

Decree 101/2001/ND-CP on 31 December 2001 by the Government

(effective on 1 January 2002)

On specific regulations to implement the provisions in the Law on Customs related to customs procedures, inspection and supervision

(Excerpt)

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Article 14. Procedures for suspension of customs procedures to exports or imports which require protection of intellectual property

1. To request the customs agencies to suspend customs procedures to their exports or imports, the owners of intellectual property or their authorized representatives (hereinafter called “the requesters”) shall:

a. Submit their application to the Head of the Customs Agency where the commodities are exported or imported;

b. Advance a deposit equivalent to 20% of the value of the commodity lot noted in the contracts to the temporary account of the customs agency in the State Bank or give guarantee vouchers issued by a credit organization to guarantee the compensation for damages to the commodity

owner and all payments for costs arising out of an improper suspension of customs procedures to the concerned agencies, organizations or individuals;

c. Present at the customs agency all guarantee certificates or documents proving their legal intellectual property;

d. Provide initial evidences for the breach of their intellectual property of exports or imports;

e. Submit the authorization to request for suspension as specified by laws (in case of the authorized representatives).

2. Suspension procedures:

a. When the requesters satisfy all conditions stipulated in Item 1 of this Article, the Head of the Customs Agency shall decide the suspension of customs procedures (hereinafter called "the suspension") over the commodity lot. The decision shall be sent to the owners of the commodity lot and the requesters. The decision shall clearly declare the reasons and duration of the suspension which shall be realized by all concerned parties;

d. The duration of the suspension shall be 10 days after the decision is issued;

c. The Head of the Customs Agency shall extend the suspension in case the requesters submit their application for extension before the expiry of the decision. In this case, the requesters shall advance a new amount of money as stipulated in Clause 1 of this Article. The extension shall not exceed 10 days after the decision expires;

d. On the expiry stipulated in Points (b) and (c) of this Clause, if the requesters fail in providing evidence or conclusions from competent agencies or organizations proving the breach of intellectual property to the commodity lot, or no competent governmental authority or Court requests (in writing) that the Customs Agency hands over the commodity lot suspended from

customs procedures, the Head of the Customs Agency shall have the rights:

- to do customs clearance for the commodity lot;

- to require the requesters to compensate the exporter/importers all damages directly caused by the improper suspension, pay all costs for storage, preservation and other costs incurred by the customs agency and other related agencies, organizations, or individuals as stipulated by laws;

- to return the requesters the remaining deposit after the requesters fully make all compensations and payments to the exporters/importers and other costs arising out of the suspension. In case the deposit is not enough for the above expenditure, the requesters shall be responsible for the full payment;

e. In case the requesters prove that the owners of exports or imports commit a breach of intellectual property, the owner and their commodity shall be punished by law. The owners of the commodity shall be responsible to the laws in realizing all decisions by the competent governmental authorities; compensating the owners of intellectual property; paying all expenses arising out of the suspension. The customs agency shall return the deposit to the requesters.

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On behalf of the Government
Prime Minister
Phan Van Khai
(signed)