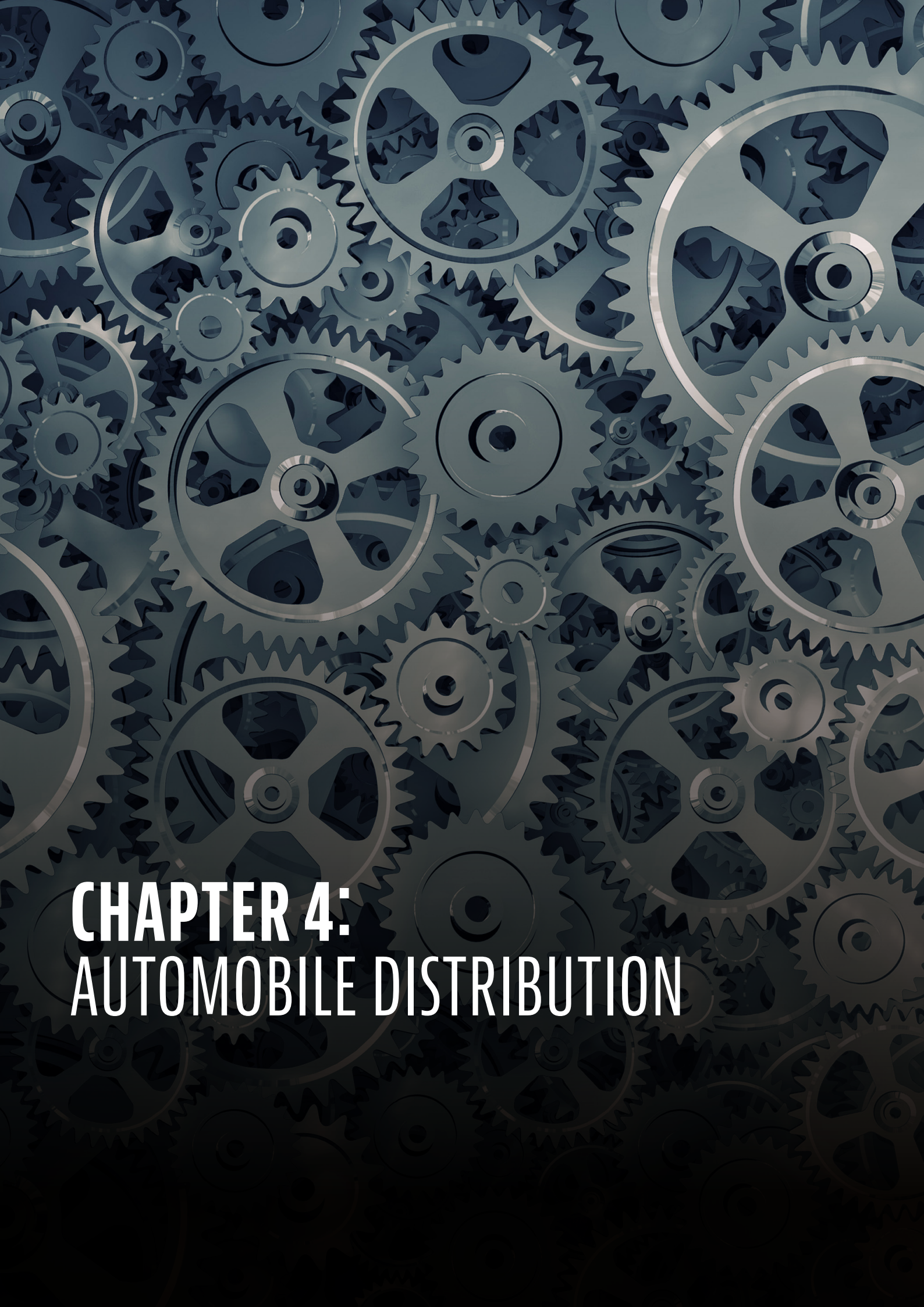
According to Decision No. 16, from 1 January 2018, the manufacturer must collect automobile products that are discarded or beyond their expiry date. The expiry date with respect to motor vehicles is stipulated in Decree No. 95. Note that passenger cars with no more than nine seats (including driver's seat) have no expiry date. Passenger vehicles with more than nine seats and cargo vehicles will expire after 20 and 25 years from the year of production, respectively.⁸¹

On a related note, the Ministry of Nature Resources and Environment issued Circular No. 34 regarding the collection, storage, transport and handling of discarded products, which came into effect on 20 November 2017.

⁷⁹ Article 5, Decree No. 116/2017/ND-CP.

⁸⁰ Article 12, Decree No. 116/2017/ND-CP.

⁸¹ Article 4, Decree No. 95/2009/ND-CP.



CHAPTER 4: **AUTOMOBILE DISTRIBUTION**

Chapter 4: Automobile distribution

1. Label requirements applicable to automobiles and spare parts

1.1 Labelling requirements

Generally, all goods that are imported and circulated in Vietnam must be labelled with the contents required by law.⁸² "Circulation" of goods means displaying, promoting, transporting or storing goods during the sale and purchase process, except the transport of goods by importers from a border gate to a warehouse.⁸³ There are limited exemptions to this labelling requirement, such as for used goods, exported goods without domestic use, and goods in transit.⁸⁴

Based on the foregoing, automobiles manufactured and circulated in Vietnam will generally be subject to the labelling requirements.

1.2 Placement of the label

The label must be placed on the goods or the commercial packaging of the goods in a position that is clearly visible to the naked eyes without having to disassemble the goods.⁸⁵

1.3 Size of the label

The responsible organisation/individual can determine the font size of the label by themselves, provided that the label fully contains all statutorily compulsory information.⁸⁶ The font size of the metrological information must comply with the regulations on metrology.⁸⁷

1.4 Labelling language

The compulsory labelling information must be expressed in Vietnamese, except for, among others, the following contents, which can be presented in other Latin-based languages⁸⁸:

- International or scientific name of an ingredient or an ingredient quantity of the goods, if such name is not translatable into Vietnamese, or if translatable, will not denote any meaning
- Name and address of the foreign enterprise relating to the manufacture of the goods

For domestically produced and circulated goods, in addition to the compulsory information in Vietnamese, the label can be presented in other languages, provided that the content in such language are consistent with the Vietnamese information, and its font size may not be bigger than that of the text in Vietnamese.⁸⁹

⁸² Article 1, Decree No. 43/2017/ND-CP.

⁸³ Article 3.7, Decree No. 43/2017/ND-CP.

⁸⁴ Article 1.2, Decree No. 43/2017/ND-CP.

⁸⁵ Article 4, Decree No. 43/2017/ND-CP.

⁸⁶ Article 5, Decree No. 43/2017/ND-CP.

⁸⁷ Article 5.2.a, Decree No. 43/2017/ND-CP.

⁸⁸ Article 7, Decree No. 43/2017/ND-CP.

⁸⁹ Article 7.2, Decree No. 43/2017/ND-CP.

1.5 Compulsory labelling contents

The compulsory labelling information will vary depending on the nature of the products. However, all labels must contain the following⁹⁰:

- Name of the goods
- Name and address of the responsible organization/individual
- Origin of the goods

The compulsory labelling information of automobiles must further include⁹¹:

- Name of the manufacturer
- Trademark, commercial name, model code
- Chassis number or vehicle identification number (VIN)
- Unladen weight
- Maximum number of passengers allowable
- Gross vehicle weight
- Type Approval Number (for vehicles manufactured or assembled domestically)
- Manufacturing year
- Warnings (if any)

The compulsory labelling information of spare parts must further include⁹²:

- Trademark, commercial name, model code (if any)
- Part number
- Year of manufacture (if any)
- Specifications (if any)
- Warnings (if any)

1.6 Energy label

In addition to the general labelling requirements above, automobiles for up to nine passengers, motorcycles and mopeds are also subject to a compulsory energy labelling requirement.^{93, 94}

⁹⁰ Article 10, Decree No. 43/2017/ND-CP.

⁹¹ Section 45, Appendix I of Decree No. 43/2017/ND-CP.

⁹² Section 51, Appendix I of Decree No. 43/2017/ND-CP.

⁹³ Joint Circular No. 43/2014/TTLT-BGTVT-BCT.

⁹⁴ Article 1.4, Decision No. 04/2017/QĐ-TTg.

Moreover, energy label: (i) is compulsory for automobiles for up to seven passenger, (ii) was voluntary for automobiles for seven to 9 passengers until 31 December 2017; and (iii) compulsory for automobiles for seven to nine passengers from 1 January 2018.⁹⁵

The energy label of automobiles provides information on the type of fuel used, fuel consumption of the automobiles that is inspected, certified or of which the self-announcement is registered, and is meant to help consumers identify and choose the fuel-saving automobile.⁹⁶ An example of the energy label issued by the VR is as below⁹⁷:

MỨC TIÊU THỤ NHIÊN LIỆU

Số GCN:.....

Nhãn hiệu:

Nhà sản xuất:

Loại nhiên liệu:

Số loại:

Chu trình thử:

7,2

Lít/100km

Kết hợp

9,8

Lít/100km

Trong đô thị

5,6

Lít/100km

Ngoài đô thị

Ghi chú: mức tiêu thụ nhiên liệu thực tế có thể thay đổi do điều kiện sử dụng, kỹ năng lái xe và tình trạng bảo dưỡng kỹ thuật của xe.

Automobiles subject to the energy label requirements are required to be affixed with an energy label before being circulated in the market. For newly domestically manufactured/assembled automobile models, the manufacturer/assembler must register for energy labelling with the VR.⁹⁸

2. Procedures for car ownership registration

Car ownership registration involves a number of procedures that a car buyer must carry out to establish his/her ownership over the car and obtain a number plate. In practice, car dealers and showrooms often offer assistance to their customers with these procedures.

In a typical case where a buyer purchases a new regular car (e.g., sedan, SUV, van, hybrid/electric), they often need to first pay a registration fee.⁹⁹ Then, the buyer has to undertake: (i) the car ownership registration procedure at a police department (see below); and (ii) a procedure regarding the inspection of technical safety and environmental protection for road vehicles at a register centre.

⁹⁵ Article 2.3, Decision No. 04/2017/QĐ-TTg.

⁹⁶ Article 3.1, Joint Circular No. 43/2014/TTLT-BGTVT-BCT.

⁹⁷ Appendix V, Joint Circular No. 43/2014/TTLT-BGTVT-BCT.

⁹⁸ Articles 5, Joint Circular No. 43/2014/TTLT-BGTVT-BCT.

⁹⁹ Decree No. 20/2019/ND-CP.

In a typical car ownership registration procedure, the buyer (often with assistance from the car showroom's representative) must submit the following documents to the traffic police office of a provincial police department¹⁰⁰:

- (a) Vehicle Registration Declaration
- (b) Documents related to the buyer-owner: Often, the buyer's ID or passport is sufficient. If the buyer is an organization, the ID of the buyer's representative registrant and buyer's authorization letter to the representative registrant are required.
- (c) Documents related to the car: For locally manufactured cars, these documents usually include the: (i) car sale invoice; (ii) receipt of payment of the registration fee; and (iii) Certificate of Conformity.

A number plate will be issued and given to the buyer shortly after his/her submission of a proper registration application dossier.

¹⁰⁰ Articles 7, 8, 9 Circular No. 58/2020/TT-BCA.

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