

## **LAW ON CUSTOMS**

*Pursuant to the Constitution of the Socialist Republic of Vietnam;*

*The National Assembly promulgates the Law on customs.*

### **Chapter I**

#### **GENERAL PROVISIONS**

##### **Article 1.** Scope

This Law stipulates the state management of customs with regard to goods permitted to be imported, exported or transited, and vehicle of domestic and foreign entities which are on exit or entry or in transit within the customs territory; and organization and operation of the customs service.

##### **Article 2.** Regulated entities

1. Entities that import, export, or transit goods, or have vehicle on exit or entry or in transit.
2. Entities that have rights and obligations related to the import, export and transit of goods and exit, entry and transit of vehicle.
3. Customs authorities and customs officials.
4. Other regulatory bodies involved in the cooperation in state management of customs.

##### **Article 3.** Customs policies

1. The State of Vietnam shall facilitate customs formalities applied to import, export, exit, entry and transit in the Vietnamese territory.
2. Developing Vietnam Customs into a clean, strong, professional and modern agency with transparent and efficient operation.

##### **Article 4.** Interpretation of terms

In this Law, the terms below are construed as follows:

1. *Border checkpoint transfer* means transfer of goods or vehicle subject to customs inspection and supervision from one place where customs declarations are made to another.
2. *Transshipment* means transfer of goods from a vehicle used for domestic transportation or on entry to a vehicle on exit for export or from a vehicle for domestic transportation or on entry into depots in a border checkpoint area before being loaded aboard other vehicle for export.
3. *National single-window system* means permission for customs declarants to send information and electronic documents for following customs formalities and formalities of regulatory bodies related to imported and exported goods through an integrated communication system. Regulatory bodies shall decide goods that are permitted to be imported, exported and transited; customs authorities shall make decisions about granting customs clearance and releasing goods on the integrated communication system.
4. *Container freight station* means depots used for receiving or breaking bulk containerized cargoes of many consignees.
5. *Customs supervision* means professional measures applied by customs authorities to ensure the original conditions of goods and law compliance in the preservation, storage, loading, unloading, transportation and use of goods, and in the exit, entry and transit of vehicle currently subject to customs management.
6. *Goods* include movable assets with headings and subheadings according to the Vietnamese list of imports and exports which may be imported, exported, transited or retained in customs operating locations.
7. *Luggage of people on exit or entry* means essentials for their daily needs or trips, including carry-on luggage and luggage consigned before or after trips.
8. *Customs documents* include customs declarations and legitimate documents required to be submitted to customs authorities as prescribed in this Law.
9. *Tax-suspension warehouse* means a warehouse used to store imported materials and supplies formalities serving production of exported products that have been granted customs clearance but taxes on which have not been paid.
10. *Bonded warehouse* means a depot for storing goods for which customs formalities have been completed and which are stored pending their export; goods sent from abroad and stored pending their re-export or their import into Vietnam.
11. *Customs control* means measures of patrolling, investigating, verifying or other professional measures applied by customs authorities to tackle smuggling and illicit cross-border trafficking in goods and other violations against the law on customs on customs.

12. *Customs inspection* means the verification of customs documents, legitimate documents and corresponding documents; and the physical inspection of goods and vehicle by customs authorities.
13. *Customs territory* means areas within the territory, exclusive economic zone and continental shelf of the Socialist Republic of Vietnam where the Law on customs is applied.
14. *Customs declarants* include goods owners; vehicle owners; vehicle operators; customs brokers and persons authorized by goods owners or vehicle owners to formalities follow customs formalities.
15. *Customs sealing* means the use of technical tools or signs to identify and ensure the original conditions of goods.
16. *Classification of goods* means the determination of appellations and headings of goods stated in the Vietnamese list of imports and exports according to their characteristics, ingredients, composition, physical and chemical properties, utilities, packaging specifications and other particularities of goods.
17. *Vehicle includes* vehicle operated on roads, railways, airways, seaways and inland waterways transport on exit or entry or in transit.
18. *Risk management* means the application by customs authorities of a system of professional measures and processes to identify, evaluate and classify risks to serve as a basis for reasonable arrangement of resources to effectively inspect, supervise and support other customs operations.
19. *Risk* means a possible failure to comply with the law on customs on import, export and transit of goods; and the exit, entry and transit of vehicle.
20. *Personal belongings* means items or equipment used for daily lives and work of individuals, families and organizations which they may bring with them when they no longer reside or terminate their operation in Vietnam or abroad.
21. *Customs clearance* means the completion of customs formalities for goods to be imported, exported or placed under another professional customs management mechanism.
22. *Customs information* means information and data on import, export, exit, entry and transit activities; and entities involved in these activities, and other information relating to customs activities.
23. *Customs formalities* mean activities to be carried out by customs declarants and customs officials in accordance with this Law for goods and vehicle.
24. *Customs value* means the value of imported or exported goods used for duty calculation and customs statistics.

25. *Articles on vehicle* include assets used on vehicle; materials and fuel used to operate vehicle; food, foodstuff and other utensils which directly serve daily-life activities of people in charge and passengers on vehicle.

26. *Prior determination of customs codes, origin and value* means determination by customs authorities of HS codes, origin before carrying out customs formalities.

**Article 5.** Application of international treaties, customs and practices on customs

1. If a treaty to which the Socialist Republic of Vietnam becomes a party provides for provisions different from those of this Law, the provisions of such treaty shall be applied.

2. If there are cases which have not been provided for by this Law, other legal documents of Vietnam and international treaties to which the Socialist Republic of Vietnam becomes a party, international customs and practices on customs may be applied, provided that the application of such customs and practices does not contravene the primary rules of Vietnamese law.

**Article 6.** International cooperation in customs

1. International cooperation in customs shall contain:

a/ Negotiation, conclusion and organization of implementation of treaties and international agreements on customs;

b/ Exploitation and exchange of information and professional cooperation with customs authorities of foreign countries and relevant international organizations;

c/ Delegating Vietnamese customs officials abroad and receiving foreign customs officials sent to Vietnam to perform professional customs operations in accordance with the law on customs, treaties to which the Socialist Republic of Vietnam becomes a party or concluded international agreements;

d/ Exercise of rights, performance of obligations and enjoyment of interests of the State of Vietnam at the World Customs Organization, customs-related international organizations, countries and territories.

2. Vietnam Customs must conduct operation as prescribed in Clause 1 of this Article in accordance with law.

**Article 7.** Customs operating locations

1. Customs operating locations include:

a/ Areas of land border checkpoints, international railway stations, international civil airports; seaports and inland waterway ports where import, export, exit, entry and transit operations are

conducted; areas where goods subject to customs supervision are stored, export processing zones and customs preference zones; customs clearance places, bonded warehouses, tax- suspension warehouses, international posts, head offices of customs declarants where post-customs clearance inspection is carried out; and places for inspection of imported and exported goods in the customs territory;

b/ Other areas and places which meet state management requirements and in which import, export and transit of goods and exit, entry and transit of vehicle are permitted as prescribed in Decisions of the Prime Minister.

2. In customs operating locations, customs authorities are responsible for inspect, supervise and control goods and vehicle and handle violations against the law on customs in accordance with Vietnamese law and treaties to which the Socialist Republic of Vietnam becomes a party.

3. The Government shall stipulate the scope of customs operating locations.

#### **Article 8.** Customs modernization

1. The State shall give priority to investment in modern technical equipment and facilities and advanced technologies to ensure the effective customs management; encourage entities to participate in developing advanced technologies and technical equipment to ensure the application of modern customs management methods. Entities involved in import and export are responsible for participating in developing and performing electronic transactions and electronic customs formalities.

2. The system of technical standards for communication of electronic data and legal validity of electronic legitimate documents when following electronic customs formalities shall comply with the law on electronic transactions.

#### **Article 9.** Cooperation in the adherence to the law on customs

1. Customs authorities shall take charge, and closely cooperate with regulatory bodies, organizations and people's armed forces in implementation of the law on customs.

2. Regulatory bodies, organizations and people's armed forces shall, within the area of competence, cooperate with and enable customs authorities to fulfill their tasks.

#### **Article 10.** Prohibited acts in customs

1. For customs officials:

a/ Causing troubles and difficulties when following customs formalities;

b/ Screening or colluding with others in smuggling or illegally transporting goods across the border, committing trade or tax fraud;

c/ Taking bribes, appropriating or embezzling temporarily seized goods or other acts for self-seeking purposes;

d/ Other violations against the law on customs.

2. For customs declarants, entities with rights and obligations related to import, export and transit of goods, or exit, entry and transit of vehicles:

a/ Committing fraudulent acts in carrying out customs formalities;

b/ Smuggling or illegally transporting goods across the border;

c/ Committing trade or tax fraud;

d/ Giving bribes or other acts for self-seeking purposes;

dd/ Obstructing customs officials in performing their official duty;

e/ Hacking, falsifying or destroying the customs communication system;

g/ Other violations against the law on customs.

**Article 11.** Supervision of the adherence to the law on customs

1. The National Assembly and People's Councils shall, within the area of competence, supervise the adherence to the law on customs.

2. The Vietnam Fatherland Front and its member organizations shall mobilize the population to strictly adhere to the law on customs and supervise the adherence to the law on customs.

3. When performing their tasks and powers, customs authorities and customs officials shall abide by law, rely themselves on the people and subject to the people's supervision.

## **Chapter II**

### **TASKS AND ORGANIZATION OF THE CUSTOMS SERVICE**

**Article 12.** Tasks of the customs service

Vietnam Customs shall inspect and supervise goods and vehicle; tackle smuggling and illegal cross-border trafficking of goods; implement laws on taxation applied to imported and exported goods; release statistics on imported and exported goods in conformity with this Law and other corresponding laws; propose policies and administrative measures for customs applicable to import, export, exit, entry and transit operation and tax policies applicable to imported and exported goods.

**Article 13.** Rules of organization and operation of the customs service

1. Vietnam Customs shall be organized and operated according to centralized and uniform rule.
2. The General Director of Customs shall uniformly manage and execute operation of customs authorities; the inferior customs authorities shall be under management of superior customs authorities.

**Article 14.** Organization of the customs service

1. The organization of Vietnam Customs comprises:
  - a/ The General Department of Customs;
  - b/ Customs Departments of provinces;
  - c/ Sub-department of Customs Sub-Departments, Customs control team and equivalent units.
2. According to quantities, scale and characteristics of import, export, exit, entry and transit and socio-economic conditions of each administrative division, the Government shall to regulates requirements for establishment of Customs Departments; and specify the organization, tasks and operation of customs authorities.

**Article 15.** Customs officials

1. Customs officials are those who are qualified for being recruited, or appointed to ranks, positions or titles in customs authorities; and being trained, managed and employed in accordance with the laws on officials and civil servants.
2. The service practice, titles, criteria, salaries, seniority allowance and other benefits to customs officials, customs badges, flags, uniforms and identity cards shall be prescribed by the Government.

**Chapter III**

**CUSTOMS FORMALITIES, CUSTOMS INSPECTION AND SUPERVISION**

**Section 1. GENERAL PROVISIONS**

**Article 16.** Rules of following customs formalities, inspection and supervision

1. Goods and vehicle must be undergone customs formalities, subject to customs inspection and supervision; carried in the proper routes and passed through border checkpoints or other places on schedule as prescribed in regulations and laws.

2. Customs inspection and supervision shall be conducted on the basis of applying the risk management in order to ensure effectiveness and efficiency of state management of customs and facilitate import, export, exit, and entry and transit operation.

3. Goods may enjoy customs clearance and vehicle may be permitted for exit or entry after going through customs formalities.

4. Customs formalities shall be carried out in a public, quick and convenient manner and in accordance with law.

5. The arrangement of manpower and working time must meet the requirements of import, export, exit, entry and transit activities.

**Article 17.** Risk management in professional customs operations

1. Customs authorities shall apply the risk management in deciding on customs inspection and supervision of goods and vehicle; support the tackling of smuggling and illegal cross-border trafficking of goods.

2. Risk management in customs operations shall include the collection and processing of customs information; establishment of criteria for and evaluation of customs declarants' adherence to the law, and classification of risks; and implementation of appropriate measures for customs management.

3. For the purposes of serving the application of risk management to customs operations, Customs authorities shall manage and apply the communication system that automatically integrate and process data.

4. The Minister of Finance shall establish criteria for evaluation of customs declarants' adherence to the regulations of law, classify risks and apply risk management to customs operations.

**Article 18.** Rights and obligations of customs declarants

1. A customs declarant shall have rights to:

a/ Be provided by customs authorities with information about customs declaration for goods, vehicle, guidance on carrying out customs formalities, and laws on customs;

b/ Request customs authorities to predetermine HS codes, origin and customs value of goods when providing sufficient and accurate information to customs authorities;

c/ Preview goods, take samples of the goods under the supervision of customs officials before making customs declaration in order to ensure accurate customs declaration;



d/ Request customs authorities to re-verify goods if they disagree with customs authorities' decisions provided that such goods have not been granted clearance;

dd/ Use customs documents for customs clearance or good transportation or following related formalities at other competent agencies in accordance with law;

e/ Make complaints and denunciations about illegal acts against customs authorities and customs officials;

g/ Claim compensation for damage caused by customs authorities and customs officials in accordance with the law on State compensation liability.

2. Customs declarants who are owners of goods or vehicle shall have obligations to:

a/ Make customs declarations and follow customs formalities in accordance with this Law;

b/ Provide sufficient and accurate information in order for customs authorities to predetermine HS codes, origin and customs value of goods;

c/ Take legal responsibility for the authenticity of statement declared and documentary evidence submitted; information consistency between dossiers kept at enterprises and dossiers kept at customs authorities;

d/ Follow decisions and requests of customs authorities and customs officials during conducting customs formalities, inspection and supervision of goods and vehicle;

dd/ Keep customs documents records of goods which are granted clearance within 05 years from the day on which the declaration of such goods is register, unless otherwise provided by law; keep accounting books and documentary evidence and other documents related to imported and exported goods which are granted clearance for a time limit in accordance with law; submit related dossiers, information and documents for verification at the request of customs authorities as prescribed in Articles 32, 79 and 80 of this Law;

e/ Dispose manpower and equipment to perform relevant jobs in order for the customs officials verify goods and vehicle;

g/ Pay taxes and fulfill other financial liabilities in accordance with the laws on taxes, charges and fees and other corresponding regulations of laws.

3. Customs declarants who are customs brokers or other persons authorized by owners of goods and vehicle shall comply with obligations prescribed in Points a, b, c, d, e and g, Clause 2 of this Article within the scope of authorization. Customs declarants who are vehicle operators shall comply with obligations prescribed at Points a, c, d, e and g, Clause 2 of this Article.

**Article 19.** Tasks and entitlements of customs officials

1. Strictly adhere to laws and customs operation processes and take responsibility for the performance of their tasks and exercise of their entitlements.
2. Instruct customs declarants and related entities on request.
3. Conduct customs inspection and supervision; supervise the packing, unpacking, transshipment, loading and unloading of cargoes at places where the customs formalities are made and places where the imported and exported goods are verified. In case of detecting violation against law on customs, request owners of goods or vehicle, commanders or vehicle operators or authorized persons to comply with their requests for the inspection goods and vehicle in accordance with this Law and the law on handling of administrative violations.
4. Take samples of goods in the presence of customs declarants in order for customs authorities to analyze or request an assessment of such goods.
5. Request customs declarants to provide information and documentary evidence related to their goods in order to ensure accuracy of HS codes, origin and customs value of goods.
6. Request vehicle commanders or operators to drive in proper routes, on schedule, and stop at proper places.
7. Other tasks and entitlements as prescribed in law.

**Article 20.** Customs brokers

1. Requirements for a customs broker:

- a/ There is a business registration certificate or an enterprise registration certificate, in which operation of good forwarding or customs brokers is stated;
- b/ There are employees in charge of customs brokerage services (hereinafter referred to as customs employees);
- c/ There is information technology infrastructure satisfying the requirements for making e-customs declaration and other requirements as prescribed.

2. A customs employee must be a Vietnamese citizen who fully satisfies the following requirements:

- a/ Obtain at least a collegiate degree in economics, law or technique;
- b/ Obtain a certificate of training in customs declaration;
- c/ Obtain customs employee's code granted by a customs office.

3. The General Director of Customs shall decide the recognition, suspension or termination of customs broking; grant of certificates of training in customs declaration; grant and revocation of customs employee's codes.

4. Customs brokers and customs employees shall exercise the rights and perform the obligations of customs declarants as prescribed in Article 18 of this Law.

5. The Minister of Finance shall provide guidance on procedures for recognition and operation of customs brokers; procedures for grant of certificates of training in customs declaration, and grant and revocation of customs employee's codes.

#### **Article 21.** Customs formalities

1. While following the customs formalities, a customs declarant shall:

a/ Declare and submit customs declarations; submit documentary evidence of customs documents prescribed in Article 24 of this Law;

b/ Send goods and vehicle to proper places for physical inspection;

c/ Pay taxes and fulfill other financial obligations in accordance with the laws on taxes, charges and fees and other corresponding regulations of law.

2. While conducting customs formalities, customs authorities and customs officials shall:

a/ Receive and register customs documents;

b/ Verify customs documents and conduct physical inspection of goods and vehicle;

c/ Collect taxes and other amounts payable in accordance with the laws on taxes, charges and fees and other corresponding regulations of law;

d/ Decide grant of customs clearance for goods, release of goods and certification of completion of customs formalities applied to vehicle.

#### **Article 22.** Places of customs formalities

1. Places of customs formalities are places where customs authorities receive, register and verify customs documents and conduct physical inspection of goods and vehicle.

2. Places where customs documents are received, registered and examined are head offices of Customs Departments or Customs Sub-Departments.

3. Places of physical inspection of goods include:

a/ Places of inspection at the land border checkpoints, international railway stations, international civil airports; international post offices; seaports and inland waterway ports where import, export, exit, entry and transit operation are carried out; inland ports of importation or exportation of goods;

b/ Head offices of Customs Sub-Departments;

c/ Places of centralized inspection under decisions of the General Director of Customs;

d/ Places of inspection at facilities or works; places where trade fairs or exhibitions are held;

dd/ Places of inspection at bonded warehouses, tax suspension warehouses and container freight stations;

e/ Places of joint inspection by Vietnam Customs and Customs Service of neighboring countries at the land border checkpoints;

g/ Other places decided by the General Director of Customs in case of necessity.

4. Competent agencies, or entities shall arrange places where customs formalities are conducting and depots of imported and exported goods when they make planning, design and construct land border checkpoints, international railway stations, international civil airports; seaports and inland waterway ports where import, export, exit, entry and transit activities; inland ports of importation or exportation of goods; economic zones, industrial parks, non-tariff zones and other places where import, export, exit, entry and transit activities are carried out meeting requirements of customs inspection and supervision in accordance with this Law.

**Article 23.** Time limit for customs authorities to carry out customs formalities

1. Customs authorities shall receive, register and verify customs documents right after customs declarants submit such dossiers in accordance with this Law.

2. After customs declarants satisfy all requirements for carrying out customs formalities prescribed at Points a and b, Clause 1, Article 21 of this Law, the time limit for customs officials to complete the verify dossiers and conduct physical inspection of goods and vehicle following the procedure below:

a/ Complete the verification of dossiers within 2 working hours after customs authorities receive complete customs documents;

b/ Complete the physical inspection of goods within 8 working hours after customs declarants fully produce goods to customs authorities. For goods subject to specialized inspection of quality, health, culture, animal quarantine, plant quarantine or food safety in accordance with corresponding regulations of law, the time limit for completion of physical inspection of goods shall be determined from the day on which specialized inspection results are given as prescribed.

For lots of goods in large quantities and of many types or in case the inspection is complicated, heads of customs authorities where customs formalities are carried out shall decide to defer the time limit for physical inspection of goods for within 2 days;

c/ The inspection of vehicle must ensure the timely loading and unloading of imported and exported goods, exit and entry of passengers and customs inspection and supervision in accordance with this Law.

3. The customs clearance must comply with Article 37 of this Law.

4. Customs authorities shall carry out customs formalities for goods on public holidays and weekends and overtime hours in order to ensure timely loading and unloading of imported and exported goods, exit and entry of passengers and vehicle or at the request of customs declarants and in conformity with practical conditions of customs operating locations.

#### **Article 24.** Customs document

1. A customs document comprises:

a/ A customs declaration or documentary evidence in substitution;

b/ Relevant documentary evidence.

As the cases may be, a customs declarant shall submit sale contract, commercial invoice, bill of lading, certificate of origin of goods, import or export permit, notice of specialized inspection results or exemption from specialized inspection, and documentary evidence related to goods as prescribed by corresponding regulations of law.

2. Documents in customs documents may be paper or electronic documents. Electronic documents must ensure the integrity and format prescribed in regulations of law on e-transactions.

3. Customs documents shall be submitted to customs authorities at their head offices.

In case of application of the national single-window mechanism, specialized regulatory bodies shall send import or export permits and notices of specialized inspection results or exemption from specialized inspection in the electronic form via the integrated communication system.

4. The Minister of Finance shall set the customs declaration form, use of customs declarations and documents in substitution of customs declarations, and cases in which relevant documents specified in Clause 1 of this Article must be submitted.

#### **Article 25.** Time limit for submission of customs documents

1. The customs declarations shall be submitted:

a/ After goods are transported to places notified by customs declarants and at least 4 hours before the exit of vehicle regarding to exported goods; , at least 2 hours before the exit of vehicle regarding exported goods delivered by express delivery services;

b/ Before goods arrive at border checkpoints or within 30 days after goods arrive at border checkpoints regarding to imported goods;

c/ As prescribed in Clause 2, Article 69 of this Law.

2. Customs declarations are valid for customs formalities within 15 days from the day on which they are registered.

3. The time limit for submission of relevant documents in customs documents:

a/ Regarding to e-customs declaration, when customs authorities conduct examination of customs documents and physical inspection of goods, customs declarants shall submit paper documents in customs documents, except documents which are already available in the national single- window communication system;

b/ Regarding to paper customs declarations, customs declarants shall submit relevant documents when registering their customs declarations.

#### **Article 26.** Classification of goods

1. Classification of goods aims to identify HS codes to serve as a basis for tax calculation and implementation of the goods management policy. The classification of goods must be based on customs documents, technical documents and other information related to imported and exported goods for identification of goods' names and HS codes according to the list of Vietnamese imports and exports.

2. The list of Vietnamese imports and exports consists of HS codes, names and descriptions of goods, units of calculation and attached explanations.

3. The list of Vietnamese imports and exports is made on the basis of full application of the International Convention on Harmonized Commodity Description and Coding System.

The Minister of Finance shall issue the list of Vietnamese imports and exports for uniform application nationwide.

4. According to the List of goods banned from import and export, the List of goods imported and exported under permits of competent regulatory bodies, and the List of goods subject to specialized inspection prescribed by the Government, the Minister of Finance shall promulgate HS codes consistent with headings in the list of Vietnamese imports and exports.

5. During a customs inspection, customs authorities shall determine HS codes according to customs documents, results of physical inspection or analysis and assessment of goods. In case

HS codes declared by customs declarants are rejected, customs authorities may take goods samples in the presence of customs declarants for analysis or requested assessment and decide HS codes of such goods. If customs declarants disagree with results of classification given by customs authorities, they may file complaints or lawsuits in accordance with law.

**Article 27.** Verification of origin of goods

1. Exported goods:

a/ Customs authorities shall verify the origin of exported goods based on the verification of customs declaration and documentary evidence in customs documents and results of physical inspection of goods;

b/ If case of doubt about the origin of exported goods, customs authorities shall request customs declarants to provide documents related to the origin of exported goods, and verify the origin of goods at production facilities. While awaiting the results of verification of goods, the exported goods may be granted clearance as prescribed in Article 37 of this Law.

2. Imported goods:

a/ Customs authorities shall inspect and verify the origin of imported goods based on customs declaration, certification of origin, documents in customs documents and results of physical inspection of goods. Certification of origin of imported goods must be issued by competent agencies of exporting countries or self-certified by manufacturers, exporters or importers under treaties to which the Socialist Republic of Vietnam becomes a party;

b/ In case of doubt about the origin of imported goods, customs authorities shall inspect and verify the origin of goods at manufacturing countries under treaties to which the Socialist Republic of Vietnam becomes a party. Results of origin inspection and verification are legally valid for verification of the origin of imported goods.

While awaiting the results of verification , the imported goods may be granted clearance as prescribed in Article 37 of this Law but be not entitled to particularly preferential duty rates. Official duty payable shall be based on results of verification of origin of goods.

3. The Minister of Finance shall stipulate procedures, competence and time limit for verification of the origin of goods.

**Article 28.** Predetermination of HS codes, origin and customs value of goods

1. In case customs declarants request customs authorities to predetermine HS codes, origin and customs value of goods to be imported or exported, they shall provide relevant information and documents and samples of goods to be imported or exported to customs authorities for predetermination of HS codes, origin and customs value of goods.

In case of failure to provide samples of goods to be imported or exported, customs declarants shall provide technical documents related to such goods.

2. According to regulations of law on good classification, origin and customs value and relevant information and documents provided by customs declarants, the Customs authorities shall predetermine HS codes, origin, and customs value of goods and notify in writing customs declarants of results of predetermination. In case of failure to predetermine at the request of customs declarants, customs authorities shall notify such to customs declarants or request customs declarants to provide additional documents.

3. Within 60 days after receiving notices of predetermination results, if customs declarants disagree with such results, they may request customs authorities to reconsider such results. Customs authorities shall reconsider predetermination results and notify them to customs declarants within regulated time limit.

4. Notices of predetermination results are legally valid for customs authorities to carry out customs formalities for goods are imported or exported in conformable with relevant information and documents and goods samples provided by customs declarants.

5. The Government shall specify conditions, formalities and time limit for prior identification of customs codes, origin and value; time limit for settlement of requests for reconsideration of prior identification results; and validity duration of documents on prior identification prescribed in this Article.

#### **Article 29.** Customs declaration

1. Customs declarants shall sufficiently, accurately and clearly fill all items in customs declarations.

2. Customs declaration shall be made electronically, except that customs declarants may fill in paper customs declarations as prescribed in regulations of the Government.

3. Registered customs declarations are valid for customs formalities. Policies on goods management and taxes on imported goods and exported goods are applied when the customs declaration forms are registered, unless otherwise provided by the law on import duty and export duty.

4. If a customs declarant found that the declaration contains errors, he/she may make an additional declaration in the following cases:

a/ For goods undergone customs formalities: Before the customs authority notifies the direct examination of the customs document;

b/ For goods granted clearance: Within 60 days from the date of customs clearance and before the day on which customs authority decides to conduct post-customs clearance inspection, unless



additional declaration are related to the import or export permit; specialized inspection in terms of quality, health, culture, animal quarantine, plant quarantine and food safety.

If customs declarants detect errors in their customs declarations when the time limit prescribed at Points a and b of this Clause has expired, they shall make additional declaration and their errors shall be handled in accordance with the laws on taxes and handling of administrative violations.

5. Customs declarants may submit incomplete declaration or documents in substitution of declaration for customs clearance and shall complete declaration forms within the time limit prescribed in Articles 43 and 50 of this Law, and may make a single customs declaration for multiple importation or exportation during a certain period of time for certain goods items.

6. For goods which are undergone customs formalities or for which customs formalities have been completed but which are still subject to customs supervision, customs declarants may change the form of importation or exportation in accordance with the law on customs.

### **Article 30.** Registration of customs declarations

1. Methods of registration of customs declarations are prescribed as follows:

a/ E-customs declarations shall be electronically registered;

b/ Paper-customs declarations shall be registered directly with custom offices.

2. Customs declarations may be registered after customs authorities accept the declaration of customs declarants. The registration date shall be stated in customs declarations.

In case the registration of customs declaration is rejected, customs authorities shall provide explanation in writing or by electronic method to customs declarants.

### **Article 31.** Grounds and competence for decision on customs inspection

According to results of risk analysis and assessment, and information relating to the goods, heads of customs authorities processing customs documents shall decide examination of customs documents and physical inspection of goods.

### **Article 32.** Verification of customs documents

When conducting the verification of customs documents, customs authorities shall compare the accuracy and adequacy between the customs declaration statements and their documentary evidence in customs documents, inspect the compliance with policies on goods management and taxes on imported and exported goods and other corresponding regulations of law.

The verification of customs documents shall be conducted through an e-customs data processing system or directly by customs officials.

**Article 33.** Physical inspection of goods

1. The following goods are exempted from physical inspection:

- a/ Goods used for urgent demands;
- b/ Goods exclusively used for national defense and security purposes;
- c/ Goods used for other special cases as decided by the Prime Minister.

2. If there is any violation is detected in goods as prescribed in Clause 1 of this Article, such goods shall be physically inspected.

3. For goods other than those as prescribed in Clause 1 of this Article, physical inspection shall be conducted based on the application of risk management.

4. Goods which are live animals or plants, hard to be preserved or other special goods shall be prioritized for inspection.

5. Physical inspection of goods may be conducted by customs officials manually or with the aid of machines, technical equipment or by other professional measures.

The physical inspection of goods shall be conducted in the presence of customs declarants or their legal representatives after customs declarations are registered and goods are transported to places of inspection, except the cases prescribed in Article 34 of this Law.

6. The physical inspection of goods at places for joint inspection by Vietnamese customs authorities and customs authorities of neighboring countries shall be conducted under agreements between Vietnam and these countries.

7. The Minister of Finance shall provide guidance on the physical inspection of goods.

**Article 34.** Physical inspection of goods in the absence of customs declarants

1. Heads of customs authorities in places where goods are retained shall decide and take responsibility for the physical inspection of goods in the absence of customs declarants in the following cases:

- a/ For security protection;
- b/ For hygiene and environmental protection;
- c/ Upon detection of law violation;
- d/ The customs declarants have not conducted customs formalities at the border checkpoint although the imported goods arrive over 30 days;

dd/ Other cases prescribed in regulations of law.

2. Physical inspection of goods in the absence of customs declarants shall be conducted in the following forms:

a/ Non – intrusive inspection;

b/ Inspection with technical equipment and other operational measures of customs authorities;

c/ Opening goods for direct inspection in the presence of representatives of the government authorities at the border checkpoint, the transportation enterprises and the enterprises trading ports and depots. An inspection record shall be made and signed by related parties.

**Article 35.** Responsibility for inspection of goods and vehicle in customs operating locations

1. Within their customs operating locations, customs authorities shall inspect goods and vehicle.

If it is required to carry out a specialized inspection related to quality, health, culture, animal and plant quarantine or food safety for goods and vehicle, customs authorities shall base themselves on the inspection results of specialized inspection agencies to decide on customs clearance.

2. Goods subject to specialized inspection shall be stored at border checkpoints until they are cleared from customs formalities. When goods are permitted to be brought to other places for specialized inspection as prescribed in regulations of law or when goods owners request to carry goods to their storage places for preservation, such storage places must satisfy customs supervision conditions and the goods shall be subject to customs supervision until they are cleared from customs formalities.

Goods owners shall preserve and store goods at places for specialized inspection or at their storage places until customs authorities decide customs clearance.

3. The time limit for specialized inspection of goods must comply with corresponding regulations of law. Specialized inspection agencies shall notify inspection results to customs authorities within 2 working days after the inspection results are available.

4. Heads of Customs Sub-Departments shall take charge, and cooperate with specialized inspection agencies at border checkpoints in, ensuring fast customs clearance for goods and vehicle.

**Article 36.** Release of goods

1. Release of goods means permission for the export or import of goods by customs authorities when the following requirements are fully satisfied:

a/ The goods fully meet the export or import requirements but the official payable tax amounts cannot be determined;

b/ The customs declarants have paid taxes or have their declared and calculated payable tax amounts guaranteed by a credit institution.

2. The time limit for determining the official payable tax amounts is within 30 days from the day on which the goods are released; for goods subject to assessment, this time limit shall be determined from the date of receipt of assessment results.

3. If the customs declarants disagree with payable tax amounts determined by customs authorities, they have rights to lodge complaints. The lodging and settlement of complaints must comply with the Law on Complaints.

### **Article 37.** Customs clearance for goods

1. Goods shall be cleared from customs formalities after such formalities are completed.

2. In case customs declarants have completed customs formalities, but have not paid or fully paid payable tax amounts within the regulated time limit, their goods may be cleared from customs formalities when they have such payable tax amounts guaranteed by a credit institution or enjoy a tax payment time limit in accordance with the tax law.

3. In case goods owners are fined by customs authorities or competent regulatory bodies for their customs-related administrative violations and their goods are permitted for export or import, such goods may be cleared from customs formalities if the goods owners have paid the fines or have their payable fines guaranteed by a credit institution for implementing the fining decisions.

4. For goods subject to inspection, analysis or assessment to determine whether or not they fully satisfy the export or import requirements, customs authorities shall permit customs clearance only after the goods are determined that to be eligible for export or import on the basis of inspection, analysis or assessment conclusions or inspection exemption notices of specialized inspection agencies in accordance with law.

5. Goods used for urgent requirements; goods exclusively used for security and defense purposes; and diplomatic bags, consular bags and luggage of agencies, organizations or individuals entitled to privileges or immunities shall be cleared from customs formalities under Articles 50 and 57 of this Law.

### **Article 38.** Objects, methods and duration of customs supervision

1. Objects of customs supervision include goods, vehicle and domestic vehicle which transport goods currently subject to customs supervision.

2. Customs supervision shall be conducted by the following methods:

a/ Customs sealing;

b/ Direct supervision by customs officials;

c/ Use of technical devices and equipment.

3. According to risk analysis and assessment results and other information relating to objects of customs supervision, customs authorities shall decide appropriate methods of supervision. When detecting law violation, customs authorities shall conduct physical inspection of goods.

4. Duration of customs supervision:

a/ Imported goods shall be subject to customs supervision from the day on which they arrive at customs operating locations until they are granted clearance, released and brought out of these areas;

b/ Exported goods exempt from physical inspection shall be subject to customs supervision from the day on which they are granted clearance until they are brought out of customs operating locations. Exported goods subject to physical inspection shall be subject to customs supervision from the day on which the physical inspection starts until the goods are brought out of customs operating locations;

c/ Goods in transit shall be subject to customs supervision from the day on which they arrive at the first border checkpoint of importation until they are brought out of the last border checkpoint of exportation;

d/ The duration of customs supervision applied to vehicle must comply with Article 68 of this Law.

#### **Article 39.** Responsibilities of customs authorities in customs supervision

1. Apply appropriate methods of supervision which facilitate export, import, exit, entry and transit activities and ensure customs management of goods in accordance with this Law.

2. Use technical devices and equipment ensuring customs supervision in accordance with this Law.

3. Guide and examine customs declarants, port, and depot operation enterprises, export producers and related parties in their observance of regulations on customs supervision.

#### **Article 40.** Responsibilities of customs declarants and commanders or drivers of vehicle in customs supervision

1. Comply with, and create requirements for customs authorities to conduct, customs supervision in accordance with this Law.

2. Preserve the original requirements and customs seals of goods; to transport goods according to routes, itineraries and time accepted by customs authorities. Customs declarants shall take responsibility for the loss, missing or damage of goods in accordance with law.

3. Use goods strictly according to the purposes declared to customs authorities.
4. Use vehicle meeting the prescribed requirements for customs authorities to apply appropriate methods of customs supervision.
5. Produce dossiers and goods to customs authorities for inspection upon request.
6. In *force majeure* events in which the original conditions or customs seals of goods cannot be maintained or goods are not transported according to proper routes, itineraries and time, after taking necessary measures to limit and prevent possible losses, customs authorities shall be immediately informed for handling; if unable to immediately notify the events to customs authorities, the public security agencies, border guards or coast guards shall be informed as appropriate for certification.

**Article 41.** Responsibilities of port and depot enterprises in customs supervision

1. Arrange places for installation of technical equipment and facilities serving customs supervision at the request of customs authorities.
2. Connect their goods management communication systems with customs authorities' e-customs clearance systems for managing goods currently subject to customs supervision which are brought in for storage or brought out of the areas of ports, depots.
3. Fully comply with regulations on management, statistics and archive of documents, books and data of goods brought in for storage or brought out of the areas of ports, depot, and produce and provide these documents, records and data to customs authorities upon request.
4. Provide information to, and cooperate with, customs authorities in monitoring, inspecting and supervising goods brought in, brought out or stored in the areas of ports, depots.
5. Preserve, arrange and store goods in their original requirements in the areas of ports, depots to meet supervision and management requirements of customs authorities.
6. Permit the transportation of goods in and out of the areas of ports, depot only when customs authorities' documents are available.
7. Comply with competent agencies' decisions on handling of violating goods.

**Section 2. PRIVILEGE GIVEN TO ENTERPRISES**

**Article 42.** Requirements for application of the privilege

1. An enterprise may enjoy the privilege when fully satisfying the following requirements:
  - a/ Strictly observe the customs and law on taxation for 2 consecutive years;

- b/ Earn an annual export and import value reaching the prescribed level;
- c/ Carry out e-customs formalities and e-tax formalities; have an information technology program for managing its export and import activities connected with the customs authority's network;
- d/ Make via-bank payment;
- dd/ Have its internal control system;
- e/ Strictly observe accounting and audit regulations.

2. Privileged enterprises in countries or territories that have signed with Vietnam agreements on mutual recognition of privileged enterprises may apply the privilege in accordance with this Law.

3. The Government shall specify requirements and formalities for recognition, extension, suspension, stoppage, privilege and management of enterprises entitled to the privilege.

**Article 43.** Privilege given to enterprises

- 1. Exemption from examination of relevant documentary evidence in customs documents and exemption from physical inspection of goods in the course of carrying out customs formalities, except cases in which law violation are detected or random inspection is needed to assess law compliance.
- 2. Follow customs formalities with incomplete customs declarations or documentary evidence in substitution of customs declarations. Within 30 days from the date of registration of incomplete customs declarations or submission of documentary evidence in substitution of customs declarations, customs declarants shall submit complete customs declarations and relevant documentary evidence in customs documents.
- 3. Be prioritized when carrying out tax formalities for goods in accordance with the law on taxation.

**Article 44.** Responsibilities of customs authorities giving the privilege

- 1. The General Director of Customs shall consider, recognize, extend, suspend or stop the application of the privilege given to enterprises.
- 2. Customs authorities shall:
  - a/ Examine, supervise and assess enterprises in law compliance;
  - b/ Provide enterprises with guidance on tax and customs policies and regulations.

**Article 45.** Responsibilities of enterprises entitled to the privilege

1. Annually provide customs authorities with audit reports and financial statements.
2. Comply with inspection and supervision regulations of customs authorities.
3. Notify customs authorities of competent agencies' decisions on handling of enterprises' violations against tax and accounting laws.

**Section 3. CUSTOMS INSPECTION AND SUPERVISION OF GOODS, PERSONAL BELONGINGS AND LUGGAGE**

**Article 46.** Customs inspection and supervision of goods temporarily imported

1. Customs formalities for temporary import and customs formalities for re-export shall be carried out at border checkpoint Customs Sub-Departments.
2. Customs inspection and supervision of goods temporarily imported are prescribed as follows:
  - a/ Goods temporarily imported shall be stored at border checkpoints or places subject to customs inspection and supervision;
  - b/ Goods temporarily imported shall be subject to customs inspection and supervision from the day on which customs formalities for temporary import are carried out until the goods are re-exported out of the Vietnamese territory; customs declarants or enterprises dealing in goods temporary import shall preserve temporarily imported goods throughout the period of storage in Vietnam and re-export such goods.
3. Temporarily imported goods shall be re-exported within the regulated time limit; temporarily imported goods which are not re-exported but used for domestic sale must go through customs formalities like imported goods.

**Article 47.** Customs inspection and supervision of goods sold at duty-free shops

1. Goods sold at duty-free shops must go through customs formalities at the Customs Sub-Departments managing these shops.
2. Customs inspection and supervision of goods sold at duty-free shops are regulated as follows:
  - a/ Goods sold at duty-free shops shall be stored at duty-free shops or warehouses of duty-free goods-selling enterprises which meet customs supervision requirements. The goods storage duration must not exceed 12 months from the day on which the customs formalities are completed. The head of the Customs Branch managing duty-free shops may grant a single extension within 12 months for cases with reasonable grounds;



b/ Goods sold at duty-free shops shall be subject to customs inspection and supervision from the time customs formalities are carried out until the goods are sold, exported or handled in accordance with law.

3. Goods temporarily imported for sale at duty-free shops which are used for domestic sale must go through customs formalities like imported goods.

**Article 48.** Customs inspection and supervision of temporarily imported or temporarily exported goods

1. Temporarily imported or temporarily exported goods include:.

a/ Means which are rotationally used for containing goods;

b/ Machinery, equipment and professional tools which are used in a specified duration;

c/ Machinery, equipment, means for construction, molds and models for manufacture or construction under hire or borrowing contracts;

d/ Components and parts imported by ship owners for replacement or repair of foreign seagoing ships and aircraft;

dd/ Goods for fairs, exhibitions or product displays;

e/ Other goods as prescribed.

2. Temporarily exported goods shall be re-imported and temporarily imported goods shall be re-exported within regulated time limits and must go through customs formalities.

3. Temporarily exported goods or temporarily imported goods under the same customs declaration may be re-imported or re-exported in different shipments under different re-import or re-export customs declarations.

4. Temporarily exported goods which are not re-imported or temporarily imported goods which are not re-exported but are sold, given as gifts or exchanged must go through customs formalities like exported or imported goods.

5. The Government shall provide guidance on this Article.

**Article 49.** Customs inspection and supervision of goods being gifts

1. Goods being gifts must go through customs formalities; for goods subject to conditional export or import, regulations on goods subject to conditional export or import shall be complied with.

It is prohibited to export or import goods being gifts in the list of goods banned from export or import.

2. Quotas for duty-exempt goods being gifts must comply with the law on taxation.

**Article 50.** Customs inspection and supervision of goods used for urgent requirements and goods exclusively used for security and defense purposes

1. Goods used for urgent requirements means goods serving the remedy of consequences of natural disasters or epidemics or goods to meet urgent relief requirements.

Goods used for urgent requirements shall be certified in writing by competent regulatory bodies.

Customs declarants may use incomplete customs declarations or documentary evidence in substitution of customs declarations for carrying out customs formalities. According to incomplete customs declarations or documentary evidence in substitution of customs declarations, customs authorities shall to decide whether to grant customs clearance for goods.

Within 30 days from the day on which the incomplete customs declarations are registered or documentary evidence in substitution of customs declarations is submitted, customs declarants shall submit the complete customs declarations and relevant documents in customs documents.

2. Goods exclusively used for security and defense purposes:

a/ Goods exclusively used for security and defense purposes shall be certified in writing by the Minister of National Defense or the Minister of Public Security; customs declarants may use incomplete customs declarations for carrying out customs formalities. According to incomplete customs declarations, customs authorities decide whether to grant customs clearance for goods

Within 30 days from the day on which of registration of incomplete customs declarations, customs declarants shall submit complete customs declarations and relevant documentary evidence in customs documents;

b/ Goods exclusively used for security and defense purposes which are subject to confidentiality requirements as certified in writing by the Minister of National Defense or the Minister of Public Security shall be exempted from customs declaration and physical inspection.

**Article 51.** Customs inspection and supervision of goods traded or exchanged by border residents

1. Goods traded or exchanged by border residents means goods serving daily-life and normal production activities of border residents of Vietnam and border residents of countries bordering on Vietnam.

2. Goods traded or exchanged by border residents are subject to customs inspection and supervision; with regard to places where customs authority is not available, such goods shall be subject to inspection and supervision by border guards in accordance with this Law.

**Article 52.** Customs inspection and supervision of goods exported or imported through post or express delivery services

1. Goods exported or imported through post or express delivery services must go through customs formalities and are subject to customs inspection and supervision.

2. International post service providers or express delivery service providers that are authorized to make customs declaration shall perform the responsibilities of customs declarants prescribed in Article 18 of this Law, and may transfer and deliver goods only after the goods are granted clearance.

**Article 53.** Customs inspection and supervision of personal belongings

Personal belongings of individuals, families or organizations must follow customs formalities and be subject to customs inspection and supervision.

Exporters or importers of goods being personal belongings must have documents proving their residence and operation in Vietnam or overseas.

**Article 54.** Customs inspection and supervision of luggage of persons on exit or entry

1. Luggage of persons on exit or entry is subject to customs inspection and supervision at border checkpoints.

2. Luggage of persons on exit or entry which exceeds duty-exempt quotas must go through customs formalities like exported or imported goods.

Persons on exit or entry may consign luggage in border checkpoint warehouses and receive them back upon entry or exit.

3. Quotas for tax-exempt luggage must comply with the law on taxation.

**Article 55.** Customs inspection and supervision of foreign currencies in cash, Vietnam dong in cash, negotiable instruments, gold, precious metals and gems of persons **on exit** or entry

1. Persons on exit or entry who carry foreign currencies in cash, Vietnam dong in cash, negotiable instruments, gold, precious metals and gems are subject to customs inspection and supervision.

2. Persons on entry who carry along foreign currencies in cash, Vietnam dong in cash, negotiable instruments, gold, precious metals and gems in excess of quotas prescribed by the State Bank of Vietnam shall make customs declaration at border checkpoints.

3. Persons on exit who carry along foreign currencies in cash, Vietnam dong in cash, negotiable instruments, gold, precious metals and gems in excess of quotas prescribed by the State Bank of Vietnam shall make customs declaration and produce papers at border checkpoints under regulations of the State Bank of Vietnam.

**Article 56.** Customs inspection and supervision of goods on vehicle

1. Goods being articles on vehicle are not required to follow customs formalities but are subject to customs inspection and supervision.
2. Goods purchased from vehicle on entry must follow customs formalities like imported goods.
3. Goods supplied to serve vehicle on exit or in transit must follow customs formalities like exported goods.

**Article 57.** Customs inspection and supervision of diplomatic bags, consular bags, luggage and vehicle of agencies, entities entitled to privileges or immunities

1. Privileges and immunities provided in this Law include privileges and immunities in customs declaration and inspection.
2. Diplomatic bags and consular bags are exempted from customs declaration and inspection.

Luggage and vehicle of entities entitled to privileges or immunities under regulations on privileges or immunities for Vietnam-based diplomatic missions, consulates and representative offices of international organizations are exempted from customs inspection.

3. When there are reasonable grounds that diplomatic bags or consular bags are misused for the purposes in contravention of a treaty on diplomatic relationships or consular relationships to which the Socialist Republic of Vietnam becomes a party, or when luggage or vehicle contain goods on the list of goods banned from import or export or goods ineligible for privileges or immunities, the General Director of Customs shall decide on the handling thereof in accordance with the provisions of such treaty.

**Article 58.** Customs inspection and supervision, handling of goods in stock

1. Stagnant goods are stored in ports, depots in customs operating locations, including:

a/ Goods that are declared by their owners to be abandoned or of which abandonment is proved by acts of their owners.

The abandonment of goods or an act taken by goods owners to prove the abandonment of goods which show violation of law is not accepted;

b/ Goods that have been imported for more than 90 days from the day on which their arrival at border checkpoints but left unclaimed;

c/ Goods collected by port and depot enterprises during the process of goods loading and unloading;

d/ Goods imported outside bills of lading or manifests but left unclaimed.

2. Where customs authorities have reasonable grounds to determine that the goods specified in Clause 1 of this Article are smuggled goods, such goods shall be handled in accordance with law.

3. The goods as prescribed in Points b, c, and d, Clause 1 of this Article which are left unclaimed shall be publicly announced in the mass media. Within 60 days from the day on which of public announcement, if goods owners come and claim such goods, they shall follow customs formalities and pay a fine in accordance with the law on handling of administrative violations. If such goods are left unclaimed, they shall be handled under Clause 6 of this Article.

4. The goods specified in Clause 1 of this Article which are perishable, frozen, toxic and dangerous chemicals and almost expired goods shall be promptly handled in accordance with this Law and other corresponding regulations of law.

5. Port and depot enterprises shall arrange ports, depots which satisfy the customs supervision requirements for storing goods in stock; and cooperate with competent agencies in handling stagnant goods under Clause 6 of this Article.

6. Stagnant goods shall be handled as follows:

a/ Customs authorities shall handle stagnant goods in accordance with law. In case of sale of goods in stock, proceeds from the sale shall be remitted into the state budget after subtracting sale expenses and retention at ports and warehouses at port and depot enterprises.

b/ For polluting goods, owners and drivers of vehicle or persons authorized by owners of vehicle shall transport such goods out of the Vietnamese territory. In case owners or drivers of vehicle or persons authorized by owners of vehicle are unidentifiable, customs authorities shall take charge, and cooperate with port and depot enterprises, local administrations and related agencies in, destroying such goods.

#### **Section 4. CUSTOMS INSPECTION AND SUPERVISION OF GOODS IMPORTED FOR EXPORT PROCESSING AND PRODUCTION**

**Article 59.** Responsibilities of customs authorities in customs inspection and supervision of goods imported for export processing and production

1. Goods being materials and supplies imported for export processing and production shall be subject to customs inspection and supervision from the importing date, during the process of production until products are exported or their use purposes are changed.

2. Customs authorities shall:

- a/ Inspect processing and production establishments, processing and production capability of entities importing materials and supplies for export processing and production;
  - b/ Inspect the use of imported materials and supplies in the export processing and production process and quantity of stagnant goods of entities engaged in export processing and production;
  - c/ Inspect the finalization, management and use of materials and supplies of entities importing materials and supplies for export processing and production;
3. Customs inspection and supervision prescribed in this Article shall comply with the risk management rule.

**Article 60.** Responsibilities of entities engaged in export processing and production

- 1. Notify customs authorities of export processing and production establishments.
- 2. Use materials and supplies imported for the export processing and production purpose. In case the use purpose is changed, to follow customs formalities in accordance with this Law.
- 3. Store exported goods, materials and supplies used for export processing and production in production areas. In case of storage outside production areas, approval of customs authorities is required.
- 4. Fully comply with regulations on management, accounting, statistics and archive of documents, books and data on goods brought into or out of processing and production establishments; to produce books, documents and goods to customs authorities for inspection.
- 5. Make finalization reports on management and use of imported materials and supplies and exported goods in accordance with the law on customs.

**Section 5. CUSTOMS INSPECTION AND SUPERVISION OF GOODS IN BONDED WAREHOUSES, TAX SUSPENSION WAREHOUSES AND CFSS**

**Article 61.** Goods stored in bonded warehouses, tax suspension warehouses and CFSS

- 1. Goods shall be stored in bonded warehouses within 12 months from the date of their consignment. In case of having reasonable grounds, directors of Customs Departments in charge of managing bonded warehouses may extend this time limit once for not more than 12 months.
- 2. The time limit for storing materials and supplies in tax suspension warehouses for export production is 12 months from the date of their consignment. In case of having reasonable grounds according to requirement of the production process, heads of Customs Sub-Departments in charge of tax suspension warehouses may grant an extension for the time limit. The extension must be conformable with the production cycle.

3. Goods brought into CFSs include imported goods which have not been granted clearance, exported goods which have been granted clearance or exported goods for which customs declarations have been registered but physical inspection will be conducted at CFSs.

Goods shall be stored in CFSs within 90 days from the day on which they are brought into such CFSs. For reasonable grounds, heads of Customs Sub-Departments managing CFSs may extend the time limit once for not more than 90 days.

**Article 62.** Requirements for establishment of bonded warehouses, tax suspension warehouses and CFSs

1. Bonded warehouses and CFSs shall be established in areas that are home to:

a/ Seaports, international civil airports, inland import and export ports, land border checkpoints, international railway stations;

b/ Industrial parks, hi-tech parks, non-tariff zones and other zones as prescribed.

2. Tax suspension warehouses shall be established in workshop's area of export production enterprises.

3. The General Director of Customs have entitlement to decide to establish, extend the operation duration, suspend and terminate the operation of bonded warehouses, tax suspension warehouses and CFSs.

4. The Government shall provide guidance on the establishment and operation of bonded warehouses, tax suspension warehouses and CFSs.

**Article 63.** Rights and obligations of enterprises dealing in bonded warehouse or CFSs, CFS providers, goods owners and owners of tax suspension warehouses

1. Enterprises dealing in bonded warehouses and owners of goods stored in bonded warehouses have the following rights and obligations:

a/ Enterprises dealing in bonded warehouses may perform contracts on storing goods in their bonded warehouses and move the goods in their bonded warehouses according to agreements with goods owners.

Enterprises dealing in bonded warehouses shall comply with requests of customs authorities for goods inspection. Once every three months, enterprises dealing in bonded warehouses shall notify in writing Customs Departments in charge of bonded warehouses of actual requirements of the goods and the operation of the bonded warehouses.

b/ Goods owners may consolidate packing, categorize goods or take goods samples under the supervision of customs officials and may transfer the ownership of such goods. The transfer of

goods from one bonded warehouse to another must be approved in writing by directors of Customs Departments in charge of bonded warehouses where such goods are stored.

2. Owners of tax suspension warehouses have the following rights and obligations:

a/ Store goods being materials and supplies imported for export production;

b/ Arrange, re-pack and move the goods in the tax suspension warehouses;

c/ Notify in advance customs authorities of tentative plans for bringing materials and supplies from tax suspension warehouses to production;

d/ Notify in writing Customs Departments in charge of tax suspension warehouses of the actual requirements of the goods and the operation of their tax suspension warehouses once every three months;

dd/Make a general list of import customs declarations and the total quantity of materials and supplies that have been brought into tax suspension warehouses and a general list of export customs declarations and the total quantity of exported goods in the previous year and send them to Customs Departments in charge of tax suspension warehouses not later than January 31 every year.

3. Goods owners, enterprises dealing in CFSs and CFS providers have the following rights and obligations:

a/ Goods owners may transfer of the ownership of the goods, pack, re-pack, consolidate, repair and preserve goods;

b/ CFS providers may break bulk or load shipments of different owners in the same container, arrange or re-arrange stored goods;

c/ Once every three months, enterprises-dealing in CFSs shall notify in writing Customs Departments in charge of CFSs of the actual requirements of the goods and their operation.

4. Enterprises dealing in bonded warehouses, enterprises dealing in CFSs and owners of tax suspension warehouses shall comply with regulations on accounting and statistics, be equipped with technical means and equipment to manage goods electronically and connected to customs authorities' network for customs inspection and supervision in accordance with this Law.

5. Enterprises dealing in bonded warehouses, enterprises dealing in CFSs, CFS providers, owners of tax suspension warehouses and goods shall comply with the law on operation of bonded warehouses, tax suspension warehouses and CFSs.

## **Section 6. CUSTOMS FORMALITIES, INSPECTION AND SUPERVISION OF GOODS TRANSPORTED UNDER CUSTOMS SUPERVISION**



**Article 64.** Customs formalities for goods transported under customs supervision

1. Goods transported under customs supervision include transited goods and goods transported from border checkpoint to border checkpoint.
2. When transporting goods subject to customs supervision, customs declarants shall complete goods transportation declaration forms; submit the documents specified at Point b, Clause 1, Article 24 of this Law.
3. Customs authorities shall receive goods transportation declaration forms, check documents and goods produced by customs declarants to decide to permit the transportation of goods subject to customs supervision.
4. In the course of transporting goods under customs supervision, if customs declarants wish to transship, warehouse or divide shipments, change the transportation mode or perform other jobs, they shall notify such to customs authorities and obtain their approval before implementation. Customs authorities shall reply within two hours after receiving customs declarant's notices.

**Article 65.** Transportation routes and duration

1. Goods under customs supervision must be transported along proper routes, through proper border checkpoints and within proper time limit.
2. Routes for transportation of transited goods are prescribed in regulations of the Minister of Transport.
3. Routes for transportation of goods from border checkpoint to border checkpoint are registered by customs declarants and accepted by customs authorities that receive and process customs documents.

**Section 7. CUSTOMS FORMALITIES, INSPECTION AND SUPERVISION OF VEHICLE**

**Article 66.** Notification of information on vehicle

Owners and drivers of vehicle, persons authorized by owners of vehicle or persons issuing bills of lading shall directly notify customs authorities or via the national single-window communication system of imported and exported goods and passengers on exit or entry aboard vehicle before their entry or exit.

**Article 67.** Customs clearance places for vehicle

Vehicle on exit or entry must go through border checkpoints.

Vehicle on entry must undergo customs formalities at the first entry border checkpoint. Vehicle on exit must undergo customs formalities at the last border checkpoint for exit.

**Article 68.** Routes and duration subject to customs supervision for vehicle

1. Foreign commercial vehicle on entry, exit or in transit must go along the proper routes, be subject to customs supervision from day on which they arrive at customs operating locations, during their movement and to the day on which they leave the Vietnamese territory.
2. Vietnamese commercial vehicle on entry must be subject to customs supervision from the day on which they arrive at customs operating locations to day on which all imported goods carried by the vehicle are unloaded for import procedure completion.

Vietnamese commercial vehicle on exit must be subject to customs supervision from the day on which the exported goods are loaded to the day on which they leave the Vietnamese territory.

3. Non-commercial vehicle on entry, exit or in transit must be subject to customs inspection and supervision when carrying out customs formalities at entry or exit border checkpoints or other places as prescribed.
4. When there are reasonable grounds that smuggled goods are hidden on board vehicle and there are other signs of law violation, heads of customs authorities where customs formalities for vehicle are carried out, heads of customs control squads may decide to temporarily postpone the departure or stop the vehicle for search. Such search must comply with law and decision issuers shall take responsibility before law for their decisions.

**Article 69.** Customs formalities for vehicle

1. When carrying out customs formalities for vehicle, owners and drivers of vehicle or persons authorized by owners of vehicle shall make customs declaration; submit or produce bills of lading for carrying out customs formalities; supply information and documents related to goods and items on vehicle.

Where relevant documents have satisfied requirements of the customs inspection, owners and drivers of vehicle or persons authorized by owners of vehicle are not required to fill in the customs declarations, except for baggage, imported or exported goods of people on exit or entry aboard their vehicle.

2. Time limits for declaration and submission of customs declarations and relevant documents are prescribed as follows:

a/ For vehicle in transit, immediately after their arrival at the first entry border checkpoint and before they go through the last border checkpoint for exit;

b/ For seagoing vehicle on entry, within 2 hours after the port authorities announce that these vehicle have arrived at the places for pilot embarkation; for seagoing vehicle on exit, within 1 hour before they exit;

c/ For air vehicle on exit or entry, immediately after their arrival at the border checkpoint and before carriers stop carrying out formalities for receiving exported goods and passengers on exit;

d/ For railway, land and river way vehicle on exit or entry, immediately after their arrival at the first entry border checkpoint and before they go through the last border checkpoint for exit.

3. Military vehicles and other vehicle used for national defense and security purposes must go through customs formalities and be subject to customs inspection and supervision.

4. The Government shall stipulate customs formalities and customs inspection and supervision of vehicle.

**Article 70.** Transshipment, carriage transfer, carriage detachment, loading and unloading of goods and baggage aboard vehicle

The transshipment, carriage transfer, carriage detachment, loading and unloading of goods and baggage aboard vehicle which are subject to customs inspection and supervision may be conducted when obtaining approval of customs authorities.

Goods handled through transshipment, carriage transfer and carriage detachment must have their packing, boxes and parcels kept intact.

**Article 71.** International transportation combined with domestic transportation, domestic transportation combined with transportation of imported and exported goods

1. Vehicle used for international transportation may be used for domestic goods transportation, if they are permitted by competent regulatory bodies and satisfy customs supervision requirements regulated by the Minister of Finance. 2. Vehicle used for domestic transportation may also be used for transportation of imported and exported goods subject to customs supervision, if they are permitted by competent regulatory bodies and satisfy customs supervision requirements regulated by the Minister of Finance.

**Article 72.** Responsibilities of heads at airports, seaports and international railway stations

Heads of competent agencies and organizations at airports, seaports and international railway stations shall notify customs authorities of arrival and departure times and stop places of seagoing ships, aircraft and international transportation trains; and time for goods loading onto and goods unloading from seagoing ships, aircrafts and international transportation trains.

## **Section 8. INSPECTION, SUPERVISION, POSTPONEMENT OF CUSTOMS FORMALITIES FOR IMPORTED AND EXPORTED GOODS UPON REQUEST FOR PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

**Article 73.** Principles of inspection, supervision and postponement of customs formalities

1. Holders of intellectual property rights protected in accordance with the law on intellectual property have the right to request customs authorities to apply inspection and supervision methods or postpone customs formalities for imported and exported goods showing signs of intellectual property right infringement.
2. Customs authorities may decide to postpone customs formalities for imported or exported goods when intellectual property rights holders or legally authorized persons make written requests and show evidence of their lawful holding of intellectual property rights and evidence of infringements thereupon and have paid a deposit or produced documents on guarantee by credit institutions as security for payment of damage compensation and expenses as prescribed which may arise due to wrong requests for postponement of customs formalities.
3. Provisions on postponement of customs formalities for imported and exported goods showing signs of intellectual property right infringement as prescribed in this Law are not applicable to humanitarian aid goods, personal belongings, goods eligible for privileges and immunities, baggage, donations and gifts within the duty-free quota and transited goods.

**Article 74.** Formalities for requesting customs inspection and supervision and postponement of customs formalities

1. An intellectual property rights holder may directly or through legally authorized persons send his written requests to customs authorities for customs inspection and supervision or temporary suspension of customs formalities for imported and exported goods showing signs of intellectual property right infringement.

2. In case of request for customs inspection and supervision, the intellectual property rights holder or legally authorized person shall pay charges and fees prescribed by the law on charges and fees and provide customs authorities with the following materials:

a/ A written request; written authorization in case of authorized submission of request;

b/ A copy of protection title for industrial property rights or another materials proving industrial property rights which are currently protected in Vietnam or a copy of the certificate of registration of industrial property licensing contract; a copy of the certificate of registration of copyright, copyright-related rights or rights to plant varieties or another materials proving copyright, copyright-related rights or rights to plant varieties;

c/ A detailed description of intellectual property right-infringing goods, photos and characteristics for distinguishing genuine goods from intellectual property right-infringing goods;

d/ A list of lawful importers or exporters of goods requiring supervision; a list of persons likely to export or import intellectual property right-infringing goods.

The time limit for application of customs inspection and supervision measures for goods requiring protection of intellectual property rights is 2 years from the day on which the customs

authority accepts the request of the intellectual property rights holder. This time limit may be granted extension for another 2 years but must not exceed the duration of protection of the concerned intellectual property subject matter in accordance with the Law on Intellectual Property.

3. In case of requesting postponement of customs formalities, the intellectual property rights holder or legally authorized person shall provide the customs authority with the materials as prescribed in Clause 2 of this Article and pay a sum of money or submit documents on guarantee by a credit institution equal to 20% of the value of the goods shipment in the contract or at least VND 20 million if the value of the suspected infringing goods shipment is not identified to pay damage compensation and expenses as prescribed which may arise due to wrong request for postponement of customs formalities.

**Article 75.** Receipt and handling of written requests for customs inspection and supervision and postponement of customs formalities

1. Place where written requests are receipt:

a/ Customs Sub-Department shall receive written requests for postponement of customs formalities;

b/ The General Department of Customs shall receive written requests for customs inspection and supervision.

2. Customs authorities shall notify in writing requesters of the acceptance of requests or refusal to accept requests within the following time limits:

a/ Within 20 days after receiving sufficient materials as prescribed in Clause 2, Article 74 of this Law.

b/ Within 2 working hours after receiving sufficient materials as prescribed in Clause 3, Article 74 of this Law.

In case of refusal to accept request, customs authorities shall issue written replies, clearly stating reasons.

**Article 76.** Procedures for postponement of customs formalities

1. Procedures for postponement of customs formalities for requesters whose inspection and supervision requests are accepted by customs authorities shall be carried out as follows:

a/ When detecting shipments which show signs of intellectual property right infringement, the customs authority shall postpone customs formalities and promptly notify such in writing to the requester;

b/ Within 3 working days after receiving the customs authority's notice, if the requester does not require postponement of customs formalities, the customs authority shall continue carrying out customs formalities under regulations.

In case the requester requires postponement and pays a deposit and submits a document on guarantee as prescribed in Clause 3, Article 74 of this Law, the customs authority shall decide to postpone customs formalities.

2. In case intellectual property rights holders make requests for postponement of customs formalities for goods showing signs of intellectual property right infringement but make no written request for customs inspection and supervision, customs authorities shall decide to postpone customs formalities if the requirements prescribed in Clause 3, Article 74 of this Law are satisfied.

3. The time limit for postponement of customs formalities is 10 working days from the day on which the customs authority issues the decision. In case the requester has a plausible reason for postponement, this time limit may be extended but must not exceed 20 working days, provided the requester pays an additional sum of money or submits an additional document on guarantee as prescribed in Clause 3, Article 74 of this Law.

4. Upon expiration of the postponement duration as prescribed in Clause 3 of this Article, if the requester for postponement of customs formalities initiates no civil lawsuit and the customs authority decides not to handle the case according to formalities for handling of administrative violations, the customs authority shall continue carrying out customs formalities for the shipment.

In case the requester for postponement of customs formalities withdraws the request and the customs authority decides not to handle the case according to formalities for handling of administrative violations before the expiration of the temporary suspension duration, the customs authority shall immediately continue carrying out customs formalities for the shipment.

5. Intellectual property rights holders or legally authorized persons shall pay to goods owners arising expenses for warehousing, loading, unloading and preservation of goods due to wrong requests for postponement of customs formalities.

6. Customs authorities shall refund security amounts to intellectual property rights holders or legally authorized persons after the latter have fulfilled their obligation to pay arising expenses and damage compensations under decisions of customs authorities or competent agencies.

7. The time limit for tax payment (if any) is determined from the day on which the customs authority decides to continue carrying out customs formalities for the shipment.

## **Section 9. POST-CUSTOMS CLEARANCE INSPECTION**

**Article 77.** Post-customs clearance inspection

1. Post-customs clearance inspection means inspection carried out by customs authorities of customs documents, accounting books and documents and goods-related documents and data; and a physical inspection of goods where necessary and requirements which are required to meet after such goods are granted clearance.

Post-customs clearance inspection aims to assess the accuracy and truthfulness of documents and dossiers that are declared, submitted and produced by customs declarants to customs authorities; and observance by customs declarants of the law on customs and other laws related to the management of imported and exported goods.

2. Post-customs clearance inspection shall be carried out at customs authorities or premises of customs declarants.

Premises of customs declarants include their head offices, branches, stores and goods production and preservation establishments.

3. The time limit for post-customs clearance inspection is 5 years from the day on which of customs declaration registration.

#### **Article 78.** Cases of post-customs clearance inspection

1. Inspection in case there are violation of the law on customs and other laws relevant to the management of imported and exported goods.

2. In cases other than those as prescribed in Clause 1 of this Article, post-customs clearance inspection shall be carried out based on the application of risk management.

3. Inspection of law observance by customs declarants.

#### **Article 79.** Post-customs clearance inspection at customs authorities

1. Directors of Customs Departments or heads of Customs Sub-Departments shall issue decisions on post-customs clearance inspection, request customs declarants to provide commercial invoices, bills of lading, goods purchase and sale contracts, certificates of origin of goods, payment documents, dossiers and technical documents of goods related to dossiers under inspection and explain relevant contents.

The inspection duration is determined in the inspection decision provided that it is not more than 5 working days.

2. A decision on post-customs clearance inspection must be sent to the customs declarant within 3 working days from the day on which of it is signed and at least 5 working days before the inspection is conducted.

The customs declarant shall explain and provide documents and documentary evidence related to the dossier under inspection at the request of the customs authority.

In the course of inspection, the customs declarant may explain and additionally provide customs document-related information and documents.

3. The handling of inspection results is regulated as follows:

a/ If provided information and documentary evidence and explained statements prove that customs declaration contents are correct, the customs document is accepted;

b/ If nothing proves that customs declaration contents are correct or the customs declarant fails to provide documents and documents and give explanations according to inspection requirements, the customs authority shall decide on handling in accordance with the laws on taxes and on handling of administrative violations.

4. Within 5 working days after an inspection is completed, the inspection decision issuer shall sign and send the notice of inspection results to the customs declarant.

**Article 80.** Post-customs clearance inspection at premises customs declarants

1. Competence to make a decision on post-customs clearance inspection:

a/ The General Director of Customs and Director of the Department for Post-Customs Clearance Inspection shall make a decision on post-customs clearance inspection nationwide;

b/ Directors of Customs Departments shall make a decision on post-customs clearance inspection in localities under their management.

In case of inspection of enterprises which are not located in administrative divisions under their management, Customs Departments shall report to the General Department of Customs for consideration and assignment of other units to conduct inspection.

The inspection and assessment of law observance of customs declarants must comply with annual post-customs clearance inspection plans promulgated by the General Director of Customs.

2. Duration of post-customs clearance inspection:

a/ The duration of post-customs clearance inspection shall be determined in the inspection decision provided that it is not more than 10 working days. The inspection duration is determined from the day on which the inspection begins. In case the scope of inspection is large and matters are complicated, the inspection decision issuer may grant an extension of the inspection duration once for not more than 10 working days.

b/ The decision on post-customs clearance inspection must be sent to the customs declarant within 3 working days from the day on which it is signed and within 5 working days before the inspection is conducted, except the cases as prescribed in Clause 1, Article 78 of this Law.



3. Order and formalities for post-customs clearance inspection:

a/ Announce the post-customs clearance, inspection decision before the inspection is conducted;

b/ Compare declared statements with accounting books and documents, financial statements, related documents and actual requirements of imported and exported goods within the scope and content of the post-customs clearance inspection decision;

c/ Make a written record of post-customs clearance inspection within 5 working days after the inspection is concluded;

d/ Within 15 working days after the inspection is concluded, the inspection decision issuer shall sign the inspection conclusion and send it to the customs declarant. In case the inspection conclusion requires expert opinions of a competent agency, the time limit for signing the inspection conclusions is determined from the day on which the competent agency gives its opinions. Competent professional agencies shall give their opinions within 30 days from the date of receiving requests of customs authorities;

dd/ Handling according to the competence of customs officials or transferring the case to a competent authority for handling according to inspection results.

4. If customs declarants fail to abide by inspection decisions, explain and provide documents and documents within the prescribed time limit to customs authorities, customs authorities shall base themselves on collected and verified documents and materials to make a decision on handling in accordance with the laws on taxes and handling of administrative violations or conduct specialized inspection in accordance with law.

**Article 81.** Tasks and entitlements of customs officials in post-customs clearance inspection at premises customs declarants

1. The General Director of Customs, the Director of the Department for Post-Customs Clearance Inspection and Directors of Customs Departments have the following tasks and entitlements:

a/ Issue inspection decisions and set up inspection teams;

b/ Extend the inspection duration where necessary;

c/ Issue inspection conclusions; handle inspection results; make a decision on handling in accordance with the laws on taxation and handling of administrative violations or propose competent persons to make a decision on handling in accordance with law;

d/ Settle complaints and denunciations in accordance with law.

2. Heads of inspection teams have the following tasks and entitlements:

- a/ Organize and direct their team members to conduct inspection with contents, subjects and within time limits in inspection decisions;
- b/ Request customs declarants to provide information, documents and written explanations about issues related to inspection contents, produce goods for inspection when necessary and requirements permit;
- c/ Make written records of, and report to competent authorities for handling on, custom declarants' acts of failing to abide by, obstructing or delaying the implementation of inspection decisions;
- d/ Temporarily seize and seal documents and material evidence in case customs declarants show signs of dispersal and destruction of documents and material evidence related to law violations;
- dd/ Make and sign written records of inspection;
- e/ Report on inspection results to inspection decision issuers and take responsibility for the accuracy, truthfulness and objectiveness of their reports.

3. Inspection team members have the following tasks and entitlements:

- a/ Perform tasks assigned by inspection team heads;
- b/ Report on results of performance of their assigned tasks to inspection team heads; to be held responsible before law and inspection team heads for the accuracy, truthfulness and objectiveness of their reports;
- c/ Make and sign written records of inspection as assigned by inspection team heads.

**Article 82.** Rights and obligations of customs declarants in post-customs clearance inspection

1. Exercise the rights and fulfill the obligations as prescribed in Article 18 of this Law.
2. Promptly, fully and accurately provide documents as required and take responsibility for the accuracy and truthfulness of such documents.
3. Refuse to provide information and documents irrelevant to inspection contents or information and documents involved in state secrets, unless otherwise provided by law.
4. Receive written inspection conclusions and request explanations about inspection conclusions; to reserve their opinions in written inspection conclusions.
5. Request inspection team heads to produce inspection decisions, customs identity cards in case of post-customs clearance inspection at head premises of customs declarants.

6. Comply with requests for post-customs clearance inspection and appoint competent persons to work with customs authorities.
7. Explain related issues at the request of customs authorities.
8. Sign written records of inspection.
9. Abide by handling decisions of customs authorities and competent agencies.

#### **Chapter IV**

### **COLLECTION OF TAXES AND OTHER AMOUNTS PAYABLE ON IMPORTED AND EXPORTED GOODS**

**Article 83.** Responsibilities of customs declarants for declaration, calculation and payment of taxes and other amounts payable

1. Declare and calculate taxes in an accurate, truthful and complete manner and on time and take responsibility for their tax declaration and calculation.
2. Pay taxes and other amounts payable in full and on time in accordance with the laws on taxes, charges, and fees and other corresponding regulations of law.
3. Comply with decisions of customs authorities on taxes and other amounts payable in accordance with the laws on taxes, charges and fees and other corresponding regulations of law.

**Article 84.** Responsibilities of customs authorities for collection of taxes and other amounts payable

1. The General Department of Customs shall organize the collection of taxes and other amounts payable on imported and exported goods; and apply measures to ensure the correct and full collection of taxes and other amounts payable in accordance with the laws on taxes, charges and fees and other corresponding regulations of law.
2. Customs authorities that carry out formalities for imported and exported goods shall, within their competence, examine the tax declaration and calculation; effect tax exemption, reduction, refund, non-collection, assessment, payment time limit prolongation, and writing-off of arrears and late-payment fines payable by customs declarants; collect taxes and other amounts payable and manage tax payment.

**Article 85.** Determination of tax rates, time of tax calculation, time limits of tax payment for imported and exported goods

According to HS codes and tax policies applicable to imported and exported goods, the determination of tax rates for imported and exported goods shall be effective at the time of tax calculation.

The time of tax calculation and time limits for tax payment for imported and exported goods shall comply with the law on taxation.

**Article 86.** Customs value

1. Customs value is used as a basis for the calculation of import and export duties and making of statistics on imported and exported goods.
2. Customs value of exported goods means selling prices of such goods when they arrive at border checkpoints of exportation, excluding international insurance cost and freight.
3. Customs value of imported goods means payable actual prices determined when they arrive at the first border checkpoint of importation in compliance with Vietnamese law and treaties to which the Socialist Republic of Vietnam becomes a party.
4. The exchange rate for tax calculation means the exchange rate between Vietnam dong and a foreign currency announced by the State Bank of Vietnam at the time of tax calculation. In case the State Bank of Vietnam fails to announce the exchange rate at the time of tax calculation, the last announced exchange rate applies.
5. The Government shall provide guidance on this Article.

**Chapter V**

**TACKLING OF SMUGGLING AND ILLEGAL CROSS-BORDER TRAFFICKING OF GOODS**

**Article 87.** Tasks of customs authorities in the tackling smuggling and illegal cross-border trafficking of goods

1. Within the area of competence, customs authorities shall organize the performance of the task of tackling smuggling and illegal cross-border trafficking of goods.
2. Customs authorities may set up full-time units to perform the task of tackling and illegal cross-border trafficking of goods.

**Article 88.** Scope of responsibility to tackle smuggling and illegal cross- border trafficking of goods

1. Within their customs operating locations customs authorities shall conduct customs inspection, supervision and control of goods and vehicle to take the initiative in tackling smuggling and illegal cross-border transportation of goods.

In case agencies, organizations or individuals detect acts of smuggling or illegal cross- border transportation of goods while goods and carrying vehicles have not been taken out of custom

operation areas, they shall immediately report such to customs authorities for inspection and handling.

In case there are reasonable grounds that goods are smuggled or illegally transported across the border or carrying vehicles are moving out of customs operating locations, customs authorities shall continue pursuing them and notify such to police offices, border guards, marine police officers and market managers in their localities for cooperation and concurrently apply measures to prevent and handle them in accordance with law. The halt and pursuit of foreign vehicles traveling in Vietnam's sea areas comply with the Law on Sea Areas of Vietnam.

2. In case related regulatory bodies have reasonable grounds that smuggling or illegal cross-border trafficking of goods is committed while goods or carrying vehicles have been taken out of customs operating locations, they shall, within their competence, inspect and handle such acts in accordance with law. Customs authorities shall cooperate with related regulatory bodies in applying measures to tackle smuggling and illegal cross-border transportation of goods.

3. For goods subject to customs supervision which are transported on routes, customs authorities shall apply customs measures in supervision. When detecting law violations, customs authorities shall take charge, and cooperate with related regulatory bodies in, inspecting and handling violations in accordance with law.

4. In internal waters, territorial waters and contiguous zones, customs authorities shall cooperate with one another in conducting patrol and control activities to prevent smuggling and illegal cross-border transportation of goods, apply measures to prevent and handle violations according to their competence in internal waters and territorial waters in accordance with the Law on Sea Areas of Vietnam.

5. People's Committees shall direct the cooperation among customs authorities and other related regulatory bodies in localities in performing the task of tackling smuggling and illegal cross-border transportation of goods.

6. The Government shall provide guidance on customs control measures and responsibility to cooperate with customs authorities in tackling smuggling and illegal cross-border trafficking of goods.

**Article 89.** Competence of customs authorities for the application of measures to tackle smuggling and illegal cross-border trafficking of goods

1. Organize forces, set up databases, apply necessary customs control measures, collect customs operation-related information at home and abroad so as to actively tackle smuggling and illegal cross-border trafficking of goods, and serve customs clearance for goods and post-customs clearance inspection; cooperate with related agencies in keeping secret providers of information on cases of smuggling and illegal cross-border trafficking of goods in accordance with law.

2. Conduct customs control of goods and vehicle; to take charge, and cooperate with related regulatory bodies in, carrying out activities of tackling smuggling and illegal cross-border trafficking of goods within customs operating locations.

When conducting customs control of goods and vehicle in customs operating locations, customs authorities may apply patrol, investigation and verification or other professional measures in accordance, with this Law and the laws on handling of administrative violations, criminal procedure and organization of criminal investigations.

3. Request related agencies, entities to provide information and materials to serve inspection, supervision and verification of acts of smuggling and illegal cross-border trafficking of goods.

4. Request postal and express mail service providers to open postal parcels and goods exported or imported by mail or via express mail service for inspection when there are reasonable grounds that such postal parcels and goods contain materials and items related to smuggling and illegal cross-border trafficking of goods.

5. Use banners, flashlights, flares, whistles and loudspeakers; to use weapons and supporting tools in accordance with the law on management and use of weapons, explosives and supporting tools.

6. Apart from customs operating locations, customs authorities shall coordinate and conduct customs control activities to tackle smuggling and illegal cross-border trafficking of goods in accordance with law.

**Article 90.** Competence of customs authorities and customs officials in handling smuggling and illegal cross-border trafficking of goods

1. Handle administrative violations, apply preventive measures and ensure the handling of administrative violations in accordance with the law on handling of administrative violations.

In case they have reasonable grounds that there are acts of smuggling or illegal cross- border transportation of goods, heads of Customs Sub-Departments, heads of control squads under Customs Departments, heads of anti-smuggling control squads and marine control flotillas under the Anti-Smuggling Investigation Department are competent to halt vehicle, temporarily hold people in custody and escort violators in accordance with the Law on Handling of Administrative Violations.

2. When detecting acts of violation of the law on customs which are serious enough to be examined for penal liability, customs authorities and officers competent to initiate criminal cases and lawsuits against the accused shall conduct investigation activities in compliance with the laws on criminal procedure and organization of criminal investigation.

3. When carrying out activities prescribed in this Article, customs authorities and customs officials shall be held responsible before law for their decisions.

**Article 91.** Rights and obligations of related entities in the tackling smuggling and illegal cross-border trafficking of goods

1. In the tackling smuggling and illegal cross-border trafficking of goods, related entities have the rights to:

a/ Provide information, documents, materials and evidence relating to cases of violation to customs authorities; request customs authorities to solicit expert examination to protect their rights and lawful interests;

b/ Have their privacy and life protected and enjoy preferential treatment as provided by law when providing information, reporting or denouncing smuggling or illegal cross-border trafficking of goods.

2. In the tackling smuggling and illegal cross-border trafficking of goods, related entities have the obligations:

a/ Drivers and people on board vehicles shall obey orders to stop their vehicle, to be searched and produce papers, documents and materials at the request of customs officials. Vehicle operators shall provide diagrams of cargo holds and instructions or open places where goods are doubtfully hidden on vehicles for search by customs officials;

b/ Credit institutions and insurance businesses shall provide documents and materials related to payment and insurance transactions at the request of customs authorities to serve investigation, verification and handling of acts of smuggling or illegal cross-border trafficking of goods;

c/ Entities related to imported, exported or transited goods, vehicles on entry or exit or in transit shall provide related information, documents and materials to serve investigation, verification and handling of acts of smuggling or illegal cross-border trafficking of goods; and be present at customs authorities to explain questionable issues as requested;

**Article 92.** Furnishing and use of technical equipment and means to serve the tackling smuggling and illegal cross-border trafficking of goods

1. Customs authorities and customs officials shall be furnished with and use professional technical means, weapons, supporting tools, banners, flares, flashlights, observative and screening devices, biochemical technologies, mechanical equipment, electric and electronic equipment and other devices as prescribed to perform the task of tackling smuggling and illegal cross-border transportation of goods. The furnishing and use of weapons and supporting tools comply with the law on management and use of weapons, explosives and supporting tools.

2. In case of necessity, customs authorities and customs officials that directly perform the task of tackling smuggling and illegal cross-border trafficking of goods may request agencies, entities to coordinate forces and provide means and information. If causing damage to provided means, customs authorities shall pay compensation in accordance with law.

## **Chapter VI**

### **CUSTOMS COMMUNICATION AND STATISTICS ON IMPORTED AND EXPORTED GOODS**

#### **Section 1. CUSTOMS COMMUNICATION**

##### **Article 93.** Customs communication

Customs communication shall be collected, archived, managed and used for carrying out customs formalities; making statistics on imported and exported goods; applying the risk management in professional customs operations and post-customs clearance inspection; tackling smuggling and illegal cross-border transportation of goods.

##### **Article 94.** Customs communication system

1. The customs communication system consists of:

- a/ Database on the communication system;
- b/ Technical infrastructure on the communication system.

2. The customs communication database contains:

- a/ Information on imported, exported and transited goods;
- b/ Information on vehicles on exit or entry or in transit;
- c/ Information on entities involved in import or export activities, on exit or entry or in transit;
- d/ Other information related to professional operations of customs authorities.

3. The customs communication database shall be managed in a centralized and uniform manner. The General Department of Customs shall set up, manage and develop the database and technical infrastructure of the customs communication system by updating and integrating information and data of the entire customs service; connect and share information and data with the communication systems of entities outside the customs service, customs authorities of other countries and international organizations in accordance with Vietnamese law and treaties to which the Socialist Republic of Vietnam becomes a party.

Customs authorities shall apply measures to keep confidential information and prevent illegal access to the customs communication system.

##### **Article 95.** Collection and provision of customs communication in the country

1. Customs authorities shall organize the collection of information from the following sources:



- a/ Customs operations;
- b/ Ministries and related ministerial-level agencies;
- c/ Entities involved in or related to production, import and export activities, on exit or entry or in transit;
- d/ Other sources of information.

2. Responsibilities and entitlements of customs authorities in the collection and provision of customs communication:

- a/ Receive and provide information to customs declarants;
- b/ Establish and implement the mechanism for cooperation in the exchange and provision of information to functional agencies of related ministries and ministerial-level agencies;
- c/ Apply measures and professional techniques to collect information;
- d/ Request entities to provide information related to import, export, exit, entry and transit activities;
- dd/ Access other related sources of information.

3. Rights and responsibilities of agencies, entities in providing customs communication:

- a/ Entities may request customs authorities to provide customs communication related to their rights and obligations;
- b/ Ministries and related ministerial-level agencies shall provide information related to import, export, exit, entry and transit activities to customs authorities;
- c/ Entities involved in or related to import, export, exit, entry and transit activities shall provide information to customs authorities in accordance with this Law and other corresponding regulations of law.

4. The Government shall provide guidance on this Article.

**Article 96.** Collection of customs communication abroad

1. Sources of customs communication collected abroad shall include:

- a/ Information provided by customs authorities and other agencies of states and territories under cooperation agreements on mutual assistance in information exchange and supply;

b/ Information provided by related international organizations under treaties to which the Socialist Republic of Vietnam becomes a party;

c/ Information provided by entities involved in or related to the production, import and export of goods as requested by customs authorities in compliance with Vietnamese law and treaties to which the Socialist Republic of Vietnam becomes a party.

2. Customs authorities shall organize the collection of information abroad to serve the following activities:

a/ Verify the origin, transaction value, standards and quality of imported goods;

b/ Determine the lawfulness of documents and transactions related to imported and exported goods;

c/ Verify acts of smuggling and illegal cross-border transportation of goods or other acts violating the law on customs;

d/ Verify other information related to persons involved in or related to import and export activities, on exit or entry or in transit; imported, exported and transited goods; vehicle on exit or entry or in transit.

## **Section 2. STATISTICS ON IMPORTED AND EXPORTED GOODS**

### **Article 97.** Releasing statistics on imported and exported goods

1. Releasing statistics on imported and exported goods is the process of collecting, processing, summarizing, analyzing, forecasting, reporting, popularizing and archiving statistical information on imported and exported goods carried out by the General Department of Customs.

2. Statistical information on imported and exported goods is a product of statistical operations, including statistical data on imported and exported goods and analyses of these statistics.

3. The General Department of Customs shall publish publications on statistics on imported and exported goods.

### **Article 98.** Statistical reports on imported and exported goods

The General Department of Customs shall send to the Government and Ministry of Finance monthly reports on statistical information on imported and exported goods made according to the prescribed forms and reports on analysis and assessment of importation and exportation of goods.

## **Chapter VII**

### **STATE MANAGEMENT OF CUSTOMS**

**Article 99.** State management of customs

State management of customs shall include:

1. Elaborate and direct the implementation of the strategy, master plan and plans on development of Vietnam's Customs;
2. Promulgate and organize the implementation of legal documents on customs;
3. Guide, implement and disseminate the law on customs;
4. Stipulate the organization and operation of customs authorities;
5. Train, foster and build the contingent of customs officials;
6. Organize research and application of science and technology and modern customs management methods;
7. Release state statistics on customs;
8. Conduct inspection, examination, settlement of complaints and denunciations and handling of violations against the law on customs;
9. Undertake international cooperation on customs.

**Article 100.** Regulatory authorities in charge of the state management of customs

1. The Government performs the uniform state management of customs.
2. The Ministry of Finance takes responsibility to the Government for the uniform state management of customs.
3. Ministries and ministerial-level agencies shall, within the area of competence, cooperate with the Ministry of Finance in performing the state management of customs.
4. People's Committees shall, within the area of competence, organize the implementation of the law on customs in their respective localities.

**Chapter VIII**

**IMPLEMENTATION PROVISIONS**

**Article 101.** Amendments to Law No. 78/2006/ QH11 on Tax Administration on amendments to Law No. 21 /2012/QH13

1. Clause 5, Article 4 shall be amended as follows:

“5. Apply the privilege when carrying out tax formalities for imported and exported goods if taxpayers fully satisfy the requirements for application of the privilege in accordance with the Law on customs.”

2. Clause 4, Article 32 shall be amended as follows:

“4. For imported and exported goods, the time limit for submission of tax declaration documents is prescribed by the Law on customs.”

3. Clause 2, Article 34 shall be amended as follows:

“2. For imported and exported goods, an additional declaration in tax declaration documents must comply with the Law on customs.”

4. Point b, Clause 1, Article 78 shall be amended as follows:

“b/ Cases of post-customs clearance inspection are as prescribed in the Law on customs.

During a post-customs clearance inspection, if tax evasion or fraud is detected, the Director of the Department for Post-Customs Clearance Inspection, directors of Customs Departments and heads of post-customs clearance inspection branches shall make a decision on the application of the measures as prescribed in Clause 4, Chapter X of this Law;”

5. Point d, Clause 3, Article 77 shall be annulled; the phrase “and Point d” at Point a, Clause 1, Article 78 shall be deleted; the phrase “at premises of taxpayers under Clause 2, Article 34 of this Law” at Point a, Clause 2, Article 107 shall be deleted.

6. Change the phrase “from the date of registration of the declaration form” at Point a, Clause 2, Article 107 to “from the day on which of customs clearance”.

**Article 102.** Amendment and supplementation of a number of articles of Law No. 15/2012/QH13 on Handling of Administrative Violations

1. Clause 1, Article 122 shall be amended as follows:

“1. The detention according to administrative formalities is applied only where necessary to promptly prevent or stop acts of disturbing public order and inflicting injury on others or there are reasonable grounds that there are acts of smuggling or illegal cross-border transportation of goods.”

2. The first paragraph of Clause 1, Article 123 shall be amended as follows:

“1. If there are acts of disturbing public order and inflicting injury on others or there are reasonable grounds that there are acts of smuggling or illegal cross-border trafficking of goods prescribed in Clause 1, Article 122 of this Law, the following competent persons have entitlements to make a decision on detention according to administrative formalities:”

**Article 103.** Effect

This Law takes effect on January 1, 2015.

Law on customs No. 29/2001/QH10 and Law No. 42/2005/QH11 on amendments to the Law on customs shall be annulled from the effective date of this Law.

**Article 104.** Guidance

The Government shall provide guidance on articles and clauses of this Law as assigned.

This Law was passed on June 23, 2014, by the 11<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 7<sup>th</sup> plenum.

**PRESIDENT OF THE NATIONAL ASSEMBLY**

**Nguyen Sinh Hung**

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*Unofficial translated by LPVN*