

**THE GOVERNMENT**

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No. 68/2016/ND-CP

**SOCIALIST REPUBLIC OF VIETNAM**

**Independence – Freedom – Happiness**

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*Hanoi, July 01, 2016*

## **DECREE**

### **REGULATIONS ON CONDITIONS FOR DUTY-FREE BUSINESS, WAREHOUSES, SITES FOR CUSTOMS CLEARANCE, CUSTOMS INSPECTION AND SUPERVISION**

*Pursuant to the Law on Government dated June 19, 2015;*

*Pursuant to the Law on Customs dated June 23, 2014;*

*Pursuant to the Law on Investment dated November 26, 2014;*

*At the request of the Minister of Finance;*

*The Government has promulgated the Decree regulating conditions for duty-free business, warehouses, sites for customs clearance, customs inspection and supervision.*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Governing scope**

1. This Decree details conditions for recognition, expansion, contraction, transfer of ownership, relocation, suspension and shutdown of duty-free business, warehouses, sites for customs procedures, customs supervision.
2. Apart from conditions as prescribed hereof, duty-free shops, warehouses, sites for customs clearance, customs inspection and supervision as prescribed in Clause 1 of this Article should meet other relevant law provisions.

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

1. Organizations and/or individuals having rights and obligations concerning expansion, contraction, transfer of ownership, relocation, suspension and shutdown of duty-free business, warehouses, sites for customs procedures, customs supervision.
2. Customs agencies, officials
3. Other state administration agencies for customs.

### **Article 3. Interpretation of terms**

In this Decree, some terms are construed as follows:

1. Duty-free shops refer to locations for storage and sale of imported and/or domestically-manufactured goods to those who are eligible for tax incentives according to laws.
2. International area of international seaports, civil airports, international connecting railway terminals and road checkpoints (hereinafter referred to as ‘international area’) refer to the areas fenced and protected behind the areas for exit procedures.
3. Restricted area of international civil airports (hereinafter referred to as “restricted area”) refers to the area fenced and protected behind the areas for entrance procedures and before the areas for customs procedures.
4. Oil depot refers to the areas for storage of imported petroleum, petroleum for export and temporarily imported for re-export.
5. Off-airport cargo terminal refers to the warehouses outside the checkpoints for storage of exports and imports transported by air and subject to inspection by customs agencies.
6. Container Freight Station refers to the areas used for performing activities of collection, separation, packaging of exports, imports, transfer of ownership to exports, imports.

## **Chapter II**

### **PARTICULAR PROVISIONS**

#### **Section 1. DUTY-FREE BUSINESS**

#### **Article 4. Conditions for certificates of eligibility for trading in duty-free goods**

1. Placement of duty-free shops
  - a) Within international area and restricted area;
  - b) Within inland areas;
  - c) On international flights by the carriers established and operating according to the law of Vietnam;
  - d) Duty-free warehouses are located in the same area of duty-free shopping or within the international area, restricted area or within customs areas outside checkpoint areas as prescribed in Article 8 of the Government’s Decree No. 01/2015/ND-CP dated January 02, 2015 detailing customs areas, responsibility for coordination in smuggling prevention and combat, illegal cross-border transport of goods.

2. A duty-free shop shall have a software that is:

- a) Capable of managing imports, exports, inventories in the duty-free shop, purchasers, customs declaration sheets;
- b) Meet requirements for storage and retrieval of data for making statistical reports, directly connected to customs agencies.

3. A duty-free shop shall have a camera system that is:

- a) Capable of monitoring all positions in duty-free warehouses, shops. Capable of working round-the-clock.
- b) Capable of storing data for at least 12 months;
- c) Directly connected to customs agencies.

The Director of the General Department of Customs shall issue standards for exchanging data between customs agencies and duty-free businesses in terms of software products managing receipt and dispatch of goods, camera system.

#### **Article 5. Applications for certificates of eligibility for trading in duty-free goods**

- 1. A written request according to the form 01 enclosed herewith;
- 2. Copy of business registration certificate or investment registration certificate;
- 3. Copy of diagrams of duty-free shops, warehouses;
- 4. Original copy of the written description of duty-free business management software;
- 5. Original copy of the enterprise' internal management process for imports, exports, inventories in duty-free warehouses, receipt and delivery of goods from duty-free warehouses to duty-free shops or aboard airplanes, sale and payment from sale of duty-free goods.
- 6. Copy of papers proving the rights to enjoyment of locations of duty-free shops, warehouses;
- 7. Copy of the certificate of eligibility for fire prevention and combat shall be issued by police authorities (except for areas meeting requirements for fire prevention and combat)
- 8. Original copy of operation regulation;

#### **Article 6. Procedures for issue of certificates of eligibility for trading in duty-free goods**

1. Enterprises may submit applications for certificates of eligibility for trading in duty-free goods (herein 'the certificate') in person or via electronic data processing system of customs agencies to the General Department of Customs.

2. Within 10 working days since receipt of applications from enterprises, the General Department of Customs shall carry out inspection of the application, duty-free shops, warehouses.

3. Within five working days since completion of the inspection, the Director of the General Department of Customs shall issue the certificate or give notifications to the enterprise if the application fails to meet requirements as prescribed.

#### **Article 7. Suspension of duty-free business activities**

1. Cases of suspension of duty-free business activities

a) As requested by authorities;

b) Cases subject to revocation of the certificate as prescribed in Clause 1, Article 8 hereof.

2. Sequential order and procedures for suspension of duty-free business activities

a) Customs department of provinces and cities shall issue written notice of suspension of duty-free business activities.

b) After the notice is issued, the Customs Departments of provinces, cities shall carry out inspection and confirmation of inventories in duty-free shops, warehouses.

c) Carry out liquidation of customs declaration sheet for temporary imports in case of revocation of the certificate as prescribed in Clause 1, Article 8 hereof within 30 working days since the notice of suspension of duty-free business activities is issued.

3. During the period of suspension, customs agencies shall carry out monitoring the inventories in duty-free shops, warehouses. Duty-free businesses shall be responsible for maintaining the status quo of goods in duty-free shops, warehouses.

4. During the period of suspension, any enterprise that needs to operate again may submit a written request to the Customs Departments of provinces, cities according to Form 02 enclosed herewith.

5. Period of suspension of duty-free business activities shall not exceed six months since the notice is issued.

#### **Article 8. Revocation of certificates of eligibility for trading in duty-free goods**

1. Cases subject to revocation of the certificate:

- a) According to the enterprise's request for shutdown of duty-free business;
- b) The enterprise fails to put duty-free shops into operation after six months since the certificate is issued.
- c) Duty-free shops, warehouses fail to maintain conditions as prescribed in Article 4 hereof;
- d) The enterprise has three times committed administrative violations for 12 months and received financial penalties for each violation beyond competence of director of the Customs Department;
- dd) Beyond the period of suspension as prescribed in Clause 5, Article 7 hereof.

2. Procedures for revocation of the certificate:

- a) The General Department of Customs shall assign the Customs Departments of provinces, cities to carry out inspection of inventories, quantity of temporary imports for liquidation.
- b) The Customs Departments of provinces, cities shall make the report on liquidation to the General Department of Customs within 30 working days since receipt of the assignments therefrom.
- c) Director of the General Department of Customs shall issue the decision on revocation of the certificate within five working days since receipt of the report from the Customs Departments of provinces, cities.

**Article 9. Expansion, contraction, relocation of duty-free shops and transfer of ownership thereof**

1. Applications for expansion, contraction, relocation of duty-free shops:

- a) Original copy of the written request according to Form 01 enclosed herewith;
- b) Copy of diagrams of expansion, contraction and relocation areas;
- c) Copy of papers proving the rights to enjoyment of expansion, contraction and relocation locations;

2. Applications for transfer of ownership to duty-free shops:

Apart from the application as set out in Article 5 hereof, the enterprise that receives the transfer of duty-free shops (the transferee) should provide following additional documents:

- a) Original copy of the written request according to Form 01 enclosed herewith;
- b) Copy of the contract for transfer of ownership;

3. Procedures for application for expansion, contraction, relocation of duty-free shops, transfer of ownership to duty-free shops is the same as application for the issue of the certificate as prescribed in Article 6 hereof.

## **Section 2. BONDED WAREHOUSES**

### **Article 10. Conditions for recognition of bonded warehouses**

1. Areas to be proposed for recognition of bonded warehouses should be located within the areas as prescribed in Clause 1, Article 62 of the Law on Customs, areas approved by competent agencies in the development planning for logistics centers across the country, areas receiving investment incentives, areas for centralized production and exportation of agricultural, forestry and fishery products.

2. Bonded warehouses are separated from surrounding areas by a fence network meeting requirements for regular supervision of customs agencies except warehouses in checkpoint areas, harbors already fenced off from surrounding areas.

3. Meeting working conditions for customs agencies as a place for working and inspecting goods with inspection facilities being installed, exhibits of violations stored according to regulations of the Ministry of Finance.

4. Minimum area of a bonded warehouse should be 5,000 m<sup>2</sup> (including warehousing, storage yards and auxiliary works) of which area of warehousing should be from 1,000 m<sup>2</sup> and over. For bonded warehouses specialized for storage of one or several types of goods with special storage conditions, the minimum area is 1,000 m<sup>2</sup> or minimum storage volume 1,000 m<sup>3</sup>. Minimum area of a specialized storage yard should be 10,000 m<sup>2</sup> without warehousing area required.

5. A bonded warehouse shall have software that is:

a) Capable of managing imports, exports, inventories in bonded warehouses, purchasers, customs declaration sheets;

b) Capable of storing data for making statistical reports, and directly connected to customs agencies.

6. A bonded warehouse shall have a camera system that is:

a) Capable of monitoring all the positions of the bonded warehouse;

b) Capable of working round-the-clock.

c) Capable of storing data for at least 12 months;

d) Directly connected to customs agencies.

Director of the General Department of Customs shall issue standards for exchanging data between customs agencies and proprietors of bonded warehouses in terms of software products managing receipt and dispatch of goods, camera system.

#### **Article 11. Applications for recognition of bonded warehouses**

1. Original copy of the written request according to Form 01 enclosed herewith;
2. Copy of business registration certificate or investment registration certificate;
3. Copy of diagrams of warehousing and storage yard areas representing borderlines, positions of warehouses, internal transport road system, security office, warehouse offices and working place for customs officials.
4. Original copy of the written description of bonded warehouse management software;
5. Copy of papers proving the rights to enjoyment of bonded warehouses;
6. Copy of the certificate of eligibility for fire prevention and combat issued by police authorities;
7. Original copy of operation regulation;

#### **Article 12. Procedures for recognition of bonded warehouses**

1. The enterprise should submit the application for recognition of the bonded warehouse in person or via the customs agencies' electronic data processing system to the General Department of Customs.
2. Within 10 working days since receipt of the application, the General Department of Customs shall complete inspection of the application, warehouses, storage yards.
3. Within five working days since completion of inspection, director of the General Department of Customs shall issue the decision on recognition of the bonded warehouse or give notification to the enterprise if the application fails to meet the requirements.

#### **Article 13. Expansion, contraction, relocation of bonded warehouses and transfer of ownership thereof**

1. Any enterprise that needs to expand, contract and relocate a bonded warehouse, or transfer the ownership to the bonded warehouse and meets requirements as prescribed in Article 10 hereof may submit the application to the General Department of Customs. The application includes:
  - a) A written request;
  - b) Copy of diagrams of expansion, contraction, relocation and transfer-of-ownership areas;

c) Copy of papers proving the rights to enjoyment of expansion, contraction and relocation locations;

d) Copy of the contract for transfer of ownership;

2. Procedures for application for expansion, contraction, relocation of bonded warehouses, transfer of ownership thereto is the same as application for recognition of a bonded warehouse as prescribed in Article 12 hereof.

#### **Article 14. Suspension of a bonded warehouse**

1. The bonded warehouse is suspended when the enterprise is requested to do so. The period of suspension shall not exceed six months.

2. Customs Departments of provinces, cities shall issue the notice of suspension.

3. Procedures for suspension:

Within five working days since receipt of the written request for suspension from the enterprise, the Customs Department of provinces and cities shall carry out inspection and confirmation of inventories in the bonded warehouse and make public notice of suspension.

4. During the period of suspension as prescribed in Clause 1 of this Article, customs agencies shall not perform customs procedures for goods sent to the warehouse; supervise and handle the inventories in the bonded warehouse according to laws.

5. Within five working days before the period of suspension expires, the enterprise should make a written notice of either resuming or ending operation of the bonded warehouse.

6. During the period of suspension, any enterprise that needs to operate again may submit a written request to the Customs departments of provinces, cities according to Form 02 enclosed herewith.

#### **Article 15. Shutdown of bonded warehouses**

1. Cases of shutdown:

a) The enterprise fails to maintain conditions as prescribed in Article 10 hereof or terminate activities of the old owner in case of transfer of ownership;

b) The enterprise has issued the written request for shutdown of activities to the General Department of Customs;

c) The enterprise fails to put the bonded warehouse into operation after six months since the recognition decision is issued;



d) The enterprise fails to give notification of a resumption of activities after the period of suspension as prescribed in Clause 1, Article 14 hereof.

dd) The enterprise has three times committed administrative violations for 12 months and received financial penalties for each violation beyond competence of director of the Customs Department;

2. Procedures for shutdown:

a) The Customs Departments of provinces, cities shall carry out inspection and liquidation of the inventories in the bonded warehouse and make the report to the General Department of Customs for shutdown.

b) Within five working days since receipt of the report, director of the General Department of Customs shall consider and issue the decision on shutdown of the bonded warehouse.

### **Section 3. TAX-SUSPENSION WAREHOUSE**

#### **Article 16. Conditions for recognition of tax-suspension warehouses**

1. To be eligible for recognition of a tax-suspension warehouse, the enterprise should meet following requirements:

a) Have an accounting book and information technology system according to the standards prescribed by state management agencies to monitor and manage imports, exports and inventories in the warehouse;

b) The tax-suspension warehouse should be fenced off from raw material storage areas without tax suspension installed with a camera system meeting data exchange standards for monitoring goods entering and leaving the tax-suspension warehouse.

2. To be eligible for recognition of the tax-suspension warehouse, apart from reaching at least US\$ 40 million in export turnover, the enterprise should meet following requirements:

a) Engage in exportation activities for at least two years straight without violations of laws on customs and taxes;

b) Comply with laws on accounting and statistics;

c) Perform payment via banks according to laws.

#### **Article 17. Applications for recognition of tax-suspension warehouses**

1. Original copy of the written request according to Form 01 enclosed herewith;

2. Copy of diagram of tax-suspension warehousing area.

## **Article 18. Procedures for recognition of tax-suspension warehouses**

1. The enterprise should submit the application for recognition of the tax-suspension warehouse in person, by post or via the customs agencies' electronic data processing system to the General Department of Customs.
2. Within 10 working days since receipt of the application, the General Department of Customs shall complete inspection of the application, warehousing area.
3. Within five working days since completion of inspection, director of the General Department of Customs shall issue the decision on recognition of the tax-suspension warehouse or give notification to the enterprise if the application fails to meet the requirements.

## **Section 4. CONTAINER FREIGHT STATION**

### **Article 19. Conditions for recognition of container freight stations**

1. Container freight station should be situated in the areas as prescribed in Clause 1, Article 62 of the Law on Customs.
2. Minimum area of a container freight station should be 1,000 m<sup>2</sup> excluding yards and auxiliary works and fenced off from surrounding areas.
3. Meet working conditions for customs agencies as a place for working and inspecting goods, a place where inspection facilities are installed, exhibits of violations stored according to regulations of the Ministry of Finance.
4. A container freight station shall have software that is:
  - a) Capable of managing imports, exports, inventories in the container freight station, purchasers, customs declaration sheets;
  - b) Capable of storing data for making statistical reports, and directly connected to customs agencies.
5. A container freight station shall have a camera system meeting following requirements:
  - a) Capable of monitoring all positions in the container freight station. Capable of working round-the-clock.
  - b) Camera data can be stored for at least 12 months;
  - c) Camera system is directly connected to customs agencies.

Director of the General Department of Customs shall issue standards for exchanging data between customs agencies and proprietors of container freight stations in terms of software products managing receipt and dispatch of goods, camera system.

6. For container freight stations situated in seaports, export & import ports that are domestically recognized, the procedures for recognition as prescribed hereof are not required. Before putting the container freight station into operation, the enterprise should give notification to relevant sub-departments of customs.

#### **Article 20. Applications for recognition of container freight stations**

1. Original copy of the written request according to Form 01 enclosed herewith;
2. Copy of business registration certificate or investment registration certificate;
3. Copy of diagrams of container freight stations representing borderlines, positions of warehouses, internal transport road system, security office, warehouse offices and working place for customs officials;
4. Original copy of the written description of container freight station management software;
5. Copy of papers proving the rights to enjoyment of locations;
6. Copy of the certificate of eligibility for fire prevention and combat issued by police authorities;
7. Original copy of operation regulation;

#### **Article 21. Procedures for expansion, contraction, relocation of container freight stations, transfer of ownership, suspension and shutdown of activities of container freight stations**

Procedures for expansion, contraction, relocation of container freight stations, transfer of ownership, suspension and shutdown of activities of container freight stations is the same as bonded warehouses as prescribed in 2, Chapter II hereof.

### **SECTION 5. OIL DEPOT**

#### **Article 22. Eligibility for supervision and inspection of oil depot by customs agencies**

1. Enterprises that request confirmation of eligibility for supervision and inspection of the oil depot shall be key traders as prescribed in the Government's Decree No. 83/2014/ND-CP dated September 03, 2014 on petroleum trading.
2. The oil depot shall be owned by enterprises or co-owned or hired by petroleum traders according to laws on petroleum trading.

3. An oil depot shall have software that is:

- a) Capable of managing and monitoring imports, exports, inventories in the warehouse;
- b) Directly connected to customs agencies for monitoring receipt and dispatch of petroleum from the warehouse;

4. An oil depot shall have a camera system that is:

- a) Capable of monitoring all the positions of the oil depot; Capable of working round-the-clock.
- b) Capable of storing data for at least 12 months;
- c) Directly connected to customs agencies.

Director of the General Department of Customs shall issue standards for exchanging data between customs agencies and petroleum traders in terms of software products managing receipt and dispatch of goods, camera system.

**Article 23. Applications for confirmation of eligibility for supervision and inspection of oil depots by customs agencies**

- 1. A written request according to Form 01 enclosed herewith;
- 2. Copy of diagrams of warehousing areas representing borderlines, positions of warehouses, containers.
- 3. Original copy of the written description of oil depot management software;
- 4. Copy of papers proving the rights to enjoyment of oil depot;
- 5. Copy of the certificate of eligibility for fire prevention and combat issued by police authorities;
- 6. Original copy of operation regulation;

**Article 24. Procedures for confirmation of eligibility for supervision and inspection of oil depots by customs agencies**

- 1. The enterprise should submit the application to the General Department of Customs.
- 2. Within 10 working days since receipt of the application, the General Department of Customs shall complete inspection of the application, oil depot area.
- 3. Within five working days since completion of inspection, director of the General Department of Customs shall issue the written confirmation of eligibility for supervision and inspection of

the oil depot or give notification to the enterprise if the application fails to meet the requirements.

4. In case of expansion, contraction, relocation of oil depots, transfer of ownership, the procedures for application for confirmation of eligibility for supervision and inspection by customs agencies are instructed in Articles 22, 23 and Clauses 1, 2, 3 and 4, Article 24 hereof.

## **Section 6. OFF-AIRPORT CARGO TERMINAL**

### **Article 25. Conditions for recognition of off-airport cargo terminal**

1. The off-airport cargo terminal shall be recognized if it lies within the administrative division with following areas:

- a) Areas in the vicinity of international civil airports;
- b) Industrial zones, hi-tech zones and export processing zones;
- c) Areas approved by competent agencies in the development planning for logistics centers across the country.

Above areas should be no more than 50 km away from international civil airports.

2. Minimum area should be 2,000 m<sup>2</sup> (including warehouses, storage yards and auxiliary works). Warehousing areas are fenced off from surrounding areas with separate areas storing imports and exports.

3. Proprietor of an off-airport cargo terminals may be an owner, co-owners or lessee of a warehousing yard for storing exports and imports in the area of international airports.

4. Meet working conditions for customs agencies as a place for working and inspecting goods, a place where inspection facilities are installed, exhibits of violations stored according to regulations of the Ministry of Finance.

5. An off-airport cargo terminal has software that is:

- a) Capable of managing and monitoring imports, exports, inventories in the warehouse;
- b) Capable of storing data for making statistical reports, and directly connected to customs agencies.

6. An off-airport cargo terminal shall have a camera system that is:

- a) Capable of monitoring all the positions of the oil depot; Capable of working round-the-clock.
- b) Capable of storing data for at least 12 months;

c) Directly connected to customs agencies.

Director of the General Department of Customs shall issue standards for exchanging data between customs authorities and proprietors of off-airport cargo terminal in terms of software products managing receipt and dispatch of goods, camera system.

#### **Article 26. Applications for recognition of off-airport cargo terminals**

1. Original copy of the written request according to Form 01 enclosed herewith;
2. Copy of business registration certificate or investment registration certificate;
3. Copy of diagrams of warehousing areas representing borderlines, positions of warehouses, internal transport road system, security office, warehouse offices and working place for customs officials.
4. Original copy of the written description of off-airport cargo terminal management software;
5. Copy of papers proving the rights to enjoyment of off-airport cargo terminals;
6. Copy of the certificate of eligibility for fire prevention and combat issued by police authorities;
7. Original copy of operation regulation;
8. The contract for lease of warehousing yard for storing imports, exports in the area of international airports (in case the owner of the off-airport cargo terminal leases the warehousing yard).

#### **Article 27. Procedures for recognition of off-airport cargo terminals**

1. The enterprise should submit the application for recognition person, by post or via the customs agencies' electronic data processing system to the General Department of Customs.
2. Within 10 working days since receipt of the application, the General Department of Customs shall cooperate with the Ministry of Transport, People's committees of central-affiliated provinces and cities in completing inspection of the application, warehousing area.
3. Within 15 working days since completion of inspection, based on suggestions from the Ministry of Transport, People's committees of central-affiliated provinces, cities, director of the General Department of Customs shall issue the decision on recognition of the off-airport cargo terminal or give notification to the enterprise if the application fails to meet the requirements.

#### **Article 28. Expansion, contract, relocation of off-airport cargo terminal and transfer of ownership thereof**

Sequential order of application for expansion, contraction, relocation of off-airport cargo terminals, transfer of ownership thereto is the same as application for recognition of a bonded warehouse as prescribed in Section 2, Chapter II hereof.

### **Article 29. Suspension of an off-airport cargo terminal**

1. The off-airport cargo terminal is suspended when the enterprise is requested to do so. The period of suspension shall not exceed six months.

2. Customs Departments of provinces, cities shall issue the notice of suspension.

3. Procedures for suspension:

Within five working days since receipt of the written request for suspension from the enterprise, the Customs Department of provinces and cities shall carry out inspection and confirmation of inventories in the off-airport cargo terminal and issue the public notice of suspension.

4. During the period of suspension, customs agencies shall not perform customs procedures for goods sent to the warehouse; supervise and handle the inventories according to laws.

5. Within five working days before the period of suspension expires, the enterprise should make a written notice of either resuming or ending operation of the off-airport cargo terminal.

6. During the period of suspension, any enterprise that needs to operate again may submit a written request to the Customs departments of provinces, cities according to Form 02 enclosed herewith.

### **Article 30. Shutdown of activities of an off-airport cargo terminal**

1. Cases of shutdown of activities of an off-airport cargo terminal:

a) The enterprise fails to maintain conditions as prescribed in Article 25 hereof or terminate activities of the old owner in case of transfer of ownership;

b) The enterprise has issued the written request for shutdown to the General Department of Customs;

c) The enterprise fails to put the off-airport cargo terminal into operation after six months since the establishment decision is issued;

d) The enterprise fails to give notification of a resumption of activities after the period of suspension;

dd) The enterprise has three times committed administrative violations for 12 months and received financial penalties for each violation beyond competence of director of the Sub-department of Customs;

2. Procedures for shutdown of an off-airport cargo terminal:

a) The Customs Departments of provinces, cities shall carry out inspection and liquidation of the inventories and make the report to the General Department of Customs for shutdown of activities.

b) Within five working days since receipt of the report, director of the General Department of Customs shall consider and issue the decision on shutdown of activities of the off-airport cargo terminal.

### **Chapter III**

#### **SITES FOR CUSTOMS PROCEDURES AND CUSTOMS SUPERVISION AND INSPECTION**

##### **Section 1. SITES FOR CUSTOMS CLEARANCE IN INLAND IMPORT & EXPORT PORTS (DRY PORTS)**

##### **Article 31. Conditions for recognition of sites for customs clearance in dry ports (herein 'customs clearance sites')**

1. Minimum area should be from 50,000 m<sup>2</sup> and over;

2. There is software that is:

a) Capable of managing imports, exports, inventories, purchasers, customs declaration sheets;

b) Capable of storing data for making statistical reports, directly connected to customs agencies.

3. There is a camera system that is:

a) Capable of monitoring all positions in customs clearance sites; Capable of working round-the-clock;

b) Capable of storing data for at least 12 months;

c) Directly connected to customs agencies.

Director of the General Department of Customs shall issue standards for exchanging data between customs agencies and proprietors of customs clearance sites in terms of software products managing receipt and dispatch of goods, camera system.

##### **Article 32. Applications for recognition of customs clearance sites**

1. Original copy of the written request according to Form 01 enclosed herewith;



2. Copy of business registration certificate or investment registration certificate;
3. Copy of diagrams of the site for customs clearance in dry ports representing borderlines, positions of warehouses, places for gathering imports, exports, containers, security offices, warehouse offices and customs offices;
4. Original copy of the written description of the software managing the site for customs clearance in dry ports;
5. Copy of papers proving the rights to enjoyment of locations;
6. Copy of the certificate of eligibility for fire prevention and combat issued by police authorities;
7. Original copy of operation regulation;

### **Article 33. Procedures for recognition of customs clearance sites**

1. The enterprise should submit the application for recognition in person, by post or via the customs agencies' data processing system to the General Department of Customs.
2. Within 10 working days since receipt of the application, the General Department of Customs shall complete inspection of the application and the site for customs clearance.
3. Within five working days since completion of inspection, director of the General Department of Customs shall make the submission to the Ministry of Finance for making decision on recognition or give notification to the enterprise if the application fails to meet the requirements.

### **Article 34. Expansion, contraction, relocation of customs clearance sites, transfer of ownership, suspension of customs clearance sites**

1. Any enterprise that needs to expand, reduce, move the customs clearance site, transfer ownership or suspends activities may submit application to the General Department of Customs. The application includes:
  - a) A written request;
  - b) Copy of diagrams of expansion, contraction, relocation and transfer-of-ownership areas;
  - c) Copy of papers proving the rights to enjoyment of locations in case of expansion, contraction and relocation of customs clearance sites, transfer of ownership;
  - d) Copy of the contract for transfer of ownership;
2. Sequential order and procedures for expansion, contraction and relocation of customs clearance sites, transfer of ownership, suspension or shutdown of activities of customs clearance

sites is the same as bonded warehouses as prescribed in Section 2, Chapter II hereof. Particularly for expansion, contraction and suspension of customs clearance sites, the decision shall be made by director of the General Department of Customs.

3. In case of relocation of customs clearance sites, transfer of ownership thereof, based on the written request from the enterprise, the General Department of Customs shall make the report to the Ministry of Finance for making decision on shutdown of the old customs clearance site and recognition of ownership to the new site as prescribed in Article 31 hereof.

### **Article 35. Shutdown of customs clearance sites**

1. The customs clearance site shall be shutdown in following cases:

- a) The site fails to maintain conditions as prescribed in Article 31 hereof.
- b) The enterprise has issued the written request for shutdown of activities;
- c) The enterprise fails to put the customs clearance site into operation after six months since the recognition decision is issued;
- d) The enterprise fails to give notification of a resumption of activities after the period of suspension;
- dd) The enterprise has three times committed administrative violations for 12 months and received financial penalties for each violation beyond competence of director of the Sub-Department of Customs;

2. The General Department of Customs shall carry out inspection and report to the Ministry of Finance for making decision on shutdown of activities of the site as prescribed in Clause 1 of this Article.

## **Section 2. PLACES FOR GATHERING IMPORTS, EXPORTS FOR INSPECTION AND SUPERVISION; PLACES FOR EMS GOODS AND PARCEL POSTS**

### **Article 36. Conditions for recognition of places for gathering imports, exports for inspection and supervision; places for EMS goods and parcel posts**

1. Position

- a) Places for gathering imports, exports for inspection and supervision should be situated in checkpoint areas, industrial zones and border-gate economic zones;
- b) Places for gathering EMS goods for inspection and supervision should be situated within airport areas according to laws;

c) Places for gathering exports, imports for inspection and supervision in border areas should be situated within border-gate economic zones or inland checkpoint areas. If situated outside the border-gate economic zone, distance from the checkpoint area should not exceed 10 km.

## 2. Area

a) Minimum area of the place for gathering imports and exports should be 10,000 m<sup>2</sup>;

b) Minimum area of the place for gathering EMS goods and parcel posts should be 5,000 m<sup>2</sup> and 1,000 m<sup>2</sup> respectively;

c) Minimum area of the place for gathering imports and exports in border areas should be 5,000 m<sup>2</sup>;

## 3. Facilities

a) The place should be fenced off from surrounding areas meeting requirements for regular supervision of customs agencies except places situated in checkpoint areas, harbors already fenced from surrounding areas.

b) Meet working conditions for customs agencies as a place for working and inspecting goods, a place where inspection facilities are installed, exhibits of violations stored according to regulations of the Ministry of Finance.

c) Have software that is:

- Capable of managing imports, exports, inventories;
- Capable of storing data for making statistical reports, directly connected to customs agencies.

d) Have a camera system that is:

- Capable of monitoring all positions in the place. Capable of working round-the-clock.
- Capable of storing data for at least 12 months;
- Directly connected to customs agencies.

Director of the General Department of Customs shall issue standards for exchanging data between customs agencies and proprietors in terms of software products managing receipt and dispatch of goods, camera system.

### **Article 37. Applications for recognition of places for gathering imports, exports for inspection and supervision; places for EMS goods and parcel posts**

1. Original copy of the written request according to Form 01 enclosed herewith;

2. Copy of business registration certificate or investment registration certificate;
3. Copy of diagrams of places for gathering imports and exports for inspection and supervision; places for EMS goods and parcel posts representing borderlines, positions of warehouses, places for gathering transport vehicles, places for inspection, warehouse offices and customs offices;
4. Original copy of the written description of goods receipt and dispatch management software;
5. Copy of papers proving the rights to enjoyment of locations;
6. Copy of the certificate of eligibility for fire prevention and combat issued by police authorities;
7. Original copy of operation regulation;
8. Copy of the planning for international airport areas approved by competent agencies (in case of recognizing places for gathering EMS goods for inspection and supervision);
9. Copy of post license issued by competent agencies (in case of recognizing places for gathering parcel posts);

**Article 38. Procedures for expansion, contraction, relocation of places for gathering imports and exports for inspection and supervision, places for EMS goods and parcel posts, transfer of ownership, suspension and shutdown of activities**

Procedures for expansion, contraction, relocation of places for gathering imports and exports for inspection and supervision, places for EMS goods and parcel posts, transfer of ownership, suspension and shutdown of activities is the same as bonded warehouses as prescribed in Section 2, Chapter II hereof.

**Chapter IV**

**IMPLEMENTARY PROVISIONS**

**Article 39. Effect**

1. This Decree takes effect since July 01, 2016.
2. Provisions as set out in Articles 82, 89 and 92 of the Government's Decree No. 08/2015/ND-CP dated January 21, 2015 shall be hereby annulled.
3. For duty-free shops, warehouses, customs clearance sites, places for gathering imports and exports, EMS goods and parcel posts for customs inspection and supervision that were recognized and put into operation before the effective date of this Decree, transfer of ownership thereof, suspension and shutdown of activities are instructed in this Decree.

4. Duty-free shops, warehouses, customs clearance sites, places for gathering imports and exports, EMS goods and parcel posts for customs inspection and supervision that were established and operated before the effective date of this Decree but fail to meet requirements for recognition as prescribed hereof shall be allowed to operate until July 01, 2017. After above period, Customs Departments of provinces, cities shall check and report to competent agencies for making decision on suspension or shutdown of activities.

**Article 40. Responsibility**

1. The Ministry of Finance shall provide instructions on clauses, articles as prescribed hereof.
2. Ministers, heads of ministerial-level agencies, heads of governmental agencies, presidents of the People's Committees of central-affiliated provinces, cities shall be responsible for executing this Decree./.

**PP THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Xuan Phuc**

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*Unofficial translated by LPVN*