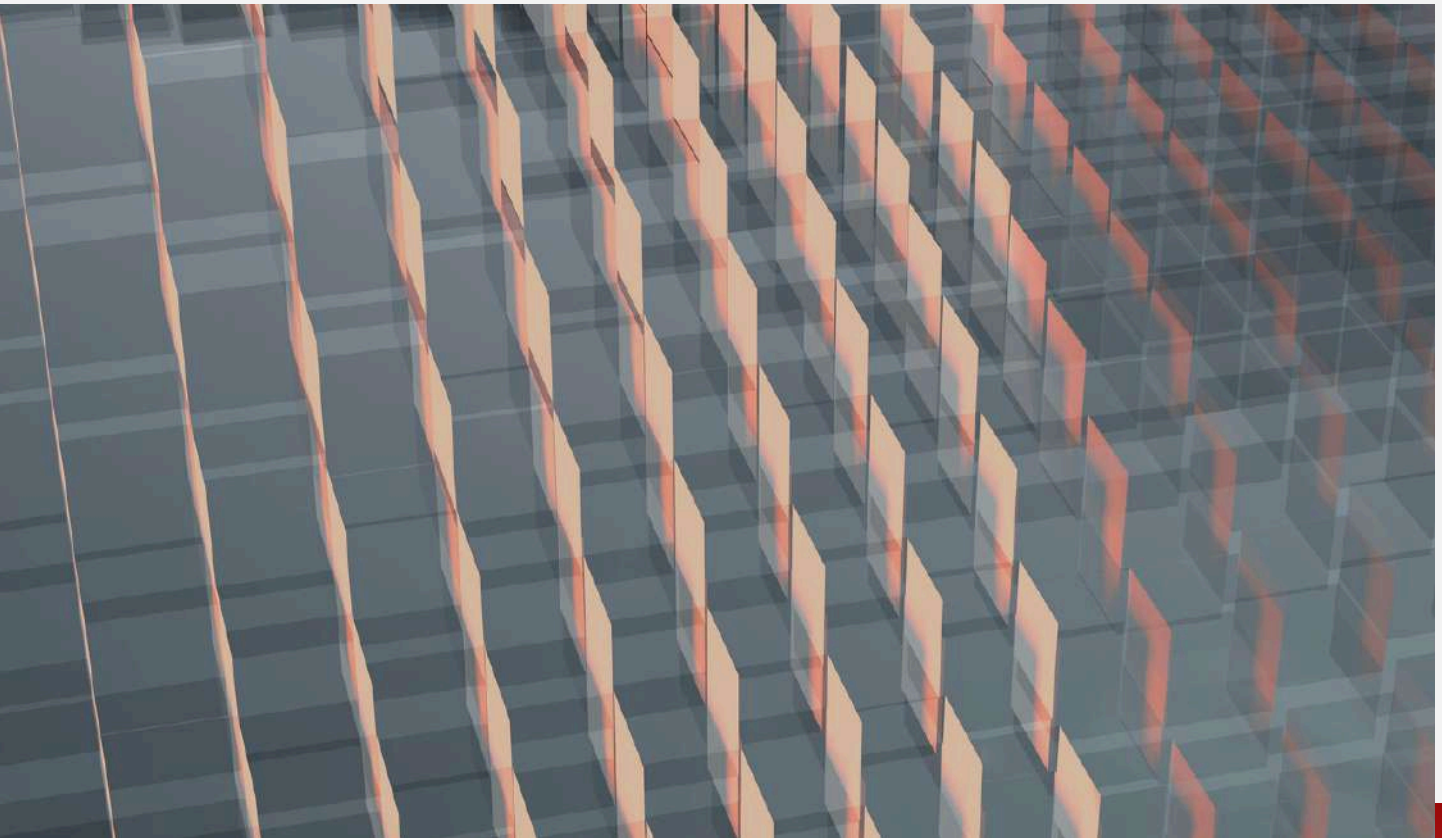


## PROCESSING CONTRACTS FOR FOREIGN COUNTRIES: LEGAL REGULATIONS AND IMPORTANT TERMS

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# **PROCESSING CONTRACTS FOR FOREIGN COUNTRIES: LEGAL REGULATIONS AND IMPORTANT TERMS**

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In the context of global economic integration, processing contracts for foreign traders have emerged as a prominent form of collaboration, enabling Vietnamese businesses to engage more extensively in the global supply chain. This cooperation model involves Vietnamese companies producing or manufacturing goods based on orders from international partners.

This model is prevalent in key sectors such as textiles, footwear, electronics, machinery, food, and software technology. Leveraging competitive labor costs, cost-efficient production, and continual improvements in product quality, many Vietnamese enterprises have established themselves as reliable partners to multinational corporations. Furthermore, this processing capability not only enables domestic companies to expand their markets and enhance production capacity but also plays a pivotal role in driving Vietnam's export turnover.

To safeguard business interests, companies must have a thorough understanding of legal regulations and critical contractual clauses, including intellectual property rights, contractual terms, legal responsibilities, import-export taxes, and delivery conditions. These factors can profoundly affect business operations. This article outlines the key considerations to bear in mind when establishing a processing contract.

## **1. LEGAL REGULATIONS ON RECEIVING PROCESSING GOODS FOR FOREIGN TRADER**

Processing goods for foreign traders is a vital business activity that significantly contributes to Vietnam's export turnover. However, to ensure legal compliance and mitigate risks, enterprises must strictly adhere to current regulations. The general prerequisites for accepting processing orders from foreign countries are as follows:

- Enterprises are strictly prohibited from processing goods that are banned from export or import, or that are subject to temporary suspension. This measure is fundamental for ensuring transparency in international trade and for upholding Vietnam's trade agreements and commitments.



- Enterprises are prohibited from processing goods that are banned or subject to temporary export or import suspensions. This requirement is essential to ensure transparency in international trade and to adhere to the trade agreements and commitments signed by Vietnam.
- Another important point is that goods imported through designated traders are subject to the oversight of the State Bank of Vietnam. Consequently, processing enterprises must comply with the State Bank's specific regulations pertaining to monetary policy, foreign exchange controls, and import conditions. This adherence ensures transparency in financial transactions and mitigates the risk of trade fraud.
- For goods exported or imported under a license, traders may only enter into a processing contract once they have secured approval from the Ministry of Industry and Trade.

## 2. IMPORTANT CLAUSES TO INCLUDE IN A PROCESSING CONTRACT

A processing contract for foreign traders is not only a vital legal instrument but also a roadmap that delineates the rights and responsibilities of the parties, thereby mitigating risks throughout the cooperative process. In accordance with the Commercial Law and its associated decrees, such contracts must be in writing or possess equivalent legal validity. The contract's provisions not only set forth the fundamental terms of engagement but also play a crucial role in preventing disputes and ensuring transparency in production activities. Below are the key points that enterprises should pay special attention to when entering a processing contract with foreign traders:

**Information about the Parties Involved:** Every processing contract must clearly identify the parties, including the ordering party (foreign enterprise) and the processing party (Vietnamese enterprise). Essential details should include:

- **Company name and address:** The full legal name and physical address of each party.
- **Tax identification number:** Official tax registration details.
- **Legal representative details:** Information about the authorized representative, including their name and position.
- **Contact information:** Complete contact details to ensure smooth and efficient communication throughout the contract exchange process.
- **Subcontractor information:** if a subcontractor is involved, their information must be explicitly stated to avoid future disputes regarding responsibilities.

Verifying the legal status of a potential partner is a critical step before signing any contract. This due diligence helps enterprises mitigate risks associated with non-transparent partners or those that may lack sufficient financial capacity.

**Designation and quantity of processed products:** A specific and detailed description of the processed products helps prevent misunderstandings during production. Enterprises must clearly define the product name, product code, applicable technical standards, accompanying molds or samples (if any); processing quantity, unit of measurement, and quantity tolerance (acceptable percentage deviation); and quality requirements, including inspection standards in accordance with Vietnamese regulations and the import market.

A strong contract should specify that if the product does not meet the standards, which party is responsible and how the issue will be handled (repair, rework, compensation for damages...).

**Processing price and payment method:** The processing price and payment method are key element in the contract and must be clearly agreed upon from the outset. The contract should specify in detail: The unit price of processing based on product, quantity, or labor hours; The payment method: L/C (letter of credit), T/T (telegraphic transfer), D/P (documents against payment), or other methods; Payment conditions: Advance payment, payment based on progress, or payment after receiving the goods; Penalties for late payment: If the ordering party delays payment, does the processing party have the right to temporarily halt production or apply late payment penalties?

**The list of raw materials, consumption norms, and wastage rate:** One of the key factors in a processing contract is the detailed list of raw materials and supplies—whether provided by the ordering party or purchased by the processing party for production. Therefore, enterprises should clearly define the following aspects:

- **Raw materials:** Specify the list of imported or domestically produced raw materials.
- **Consumption norms:** Define the amount of material required for each product.
- **Wastage rate:** Indicate the percentage of raw materials that may be lost during the production process.

**The list of machinery and equipment for rent, loan, or donation (if any):** Some processing contracts require the ordering party to supply machinery and equipment to ensure production quality. Enterprises should consider the following points:



- Whether the machinery and equipment are rented, loaned, or donated.
- Which party is responsible for maintenance and repair.
- Upon contract completion, whether the machinery will be returned, re-exported, or disposed of.

Clearly defining these responsibilities will help prevent disputes when the contract concludes.

**Measures for handling scrap, waste, and defective products:** During the processing stage, waste materials and by-products will inevitably arise. If not clearly specified in the contract, enterprises may face tax and environmental issues. Key points to consider include:

- Should the waste be re-exported?
- Does the enterprise have the right to dispose of the waste domestically?
- Who bears the cost if the waste must be destroyed?

Currently, Vietnamese law imposes strict regulations on waste generated from processing goods. Vague contract documentation or a lack of clear understanding of environmental regulations may lead to misapplication, exposing the enterprise to significant penalties for violations.

**Delivery location and time:** Enterprises must clearly specify the delivery location, which could be one of the following:

- At the processing party's factory (EXW – Ex Works).
- At a port in Vietnam or a foreign port (CIF – Cost, Insurance, and Freight; FOB – Free on Board; DDP – Delivered Duty Paid).
- Delivered to the ordering party's warehouse (DDU – Delivered Duty Unpaid; DAP – Delivered at Place).

In addition, the delivery time should be explicitly stated, along with applicable penalties for late delivery.

**Trademark and product origin:** For processed goods intended for export, trademark and product origin are critical factors, particularly for industries such as textiles and electronics. The contract should clearly specify the following: Who is responsible for trademark registration? Can the product bear the processing party's brand? If these terms are not clearly defined, the enterprise may face intellectual property disputes or violations of product origin regulations during the export process.

**Contract validity period:** A processing contract should clearly define its duration, specifying the start date when the contract becomes effective and the end date when it will terminate. Additionally, the contract should include provisions for: Contract renewal terms. Conditions for contract termination. Situations constituting contract violations.

Clearly outlining these terms helps ensure legal clarity and minimizes potential disputes between the parties involved.

**A processing contract for foreign traders** is not only a commercial agreement but also a crucial legal foundation that safeguards the interests of the enterprise. Drafting a clear and comprehensive contract helps prevent disputes and ensures a smooth, effective cooperation process. Enterprises engaging in this field must thoroughly understand the key terms to optimize benefits and minimize risks.

**The article contains general information which is of reference value, in case you want to receive legal opinions on issues you need clarification on, please get in touch with our Lawyer at [info@cdlaf.vn](mailto:info@cdlaf.vn)**

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