

**THE GOVERNMENT**

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**SOCIALIST REPUBLIC OF VIETNAM**

**Independence - Freedom - Happiness**

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No. 08/2015/ND-CP

*Hanoi, January 21, 2015*

## **DECREE**

### **PROVIDING SPECIFIC PROVISIONS AND GUIDANCE ON ENFORCEMENT OF THE CUSTOMS LAW ON CUSTOMS PROCEDURES, EXAMINATION, SUPERVISION AND CONTROL PROCEDURES**

*Pursuant to the Law on Government Organization dated December 25, 2001;*

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

*At the request of the Minister of Finance,*

*The Government hereby promulgates this Decree on providing specific provisions and guidance on enforcement of the Customs Law on customs procedures, examination, supervision and control procedures.*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope of application**

This Decree provides several specific provisions and guidance on enforcement of the Customs Law on customs procedures, examination, supervision and control procedures, which shall be applied to exports, imports and in-transit goods, and incoming, outgoing and in-transit transports, and relevant information about customs-related state management activities.

#### **Article 2. Applicable entities**

1. Organizations or individuals who get involved in exportation, importation and transit of goods, and exit, entry and transit of transports.
2. Organizations or individuals who have rights and obligations relating to exportation, importation and transit of goods; exit, entry and transit of transports.
3. Customs authorities and officials.
4. Other governmental agencies that collaborate in the customs-related state management.

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

In this Decree, terms shall be construed as follows:

1. “Electronic customs procedures” refers to customs procedures under which the information used for the customs declaration shall be provided, received and processed, and the exchange of other information between parties involved shall be carried out through the electronic data processing system, as stipulated by the applicable law on customs procedures.
2. “Customs electronic data processing system” refers to the system, administrated by the General Department of Customs, which shall enable customs authorities to follow electronic customs procedures, link and exchange information about export and import activities with relevant Ministries and agencies.
3. “Electronic customs declaration system” refers to the system that enables customs declarants to follow electronic customs procedures for their customs declaration, receipt of information and responses from customs authorities.
4. “Customs value consultation” refers to the cooperation between customs authorities and customs declarants in discussing and exchanging declared information about the customs valuation.
5. “Exports or imports subject to the specialized examination” refers to exported and imported goods subject to the quality, health care, culture, animal and plant quarantine and food safety examinations in accordance with laws.

### **Article 4. Venue for completing customs formalities**

1. Venue for completing customs formalities shall conform to the regulations enshrined in Article 22 of the Customs Law.
2. After considering the report on exports and imports in each period of time, the Prime Minister shall make a decision on the list of imported goods required to follow customs procedures at the port of entry.
3. After considering the announcement about the zoning for seaports, international airports, land border checkpoints, international intermodal rail terminals, public postal networks providing international mail services, the Minister of Finance shall decide the organization structure to deal with customs formalities.

After considering the announcement about the zoning for inland ports through which exportation, importation, exit, entry and transit activities are carried out; inland ports of entry, exit; international airports, import and export turnovers, and an amount of work that has to be dealt with at places where exportation, importation, exit, entry and transit activities take place, the Minister of Finance shall stipulate requirements, procedures for establishment and closure of venue for customs procedures and off-airport freight terminals.

## **Article 5. Customs declarant**

Customs declarant includes:

1. The consignor of an export or import cargo. If a consignor of a good is a foreign merchant who is not currently staying in Vietnam, the customs procedure shall be carried out with the help of customs brokerage agents.
2. The owner or operator of an outgoing, incoming and in-transit transport, or the person authorized by the owner of an outgoing, incoming and in-transit transport.
3. The person authorized by the consignor, in case of such cargo imported or exported as a personal gift; baggage of an inbound or outbound person shipped before or after the trip.
4. The person in charge of rendering the in-transit cargo services.
5. Customs brokerage agent.
6. International postal, express mail service providers, unless otherwise required by the cargo owner.

## **Article 6. Entities required to follow customs procedures, and subjected to customs examination and supervision**

1. Entities required to complete customs formalities:

- a) Export, import and in-transit cargos; items on outgoing, incoming or in-transit transports; foreign cash, Vietnam-dong cash, negotiable instruments, gold, precious metal, jewels, cultural products, relics, antiques, precious things, post, packages and parcels, used as imports or exports; baggage carried by inbound or outbound persons; other exported, imported and in-transit articles within the territory of customs authorities;
- b) Outgoing, incoming and in-transit modes of transport such as aviation and land transport including road and rail transport, and ship transport including inland waterway and river transport.

2. Entities subject to the customs examination:

- a) Those stipulated in Clause 1 of this Article;
- b) Customs dossiers and relevant documents relating to entities stipulated in Clause 1 of this Article.

3. Entities subject to the customs supervision:

- a) Those stipulated in Clause 1 of this Article;

- b) Cargos and transports that operate within the territory of customs areas; machinery, equipment and raw material goods imported for export processing and manufacturing sector, which are warehoused at the production workshop of an organization or individual;
- c) Cargos classified as entities subject to the specialized examination which receive the permit for customs pre-clearance storage;
- d) Cargos subject to the customs supervision.

## **Article 7. Implementation of national single-window system**

1. Customs declarants shall make their customs declaration and submit electronic documents in order to follow customs and administrative procedures that regulatory agencies stipulate in relation to exports or imports through an integrated information system (hereinafter referred to as national single-window portal). Time for making their customs declaration and submitting electronic documents shall be identified in accordance with regulations laid down in Laws on specialized management and guiding documents on implementing such laws.
2. Regulatory agencies shall receive and handle information provided by customs declarants; respond with the handling result to customs declarants; exchange the declared information under administrative procedures and the result of such information with other regulatory agencies through the national single-window portal.
3. Customs declarants shall receive the handling result from regulatory agencies through the national single-window portal.
4. Customs authorities shall take a look at the handling result from regulatory agencies to make a final decision about export, import clearance, customs transit, and respond with their handling result to customs declarants through national single-window portal.

## **Article 8. Responsibility of Ministries and agencies for implementing the national single-window portal**

1. The Ministry of Finance shall preside over and cooperate with relevant Ministries and agencies in:
  - a) Establishing and developing the national single-window portal;
  - b) Introducing the regulations on management and operation of the national single-window portal;
  - c) Agreeing on technical requirements for connection to the national single-window portal and specialized processing systems on the basis of national technical standards;
  - d) Compiling the list of data shared between Ministries and agencies through the national single-window portal;

dd) Amending and supplementing regulations concerning administrative procedures for implementation of the single-window system;

e) Creating and implementing the financial system which can ensure the management, operation, maintenance and development of the national single-window portal, ASEAN single-window system and exchange of information about exports, imports, in-transit cargos, outgoing, incoming and in-transit transports on the basis of the international agreements to which the Socialist Republic of Vietnam is a signatory.

2. Ministries and agencies shall take on their responsibility to issue administrative procedures for implementation of the national single-window system; establish national administrative and commercial database intended for electronic documentation to be exchanged in conformity with the single-window system.

3. The General Department of Customs shall be responsible for:

a) Managing and operating the national single-window portal;

b) Engaging in negotiation and implementation of terms and conditions set out in the International Agreements about the information exchange through the single-window portal of a member state with the others on the basis of these international agreements to which the Socialist Republic of Vietnam is a signatory.

## **Chapter II**

### **PRIORITY GIVEN TO ENTERPRISES**

#### **Article 9. Priority**

1. This priority shall conform to regulations laid down in Article 43 of the Customs Law.

2. Enterprises given priority by customs authorities and harbour warehousing agencies shall be permitted to get procedures for shipping and taking delivery of their cargos as well as customs examination and supervision procedures completed first.

3. With respect to cargos subject to specialized examinations, the above-mentioned enterprises shall be entitled to keep them stored in such enterprises' warehouses while waiting for the result of specialized inspection, unless the law on specialized inspection allows such cargos to be examined at the border checkpoint. In case cargos are required to undergo specialized examinations at the border checkpoint, such examinations shall be prioritized.

#### **Article 10. Requirements for eligibility to be given priority**

1. Compliance with the law on customs and taxation

Within a period of 02 consecutive years from the date on which enterprises file their applications for recognition of enterprises' eligibility for priority, these enterprises have not committed any of the following violations against the law on taxation and customs to an extent that punitive measures shall be applied:

- a) Tax evasion; tax fraud; goods smuggling and illicit trafficking across the border;
- b) Administrative violations which are committed in the form and on which penalty rates are imposed ultra vires the Head of Customs Sub-departments and others who hold the equivalent title.

2. Compliance with the law on accounting and auditing:

- a) Conformity with accounting principles under regulations set out by the Ministry of Finance;
- b) Annual financial statements that must be audited by auditing companies that meet requirements for rendering auditing services under legal regulations on independent audit. An audit opinion about a financial statement as expressed in an audit report must be an unqualified opinion in accordance with Vietnam's Audit Standards.

3. Internal audit:

Enterprises must devise and maintain the system and process for managing, monitoring and controlling actual operations in all of their export and import supply chains.

4. Export and import turnover:

- a) Export and import enterprises must record the turnover of USD 100 million per annum;
- b) Enterprises that export made-in-Vietnam products must record the turnover of USD 40 million per annum;
- c) Enterprises that export agricultural, aquatic products manufactured or cultivated in Vietnam must record the turnover of USD 30 million per annum;
- d) In respect of enterprises that render customs brokerage services, the number of customs declaration forms to be filled out under customs procedures in a year must equal 20,000 sheets per annum.

The export and import turnover stipulated at Point a, b, c and d of this Clause must be the average turnover recorded over 02 consecutive years till the date on which enterprises file their applications, exclusive of the turnover recorded from entrusted export and import.

5. Requirements relating to export and import turnover as stipulated in Clause 4 of this Article shall not be applied to enterprises licensed to be high-technology enterprises by the Ministry of

Science and Technology in accordance with regulations laid down in the Law on High Technology.

6. The Ministry of Finance shall consider giving priority to enterprises under regulations enshrined in Article 9 hereof on imports in order to execute key investment projects under the Prime Minister's directions before granting the investment licence to projects that enter the preliminary construction stage.

**Article 11. Procedures for recognition, renewal, temporary suspension and cessation of priority given to an enterprise**

1. Application for priority that an enterprise must file shall include the following documentation:

- a) The application form issued by the Ministry of Finance: 01 original;
- b) The comprehensive and statistical report on export and import operations of such enterprise that has been compiled over 02 latest years by completing the form issued by the Ministry of Finance: 01 original;
- c) The report on compliance with the Law on Customs, Taxation and Accounting that has been compiled over 02 latest years by completing the form issued by the Ministry of Finance: 01 original;
- d) The financial statement that has been audited over 02 latest years: 01 copy;
- dd) The audit report that has been compiled over 02 latest years: 01 copy;
- e) The inspection conclusion towards that enterprise's operations in over 02 latest years: 01 copy;
- g) The full description of internal control system including the process for managing, monitoring and controlling actual operations in all of that enterprise's export and import supply chains: 01 copy;
- h) Awards, certificates of merit, certificates of quality (if any): 01 copy.

2. Verification and recognition of an enterprise's eligibility for priority

a) Within a period of 30 days from the date on which sufficient documentation has been filed in accordance with regulations laid down in Clause 1 of this Article, the General Department of Customs shall carry out the verification and come to conclusion concerning the recognition of that enterprise's eligibility for priority.

In complicated situations when consultation with relevant Ministries and agencies is required, the deadline for such verification is likely to be extended for below 30 days;

b) Upon verifying that such enterprise is eligible for priority, the Director of the General Department of Customs shall make a decision on such enterprise's recognized priority.

This decision shall remain valid for a period of 03 years from the decision-making date and automatically be extended for another 03 successive years provided that the enterprise sustains their conformity to regulatory requirements.

3. Temporary suspension of priority given to an enterprise: If such enterprise is notified by customs authorities that they have yet to fulfill their responsibilities in accordance with Article 45 of the Customs Law, temporary suspension of priority decided by these customs authorities shall become effective for a period of 60 days.

4. Cessation of priority given to an enterprise

An enterprise shall be subject to cessation of priority if:

a) That enterprise has not sustained their conformity to regulatory requirements for eligibility to be given priority as stipulated in Article 10 hereof;

b) That enterprise continues failing to comply with regulations laid down in Article 45 of the Customs Law after the temporary suspension ends;

c) That enterprise files an application for cessation of priority.

If an enterprise is subjected to cessation of priority, the General Department of Customs shall not consider or give recognized priority to this enterprise.

## **Article 12. Management of a priority-given enterprise**

1. Responsibilities of customs authorities for carrying out activities relating to priority given to an enterprise:

a) Tracking, collecting, analyzing data or information on that enterprise's operations in order to provide guidance on improving such enterprise's capability of complying with laws, early identify any shortcoming for the purpose of promptly having it remedied and sustaining conformity to requirements for such enterprise's eligibility to be given priority;

b) Cooperating with that enterprise in immediately handling any difficult that may arise;

c) Collaborating with harbour warehousing agencies in prioritizing procedures for shipping and taking delivery of cargos as well as customs examination and supervision that a priority-given enterprise must follow.

2. Responsibilities of a priority-given enterprise:

a) Strictly observing the law on customs, taxation, accounting and audit;



- b) Strictly following the reporting regime in accordance with regulations laid down in Clause 1, 3 Article 45 of the Customs Law;
- c) Exchanging information with customs authorities in order to report any difficulty that may arise (if any), and issues relating to maintenance of requirements that that enterprise must met to become eligible to be given priority;
- d) Checking, self-inspecting, identifying and correcting any fault, and submitting a report on fault identification and correction to customs authorities.

### **Chapter III**

## **CUSTOMS PROCEDURES, CUSTOMS SUPERVISION AND INSPECTION PROCEDURES FOR EXPORTS AND IMPORTS**

### **Section 1: APPLICATION OF RISK MANAGEMENT TO CUSTOMS PROCEDURES, INSPECTION AND SUPERVISION**

#### **Article 13. APPLICATION OF RISK MANAGEMENT TO CUSTOMS-RELATED PROFESSIONAL ACTIVITIES**

1. Customs authorities shall carry out their customs supervision and inspection, post-clearance audit, inspection and other professional approaches on the basis of aggregating and dealing with the results of evaluating customs declarant's compliance with laws and classifying risk levels.
2. The Director of the General Department of Customs shall use the result of aggregating and dealing with the results of evaluating customs declarant's compliance with laws and classifying risk levels, mentioned in Clause 1 of this Article in accordance with criteria promulgated by the Ministry of Finance, as the basis for taking a decision or delegating authority to take a decision on customs examination, supervision, post-clearance audit, inspection and other customs-related professional approaches in conformity with human resource and actual requirements concerning customs management.

#### **Article 14. Evaluation of customs declarant's compliance with laws**

1. Evaluating the degree of customs declarant's compliance with laws shall be based on criteria and information about:
  - a) Frequency of violation against the law on customs and taxation;
  - b) Nature and severity of violation against the law on customs and taxation;
  - c) Cooperation with customs authorities in carrying out customs procedures, examination and supervision as well as compliance with other decisions made by customs authorities.

2. Customs authorities shall evaluate the specific degrees of customs declarant's compliance with laws in order to apply proper customs management measures.

### **Article 15. Classification of risk levels**

1. Classifying levels of risk incurred from export, import, exit, entry or transit shall be carried out on the basis of the degree of customs declarant's compliance with laws.

2. In the process of risk level classification, customs authorities shall consider related factors such as:

a) Managerial and tax policies applied to exports, imports, in-transit goods, outgoing, incoming and in-transit transports, baggage that inbound, outbound and in-transit persons carry;

b) Nature and attributes of cargos, baggage and transports;

c) Frequency, nature and severity of violation pertaining to cargos, baggage and transports;

d) Origin of exports, imports or in-transit cargos;

dd) Route and mode of transportation of cargos and baggage;

e) Other factors relating to export, import, entry, exit or transit activities.

3. Customs authorities shall evaluate and classify risks imposed on customs declarants, export, import, exit, entry or transit according to different levels in order to apply proper measures for customs examination, supervision and inspection.

## **Section 2: TAXONOMY OF EXPORTS AND IMPORTS**

### **Article 16. Taxonomy of goods**

1. Taxonomy of goods shall be used for identifying the harmonized system of goods in accordance with the List of Vietnam's exports and imports.

2. Taxonomy of goods shall be based on customs records, technical documentation and information about physical, chemical composition, properties, features, functions or utility of exported or imported goods.

3. Taxonomy of goods shall be used for identifying harmonized system codes of goods, which serves as the basis for calculating taxes and carrying out policies on management of goods.

4. The Minister of Finance shall set out detailed regulations on taxonomy of goods.

### **Article 17. List of Vietnam's exports and imports**

1. The list of Vietnam's exports and imports shall include code, name, description, measurement unit and other remarks, and shall be compiled on the basis of fully adhering to the International Convention on Harmonized Commodity Description and Coding System in accordance with regulations laid down in Clause 1 Article 26 of the Customs Law.

2. The Minister of Finance shall introduce the List of Vietnam's exports and imports across the nation.

3. The List of Vietnam's exports and imports shall be used for:

a) Introducing export and import tariffs;

b) Compiling Lists of goods to serve the purpose of state management in accordance with Government regulations;

c) Preparing the statistical report of the State on exports and imports;

d) Serving the purpose of state management of product exportation, importation and other sectors.

#### **Article 18. Database of the List of Vietnam's exports and imports**

1. The database of the List of Vietnam's exports and imports is the collection of information about the taxonomy of exports and imports, which includes:

a) Database of the List of Vietnam's exports and imports; the List of products subject to a ban on exportation, temporary cessation of exportation; the List of products subject to a ban on importation and temporary cessation of importation; the List of products to be exported and imported under the permit granted by competent authorities; the List of products that fall under entities subject to specialized examinations;

b) Guiding documents on classification of products, issued by the Ministry of Finance.

2. The Minister of Finance shall adopt detailed regulations on setting up and using the database of the List of Vietnam's exports and imports.

#### **Article 19. Responsibility of Ministries and agencies for carrying out the classification of exports and imports**

1. The Ministry of Finance shall be responsible for issuing the List of Vietnam's exports and imports, codes of exports and imports.

2. Ministries and ministerial-level agencies must comply with regulations laid down in Article 26 of the Customs Law and others enshrined in this Decree when they promulgate regulations or consider dealing with issues relating to the classification of exports and imports within their assigned duties and delegated authority.

3. Ministries and ministerial-level agencies in charge of particular sectors, as prescribed by laws, shall prepare the List of products subject to a ban on exportation, temporary cessation of exportation; the List of products subject to a ban on importation and temporary cessation of importation; the List of products to be exported and imported under the permit; the List of products that fall under entities subject to specialized examinations for submission to the Ministry of Finance. Not later than 10 working days, the Ministry of Finance shall identify commodity codes which conform to the List of exports and imports applied in Vietnam in order for Ministries and ministerial-level agencies to make it known to the public.

a) With regard to the List of products subject to a ban on exportation, temporary cessation of exportation; the List of products subject to a ban on importation and temporary cessation of importation; the List of products to be exported and imported under the permit granted by competent authorities; the List of products that fall under entities subject to specialized examinations, which are issued before the effective date of this Decree but comprises improper commodity codes, within a period of 06 months from the effective date of this Decree, Ministries and ministerial-level agencies in charge of particular sectors shall bear responsibility to agree with the Ministry of Finance on proper codes of these products that conform to the List of Vietnam's exports and imports.

4. The Ministry of Finance shall be responsible for presiding over, collaborating with relevant Ministries, agencies and organizations in making a decision on classification of goods in case there exists any discrepancy in applying the List of Vietnam's exports and imports, or any discrepancy between Lists of goods which are introduced by Ministries and ministerial-level agencies before the effective date of this Decree and the List of Vietnam's exports and imports.

### **Section 3: CUSTOMS VALUE**

#### **Article 20. Principle and method of customs valuation**

1. In the context of exported commodities, the customs value is the selling price of such commodities, exclusive of international insurance and transportation costs. The selling price calculated at the customs exit gates is the price agreed in the sales contract or others that have the similar legal value to such contract, commercial invoices and relevant records that help to prove that such shipments are identical to actual exported commodities.

2. In the context of imported commodities, the customs value is the actual buying price calculated at the first port of arrival on the basis of applying the General Agreement on Tariffs and Trade or in accordance with the international commitment to which the Socialist Republic of Vietnam is a signatory. The first port of arrival shall be identified as follows:

a) As for sea and air transportation mode, the first port of arrival is the unloading port specified on the bill of lading;

b) As for rail transportation mode, the first port of arrival is the international intermodal rail terminal located at borders;

c) As for road, inland waterway transportation mode, the first port of arrival is the border gate where commodities are imported into the territory of Vietnam.

3. The Minister of Finance shall stipulate Clause 1, 2 of this Article, and principles and methods of customs valuation that can be applicable in other cases.

## **Article 21. Customs examination and valuation**

1. Customs examination and valuation shall be based on customs records, relevant documents and current commodity status.

2. Handling of the result of customs examination and valuation in the process of following customs procedures:

a) In case the customs authority has reasonable grounds for rejecting the customs value that a customs declarant has defined and such customs declarant also agrees to this rejection, the customs authority must give advice on having it adjusted and supplemented; the customs authority shall impose penalties for administrative violations and allow customs clearance in accordance with legal regulations; in case of the customs declarant's refusal, the customs authority must allow to customs clear goods in conformity with customs declaration and conduct customs post-clearance inspection;

b) In case the customs authority has doubt about declared customs value but have not had sufficient grounds for rejection, and the customs declarant request the customs value consultation, the customs authority must customs clear goods on the basis of duties that have been already paid or self-assessed taxes that have been secured by credit institutions, tax computation of the customs declarant, and proceed to hold customs value consultation. The time limit for such consultation is within 05 working days;

b) In case the customs authority has doubt about declared customs value but have not had sufficient grounds for rejection, and the customs declarant does not request the customs value consultation, the customs authority must customs clear goods on the basis of duties that have been already paid or self-assessed taxes that have been secured by credit institutions, tax computation of the customs declarant, and proceed to carry out customs post-clearance inspection in accordance with regulations laid down in this Decree.

3. The exchange rate between Vietnamese dong and a foreign currency, used for customs valuation, is the rate of such a foreign currency to be bought in the form of money transfer that takes place at the head office of Joint stock Commercial Bank for Foreign Trade of Vietnam, which is identified at the end of the fifth working day of the preceding week, or the exchange rate identified at the end of the working day immediately preceding that fifth day in case such fifth day is a holiday or day-off. The rate of this kind shall be used for determining the rate of customs duty for customs declarations submitted within a week.

As for foreign currencies of which the exchange rate is not published by Joint stock Commercial Bank for Foreign Trade of Vietnam, the exchange rate of these foreign currencies shall be

determined in the form of cross rate between Vietnamese dong and several foreign currencies that the State Bank of Vietnam has published. As for foreign currencies of which the cross rate is not published, the exchange rate of such foreign currencies shall be determined according to the principle of calculating the cross rate between USD - VND and USD – such foreign currencies exchange rates published by the State Bank of Vietnam. The exchange rate published by the State Bank of Vietnam is the exchange rate updated in the latest post on the official website of the State Bank of Vietnam.

#### **Article 22. Database of customs value**

1. The database of customs value is a kind of information about customs valuation of exported and imported commodities that customs authorities collect, aggregate and classify in accordance with regulations set forth by the Ministry of Finance. This database shall be set up by the General Department of Customs in the manner of consistency and regular update.
2. The database of customs value shall serve as the basis for assessing risks from export and import values.

#### **Section 4: PRE-DETERMINATION OF CODE, ORIGIN AND CUSTOMS VALUE OF EXPORTS AND IMPORTS**

#### **Article 23. Pre-determination of code, origin and customs value**

1. Pre-determination of code, origin and customs value shall be carried out at the request of customs declarants. Customs authorities shall carry out the pre-determination of code, origin and customs value in accordance with regulations enshrined in Article 28 of the Law on Customs.
2. The pre-determination of customs value shall include the pre-determination of methods and prices.

#### **Article 24. Procedures for pre-determination of code, origin and customs value**

1. Requirements for pre-determination of code, origin and customs value
  - a) Organizations, individuals shall request customs authorities to pre-determine code, origin and customs value of proposed exports and imports, and provide necessary information, documents and records concerning the pre-determination of code, origin and customs value;
  - b) Exports and imports of which customs values need to be pre-determined are commodities that are exported and imported for the first time, or affected by any substantial or unexpected change compared with the customs value currently applied to customs declarant's commodities, or cargos which are shipped as break bulk cargos or deemed unpopular or have no comparable or similar ones launched in the market.
2. Responsibility of organizations, individuals for requesting the pre-determination of code, origin and customs value:

- a) File sufficient documents required to apply for the pre-determination of code, origin and customs value to the General Department of Customs;
- b) Enter into a dialogue with the customs authority in order to clarify information provided in the application for the pre-determination of code, origin and customs value at the request of that customs authority;
- c) Send a written notification to the General Department of Customs within a period of 10 working days as from the date when any change to commodities of which the application for the pre-determination of code, origin and customs value has been filed, in which the modified content, reasons for such change and change-making date must be clearly stated.

### 3. Responsibility of the General Department of Customs:

- a) Within 05 working days of receipt of the application, the customs authority shall respond with the written refusal of the pre-determination of code, origin and customs value to organizations, individuals in the event that applicants fail to meet regulatory requirements and submit sufficient documents required to apply for the pre-determination of code, origin and customs value;
- b) The Director of the General Department of Customs shall issue the written announcement about the result of predetermination of code, origin and customs value within 30 days of receipt of sufficient documents (with regard to normal applications) or 60 days of receipt of sufficient documents (with regard to complicated applications that need to be carefully authenticated). The written announcement about the result of pre-determination of code, origin and customs value must be sent to organizations, individuals, and concurrently used for keeping the database managed by customs authorities up to date, and released on the official website of the General Department of Customs.

4. The written announcement about the result of pre-determination of code, origin and customs value shall serve as the basis for customs declaration according to the customs procedures.

In case organizations, individuals disagree over the statement on pre-determination of code, origin and customs value of their commodities required to undergo customs clearance, released by the Director of the General Department of Customs, their self-assessed taxes must be paid or guarantee must be carried out in accordance with legal regulations in order to serve the purpose of completing the customs clearance of commodities. Customs authorities shall carry out their customs post-clearance examination at their offices.

5. In case of disagreeing over the content of pre-determination of code, origin and customs values, organizations, individuals must send a written request to the General Department of Customs for the purpose of calling for their consideration. Within 10 working days (with regard to normal commodities) or 30 days (with regard to complicated commodities required to be clearly authenticated) from the date on which customs declarant's requests have been obtained, the General Department of Customs shall respond with the result to such customs declarants.

6. The validity of the written announcement about the result of pre-determination of code, origin and customs value:

a) The validity of the written announcement about the result of pre-determination of code, origin and customs value shall be restricted to less than 03 years from the date on which the Director of the General Department of Customs brings it into effect. In particular, the written announcement about the result of pre-determination of price levels shall become effective directly towards shipments of which price level is pre-determined;

b) The written announcement about the result of pre-determination of code, origin and customs value shall become invalid if actual commodities or records on exports and imports are differentiated respectively from sample commodities or applications for pre-determination of code, origin and customs value;

c) The Director of the General Department of Customs shall issue written notice to cancel the result of predetermination of code, origin and customs value if documents submitted to apply for pre-determination of code, origin and customs value by organizations, individuals consist of false and inaccurate information;

d) The written announcement about the result of pre-determination of code, origin and customs value may be annulled if legal regulations as the basis for issuing the written announcement about the result of pre-determination of code, origin and customs value shall be revised, supplemented or replaced.

7. The Minister of Finance shall stipulate applications that must be filed to apply for pre-determination of code, origin and customs valuation.

## **Section 5: CUSTOMS PROCEDURES FOR EXPORTS AND IMPORTS**

### **Article 25. Customs declaration**

1. Customs declaration shall be carried out in the electronic. Customs declarants shall register their customs declaration through the electronic customs procedures under the regulations set out by the Minister of Finance.

2. Paper customs declaration is permitted if:

a) Cargos required to complete the customs declaration before being exported or imported are those of border residents;

b) Exported and imported cargos are in excess of limits on tax exemption applied to incoming and outgoing persons;

c) Cargos are used for the purpose of emergency assistance and humanitarian aid;

d) Cargos are used as personal gifts, presents and property;



dd) Cargos are equipment used for containing cargos according to the temporary importation – reexportation or temporary exportation – reimportation rotation method in accordance with regulations laid down at Point a, b Clause 1 Article 49 hereof;

e) Goods to be temporarily imported and re-exported, or temporarily exported and re-imported which are carried along by incoming and outgoing persons are used for work in the pre-determined time;

g) Customs electronic data processing system or electronic customs declaration system fails to carry out mutual electronic transactions which may be caused by the operational failure of single or both system(s) or may result from any other reason.

In case customs electronic data processing system fails to carry out electronic customs procedures, customs authorities shall be responsible for making an announcement on the customs website at least 01 hour from the time when such failure takes place;

h) Other commodities stipulated by the Minister of Finance.

3. Customs declarants must provide sufficient, accurate and clear information required in the customs declaration, decide their self-assessed taxes and other payments to the State budget as well as take their full responsibility before the laws for their declared information.

4. When carrying out customs declaration, customs declarants shall be required to:

a) Input their information declared on the electronic customs declaration system;

b) Send their customs declaration to customs authorities through customs electronic data processing system;

c) Receive feedbacks and follow instructions from customs authorities.

With regard to paper customs declaration, customs declarants are required to provide sufficient information required in the customs declaration form, append their names and signatures (except when customs declarants are individuals) in their declarations for submission to customs authorities.

5. If exports or imports are classified as regulated entities required to pay export, import taxes, excise duties, value-added taxes, environmental taxes, or of which export or import taxes are exempted or such tax exemption is under consideration, or of which the tax rate is imposed according to the tariff quota, and cargos are customs released or cleared but then subject to changes in entities that are not required to pay taxes or in purposes for which exports or imports are exempted from paying taxes or under consideration for their tax exemption; exports or imports are taxed at the rate that conforms to the tariff quota; imports are raw materials used for processing or manufacturing exports or temporarily imported – re-exported products that have been released or cleared under customs procedures but then their use purpose has changed for domestic consumption, new customs declarations must be submitted instead. Policies on

management of exports and imports and policies on taxes levied on exports and imports shall be implemented in the time when new customs declarations are registered, except when all of policies on management of exports and imports have been fully implemented at the time when the initial customs declaration is registered.

6. Commodities to be exported or imported in different manners must be declared in different export or import declarations that such commodities are required to carry out.

7. Customs declaration that commodities agreed in various commercial contracts or orders are required to complete

a) Imports which are agreed in various commercial contracts or orders, or described in one or many invoices issued by one seller under the same terms of commodity delivery, payment, one-time shipment, and those with one bill of lading shall be declared in the same customs declaration;

b) Imports which are agreed in various commercial contracts or orders under the same terms of commodity delivery, payment, or sold to the same client and those under the agreement on one-time shipment shall be declared in one or many customs declaration(s).

8. Registration of one-time customs declaration

Customs declarants who frequently export or import a single commodity at a specified time as agreed upon in the same sale contract under which contracting parties are the same seller or buyer, and whose commodities are exported or imported across the same border checkpoint shall be entitled to register their one-time customs declaration for a period of below 01 year.

One-time customs declaration shall become invalid for further customs procedures when any change to policies on taxation or management of exports or imports occurs.

9. Utilization of electronic customs declaration

Electronic customs declaration shall be valid for use when procedures for taxation, certification of commodity origin, payment made at banks and other administrative procedures as well as serve as evidence to show the legality of commodities to be traded in the market are required to be completed. Relevant regulatory agencies shall use this electronic customs declaration for their administrative purpose and shall not be allowed to request customs declarants to submit paper customs declarations.

Customs authorities shall be responsible for providing information required in the customs declaration in the form of electronic data for relevant regulatory agencies. These agencies shall be responsible for installing necessary equipment for customs declarants to get access to the data provided in the electronic customs declaration.

10. The Ministry of Finance shall set out detailed regulations on addition or cancellation of customs declaration, register one-time customs declaration or complete a new customs

declaration for commodities of which the use purpose is changed or consumption market is changed to domestic one.

## **Article 26. Receipt, examination, registration and handling of customs declarations**

1. The customs electronic data processing system shall receive, examine, register and handle customs declarations within 24 hours a day and 7 days a week.
2. In case registration of customs declarations is rejected, customs authorities shall send a notification to customs declarants through the customs electronic data processing system in which reasons for such rejection must be clearly stated.
3. In case registration of customs declarations is accepted, the customs electronic data processing system shall number and handle customs declarations, and then make a response to customs declarants.
4. The Director of the General Department of Customs shall adhere to criteria for classifying risk levels set out by the Minister of Finance in order to make a decision on customs examination and make announcement through the customs electronic data processing system according to one of the following forms:
  - a) Approve the information declared on the customs declaration system and permit customs clearance;
  - b) Examine related documents included in the customs documentation of customs declarations, or any other document stored on the single-window portal in order to decide customs clearance or conduct physical verification of commodities before permitting customs clearance.
5. Paper customs declaration shall be allowed in the following cases

Registration of customs declarations is carried out immediately after customs declarants their complete customs declaration and submit all of the required documents, and customs authorities managed to examine their eligibility for registration of customs declarations, including:

- a) Examination of accuracy and legality of stated information and documents included in the customs documentation;
- b) Examination of compliance with the administration regime and policy, and tax policy aimed at exports or imports;
- c) Examination of application of measures to impose the temporary suspension of customs clearance. The Director of Customs Sub-departments where customs declarations are received and handled shall refer to customs documentation and physical verification in order to make a decision to deal with customs formalities.

In case customs declarants are eligible for registration of customs declarations, customs authorities shall grant registration numbers and decide issues relating to regulated customs examination.

In case customs declarants are not eligible for registration of customs declarations, customs authorities shall immediately send a written notification of such ineligibility to customs declarants.

6. Goods to be exported or imported within the effective time of customs declarations, as stipulated in Clause 2 Article 25 of the Customs Law, shall be governed by policies on management of exports or imports, and policies on taxes levied on exports or imports that come into effect at the time when customs declarations are registered.

7. Uncompleted customs declarations required for exports or imports used for emergency cases, dedicated commodities intended for national defense and security tasks in accordance with regulations laid down in Article 50 of the Customs Law, and uncompleted customs declarations required for commodities exported or imported by priority-given enterprises in accordance with regulations laid down in Article 43 of the Customs Law shall consist of such information as name and address of the exporter or importer; preliminary information about commodity description, quantity and value; port of entry; transportation schedule.

Commodities on which duties are imposed shall be subject to the tax policy that takes effect at the registration time and shall be required to enclose uncompleted customs declarations for submission.

## **Article 27. Examination of customs documentation**

1. Examination of customs documentation shall be conducted as stipulated in Article 32 of the Customs Law. Time limit for completing the examination of customs documentation shall conform to regulations enshrined at Point a Clause 2 Article 23 of the Customs Law.

2. In the course of scrutiny conducted by customs officers, if the information provided in customs declarations and the one provided in relevant documents as part of the customs documentation are inaccurate, insufficient and incompatible, or if there are signs of infringement upon policies on management of commodities, policies on taxes levied on exports or imports as well as other relevant laws, the Director of the Customs Sub-department where customs declarations are received or registered shall consider and make a decision on physical verification of commodities.

3. In case examination of customs documentation is conducted by customs officers, the Director of the Customs Sub-department shall take into consideration the request made by customs declarants, and make a decision on extending the deadline for submission of several original documents along with customs declarations within a period of under 30 days as from the date on which customs declarations are registered.

## **Article 28. Customs examination to be conducted in the course of handling commodities at seaports and airports**

1. Based on the result of analysis of information about risk management, the customs declaration on exported or imported cargos which are provided before commodities arrive at border gates, customs authorities shall make a decision on physical verification by means of scanning equipment and other technical devices.
2. Harbour warehousing enterprises shall be responsible for saving a space to install scanning equipment and other technical devices in order for customs authorities to perform their examination tasks at the area where commodities are loaded (or unloaded) onto (or from) transports.
3. In case customs examination is conducted by means of scanning equipment or other technical devices, and customs authorities detect any sign of suspicion as well as customs officers find it is necessary to carry out this examination, customs authorities shall notify harbour warehousing enterprises in order to call for their cooperation in arranging a separate warehousing area.

## **Article 29. Physical verification**

1. Physical verification activities shall include checking of commodity name, code, quantity, weight, mass, type, quality, origin and customs value. ; Checking of actual physical attributes of commodities in comparison with the information about commodities provided in customs documentation.
2. Authority to make a decision on forms and levels of physical verification

In respect of exports or imports required to undergo physical verification, the Director of Customs Sub-department where customs documentation is received and handled shall refer to regulations laid down in Clause 4 Article 26 hereof, and commodity information in order to decide forms and levels of physical verification.

Time limit for completing the physical verification shall conform to regulations enshrined at Point b Clause 2 Article 23 of the Customs Law.

In case any violation against the customs legislation is detected, the Director of Customs Sub-department where customs documentation is received and handled, and the Director of Customs Sub-department where commodities are preserved or the Head of the Customs Authority who is in charge of manage concentrated commodity inspection places shall make a decision on any change to the level or form of physical verification and bear their responsibility for their decision.

3. Level of physical verification: Physical verification shall be conducted till the grounds for determining the legality and conformity of all of the shipment with information about such shipment provided in the customs documentation have been sufficient.

Customs officers shall conduct physical verification in accordance with the decision made by the Director of Customs Sub-department and use commodity information as the basis for such verification; take full responsibility for the result of physical verification that they carry out.

4. Forms of the physical verification:

a) Customs officers' direct checking;

b) Checking to be carried out by means of technical equipment and other professional approaches;

c) Checking to be carried out with reference to the result of analysis and assessment of commodities.

In the course of physical verification, when any change to the form of physical verification is required, the Director of the Customs Sub-department where such verification takes place shall make his/her decision. The result of physical verification to be carried out by means of electronic scanning and weighing equipment as well as other technical devices shall serve as the basis for customs authorities' making decision on the customs clearance of commodities.

5. In case, upon using equipment and devices available at Customs Sub-departments or customs examination areas, customs officers who are charged with the physical verification task fail to verify the provided information of customs declarants about commodity name, code, type, quality, quantity, mass and weight, professional and specialized affiliates of customs authorities shall be advised to carry out classification or assessment activities with the aim of determining such information.

In case customs authorities are incapable of verifying the information provided by customs declarants, customs authorities shall request the assessment carried out by assessment service organizations in accordance with laws, and then use the result of such assessment as the basis for customs clearance.

### **Article 30. Handling of the result of customs examination**

1. If customs declarants agree to customs authorities' conclusion as to commodity name, code, origin, weight, type, quality and customs value, further information must be provided at the request of customs authorities, and the result of customs examination shall be handled in accordance with the legislation on taxation, penalties for administrative violations or other relevant laws.

If customs declarants disagree with customs authorities about the conclusion as to commodity name, code, origin, weight, type, quality and customs value, they can file their petitions or shall be entitled to choose assessment service providers to carry out the commodity assessment in accordance with laws. In such case, customs authorities shall refer to the conclusion drawn by such assessment service providers to make a decision on customs clearance.

2. In case customs authorities disagree about the result of such assessment submitted by customs declarants, customs authorities shall have the right to choose other assessment service providers and refer to the result of this assessment to make a decision on customs clearance. If customs declarants disagree about the result of customs examination announced by customs authorities, a petition must be filed or a lawsuit must be filed in accordance with legal regulations.

### **Article 31. Collection and payment of fees incurred from customs procedures**

1. Customs declarants shall be liable for fees incurred from customs procedures in accordance with regulations laid down in the legislation on fees and charges.

2. The Minister of Finance shall introduce detailed regulations on the process and form of collection and payment of customs fees.

### **Article 32. Customs release and clearance**

1. The customs release shall conform to regulations laid down in Article 36 of the Customs Law. The customs release of commodities shall be carried out in the following cases:

a) Analysis, classification or assessment must be conducted with the intention of identifying commodity code, quantity, weight and mass of exports or imports, and customs declarants who have already paid their taxes or credit institutions that provide their guarantee for self-assessed taxes imposed on customs declarants;

b) Exports or imports have not had official price at the time when customs declarations are registered, and customs declarants pay taxes or their taxes have been guaranteed by credit institutions on the basis of the price temporarily calculated by customs declarants;

c) Exports or imports are stipulated at Point b Clause 2 Article 21 hereof;

d) If customs declarants do not have sufficient information and documents required to support customs valuation of exported goods and imported goods, customs release of their commodities shall be permitted provided that there is any credit institution providing guarantee for their taxes on the basis of customs value determined by customs authorities.

2. The customs clearance shall conform to regulations laid down in Article 37 of the Customs Law. In respect of exports or imports that have been customs cleared but have not been moved away from the custom area, if customs authorities detect any sign of violation, the Director of the Customs Sub-department shall make a decision to check customs documentation, physical verification or impose proper penalties for such violation in accordance with laws as well as shall have to pay any cost incurred when detecting none of violations.

### **Article 33. Responsibility of competent regulatory agencies and cooperative relationship between these agencies in the examination of commodities or transports at border gates**

1. Exports or imports, in-transit commodities, incoming, outgoing or in-transit transports that are classified as entities subject to quarantine inspection, must undergo such inspection at the border checkpoint before completing other customs formalities, unless otherwise permitted by the legislation on quarantine to ship back to areas intended for quarantine inspection across the nation. In respect of exports or imports, in-transit commodities, incoming, outgoing or in-transit transports that are classified as entities subject to quality examination or food safety control process, customs authorities shall adhere to requirements or criteria promulgated by regulatory agencies in order to carry out examination as designated by Ministries and ministerial-level agencies charged with specialized management, or take the conclusion drawn by specialized management agencies into account to make a decision on customs clearance.

Regulatory agencies shall be responsible for collaborating in examining exports, imports, in-transit commodities, outgoing, incoming or in-transit transports concurrently at border checkpoints or commodity inspection places, except when commodities are required to ship back to specialized examination areas to meet technical or professional requirements.

Customs authorities shall preside over or collaborate in customs examination of exports, imports, in-transit commodities, outgoing, incoming or in-transit transports which is conducted by regulatory agencies at border checkpoints. Collaboration between regulatory agencies in carrying out customs examination activities at border checkpoints must conform to the regulations promulgated by the Prime Minister on specialized examination operations to take place at border checkpoints.

2. With regard to exports or imports required to undergo the specialized examination before customs clearance, within a maximum period of 10 days as from the date on which examination registration is granted or the sampling of such commodities for the purpose of this specialized examination, unless otherwise stipulated by the legislation on specialized examination, competent specialized examination authorities must send the examination result to customs authorities in accordance with regulations laid down in Article 35 of the Customs Law or to the national single-window portal, in case such specialized examination authorities connect their information technology system with the national single-window portal, in order for customs authorities to make a decision on customs clearance. If the specialized examination authority has not given the result of specialized examination after expiration of allowed duration, a written explanation for such delay must be provided and the appointment date on which the result of such examination is given must be determined as well.

3. Exports or imports required to undergo the specialized examination must be retained at border gates, ports of entry or exit located across the nation, bonded warehouses or concentrated commodity inspection areas, and must be kept under the supervision of customs authorities until customs clearance is permitted. In addition to above-mentioned areas, commodities shall be shipped back to the following areas:

a) Areas used for carrying out quarantine inspection activities across the nation in accordance with the quarantine law;



b) If, as stipulated by legal regulations, commodities are permitted to ship back to other areas for the purpose of specialized examination or customs declarants file their written request for shipping their commodities back to their storage facilities, customs authorities shall allow customs declarants to ship their commodities to the warehouses or storage grounds which have clear address and are isolated from surrounding areas in order to ensure that commodities shall be kept intact.

With regard to imports that can not be sampled for the specialized examination purpose and of which specialized examination can only be conducted at domestic areas or destinations in accordance with legal regulations on specialized examination, customs authorities shall allow customs declarants to ship their commodities back to their storage facilities; customs declarants shall be legally held responsible for the storage of these commodities whilst waiting for customs clearance.

4. The Ministry of Finance shall be responsible for collaborating with Ministries, Ministerial-level and relevant agencies or organizations in developing infrastructural facilities, arranging machinery, equipment used for examining commodities at border gates, including physical verification of customs authorities and specialized examination of specialized regulatory agencies at international border gates across which the flow of incoming and outgoing commodities is massive. Relevant regulatory agencies or organizations operating at border gates shall be responsible for arranging human forces to collaborate in specialized examinations stipulated in Clause 1 and 2 of this Article.

#### **Article 34. Customs supervision of exports, imports or in-transit goods**

1. Customs supervision of exports, imports or in-transit goods shall conform to regulations laid down in Article 38, 39, 40 and 41 of the Customs Law.

2. In order to implement regulations on customs supervisions enshrined in the Customs Law, port and warehousing service enterprises shall assume their responsibility to:

a) Arrange a separate space for storage of exports, imports or in-transit goods and imports stored at the port of entry in over 90 days as from the arrival date but not claimed by any person;

b) Use information technology system to meet statutory standards with the objective of managing and monitoring exports or imports which are under customs supervision to serve the purpose of carrying out storage or transiting of such commodities out of ports, warehouses or storage facilities as well as make connection with regulatory agencies at border gates;

c) Check documentation proving that customs authorities certify that commodities have been customs cleared, released, shipped back to storage facilities or examination areas before allowing these commodities to be loaded onto transports for exportation or imports to be transited out of ports, warehouses or grounds;

d) Treat information available on the system with complete confidentiality in accordance with laws;

dd) Observe any decision of competent agencies on handling of commodities committing any violation against the storage duration, or customs uncleared commodities in accordance with regulations laid down in Article 58 of the Customs Law.

3. In order to implement regulations laid down in Clause 2 and 6 of Article 41 of the Customs Law, customs authorities shall assume their responsibility to:

a) Examine the fulfillment of responsibility of port and warehousing enterprises as stipulated in Article 41 of the Customs Law and Clause 2 of this Article. In case the port and warehousing enterprise commits any violation against regulations on customs supervision, proper penalties shall be imposed on them and customs authorities shall enhance measures to strictly examine and supervise commodities transited in or out of warehouses or grounds;

b) Share the information provided in customs declarations about commodities that have been customs cleared, released, shipped for storage, moved to examination areas in order for port and warehousing enterprises to implement regulations laid down in Clause 2, 6 Article 41 of the Customs Law with the aim of serving the connection purpose on the basis of ensuring system safety and security;

c) Assign customs officers to collaborate with port and warehousing enterprises in examining commodities transited in or out of port areas whenever the system is faced with failure;

d) Check commodity status and customs seal for the shipment of exports or imports required to be sealed in accordance with regulations of the Ministry of Finance;

dd) Perform patrol and control activities within the port or warehouse areas in accordance with legal regulations.

4. In the course of carrying out customs supervision and patrol at customs areas, the Director of a Customs Department shall be vested with the right to:

a) Make a decision on temporary postponement or stop of transports currently conveying exports, imports or in-transit goods when detecting any sign of violations against the customs legislation.

In case of emergency, customs officers on duty shall have the right to temporarily stop transports and send an immediate report to the Director of a Customs Sub-department;

b) Make a decision to carry out document checking and physical verification of exports, imports or in-transit goods, incoming, outgoing or in-transit transports when detecting any sign of violations against the customs legislation;

c) Make a decision to pursue transports conveying exports, imports, in-transit goods that have a sign of violation against the customs legislation from the inside to outside of customs areas.

5. The Minister of Finance shall provide detailed regulations on customs supervision.

### **Article 35. Customs procedures that must be followed by on-the-spot exports and imports**

1. On-the-spot exports and imports shall include:

- a) Those produced in Vietnam under contract manufacturing arrangements and sold to Vietnamese organizations or individuals by overseas ones;
- b) Those traded under the sale and purchase contract between domestic enterprises and exporting and processing enterprises or enterprises located in free trade zones;
- c) Those traded under the sale or purchase contract between Vietnamese enterprises and overseas organizations or individuals that have no representative in Vietnam, and delivered or received under the designation arrangement between foreign merchants with other enterprises in Vietnam.

2. The Minister of Finance shall set forth detailed regulations on customs procedures that on-the-spot exports and imports must follow.

### **Article 36. Customs procedures, customs supervision and inspection processes for exports and imports used for contract manufacturing; imports used for manufacturing exports**

- 1. Before obtaining customs clearance for the first shipment of raw materials, machinery or equipment used for contract manufacturing activities, production of goods for exportation, organizations or individuals must give information about the manufacturer to customs authorities.
- 2. Organizations, individuals who export or import goods used for contract manufacturing of products or production of exports must make a financial report on management and use of imported raw materials, inputs, machinery and equipment, and exports.
- 3. Facilities serving the purpose of storage of imported raw materials, inputs, machinery and equipment used for contract manufacturing activities, production of exports and exported products must be located in the manufacturing area of an organization or individual; if exports or imports are stored outside of the manufacturing area, organization or individual must send a request to customs authorities for consideration and decision.
- 4. The Minister of Finance shall stipulate customs procedures, and financial reporting of exported or imported raw materials, machinery and equipment used for contract manufacturing purposes, or production of exports; inspection of manufacturing facilities, current use and inventory of raw materials, machinery and equipment.

### **Article 37. Responsibility of organizations or individuals importing goods used for contract manufacturing purposes or productions of commodities for export**

1. Before obtaining customs clearance for the first shipment of raw materials, machinery or equipment used for contract manufacturing purposes, production of commodities for export, they are responsible to submit the following documentation to the Customs Authorities where they intend to submit their financial reports for approval:

a) A Certificate of Business Registration or Certificate of Enterprise Registration or Investment License or Investment Certificate for foreign-invested enterprises: 01 copy;

b) A written notification of contract manufacturing facilities, manufacturer of exports, storage facilities where raw materials, machinery, equipment and exports according to the form issued by the Minister of Finance: 01 original.

Where there is any change to contents given in such written notification, customs authorities must be informed prior to proceed to other customs procedures;

c) A lease on manufacturing facilities, applicable to customs declarants who rent manufacturing facilities: 01 copy.

Organizations or individuals shall not be required to submit the documents mentioned at Point a, b, c Clause 1 of this Article when they are carrying out their customs declaration for importation of raw materials, machinery or equipment used for manufacturing contract purposes or production of commodities for export.

2. Retain contracts or appendices given in agreements on the contract manufacturing, permitted amounts of raw materials or inputs used for manufacture of specific products by code, product mock-ups, nesting or marker plans (if applicable) at organizations or individuals, and show these for custom authorities' inspection required by laws.

3. Make financial reports on received, dispatched or in-stock raw materials, machinery, equipment and exported products; be held legally responsible for the accuracy of the actual norm determined for production of exports, financial reporting data and status report on use of imported raw materials, machinery, equipment used for contract manufacturing purpose or production of commodities for export.

4. Provide sufficient documents, records and materials relating to exports, imports, manufacturing facilities, machinery and equipment; give the demonstration of data, figures and manufacturing process in relation to use and inventory of raw materials, machinery and equipment to customs authorities to serve the purpose of their inspection required by laws.

### **Article 38. Responsibility of customs authorities**

1. Receive the written notification of contract manufacturing or production facilities of exports, or facilities used for storage of raw materials, machinery, equipment and exported products sent by organizations or individuals.

2. Inspect facilities used for contract manufacturing and production of commodities for export, capability of carrying out contract manufacturing and production activities, and use and inventory of raw materials, machinery, equipment and exports when customs inspection is required in accordance with regulations laid down in Article 39 and 40 hereof.

3. Receive financial reports on current use of raw materials, machinery, equipment and exports, submitted by organizations or individuals; handle issues relating to taxes levied on specific forms of importation of raw materials, machinery and equipment used for production of exports.

4. Depending on the result of customs information handling and criteria for risk management, customs authorities shall inspect financial reports; with regard to organizations or individuals suspected of trade frauds, customs authorities shall carry out customs post-clearance examination and handle such frauds as required by laws.

5. Impose taxes or penalties for administrative violations against the law on customs and taxed in accordance with legal regulations on taxation and handling of administrative violations.

### **Article 39. Examination of contract manufacturing and production facilities and capability**

1. Examination shall be applicable to the followings:

a) Organizations or individuals are considered as entities that can pose any risk in adhering to terms and conditions agreed in the contract manufacturing arrangement or are extended 275-day duration of tax payment for commodities which are raw materials, machinery or equipment used for production of exports;

b) Whenever customs authorities doubt that organizations or individuals have none of manufacturing facilities, or a sudden increase or reduction in importation of raw materials, machinery or equipment in comparison with manufacturing capability is detected.

2. Examination is conducted after 05 working days as from the date on which the examination decision is made. The examination duration shall be restricted to fewer than 05 working days.

3. Handling of the result of examination of contract manufacturing and production facilities and capability:

a) In case organizations or individuals do not have contract manufacturing or production facilities, they are liable to make a full payment of taxes, late payment fees from the date on which their customs declarations for import are registered to the date on which taxes are paid, and shall face penalties for their violations in accordance with legal regulations, depending on the number of imported raw materials, machinery or equipment that are not offered tax incentives in accordance with legal regulations;

b) In case there are sufficient grounds for verifying that organizations or individuals have imported raw materials, machinery or equipment beyond their manufacturing capabilities or unconformable to their scope of operation described in the business licence, these organizations

or individuals shall be permitted to present their demonstration or explanation; in case they refuse to do that, or their demonstration or explanation is proved to be unacceptable, customs post-clearance examination or specialized inspection stipulated by laws is required.

#### **Article 40. Checking of use and inventory of raw materials, machinery and equipment**

1. This checking shall be carried out if:

- a) Organizations or individuals considered as entities who may pose the risk of importing machinery, equipment, raw materials or inputs of which the life cycle is ended have produced no commodity for export;
- b) There are reasonable grounds for demonstrating that organizations or individuals report a sudden increase or reduction in importing raw materials, machinery, equipment, or exporting products;
- c) There are reasonable grounds for demonstrating that organizations or individuals have sold their raw materials, machinery, equipment or products at the domestic market but have not carried out any customs declaration yet;
- d) Declaration of exported products carried out by organizations or individuals is found in breach of legal regulations or contrast to the actual condition;
- dd) There is any suspicious difference in data or figures shown in the financial report on use of raw materials, machinery, equipment and exported commodities in comparison with those shown on the system of customs authorities.

2. The Director of Customs Sub-department shall carry out customs post-clearance examination in accordance with the Director of Customs Department of a province or city.

Such examination shall take place within fewer than 05 working days at manufacturing facilities or main office of organizations or individuals. In respect of complicated cases, the Director of Customs Department of a province or city shall give a decision to extend the examination deadline for more 05 days at maximum.

3. Issues that need to be examined:

- a) Customs documentation, statements on receipt - dispatch - inventory, records on monitoring received or dispatched raw materials, machinery or equipment;
- b) The actual norm determined for manufacturing of exported products;
- c) Suitability of raw materials, machinery or equipment for exported products;
- d) Raw materials, machinery or equipment used in the production line;

dd) Quantity of in-stock products;

e) Quantity of finished products that have not been exported yet.

#### 4. Handling of the examination result

In case the examination come to the conclusion that the number of commodities which are still inventoried or stored at warehouses of organizations or individuals is not identical to the number shown in documents, records or financial reports, a written explanation must be submitted.

In case customs authorities disagree about such explanation and have sufficient grounds for demonstrating that organizations or individuals have committed acts of violation against the law on customs, taxation, and then make a decision to impose taxes as well as handle such violation in accordance with legal regulations.

### **Article 41. Financial reporting regime; examination of financial reporting of current use of raw materials, machinery and equipment**

#### 1. Financial reporting principles

Organizations or individuals shall carry out the financial reporting of current use of raw materials, machinery, equipment in the form of a receipt—dispatch – inventory report.

#### 2. Handling of a financial report

a) Customs authorities shall inspect a financial report on the basis of following risk management method;

b) Depending on the result of examination of a financial report, customs authorities shall deal with issued relating to taxes levied on imported raw materials, machinery or equipment used for manufacturing exported products.

3. The Minister of Finance shall provide detailed guidance on the process or time of making a financial report and inspection of a financial report on use of imported raw materials, machinery or equipment used for contract manufacturing purpose or production of commodities for export.

### **Section 7: CUSTOMS PROCEDURES FOR TRANSHIPPED, IN-TRANSIT CARGOS, OR SHIPMENTS THAT ENTER OR EXIT ACROSS FREE TRADE ZONES**

#### **Article 42. Customs procedures for incoming or outgoing shipments through free trade zones must follow**

1. Shipments transited from overseas countries to free trade zones, or shipments transited from free trade zones to overseas countries are required to complete customs declaration.

2. Shipments transited from free trade zones to inland areas must follow the customs procedures the same as imported commodities do.
3. Shipments transited from inland areas to free trade zones must follow the customs procedures the same as imported commodities do.
4. Cargos shipped from this free trade zone to another free trade zone shall follow the customs procedures the same as shipments under customs supervision do.
5. The Minister of Finance Article shall stipulate the customs procedures that incoming or outgoing shipments through free trade zones must follow.

**Article 43. Customs procedures, customs supervision and inspection procedures for in-transit cargos**

1. Customs declaration required by customs procedures that in-transit cargos must be followed shall be carried out at the customs office located at the first port of call and the last port of departure.

2. Customs documentation required for in-transit cargos shall consist of the followings:

a) Transportation declaration according to the form issued by the Ministry of Finance.

With regard to in-transit cargos that are not moved via an inland country, customs declarants shall not need to submit transportation declarations but be required to submit the cargo manifest according to the form issued by the Ministry of Finance: 01 original.

With regard to cargos moving in transit in conformity with Agreements on the transit of cargos between Vietnam and bordering countries, under which attached documents for such in-transit cargos are stipulated, customs declarants shall not need to submit transportation declarations on transportation but are required to submit customs documents for their in-transit moving of cargos: 01 original;

b) Transport document: 01 copy;

c) License required by laws: 01 original.

3. Responsibility of customs declarants:

a) Ship cargos along the route, to the port and within a time limit stipulated in Clause 1, 2 Article 65 of the Customs Law;

b) Ensure that cargos are protected by customs seals, or keep cargos intact during transportation in case it is impossible to customs seal such shipment of cargos moving from port of entry to port of exit.



4. Responsibility of the Customs Sub-department operating at ports of entry:

- a) Receive and handle customs documentation as stipulated in Clause 2 of this Article;
- b) Carry out customs sealing for in-transit cargo transports;
- c) Assign customs officers to directly supervise in-transit cargos in terms of those stipulated at Point c Clause 6 of this Article.

5. Responsibility of the Customs Sub-department operating at ports of exit:

- a) Verify information provided on transportation declarations available on the data system of customs authorities;
- b) Inspect customs documents for in-transit cargos which are verified by the Customs Sub-department operating at port of entry with respect to cargos moving in transit under Agreements on the transit of cargos between Vietnam and bordering countries;
- c) Check whether customs seal is unbroken or cargos are kept intact before carrying out customs clearance.

6. Customs supervision to be carried out for in-transit cargos:

- a) In-transit cargos must be customs sealed. In case such cargos are impossible to be customs sealed, customs declarants shall be held responsible for keeping their cargos intact;
- b) In-transit cargos that appear in the list of commodities subject to a ban on trading, export, or a temporary cessation of export, or a ban on import or a temporary cessation of import; the list of exports or imports under permits shall be supervised by means of technical equipment;
- c) In-transit cargos which are weapons, bullets, explosive materials and highly dangerous commodities shall be supervised by means of technical equipment or directly by customs officers;
- d) During the period when cargos are moving in transit via Vietnam, before customs declarants carry out transshipment, transloading, warehousing, deconsolidation, changing of transportation modes or other activities, customs authorities where customs clearance for imports occurs must be informed and grant their permission.

7. In case force majeure is likely to damage the intactness of shipments, customs sealing or causes cargos to fail to be shipped along the predetermined route or on schedule, customs declarants, after applying necessary measures to control and mitigate any possible loss or damage, must promptly inform customs authorities to seek any solution; in case it is impossible to give such notification, the nearest police authority, border guard or coastguard must be informed to give their confirmation or find any solution in accordance with laws.

## **Article 44. Customs supervision and inspection procedures for transshipped cargos**

1. Transshipped cargos are cargos moving from an overseas country to intermediate destination and then transited directly from this intermediate destination to another overseas country; those which are not permitted to move throughout the territory of Vietnam for the purpose of export via a different border gate, unless otherwise permitted by international agreements to which Vietnam is a signatory or the Prime Minister's decision. Transshipped cargos which are the whole or part of shipments moving in a port shall be shipped to overseas countries.

2. Transshipped cargos must be reported to customs authorities and put under customs supervision during the time when they are stored at ports. Physical verification shall be needed if any violation against law is detected.

3. Responsibility of freight forwarders:

a) Send a notification of cargos transshipment to customs authorities by completing the form issued by the Ministry of Finance;

b) Keep transshipped cargos intact during the customs storage process;

c) After obtaining the authorization from the consignor, carry out package reinforcement, splitting and repackaging for the purpose of storing cargos in conformity with shipment requirements, or reconfiguration or contract manufacturing if permitted by the Prime Minister;

d) Have transshipped cargos consolidated into different cargos for export.

## **Section 8. CUSTOMS PROCEDURES, CUSTOMS SUPERVISION AND INSPECTION PROCEDURES FOR OTHER EXPORTS AND IMPORTS**

### **Article 45. Movable assets**

1. When wishing to carry movable assets into Vietnam, foreigners must follow customs procedures by submitting the followings:

a) Customs declaration: 02 originals;

b) Written accreditation for work in Vietnam, issued by organizations or agencies where these foreigners are working, or work permit issued by Vietnamese competent regulatory agencies: 01 copy;

c) Transport documents, if these assets are conveyed by means of sea, air or rail transports: 01 copy.

2. When wishing to move movable assets out of Vietnam, foreigners must follow customs procedures by submitting the followings:

a) Customs declaration: 02 originals;

b) Written evidence to show that their work period has expired: 01 copy;

c) Customs declaration for import accredited by customs authorities, if movable assets are cars or motorbikes, or documents showing the change to use purpose of such assets, or records on tax payment for any cargos on which taxes must be paid: 01 copy.

3. When wishing to bring movable assets back to their home country, Vietnamese organizations or citizens must follow customs procedures by submitting the followings:

a) Customs declaration: 02 originals;

b) Documents proving that their period of business or work abroad has expired, or that they will stay permanently in Vietnam: 01 copy;

c) Transport documents, if these assets are conveyed by means of sea, air or rail transports: 01 copy.

4. When wishing to carry movable assets to overseas countries, Vietnamese organizations or citizens must follow customs procedures by submitting the followings:

a) Customs declaration: 02 originals;

b) Written evidence to show that they are working, holding an office or settling abroad: 01 copy.

5. The Prime Minister shall promulgate the list of commodities being movable assets that appear in the list of commodities subject to a ban on import, or commodities that appear in the list of commodities subject to the restriction on import, or conditional imports permitted to be carried into Vietnam at a specific period and limited amount of commodities being tax-exempt movable assets.

#### **Article 46. Exported, imported commodities, checked baggage of inbound or outbound persons which have got lost or mistakenly taken**

1. Exported, imported commodities, checked baggage of incoming or outbound persons which have got lost or mistakenly taken shall be required to undergo customs inspection, supervision of customs authorities at the port of entry/exit.

2. With regard to air checked baggage which have got lost or mistakenly taken:

Port service enterprise or representative of a shipping enterprise shall be responsible for notifying customs authorities of the list of checked baggage which have been lost or mistakenly taken. Customs authorities shall preside over or collaborate with Airport Authority and Aviation Security Authority in carrying out inspection by means of baggage scanning machines before moving lost or mistakenly taken checked baggage in the storage areas.

a) In case there is no baggage that exceeds permitted amounts on which taxes must be paid in accordance with legal regulations after inspection carried out by means of scanning machines, or in breach of laws, port service enterprises or representatives of shipping enterprises shall be assigned to have them reclaimed by incoming or outbound persons;

b) In case there is any baggage that exceeds permitted amounts on which taxes must be paid in accordance with legal regulations, or in breach of laws, customs authorities shall carry out customs sealing before allowing lost or mistakenly taken checked baggage to be moved in the storage area of port service enterprises. When reclaiming lost, mistakenly taken baggage, incoming or outbound persons must follow customs procedures in accordance with regulations laid down in Article 59 hereof.

The opening of lost or mistakenly taken baggage must be approved or supervised by customs authorities.

3. The Ministry of Finance shall adopt detailed regulations on dealing with lost or mistakenly-taken checked baggage of which recipients can not be identified.

#### **Article 47. Customs procedures for reimportation of exported commodities**

1. Reimportation of commodities that have been exported but returned (hereinafter referred to as reimportation of returned commodities) shall be carried out to serve the following purposes:

a) Repair or recycling (commonly called recycling), and then re-exportation;

b) Domestic consumption;

c) Destruction in Vietnam (not applicable to those that are produced under the contract manufacturing arrangement with foreign merchants);

d) Re-exportation required by foreign partners.

2. Customs documentation to be submitted:

a) Customs declaration for imported commodities;

b) Transport documents, if cargos are conveyed by means of sea, air or rail transports: 01 copy;

c) Written notification of returned commodities sent by foreign parties, or of those returned commodities that is unclaimed: 01 copy.

3. Customs procedures shall conform to regulations laid down in Section 5 hereof (exclusive of import permit or written notification of the result of specialized examination).

4. Customs authorities shall not levy taxes on re-imported commodities as stipulated in Clause 1 of this Article if customs declarants submit sufficient documents proving that tax exemption is

applicable to these commodities at the time of completing required re-import customs formalities in accordance with legal regulations.

5. With regard to commodities that are re-imported for recycling, the recycling time limit must be registered with customs authorities but be restricted to fewer than 275 days as from the date of re-importation; customs declarants have yet to pay taxes within this time limit. In case such commodities have not been re-exported within the registered time limit, legal regulations enshrined in the law on taxation shall be applied.

6. Procedures for re-exportation of recycled commodities shall conform to regulations laid down in Section 5 hereof.

7. The way in which recycled commodities have failed to be re-exported:

a) With regard to recycled products made by the contract manufacturing process, customs procedures shall be followed to enable them to be consumed at the domestic market or destroyed;

b) With regard to products other than the aforesaid recycled products, they shall be consumed as re-imported commodities in the domestic market.

8. If re-imported commodities are exported products made of imported raw materials or inputs; commercial goods classified as entities on which the import duty is refunded, the customs authority where required formalities required by re-import customs procedures are completed must notify the customs authority where documents that must be submitted to apply for the tax refund is completed (if both are different) of cases as mentioned at Point b, c Clause 1 and cases in which re-export is not allowed as mentioned at Point d Clause 1 of this Article, or those mentioned in Clause 7 of this Article, or the case in which time limit is exceeded as mentioned in Clause 5 of this Article, in order to find any possible tax-related solution in accordance with legal regulations.

#### **Article 48. Customs procedures, supervision for imported commodities required to be re-exported**

1. Re-exportation of imported commodities that have completed their customs formalities required by customs procedures shall be carried out to serve the following purposes:

a) Payments made to foreign clients;

b) Re-exportation of commodities to a third country or a free trade zone.

2. Customs documentation:

a) Customs declaration on exported goods;

b) Written documents proving that the consignor agrees to reclaim the shipment (if this shipment is returned to the consignor): 01 copy;

c) Decision granted by competent regulatory agencies to enforce this re-export (when applicable): 01 copy.

3. Customs procedures shall conform to regulations laid down in Section 5 hereof (exclusive of import permit or written notification of the result of specialized examination).

In case customs declarants submit sufficient documents proving that their commodities are permitted to be exempted for tax payment when completing customs formalities required by customs procedures, customs authorities shall not be allowed to collect taxes on exported commodities which are returned or exported to the third country or exported to the free trade zone, and make their decision on customs clearance in accordance with legal regulations.

4. If commodities (exclusive of narcotics, weapons, reactionary documents, toxic chemicals defined in Schedule 1 of the Chemical Weapons Convention), for which import customs formalities has not completed yet, are still kept in the customs supervision area by reason of being lost or misdirected, or left unclaimed, or due to someone's refusing to accept them, and if the carrier or consignor files a request for re-export (in which reasons for such events are clearly stated), the Director of the Customs Sub-department where shipments are stored shall supervise such commodities until they are actually moved out of the territory of Vietnam across the port of entry.

#### **Article 49. Customs procedures for equipment used for containing cargos according to the temporary importation – temporary exportation rotation method**

1. Types of equipment used for containing cargos according to the rotation method shall comprise:

a) Empty container with or without suspension hooks;

b) Flexible tanks inside containers for liquid storage;

c) Other types of equipment used for containing cargos according to the rotation method shall comprise.

2. The deadline for temporary importation - reexportation, temporary exportation - reimportation shall be agreed under the contract between a merchant and his/her partner, and registered with the Customs Sub-department where customs formalities are completed. If this merchant and his/her partner enter into an agreement on extending the deadline for temporary importation, temporary exportation, customs declarants must send written notification enclosed with the extension agreement prior to the above-mentioned deadline to the Customs Sub-department where customs formalities are completed. If that merchant fails to temporarily export, import commodities by the registered deadline, this violation shall be handled in compliance with legal regulations.

3. Customs procedures for equipment used for containing goods according to the rotation method in accordance with regulations laid down at Point a, b Clause 1 of this Article shall be described as follows:

- a) In terms of importation, customs declarants are required to submit 01 cargo manifest which details equipment used for containing goods according to the import rotation method;
- b) In terms of exportation, customs declarants are required to submit 01 list of empty containers to be temporarily imported or exported before loading onto transports by completing the form issued by the Ministry of Finance and 01 cargo manifest;
- c) The Customs Sub-department where customs formalities for temporary importation or exportation are completed shall monitor, check and verify the number of temporarily imported, exported transports; carry out physical verification whenever any suspicion is detected.

The Minister of Finance shall provide guidance on electronic customs procedures for equipment used for containing goods according to the rotation method in accordance with regulations laid down in this Clause.

4. Customs procedures for other types of equipment used for containing goods according to the temporary importation – reexportation rotation method shall conform to regulations enshrined at Point c Clause 1 of this Article as follows:

- a) Customs declarations according to the form issued by the Ministry of Finance;
- b) Transport documents, if cargos are conveyed by means of sea, air or rail transports: 01 copy;
- c) Import permit, written notification of the result of specialized examination required by relevant laws: 01 original.

5. Customs procedures for other types of equipment used for containing goods according to the temporary exportation – reimportation rotation method shall conform to regulations enshrined at Point c Clause 1 of this Article as follows:

- a) Customs declarations according to the form issued by the Ministry of Finance;
- b) Export permit, written notification of the result of specialized examination required by relevant laws: 01 original.

6. Customs procedures for other types of equipment used for containing goods according to the rotation method as stipulated by Point c Clause 1 of this Article shall conform to regulations laid down in Section 5 hereof.

7. Venue for customs procedures:

a) Required customs declaration under the customs procedures that must be followed by equipment used for containing goods according to the rotation method as stipulated by Point a, b Clause 1 of this Article shall be completed at the Customs Sub-department located at border gates;

b) Required customs declaration under the customs procedures that must be followed by other types of equipment used for containing goods according to the rotation method as stipulated by Point c Clause 1 of this Article shall be completed at the Customs Sub-department located at border gates or the Customs Sub-department where customs formalities for import of goods use for manufacturing contract purpose or production of commodities for export are completed.

8. Within the permitted period of temporary importation, reexportation that customs declarants register with customs authorities, equipment used for containing goods according to the temporary importation – reexportation rotation method shall not be taxed. In case there is any change to the use purpose of equipment used for containing goods according to the rotation method, customs procedures shall be adopted as follows:

a) Customs declarants shall file a written clear explanation for such change to the Customs Sub-department where the manifest of re-imported cargos is registered or the customs declaration for such re-imports is completed;

b) The Director of the Customs Sub-department the manifest of re-imported cargos is registered or the customs declaration for such re-imports is completed shall take responsibility to consider these reasons or explanations; if there are no sign of trade frauds, the request made by customs declarants shall be accepted.

c) Customs declarants are required to complete customs formalities for import in accordance with regulations laid down in Section 5 hereof at the Customs Sub-department where temporary import is carried out. In case temporary import is carried out at different Customs Sub-department, customs declarant shall choose one Customs Sub-department for such temporary import to complete customs formalities for import.

**Article 50. Customs procedures for temporary import – re-export, temporary export – re-import of equipment, machinery, moulds or models for production, construction, project execution or experimentation**

1. Customs procedures for temporary import – re-export of equipment, machinery, moulds or models shall comprise the followings:

a) Customs declarations according to the form issued by the Ministry of Finance;

b) Transport documents, if cargos are conveyed by means of sea, air or rail transports: 01 copy;

c) Import permit, written notification of the result of specialized examination required by relevant laws: 01 original.



2. Customs procedures for temporary export – re-import of equipment, machinery, moulds or models shall comprise the followings:

- a) Customs declarations according to the form issued by the Ministry of Finance;
- b) Export permit, written notification of the result of specialized examination required by relevant laws: 01 original.

3. Venue for submitting customs documents to complete customs formalities: the Customs Sub-department located at border gates or the Customs Sub-department at the area where manufacturing facilities or projects are located. With regard to temporarily imported – re-exported, temporarily exported – re-imported machinery, equipment, moulds or models used for contract manufacturing process or production of commodities for export, or operation of export processing enterprises, customs formalities shall be completed at the Customs Sub-department where customs declaration for import of such commodities is carried out.

4. Customs procedures shall conform to regulations laid down in Section 5 hereof.

5. The time limit for temporary importation - reexportation, temporary exportation - reimportation shall be agreed under the contract between a merchant and his partners, and registered with customs authorities. In case the deadline for temporary importation, reexportation needs to be extended to serve the purpose of production, construction, project execution or experimentation as agreed upon between that merchant with his partners, customs declarants must notify in writing the Customs Sub-department where customs formalities for temporary importation, reexportation are dealt with.

If customs declarants fail to carry out temporary importation, reexportation by the agreed deadline, this violation shall be handled in compliance with legal regulations.

6. If the temporary import and temporary export enterprise submit the deed of gift of temporarily imported – re-exported, temporarily exported – re-imported machinery, equipment, moulds or models used for production, construction, project execution or experimentation, they must follow customs procedures in compliance with Section 5 hereof.

**Article 51. Customs procedures for temporary import – re-export of cargo ships or aircraft for the purpose of repair or maintenance that takes place in Vietnam**

1. Customs documentation shall include:

- a) Customs declarations according to the form issued by the Ministry of Finance;
- b) The contract to supply ship or aircraft repair or maintenance services with foreign partners: 01 copy.

2. Venue for submitting customs documents to complete customs formalities: the Customs Sub-department located at border gates.

3. The time limit for temporary importation, reexportation shall be agreed in this contract and registered with the Customs Sub-department located at border gates.

4. Customs procedures shall conform to regulations laid down in Section 5 hereof.

5. Customs examination or supervision shall be conducted as follows:

a) The Customs Sub-department at border gates shall supervise customs declarants' moving their ships or aircraft from anchoring or landing areas to repair and maintenance service points. a) The Customs Sub-department at border gates shall supervise customs declarants' moving their ships or aircraft from anchoring or landing areas to repair and maintenance service points;

b) Customs declarants shall be responsible for managing cargo ships or aircraft at repair and maintenance service points.

**Article 52. Customs procedures for temporary import of components, spare parts or items used for replacing or repairing foreign cargo ships or aircraft**

1. With regard to temporarily imported components, spare parts or items carried on ships or aircraft through the entry point, or shipped before or after the entry of ships or aircraft:

a) Customs declarants must be the operator of ships or aircraft or the agent of the ship or aircraft owner;

b) Customs procedures must conform to regulations laid down in Section 5 hereof.

2. Customs documentation shall include:

a) Customs declaration form issued by the Ministry of Finance;

b) Transport document, if cargos are conveyed by means of sea, air or rail transports: 01 copy;

c) Import permit, written notification of the result of specialized examination required by relevant laws: 01 original.

3. Venue for submitting customs documents to complete customs formalities: the Customs Sub-department located at border gates.

4. Components, spare parts or items temporarily imported for repair or operation of cargo ships or aircraft under the contract to provide ship, aircraft repair or maintenance services with foreign partners shall be required to complete customs procedures the same as those produced under the contract manufacturing arrangement do in accordance with instructions from the Minister of Finance.

**Article 53. Customs procedures for temporary import – re-export, temporary export – re-import of commodities used for fair, exhibition or product launch events**

1. Customs documentation that customs declarants must submit for temporarily imported – re-exported commodities:

- a) Customs declaration form issued by the Ministry of Finance;
- b) Transport document, if cargos are conveyed by means of sea, air or rail transports: 01 copy;
- c) The written permission certified by competent authorities to organize fair or exhibition events (except for temporarily imported – re-exported commodities used for product launch events): 01 copy;
- c) Import permit, written notification of the result of specialized examination required by relevant laws: 01 original.

2. Customs documentation that customs declarants must submit for temporarily exported – re-imported commodities:

- a) Customs declaration form issued by the Ministry of Finance;
- c) The written permission certified by competent authorities to organize fair or exhibition events (except for temporarily exported – re-imported commodities used for product launch events): 01 copy;
- c) Export permit, written notification of the result of specialized examination required by relevant laws: 01 original.

3. Venues for completing customs formalities: At the Customs Sub-department where fair, exhibition or product launch events take place or the Customs Sub-department located at border gates.

4. Permitted period of temporary export – re-import:

- a) Temporarily imported commodities for fair, exhibition or product launch events that take place in Vietnam must be re-exported within 30-day period from the closing date of these events as registered with customs authorities;
- b) Permitted period of temporary exportation of commodities for fair, exhibition or product launch events that take place in overseas countries shall be one year from the date on which such commodities are temporarily exported; if these commodities have not been re-imported within this period, these commodities shall be taxed or held liable for other financial obligations under Vietnamese regulations.

5. Customs procedures that customs declarants must follow shall conform to regulations laid down in Section 5 hereof.

6. Sale or gift of commodities at fair, exhibition or product launch events carried out under regulations laid down in Article 136, 137 of the Commerce Law must follow the customs procedures for import as stipulated by laws.

**Article 54. Temporarily imported – re-exported, temporarily exported – re-imported commodities used for work activities over a defined period of time**

1. Temporarily imported – re-exported, temporarily exported – re-imported commodities used for work activities over a defined period of time shall encompass: Commodities used for such work activities as conferences, seminars, scientific researches, education, sports competitions, cultural and arts performance, healthcare services, product research and development.

2. Customs documentation that customs declarants must submit for temporarily imported – re-exported commodities shall include:

a) Customs declaration form issued by the Ministry of Finance;

If customs declarants have to complete paper customs declaration in accordance with regulations laid down at Point e Clause 2 Article 25 hereof, they are required to submit 02 original customs declarations;

b) Transport document, if cargos are conveyed by means of sea, air or rail transports (except for hand luggage carried by inbound persons): 01 copy;

c) A written proof of participation in aforementioned work activities mentioned in Clause 1 of this Article: 01 copy;

c) Import permit, written notification of the result of specialized examination required by relevant laws: 01 original.

3. Customs documentation that customs declarants must submit for temporarily exported – re-imported commodities:

a) Customs declaration form issued by the Ministry of Finance;

If customs declarants have to complete paper customs declaration in accordance with regulations laid down at Point e Clause 2 Article 25 hereof, they are required to submit 02 original customs declarations;

c) A written proof of participation in aforementioned work activities mentioned in Clause 1 of this Article: 01 copy;

c) Export permit, written notification of the result of specialized examination required by relevant laws: 01 original.

4. Venues for completing customs formalities: At the Customs Sub-department located at border gates.

5. Permitted period of temporary import – export, temporary export - re-import must be registered with customs authorities.

6. Customs procedures that customs declarants must follow shall conform to regulations laid down in Section 5 hereof.

**Article 55. Temporarily imported – re-exported, temporarily exported – re-imported commodities for warranty or repair services**

1. Customs documentation that customs declarants must submit for temporarily imported – re-exported commodities shall include:

- a) Customs declaration form issued by the Ministry of Finance;
- b) Transport document, if cargos are conveyed by means of sea, air or rail transports: 01 copy;
- c) Import permit, written notification of the result of specialized examination required by relevant laws: 01 original.

2. Customs documentation that customs declarants must submit for temporarily exported – re-imported commodities:

- a) Customs declaration form issued by the Ministry of Finance;
- b) Export permit, written notification of the result of specialized examination required by relevant laws: 01 original.

3. Venues for completing customs formalities: At the Customs Sub-department located at border gates.

4. Permitted period of temporary import – re-export, temporary export – re-import shall conform to the agreement between merchants with their partners and then shall be registered with the Customs Sub-department when completing customs formalities for temporary import or temporary export.

5. Customs procedures that customs declarants must follow shall conform to regulations laid down in Section 5 hereof.

**Article 56. Monitoring of customs declarations for temporary import – re-export, temporary export - re-import**

1. The Customs Sub-department where customs formalities for temporary import or temporary export are completed shall be held responsible for monitoring or managing customs declarations for temporary import or temporary export for commodities stipulated herein.

2. The Minister of Finance shall stipulate the monitoring of customs declarations for temporary import – re-export, temporary export – re-import for commodities stipulated herein.

## **Section 9. CUSTOMS PROCEDURES FOR LUGGAGE OF INBOUND OR OUTBOUND PERSONS**

### **Article 57. Applicable entities**

Luggage carried by persons who are allowed to move in or out through the entry/exit point after showing their passports or equivalents issued by competent regulatory agencies of Vietnam or overseas countries.

### **Article 58. Duty-free luggage limit**

1. The limit on duty-free luggage of inbound persons shall conform to the Prime Minister's Decision.

2. The limit on duty-free luggage of inbound persons shall be stipulated as follows:

a) The limit shall be applied to each entry;

b) Combination of the duty-free limits for different entry times as the basis for calculating the duty-free limit for one entry time is not allowed;

c) Combination of the duty-free limits on luggage of different inbound persons for the purpose of approving application for the duty-free limit on luggage of one inbound person, except when luggage is personal one carried by family members on the same trip.

3. If the luggage which exceeds the permitted duty-free limit and then the excess is considered imported commodities, inbound persons must conform to legal regulations on imported commodities and taxation. Inbound persons shall be entitled to choose to pay tax on any of their items if they carry a lot of items with them.

4. In case the excess of duty-free luggage limit for inbound persons is taxed but the aggregated tax payable is restricted to below VND 100,000, tax exemption shall be applied.

5. Those who have to frequently move in for their work nature shall not be entitled to the duty-free luggage limit for each of their entry but shall be entitled to such limit once every 90 days. Those who have to frequently move in for their work nature refer to:

a) Pilots or international flight attendants;

- b) Train operator and attendants working on intermodal rail transports;
- c) Officers or crewmen working on a ship;
- d) Operators or Vietnamese employees working in neighboring countries that share the same land border with Vietnam.

The enjoyment of this duty-free limit shall be stipulated by the Prime Minister's Decision

6. The amount of duty-free luggage of outbound persons shall not be restricted. Outbound persons shall not be permitted to carry items that appear on the list of commodities subject to a ban on importation, temporary suspension of exportation, or the list of conditional exports as stipulated by laws.

### **Article 59. Customs procedures for luggage of inbound or outbound persons**

1. Luggage of inbound or outbound persons must go through customs procedures at border checkpoints.

2. Inbound or outbound persons are not required to complete customs declaration if they keep none of the luggage that exceeds the duty-free limit in accordance with the law on taxation, or are claimed before or after their trips.

Any commodity carried by inbound or outbound persons which exceeds the duty-free limit through the customs checkpoint without completing customs declaration shall be considered as illegal imports or exports and shall be subject to handling measures in accordance with laws.

3. The luggage of inbound or outbound persons shall be checked by means of commodity scanning machines and other equipment. On the basis of data analyses and supervision of inbound or outbound persons, customs authorities shall choose one of the commodities which poses potential risks to undergo the customs physical verification.

4. In case there are sufficient grounds for proving that inbound or outbound persons may commit smuggling or illegal carriage of commodities across borders, frisking search shall be carried out as stipulated by the law on handling of administrative violations.

5. Inbound or outbound persons shall be allowed to have their commodities safe-kept at the warehouse of the Bordergate Customs Sub-department and to reclaim them after their entry or exit customs procedures have been completed. Duration of temporary keeping their commodities under customs protection shall not exceed 180 days from the date on which their commodities are safe-kept at the customs warehouse.

6. Within the duration of the customs safekeeping as stipulated in Clause 5 of this Article, if incoming or outbound persons submit written documents about abandonment of such commodities or fail to reclaim their commodities by the specified deadline, this case shall be subject to proper handling measures in accordance with laws. Proceeds from the liquidation of

commodities shall be paid into the state budget after deducting any relevant cost as stipulated by laws.

**Article 60. Customs procedures for luggage of incoming passengers which exceeds the duty-free limit; luggage of inbound or outbound persons which is shipped before or after their trips**

1. Luggage of inbound persons which exceeds the duty-free limit; luggage of inbound or outbound persons which is shipped before or after their trips must go through customs procedures in accordance with regulations laid down in Section 5 hereof.

2. Customs documentation shall include:

a) Customs declaration form issued by the Ministry of Finance: 02 originals;

b) Passports or any equivalent document of inbound persons certified by customs entry/exit authorities: 01 copy;

c) Entry/exit customs declarations certified by the Customs Sub-department where customs procedures for inbound persons are completed: 01 original;

d) Transport documents, if luggage of inbound passengers are shipped before or after their trips: 01 copy.

3. Customs authorities shall carry out the physical verification of these commodities for the purpose of adopting policies on managing exports or imports, or on taxation in accordance with laws.

4. Inbound passengers shall be required to complete the customs formalities for their luggage shipped before or after their trips within a period of fewer than 30 days from the date on which their luggage is shipped to the arrival port.

**Chapter IV**

**CUSTOMS PROCEDURES FOR INCOMING, OUTGOING OR IN-TRANSIT TRANSPORTS**

**Section 1: Customs procedures, customs supervision and inspection procedures for incoming, outgoing or in-transit aircraft**

**Article 61. Customs procedures for incoming, outgoing or in-transit aircraft**

1. Customs procedures for incoming aircraft:

a) Manifest of incoming air cargos which is applicable to cargos aircraft;



b) Information about the secondary airway bill of lading for incoming cargos which is applicable to cargos aircraft;

c) List of passengers on board which is applicable to passenger aircraft;

d) List of pilot team members on board;

dd) Manifest of checked baggage which is applicable to passenger aircraft.

2. Customs procedures for outgoing aircraft:

a) Manifest of outgoing air cargos which is applicable to cargo aircraft;

b) List of passengers on board which is applicable to passenger aircraft;

c) List of pilot team members on board and flight attendants on board;

d) Manifest of checked baggage which is applicable to passenger aircraft.

3. Customs procedures for in-transit aircraft

When completing customs formalities for in-transit aircraft, customs declarants are required to submit customs documentation as stipulated in Clause 1 of this Article; when completing exit customs formalities, if there is any change to entry customs documentation, customs declarants must submit their customs documentation including such changed documents.

Any aircraft which is landed for technical reasons shall not be required to carry out customs declaration but have to be put under customs supervision.

4. Customs documentation regulated in Clause 1, 2 and 3 of this Article shall be submitted to customs authorities in the form of electronic data.

In case customs electronic data processing system or electronic customs declaration system fails to carry out electronic transactions, customs declarants shall be responsible for filing paper customs documents to customs authorities;

**Article 62. Duration of providing information to complete customs documentation**

1. As for incoming aircraft:

a) Not later than 03 hours prior to the landing of incoming aircraft at Vietnam's first airport in terms of 3-hour flights;

b) Not later than 30 minutes prior to the landing of aircraft at Vietnam's first airport in terms of below-3-hour flights.

2. As for outgoing aircraft: Immediately after airlines complete necessary procedures for outgoing commodities or passengers.

3. As for in-transit aircraft

At the arrival point, regulations on customs procedures laid down in Clause 1 of this Article shall take effect; at the exit point, regulations on customs procedures laid down in Clause 2 of this Article shall be applied.

4. Customs declarants shall submit required documents mentioned at Point a, c, d, dd Clause 1, 2 of Article 61 and issuers of secondary airway bills of lading shall submit required documents mentioned at Point b Clause 1 of Article 61 within the regulated time defined in this Article through the customs electronic data processing system.

5. Any change or supplementation to customs information or documentation for incoming, outgoing or in-transit aircraft shall be carried out under the instruction of the Minister of Finance.

#### **Article 63. Receipt and handling of customs documentation**

1. Customs authorities shall check provided documents, carry out physical verification of aircraft and confirm that customs procedures have been completed for incoming, outgoing or in-transit aircraft under the instruction of the Minister of Finance.

2. Deadline for completing customs procedures for incoming, outgoing or in-transit aircraft: Not later than 01 hour from the moment when customs declarants submitted or showed sufficient customs documentation in accordance with regulations enshrined in Article 61 hereof.

3. The General Department of Customs shall be responsible for establishing the system for receiving electronic information from customs declarants and sharing such information with relevant agencies operating at airports.

#### **Article 64. Responsibility of airport operation enterprises**

1. Not later than 24 hours (01 hour for irregular flights) before the arrival of incoming aircraft and airlines' completion of airway procedures for outbound passengers and exported freight, airport operation enterprises shall not be responsible for providing the following information for the Customs Sub-department at international airports:

- a) Aircraft nationality;
- b) Aircraft type;
- c) Flight itinerary;
- d) Arrival and departure schedule;

dd) Location where aircraft are parked;

e) Passenger entrance gates;

g) Duration of handling commodities onto or off aircraft.

2. Airport operation enterprises shall not be responsible for give prior notice to customs authorities within 01 hour at the latest whenever any change to information regulated in Clause 1 of this Article occurs.

## **Section 2: CUSTOMS PROCEDURES, CUSTOMS SUPERVISION AND INSPECTION PROCEDURES FOR INCOMING, OUTGOING OR IN-TRANSIT SHIPS**

### **Article 65. Customs procedures for incoming, outgoing or in-transit ships**

1. As for incoming ships:

a) General declaration;

b) Manifest of incoming seaway cargos which is applicable to cargo ships;

c) Information about the secondary seaway bill of lading for incoming cargos which is applicable to cargo ships;

d) Ship crew;

dd) Manifest of personal luggage carried by ship crewmen;

e) Ship's stores declaration;

g) List of passengers on board which is applicable to passenger ships;

h) Manifest of dangerous cargos which is applicable to dangerous cargo ships.

2. As for outgoing ships:

a) General declaration;

b) Manifest of outgoing seaway cargos which is applicable to cargo ships;

c) Ship crew;

d) Manifest of personal luggage carried by ship crewmen;

dd) Ship's stores declaration;

e) List of passengers on board which is applicable to passenger ships.

When completing customs formalities for outgoing ships, if there is any change to declared information provided at the entry time, customs declarants are only required to submit the general declaration as stipulated at Point a of this Clause.

3. As for in-transit ships

When completing customs formalities for in-transit ships, customs declarants are required to submit customs documentation as stipulated in Clause 1 of this Article; when completing exit customs formalities, if there is any change to entry customs documentation, customs declarants must submit their customs documentation including such changed documents.

4. Customs documentation regulated in Clause 1, 2 and 3 of this Article shall be submitted to customs authorities in the form of electronic data.

In case the customs electronic data processing system or electronic customs declaration system fails to carry out electronic transactions, customs declarants must file paper customs documents to customs authorities.

5. The Minister of Finance shall provide guidance on customs procedures for incoming, outgoing ships in certain special cases as stipulated by the marine law.

**Article 66. Duration of providing information to complete customs documentation**

1. As for incoming ships:

a) Manifest of incoming commodities and information about secondary seaway bills of lading: Not later than 12 hours before the proposed time when ships arrive at ports within below -5-day shipping time; Not later than 24 hours before the proposed time when ships arrive at ports within other shipping time;

b) Documents stipulated at Point c, d, dd, e, g, h Clause 1 of Article 65 hereof: Not later than 08 hours before the proposed arrival time.

2. As for outgoing ships:

The deadline for provision of information about documents stipulated in Clause 2 Article 65 hereof shall be 01 hour at the latest before departure.

3. As for in-transit ships:

At the arrival point, regulations on customs procedures laid down in Clause 1 of this Article shall take effect; at the exit point, regulations on customs procedures laid down in Clause 2 of this Article shall be applied.

4. Customs declarants shall submit required documents mentioned at Point c, d, dd Clause 1, 2 of Article 65 hereof and issuers of secondary seaway bills of lading shall submit required documents mentioned at Point b Clause 1 of Article 65 hereof within the specified deadline defined in Clause 1 of this Article through the customs electronic data processing system.

5. Any change or supplementation to customs information or documentation for incoming, outgoing or in-transit ships shall be carried out under the instruction of the Minister of Finance.

#### **Article 67. Receipt and handling of customs documentation**

1. Customs authorities shall check provided documents, carry out physical verification of ships and confirm that customs procedures have been completed for incoming, outgoing or in-transit ships under the instruction of the Minister of Finance.

2. The deadline for completing customs procedures for incoming, outgoing or in-transit ships: Not later than 01 hour from the moment when customs declarants submitted or showed sufficient customs documentation in accordance with regulations enshrined in Article 65 hereof.

3. The General Department of Customs shall be responsible for establishing the system for receiving electronic information from customs declarants and sharing such information with relevant agencies operating at seaports.

#### **Article 68. Responsibility of maritime administration authorities and seaport operation enterprises**

1. Immediately after receiving the confirmation of arrival time and proposed departure time, maritime administration authorities must promptly notify customs authorities and other relevant regulatory agencies operating at seaports for the purpose of collaboration.

2. Immediately after deciding to allow incoming, outgoing or in-transit ships to move in seaports, maritime administration authorities shall notify customs authorities and other relevant regulatory agencies operating at seaports of the specific ship-stay time and location at seaports.

3. Prior to unloading cargos off ships, seaport operation enterprises must notify customs authorities of predetermined warehouses or storage facilities.

### **Section 3: CUSTOMS PROCEDURES, CUSTOMS SUPERVISION AND INSPECTION PROCEDURES FOR INCOMING OR OUTGOING INTERMODAL TRAINS**

#### **Article 69. Customs procedures for incoming trains:**

1. At international intermodal rail terminals at borders:

a) Intermodal freight transfer document: 01 original;

b) Bill of lading: 01 copy;

c) Manifest of incoming cargos unloaded off intermodal trains according to the form issued by the Ministry of Finance: 02 originals;

d) List of intermodal passengers on intermodal trains or passengers who completed customs procedures at international intermodal terminals at borders (if applicable): 01 original;

dd) Manifest of fuel, tools or food carried along trains (if applicable): 01 original.

2. At inland intermodal rail terminals:

a) Documents stipulated at Point b, c Clause 1 of this Article;

b) List of intermodal passengers on intermodal trains or passengers who completed customs procedures at inland intermodal terminals (if applicable): 01 original.

### **Article 70. Customs procedures for outgoing trains**

1. At inland intermodal rail terminals:

a) Written confirmation of the order of trains which is applicable to those that complete the customs procedures at international intermodal rail terminals located in inland areas: 01 original;

b) Bill of lading: 01 copy;

c) Manifest of outgoing cargos through international intermodal rail terminals located in inland areas according to the form issued by the Ministry of Finance: 02 originals;

d) List of intermodal passengers on passenger trains or passengers who completed customs procedures at international intermodal rail terminals located at inland areas (if applicable): 01 original.

2. At international intermodal rail terminals at borders:

a) Documents stipulated at Point b, c Clause 1 of this Article;

b) Intermodal freight transfer document: 01 original;

c) Bill of lading: 01 copy;

d) Written confirmation of train order: 01 original;

dd) List of intermodal passengers on passenger trains or passengers who completed customs procedures at international intermodal terminals at borders (if applicable): 01 original.

### **Article 71. Duration of providing information to complete customs documentation**

1. As for incoming trains: Immediately after trains arrive at international intermodal rail terminals at borders or those located at inland areas, the Head of the terminal, the train or the legal representative shall submit documents stipulated in Clause 1 or 2 Article 69 hereof to customs authorities.

2. As for outgoing trains: Not later than 30 minutes for passenger trains or 01 hour for freight trains before they arrive at international intermodal rail terminals at inland areas or those located at borders, the Head of the terminal, the train or the legal representative shall submit documents stipulated in Clause 1 or 2 Article 70 hereof to customs authorities.

3. Before completing examination of customs documents for incoming or outgoing trains, the Head of the rail terminal or the train or the representative is required to carry out additional customs declaration in the following cases:

a) There is any difference in information, such as freight description, weight, quantity (maybe increased or decreased), about the actual incoming or outgoing shipment and information recorded on bills of lading, manifests, freight transfer documents submitted to customs authorities;

b) Any other change to provided information concerning transport, freight and baggage that may occur in the process of transporting, storing freight at warehouses or storage yards, dispatching or receiving freight.

## **Article 72. Responsibility of customs authorities**

1. Receive and deal with customs documentation that has been submitted or shown in accordance with regulations laid down in Article 69 and 70 hereof as follows:

a) Check and collate information provided in the customs documentation in relation to wagon codes, freight quantity, etc. for each freight, container or checked baggage wagon, etc.; check customs sealing carried out by carriers (if applicable) for each freight, container or checked baggage wagon;

b) Carry out the customs sealing of each freight, checked baggage wagon under customs supervision which is carried to the next international intermodal rail terminal at borders or inland areas; with regard to freight such as heavy-size or bulk freight, etc., that can not be customs sealed, the Head of the freight train shall be responsible for keeping freight, checked baggage or wagons intact on the way to arrive at the destination terminal as required by legal regulations;

c) Hand over incoming or outgoing freight to customs authorities at international intermodal rail terminals located at inland areas or borders in the event that freight under customs supervision conveyed by incoming trains to the international intermodal rail terminal located at inland areas or conveyed by outgoing trains to the international intermodal rail terminal located at borders, which shall be carried out by completing the form issued by the Ministry of Finance;

d) Verify and stamp documents submitted by the Head of rail terminals or trains or legal representatives; carry out the customs sealing of documents handed over to the Head of rail terminals or trains or legal representatives to forward them to customs authorities operating at international intermodal rail terminals located at borders or those located at inland areas in accordance with legal regulations;

dd) Confirm and respond to customs authorities operating at international intermodal rail terminals located at borders or those located at inland areas with the receipt of freight, shipment documents put under customs supervision as well as current status of freight that have just arrived. Customs documentation such as the manifest of freight and other relevant documents required by legal regulations shall be retained.

2. Carry out customs supervision and control of incoming or outgoing trains within customs areas as follows:

a) Supervise means of transport, used for both incoming or outgoing freight transportation, including empty containers, wagons or vehicles); supervise outgoing freight until they have already moved out of customs areas, and supervise incoming freight until they are customs cleared, released or moved out of customs areas;

b) Supervise luggage or cargos of inbound passengers, operation team members and crewmen on board immediately after they get out off trains to enter into entry points or isolation areas;

c) Supervise luggage or cargos of outbound passengers, operation team members and crewmen on board immediately after they move out of exit points or isolation areas to get onto outgoing trains;

d) Supervise freight, checked baggage conveyed from customs bond warehouses, or from exit points to load onto trains, and freight or checked baggage unloaded off trains to carry them to customs bond warehouses or entry areas;

dd) Supervise diplomatic or consular bags received or sent at parking areas;

e) On the basis of aggregating and dealing with information about incoming or outgoing trains, arrange personnel in charge of patrol or control, depending on the characteristics of each shipment.

3. The deadline for completing customs procedures for incoming or outgoing intermodal trains: Not later than 01 hour from the moment when customs declarants submitted or showed sufficient customs documentation in accordance with regulations enshrined in Article 69, 70 hereof.

### **Article 73. Responsibility of the Head of an intermodal rail terminal and train**

1. Responsibility of the Head of an intermodal rail terminal:



- a) Notify customs authorities operating at international intermodal rail terminals by means of the computer connection system, documents or faxes of information about the itinerary of incoming or outgoing trains, including locomotive head or wagon codes; position, time of arrival, stop or departure; information about incoming, outgoing freight, or luggage of incoming or outbound passengers, including location, time of freight handling and any change to information concerning trains, freight or baggage;
- b) Append confirmation and stamp on documents submitted by the Head of trains to complete customs procedures;
- c) Submit or show documents included in the customs documentation and go through customs procedures in accordance with legal regulations.
- d) Take responsibility for the accuracy of information provided in the documents submitted to customs authorities;
- dd) Collaborate with customs authorities in carrying out customs examination supervision and control in order to promptly prevent and detect any violation against the law on customs that occur on board and at international intermodal rail terminals.

## 2. Responsibility of the Head of trains:

- a) Submit or show accurate and sufficient documents included in the customs documentation and go through customs procedures in accordance with legal regulations;
- b) Take responsibility for the accuracy of information provided in the documents submitted to the Head of rail terminals and customs authorities;
- c) Collaborate with the Head of rail terminals in completing customs formalities (including exchanging customs documentation between customs authorities operating at international intermodal rail terminals located at borders and those located at inland areas) in accordance with legal regulations;
- d) Keep freight intact and protect customs sealing (if any) or sealing carried out by carriers in the process of carrying freight under customs supervision.

## **Section 4: CUSTOMS PROCEDURES, CUSTOMS SUPERVISION AND INSPECTION PROCEDURES FOR INCOMING, OUTGOING OR IN-TRANSIT CARS**

### **Article 74. Customs procedures for incoming cars**

- 1. With regard to incoming cars (temporarily imported foreign cars; re-imported Vietnamese cars), customs declarants are required to submit or show:
  - a) The original of intermodal transportation permit granted by competent regulatory agencies;

- b) The original of vehicle registration certificate for temporarily imported foreign cars;
  - c) 01 original of the list of passengers, applicable to passenger cars;
  - d) The original of customs declaration on temporarily imported – re-exported road transports; or 01 original of customs declaration on temporarily exported – re-imported road transports, certified by the bordergate Customs Sub-department where customs procedures for temporary export are completed.
2. With regard to cars which are allowed to move in Vietnam under the Convention on facilitation of passenger and commodity transportation across borders between Greater Mekong Subregion countries, provisions enshrined in such Convention and guiding documents shall prevail.

#### **Article 75. Customs procedures for outgoing cars**

1. With regard to outgoing cars (temporarily exported Vietnamese cars; re-exported foreign cars), customs declarants are required to submit or show:
- a) The original of intermodal transportation permit granted by competent regulatory agencies;
  - b) The original of vehicle registration certificate for temporarily exported Vietnamese cars;
  - c) 01 original of the list of passengers, applicable to passenger cars;
  - d) The original of customs declaration on temporarily exported – re-imported road transports; or 01 original of customs declaration on temporarily imported – re-exported road, certified by the bordergate Customs Sub-department where customs procedures for temporary import are completed.
2. With regard to cars which are allowed to move out of Vietnam under the Convention on facilitation of passenger and commodity transportation across borders between Greater Mekong Subregion countries, provisions enshrined in such Convention and guiding documents shall prevail.

#### **Article 76. Time limit for submitting customs documentation**

1. In respect of incoming cars: When cars arrive at the border checkpoint, drivers or legal representatives shall submit or show documents mentioned in Article 74 hereof to the bordergate Customs Sub-department.
2. In respect of outgoing cars: When cars arrive at the border checkpoint, drivers or legal representatives shall submit or show documents mentioned in Article 75 hereof to the bordergate Customs Sub-department.

**Article 77. Customs procedures, customs supervision and inspection procedures for incoming, outgoing cars**

1. Customs procedures for incoming or outgoing cars

- a) Customs authorities shall receive customs documentation;
- b) Customs authorities shall apply the risk management method to examination of customs documentation, physical verification and confirmation of temporary import – re-export or temporary export - re-import for incoming or outgoing cars.

2. Customs supervision procedures for incoming or outgoing cars

- a) Within customs areas, customs authorities shall preside over and use technical equipment to supervise incoming or outgoing cars;
- b) Outside of customs areas, police authorities shall preside over and collaborate with relevant Ministries or agencies in examination and supervision of incoming or outgoing cars.

3. Single-window, one-stop customs examination shall conform to regulations on single-window, one-stop customs procedures; or national single-window system.

4. The Minister of Finance shall promulgate customs declaration form, and provide guidance on customs procedures for incoming, outgoing road transports.

**Article 78. Customs procedures for incoming or outgoing cars used for uncommercial transactions**

1. With regard to customs procedures for incoming cars (temporarily imported foreign cars; re-imported Vietnamese cars) in accordance with the bilateral convention between Vietnam and its bordering countries, customs declarants are required to submit and show the following documents:

- a) The original of intermodal transportation permit granted by competent regulatory agencies;
- b) The original of vehicle registration certificate for temporarily imported foreign cars;
- c) 01 original of customs declaration on temporarily imported – re-exported road transports; or 01 original of customs declaration on temporarily exported – re-imported road transports, certified by the bordergate Customs Sub-department where customs procedures for temporary export are completed.

2. Customs procedures for foreign cars designed with right-handed drive system as stipulated by the Government's Decree No. 80/2009/ND-CP dated October 1, 2009 and vehicles moved in Vietnam by foreigners for the purpose of tourism as stipulated by the Government's Decree No. 152/2013/ND-CP dated November 04, 2013 shall include:

- a) The original of the written approval granted by the Ministry of Transport must be shown;
- b) The original of vehicle registration certificate must be shown;
- c) The original of the declaration on temporarily imported – re-exported road transports.

3. To follow customs procedures for outgoing cars (temporarily exported Vietnamese cars; re-exported foreign cars), customs declarants are required to submit or show the following documents:

- a) The original of the permit granted by competent regulatory agencies;
- b) The original of vehicle registration certificate for temporarily exported Vietnamese cars;
- c) 01 original of customs declaration on temporarily exported – re-imported road transports; or 01 original of customs declaration on temporarily imported – re-exported road transports, certified by the bordergate Customs Sub-department where customs procedures for temporary import are completed.

4. Customs authorities shall adopt procedures for customs examination and supervision in accordance with regulations laid down in Clause 1 and 2 of Article 77 hereof.

## **Section 5: CUSTOMS PROCEDURES, CUSTOMS EXAMINATION AND SUPERVISION PROCEDURES FOR OTHER INCOMING, OUTGOING OR IN-TRANSIT TRANSPORTS**

### **Article 79. Customs procedures for waterway transports (boats or canoes) which enter or exit through waterway border checkpoints**

1. To follow customs procedures for incoming waterway transports (temporarily imported foreign boats or canoes; re-imported Vietnamese boats or canoes), customs declarants are required to submit or show the following documents:

- a) The original of the waterway transport permit across borders granted by competent regulatory agencies;
- b) The original of transport registration certificate for temporarily-imported foreign waterway transports;
- c) 01 original of customs declaration on temporarily imported – re-exported waterway transports; or 01 original of customs declaration on temporarily exported – re-imported waterway transports, certified by the bordergate Customs Sub-department where customs procedures for temporary export are completed.
- d) 01 original of the list of persons traveling on board a waterway transport (when applicable);

dd) 01 original of the manifest of fuel or articles stored on board.

2. To follow customs procedures for outgoing waterway transports (re-exported foreign boats or canoes; temporarily exported Vietnamese boats or canoes), customs declarants are required to submit or show the following documents:

a) The original of the waterway transport permit across borders granted by competent regulatory agencies;

b) The original of registration certificate for temporarily exported Vietnamese waterway transports;

c) 01 original of customs declaration on temporarily imported – re-exported waterway transports, certified by the bordergate Customs Sub-department where customs procedures for temporary import are completed; or the original of customs declaration on temporarily exported – re-imported waterway transports;

d) 01 original of the list of persons traveling on board a waterway transport (when applicable);

dd) The original of the manifest of fuel or articles stored on board.

3. Customs declarants shall submit customs procedures for incoming or outgoing waterway transports (boats or canoes) as stipulated in Clause 1 and 2 of this Article.

4. Customs authorities shall receive customs documentation; apply the risk management method to examination of customs documentation, physical verification and confirmation of temporary import – re-export or temporary export - re-import for incoming or outgoing waterway transports.

5. Customs supervision of waterway transports

a) Within customs areas, customs authorities shall use technical equipment to supervise incoming or outgoing waterway transports;

b) Outside of customs areas, police authorities shall preside over and collaborate with relevant Ministries or agencies in examination and supervision of incoming or outgoing waterway transports.

6. The Minister of Finance shall promulgate customs declaration form, and provide guidance on electronic customs procedures for incoming, outgoing waterway transports.

## **Article 80. Customs procedures for incoming or outgoing motorbikes**

1. To follow customs procedures for incoming motorbikes (temporarily imported foreign motorbikes; re-imported Vietnamese motorbikes), customs declarants are required to submit or show the following documents:

- a) The original of the permit granted by competent regulatory agencies (when applicable);
- b) The original of registration certificate for temporarily imported foreign motorbikes;
- c) The original of customs declaration on temporarily imported – re-exported road transports; or 01 original of customs declaration on temporarily exported – re-imported road transports, certified by the bordergate Customs Sub-department where customs procedures for temporary export are completed.

2. To follow customs procedures for outgoing motorbikes (re-exported foreign motorbikes; temporarily exported Vietnamese motorbikes), customs declarants are required to submit or show the following documents:

- a) The original of the permit granted by competent regulatory agencies (when applicable);
- b) The original of registration certificate for temporarily exported Vietnamese motorbikes;
- c) 01 original of customs declaration on temporarily imported – re-exported road transports, certified by the bordergate Customs Sub-department where customs procedures for temporary import are completed; or 01 original of customs declaration on temporarily exported – re-imported road transports.

3. Customs authorities shall receive customs documentation; apply the risk management method to examination of customs documentation, physical verification and confirmation of temporary import – re-export or temporary export - re-import for incoming or outgoing motorbikes.

4. Customs supervision procedures for incoming or outgoing motorbikes

- a) Within customs areas, customs authorities shall use technical equipment to supervise incoming or outgoing motorbikes;
- b) Outside of customs areas, police authorities shall preside over and collaborate with relevant Ministries or agencies in examination and supervision of incoming or outgoing motorbikes.

#### **Article 81. Customs examination and supervision procedures for transports of individuals or organizations commuting across borders**

1. Transports of individuals or organizations commuting across borders for the purpose of delivering or taking delivery of commodities must conform to the laws relating to the exportation or importation of commodities, entry or exit of transports, and international agreements between Vietnam and its bordering countries.

2. Transports of individuals or organizations that move in border areas for the purpose of delivering or taking delivery of commodities shall include:

- a) Light trucks moved from overseas countries in Vietnam's border areas for the purpose of delivering exports or taking delivery of exports;
- b) Light truck moved out of Vietnam's border areas for the purpose of delivering exports or taking delivery of imports, and then coming back to Vietnam;
- c) Boats or ships moved from overseas countries in Vietnam's border areas for the purpose of delivering imports or taking delivery of exports;
- d) Boats or ships moved out of Vietnam's border areas for the purpose of delivering exports or taking delivery of imports, and then coming back to Vietnam.

Permitted duration when transports stipulated at Point a, b Clause 2 of this Article can deliver or take delivery of commodities shall be restricted to 24 hours and permitted duration when transport stipulated at Point c, d Clause 2 of this Article can deliver and take delivery of commodities shall be restricted to 72 hours.

3. Simple transports are human-powered transports (including rickshaw or pedicab). Simple transports operating at ports of entry or border areas. Customs declarants who follow customs procedures for their simple transports shall submit customs declarations on exports or imports to customs authorities in case of transportation of exports or imports.

Customs authorities shall be responsible for supervising simple transports within their operational time at customs areas.

4. With regard to transports stipulated in Clause 1 of this Article, if there are proper reasons for extending the deadline for stay at border checkpoint areas, operators or consigners shall file a written request to the Director of the Customs Sub-department to consider such extension. The extended deadline shall be restricted to below 48 hours.

5. Transports of individuals, agencies or organization commute through border areas for the purpose of everyday life activities.

6. Transports stipulated in this Article shall be only temporarily imported – re-exported, temporarily exported – re-imported through the same border gate. Bordergate customs authorities shall take responsibility for customs supervision.

## **Chapter V**

### **PROCEDURES FOR ESTABLISHMENT AND OPERATION OF BONDED WAREHOUSES, DUTY SUSPENSION WAREHOUSES AND CONTAINER FREIGHT STATIONS**

#### **Section 1: BONDED WAREHOUSES**

##### **Article 82. Establishment of bonded warehouses**

### 1. Requirements for establishment of bonded warehouses:

- a) Proposed sites for establishment of bonded warehouses must be located at the areas stipulated in Clause 1 Article 62 of the Customs Law; the areas where competent regulatory agencies draw up the planning to develop logistics services, support exportation of agricultural, forest and aquatic products which are manufactured in the concentration manner. Bonded warehouses shall be separated from surrounding areas by walls, fences, and meet requirements for regular customs examination or supervision, except for those located in border checkpoints or ports with walls or fences to keep it completely separated from surrounding areas;
- b) Bonded warehouse proprietor is the enterprise established under legal regulations, and provides services such as warehouse, storage and forwarding of exports or imports, and customs brokerage;
- c) A bonded warehouse must cover a minimum area of 5,000 m<sup>2</sup> (including spaces used for warehouse, commodity handling yards and auxiliary facilities), of which the warehouse must cover an area of 1,000 m<sup>2</sup> or more. As for specialized warehouses particularly intended for one or several type(s) of cargos required to be specially stored, bonded warehouses must cover a minimum area of 1,000 m<sup>2</sup>. In particular, bonded yards intended for special purposes must cover a minimum area of 10,000 m<sup>2</sup> and the size of warehouse space is not specified;
- d) Bonded warehouse proprietor must have accounting record system developed and administrated by the application of information technologies in order to meet criteria stipulated by regulatory agencies for monitoring, managing commodities which are received, dispatched, stored or inventoried and connected with customs authorities in charge of bonded warehouses. Bonded warehouses must be equipped with surveillance cameras which meet the standards for customs supervision of commodities which are received, dispatched or inventoried.

### 2. Establishment documentation:

- a) Application form issued by the Ministry of Finance: 01 original;
- b) Business Registration Certificate in which warehouse or storage facility services are defined: 01 copy;
- c) Layout of warehouse, storage yards or sites in which building restriction lines, locations of commodity warehouses, internal roads, fire fighting, prevention, security system, warehouse and customs offices must be clearly stated;
- d) The title to land: 01 copy.

### 3. Establishment procedures:

- a) Enterprises shall submit documents in accordance with regulations laid down in Clause 2 of this Article to the Customs Department at provincial, inter-provincial or municipal levels;



b) Within a period of 10 working days of receipt of sufficient documents from enterprises, the Customs Department at provincial, inter-provincial or municipal levels must complete customs inspection or verification of documents, warehouses and storage facilities. If enterprises prove that they are eligible for establishment, the Customs Department shall submit a report and request to the General Department of Customs to obtain the establishment decision;

c) Within a period of 07 working days of receipt of such report from the Customs Department at provincial, inter-provincial or municipal levels enclosed with the documentation submitted to apply for establishment of inspection points, the Director of the General Department of Customs shall make a decision to establish bonded warehouses or respond in writing to the Customs Department at provincial or municipal levels and to enterprises in case they have not met regulatory requirements.

4. With respect to enterprises who wish to narrow or expand, transfer the right to own or relocate bonded warehouses, if they meet requirements stipulated in Clause 1 of this Article, they can submit their applications to the Customs Department at provincial, inter-provincial or municipal levels, including the following documents:

a) Written application for relocating, expanding or narrowing bonded warehouses: 01 original;

b) Site plan of warehouses or storage yards that need to be relocated, expanded or narrowed: 01 copy;

c) Documents proving the ownership of warehouses, storage yards for such relocation or expansion: 01 copy.

Processes or procedures for such relocation, expansion or narrowing shall be the same as these for establishment of bonded warehouses in accordance with regulations laid down in Clause 3 of this Article. Especially for the expansion or narrowing of bonded warehouses, the Director of the Customs Department at provincial, inter-provincial or municipal levels shall have authority to make his/her decision on these activities.

5. In case a change to the name of bonded warehouse owner has been approved by the General Department of Customs under their establishment decision with reference to written confirmation issued by competent regulatory agencies, enterprises must send a written notification to the Customs Sub-department for their reference and monitoring.

6. Termination of bonded warehouse operations shall occur if:

a) The Customs Department at provincial, inter-provincial or municipal levels makes a written request for termination of bonded warehouse operations when verifying that requirements for customs examination or supervision and establishment as prescribed in Clause 1 of this Article are not met;

b) Enterprises file written application for such termination;

c) Enterprises fail to bring their bonded warehouses into operation within a permitted period of 06 months from the effective date of establishment decision, for which no sound reasons are stated;

d) Within one year, enterprises have committed administrative violations against regulations on management of bonded warehouses 3 times, and have paid each monetary penalty for an administrative violation equal to an amount beyond the delegated authority of the Director of the Customs Sub-department.

### **Article 83. Services provided by bonded warehouses**

Owners of commodities stored at bonded warehouses shall directly carry out or authorize bonded warehouse proprietors or customs brokerage agents to carry out the following services:

1. Package reinforcement, splitting and repackaging; consolidation; freight classification and maintenance.
2. Freight sampling for managerial work or customs procedures.
3. Transfer of the ownership of freight.
4. Especially for bonded warehouses particularly intended for chemicals or petrol, if they meet requirements for customs managerial operations and relevant requirements for specialized management activities, their preparation or mixture or conversion of different freight types shall be allowed.

### **Article 84. Bonded warehouse lease**

1. Entities who are entitled to rent bonded warehouses shall include:

- a) Vietnamese organizations or individuals who obtain an import and export permit and come from different economic sectors;
- b) Foreign organizations and individuals.

2. The contract to lease bonded warehouses:

- a) Bonded warehouse lease contract shall be agreed between a bonded warehouse proprietor and a freight owner in accordance with laws, except when that freight owner is also the bonded warehouse proprietor;
- b) Lease validity and term shall be agreed between the freight owner and bonded warehouse proprietor under the lease contract but shall not exceed the duration of freight storage at bonded warehouses in accordance with regulations laid down in Clause 1 Article 61 of the Customs Law;

c) If the freight owner or the person authorized by the freight owner fails to move their freight out of bonded warehouses within the validity and term of lease, or the freight owner or the person authorized by the freight owner sends a written request for freight liquidation, the Customs Department shall liquidate commodities stored at bonded warehouses in accordance with laws.

## **Article 85. Commodities stored at bonded warehouses**

1. Commodities of entities entitled to lease bonded warehouses stipulated in Clause 1 Article 84 moving from Vietnam which have completed customs clearance for export, commodities moving from overseas countries which are waiting for customs clearance for entry into Vietnam or exit to the third country shall be allowed to move into bonded warehouses for storage.

2. Commodities coming from overseas countries which are allowed to move into bonded warehouses for storage shall include:

- a) Commodities of foreign freight owners who have yet to enter into the sale contract with Vietnamese enterprises;
- b) Commodities of Vietnamese enterprises imported from overseas countries which are looking to be launched to domestic markets or expecting to be exported to the third country;
- c) Commodities coming from overseas countries which are allowed to move into bonded warehouses for export to the third country.

3. Commodities coming from Vietnam's inland areas which are allowed to move into bonded warehouses for storage shall include:

- a) Commodities that have been customs cleared and are about to be exported;
- b) Commodities required to be re-exported due to the expiry of the deadline for temporary import.

4. The commodities which are not allowed to be stored at bonded warehouses shall include:

- a) Commodities detected with brand or Vietnam-origin and name frauds or counterfeits;
- b) Commodities which are dangerous for human beings or cause environmental pollution;
- c) Commodities subject to a ban on export, import, temporary suspension from export, import, unless otherwise permitted by the Prime Minister.

Besides commodities stipulated at Point a, b and c Clause 4 of this Article, depending on the turnover of import and export in each period, the Prime Minister shall make a decision on the list of imported commodities that are not allowed to be stored at bonded warehouses.

## **Article 86. Management and storage of commodities at bonded warehouses**

1. Commodities stored or managed at bonded warehouses must conform to the contract to lease bonded warehouses; specialized bonded warehouses shall only be used to store commodities provided that they conform to permitted storage conditions of such warehouses.
2. Commodities moving in or out of bonded warehouses must follow customs procedures as required by laws. Especially for commodities such as machinery, equipment or other commodities coming from inland areas which are moved in bonded warehouses to serve the purpose of packaging, classification and maintenance, the freight owner or person authorized by the freight owner can choose not to carry out customs formalities, but is required to send a detailed notification to the Customs Sub-department in charge of bonded warehouses with the aim of carrying out customs monitoring activities.
3. Necessary equipment, information technology shall be used to manage commodities moving in or out of bonded warehouses, and information about current status of commodities and operation of bonded warehouses shall be provided through the information technology facilities connected with customs authorities.
4. If the bonded warehouse proprietor wishes to destroy the commodity which is broken, damaged, decrease their quality, or exceeds its expiry date during storage, that proprietor must reach an agreement with the freight owner or legal representative of the freight owner on such destruction. The agreement shall be sent to the Customs Department where the bonded warehouse is located for the purpose of carry out the customs monitoring. The freight owner or bonded warehouse proprietor shall be held responsible for carrying out such destruction and liable for destruction costs in accordance with laws.

## **Article 87. Customs supervision to be carried out for bonded warehouses**

1. Transports, commodities moved in or out of bonded warehouses and services carried out at bonded warehouses must be put under customs examination and supervision. Customs authorities shall take into account types of commodities stored at bonded warehouses, bonded warehouse operations and the bonded warehouse proprietor's compliance with laws to apply proper supervisory measures.
2. Before carrying out such services as package reinforcement, splitting or repackaging; consolidation; freight classification and maintenance as well as freight sampling at bonded warehouses, the freight owner or bonded warehouse proprietor must send a prior notice to the Customs Sub-department in charge of that bonded warehouse in order to request their customs monitoring or supervision.
3. Commodities conveyed from the border checkpoint to the bonded warehouse and in an opposite direction, or from the bonded warehouse to other venues for completing customs procedures located outside of the border gate and in an opposite direction, must follow customs procedures and put under customs examination and supervision carried out by customs authorities.

## **Article 88. Customs procedures for shipments that move in or out of bonded warehouses**

1. If a shipment is moved from an oversea country or inland area, or from a free trade zone to a bonded warehouse, the freight owner or authorized person of the freight owner is required to complete the customs formalities for entry into that bonded warehouse at the in-charge Customs Sub-department.

2. If a shipment is moved from a bonded warehouse to overseas countries or inland areas, or to free trade zones, the freight owner or authorized person of the freight owner is required to submit the customs declaration for commodities moved out of this bonded warehouse to the in-charge Customs Sub-department. If commodities are imported into Vietnam, customs procedures are the same as those for commodities imported from overseas countries in the equivalent form of importation; the time of actual commodity importation is the time when customs authorities confirm that such commodities have been moved out of the bonded warehouse.

Commodities stored at the bonded warehouse which are considered as those required to be re-exported under the decision made by competent regulatory agencies shall not be allowed to re-enter into the Vietnam's market.

3. Shipments from the port of arrival to the bonded warehouse; shipments from the bonded warehouse to the port of departure; shipments from inland areas to the bonded warehouse and in an opposite direction, must follow customs procedures the same as those for cargos under customs supervision, except when shipments have gone through customs procedures for commodities exported from inland areas, or have opened combined transport bill of lading for import customs procedures.

4. The Minister of Finance shall provide guidance on customs procedures, or customs examination, supervision procedures for commodities moved in or out of bonded warehouses, and on dealing with any commodity that remains at such bonded warehouses though the permitted deadline has expired.

## **Section 2: CONTAINER FREIGHT STATIONS (CFS)**

### **Article 89. Establishment of inland CFS**

#### **1. Requirements for establishment of the CFS**

Proposed site for establishment of the CFS must meet the following requirements:

a) Proposed site for establishment of the CFS must be located in areas stipulated in Clause 1 Article 62 of the Customs Law;

b) Enterprises must have registered business lines such as forwarding, carriage of exports or imports, warehouses or storage facilities;

- c) Container freight station must cover a minimum area of 1,000 m<sup>2</sup>, exclusive of yards and auxiliary facilities;
- d) Working facilities for customs authorities such as offices, cargo examination areas or areas where equipment items used for customs examination are installed and secure storage facilities for exhibits must conform to regulatory standards;
- dd) Washhouses or storage yards must have fences or walls to keep them separated from surrounding areas and must be equipped with surveillance cameras which meet the standards set by customs authorities;
- e) Commodities moved in or out of warehouses or storage yards must be managed by means of computers and then such computers must be connected with the surveillance system of customs authorities.

## 2. Establishment documentation:

- a) Application form issued by the Ministry of Finance: 01 original;
- b) Technical and economic evaluation: 01 copy;
- c) The title to land: 01 copy;
- d) Business Registration Certificate in which warehouse or storage facility operations are defined: 01 copy.

## 3. Establishment procedures:

- a) Enterprises shall submit required documents in accordance with regulations laid down in Clause 2 of this Article to the Customs Department at provincial, inter-provincial or municipal levels;
- b) Within a period of 10 working days of receipt of sufficient documents from enterprises, the Customs Department at provincial or municipal levels must complete customs inspection or verification of documents, warehouses and storage facilities. If enterprises prove that they are eligible for establishment, the Customs Department shall send a report to and request the General Department of Customs to consider making a decision to establish the CFS;
- c) Within a period of 07 working days of receipt of such report from the Customs Department at provincial, municipal levels enclosed with the documentation submitted to apply for establishment of customs inspection points, the Director of the General Department of Customs shall make a decision to establish the CFS or respond in writing to the Customs Department at provincial or municipal levels and to enterprises in case they have not met regulatory requirements.

As for the CFS located inside of seaports, inland ports of arrival or departure of cargos, enterprises are not required to follow establishment procedures in accordance with Clause 2 and 3 of this Article. Before bringing a CFS into operation, enterprises must send a prior notice to the Customs Sub-department at seaports, inland ports of arrival or departure.

4. With respect to enterprises who wish to narrow or expand, transfer the right to own or relocate the CFS, if they meet requirements stipulated in Clause 1 of this Article, they can file their applications to the Customs Department at provincial, municipal levels, including the following documents:

- a) Written application for relocating, expanding or narrowing the CFS: 01 original;
- b) Site plan of warehouses or storage yards that need to be relocated, expanded or narrowed: 01 copy;
- c) Documents proving the right to use warehouses, storage yards for such relocation or expansion: 01 copy.

Processes or procedures for such relocation, expansion or narrowing activities shall be the same as these for establishment of the CFS in accordance with regulations laid down in Clause 3 of this Article. Especially for the expansion or narrowing of the CFS, the Director of the Customs Department at provincial or municipal levels shall have authority to make his/her decision on these activities.

5. In case a change to the name of CFS owner has been approved by the General Department of Customs under their establishment decision with reference to written confirmation issued by competent regulatory agencies, enterprises must send a written notification to the in-charge Customs Sub-department for their reference and monitoring.

6. Termination of CFS operations shall occur if:

- a) The Customs Department at provincial, inter-provincial or municipal levels shall make a written request for termination of CFS operations when verifying that requirements for customs examination or supervision and establishment as prescribed in Clause 1 of this Article are not met;
- b) Enterprise's written application for such termination;
- c) Enterprises fail to bring their bonded warehouses into operation within a permitted period of 06 months from the effective date of establishment decision, for which no sound reasons are stated;
- d) Within one year, enterprises have committed administrative violations against regulations on management of CFS 3 times, and have paid each monetary penalty for an administrative violation equal to an amount beyond the delegated authority of the Director of the Customs Sub-department.

## **Article 90. Services to be carried out at the CFS**

1. Wrapping, repackaging, handling or re-handling of cargos before export.
2. In-transit, transshipped cargos moved in the CFS located inside ports for the purpose of container splitting or consolidation of cargos into one container or consolidation of cargos into Vietnam's exported shipments.
3. Deconsolidation of imported shipments before completion of import customs procedures, or consolidation of less container load shipments into another shipments for export to a third country.
4. Transfer of the ownership of cargos stored in the CFS.

## **Article 91. Customs management and supervision**

1. If exported or imported cargos stored at the CFS are not moved out of the CFS before the specified deadline stipulated in Clause 3 Article 61 of the Customs Law, this violation shall be handled in accordance with Article 57 of the Customs Law.
2. CFS, cargos stored at the CFS and operations or services to be carried out at the CFS must be put under customs examination and supervision.
3. Commodities conveyed from the border checkpoint to the CFS located outside of bordergates and in an opposite direction, or from the CFS to other venues for completing customs procedures located outside of border gates and in an opposite direction, must follow customs procedures and put under customs examination and supervision carried out by customs authorities.
4. Customs supervision of cargos stored at the CFS shall conform to regulations laid down in Section 3 Chapter III of the Customs Law.

## **Section 3: DUTY-SUSPENSION WAREHOUSES**

### **Article 92. Procedures for establishment of duty-suspension warehouses**

1. An enterprise shall be recognized as an enterprise who is given priority to establish the duty-suspension warehouse when the following requirements are met:
  - a) Such enterprise must have accounting record system and apply information technology in conformity with standards set by regulatory agencies to serve the purpose of monitoring, managing commodities which are received, dispatched, stored or inventoried in the duty-suspension warehouse;
  - b) The duty-suspension warehouse must be built inside of manufacturing areas of enterprises and separated from the areas intended for storage of raw materials and inputs which are not entitled to duty suspension policy, and must be equipped with surveillance cameras that meet the



standards set by customs authorities in order to supervise cargos moved in or out of the duty-suspension warehouse.

2. Enterprises who gain the export turnover of USD 40 million or more shall be eligible for establishment of the duty-suspension warehouse and, in addition to requirements stipulated at Point a Clause 1 of this Article, must conform to the following requirements:

- a) They must achieve experience in exportation activities in more than 2 consecutive years without committing any violations against the law on customs and taxation;
- b) They must comply with the law on accounting and statistics;
- c) They must make payments via banks in accordance with laws.

3. Documentation that must be submitted to apply for establishment of the duty-suspension warehouse

Enterprises specialized in production of commodities for export who wish to establish the duty-suspension warehouse must submit the following documents to the Customs Department where their manufacturing facilities are located:

- a) Written request for establishment of the duty-suspension warehouse;
- b) Site plan of the duty-suspension warehouse: 01 copy.

4. Within a period of 05 working days of receipt of sufficient valid documents from enterprises, the Customs Department at provincial or municipal levels shall proceed to:

- a) Check enterprise's eligibility for establishment or all documentation that must be submitted to apply for establishment of the duty-suspension warehouse;
- b) Carry out the field observation of warehouses and storage yards;
- c) Submit a report, proposal and all necessary documentation to the General Department of Customs.

5. Within a period of 07 working days of receipt of sufficient documents submitted to apply for establishment of the duty-suspension warehouse from the Customs Department at provincial, municipal levels, the Director of the General Department of Customs shall make a decision to establish the duty-suspension warehouse if requirements stipulated in Clause 1, 2 of this Article are met.

**Article 93. Customs procedures for raw materials or inputs moved in or out of the duty-suspension warehouse**

1. Customs procedures for raw materials or inputs moved in or out of the duty-suspension warehouse shall be the same as those for imported commodities used for production of exported commodities, but shall be different in terms of tax payment procedures.
2. Commodities moved in the duty-suspension warehouse shall only be used for production of commodities for the duty-suspension warehouse proprietor's export.
3. When using raw materials or inputs for manufacturing activities, enterprises must carry out management and monitoring process in accordance with the law on accounting and statistics.

#### **Article 94. Examination and supervision of the duty-suspension warehouse**

1. Customs authorities shall conduct annual examination of management of the duty-suspension warehouse carried out by enterprises. The following matters shall be examined:

- a) Implementation of regulations enshrined in Clause 1 Article 92 hereof;
- b) Actual quantity of in-stock commodities, actual in-stock commodity quantity compared with the quantity recorded in accounting books, tracking records, and status reports on enterprise's use of raw materials.

2. Handling of the examination result:

- a) If enterprises fail to fulfill requirements stipulated in Clause 1 Article 92 hereof, or commodities stored at the duty-suspension warehouse are those that are not used for production of commodities for export, this case shall be handled in accordance with laws;
- b) If enterprises fail to comply with the accounting regime or import or export tracking records; goods receipt or dispatch, depending on the severity of violations, these violations shall be handled under legal regulations;
- c) If the examiner comes to the conclusion that the actual quantity of in-stock commodities have not matched the in-stock commodity quantity recorded in accounting books or tracking records and status reports on enterprise's use of raw materials, such violation shall be handled depending on its severity.

3. Unnotified inspection of raw material and input inventory:

In the course of monitoring utilization of raw materials or inputs stored at the duty-suspension warehouse, if customs authorities conclude that enterprises import a large amount of duty-suspended raw materials or inputs but the quantity of products remain fewer than the proposed quantity registered with customs authorities, or keep sufficient information about enterprise's sale of duty-suspended raw materials or inputs in the domestic market, they shall conduct the examination of the quantity of in-stock raw materials or inputs in order to identify such enterprise's violations and have them handled under legal regulations.

4. Enterprises who operate the duty-suspension warehouse shall take responsibility to manage that warehouse; closely collaborate with customs authorities in carrying out customs examination and supervision of that warehouse.

#### **Article 95. Reporting regime for use of raw materials or inputs at the duty-suspension warehouse**

1. The duty-suspension warehouse proprietor shall prepare quarterly report on management and use of commodities stored at the duty-suspension warehouse, set up the plan to bring such commodities into manufacturing activities in the upcoming period of time for submission to customs authorities directly in charge of issues relating to that warehouse by completing the form issued by the Ministry of Finance.

2. At the end of planning year (on December 31 every year) or on January 31 of the subsequent year at the latest, enterprises must make a report in accordance with regulations laid down at Point dd Clause 2 Article 63 of the Customs Law and according to the form issued by the Ministry of Finance.

Enterprises that operate the duty-suspension warehouse shall be responsible for the accuracy and sufficiency of their status report on use of raw materials or inputs stored at that warehouse.

#### **Article 96. Handling of damaged or quality-degraded raw materials or inputs stored at the duty-suspension warehouse**

Damaged or quality-degraded raw materials or inputs stored at the duty-suspension warehouse, or those that fail to meet manufacturing standards shall be subject to re-export or destruction. Customs procedures for re-export shall be the same as those for commodities which have been imported but forced to be re-exported. Procedures for commodity destruction:

1. Enterprises shall send a written notice to the Customs Department in charge of the duty-suspension warehouse in which reasons for such destruction, name, types and quantity of raw materials, inputs, and import customs declarations (number and date) must be clearly stated.

2. Enterprises shall be solely responsible for carrying out such destruction. The destruction shall be carried out under the customs supervision of customs authorities and environment protection agencies if such commodities are under their management in accordance with legal regulations on the environment protection.

3. Upon completion of such destruction, the record on such destruction must be established with full names and signatures of destruction supervisors.

4. The import duty and value-added tax on imported raw materials or inputs, whilst being destroyed, shall not be imposed.

### **Chapter VI**

## **CUSTOMS POST-CLEARANCE EXAMINATION**

### **Article 97. Customs post-clearance examination that takes place at customs authorities' offices**

1. With regard to customs documentation completed in accordance with regulations laid down in Clause 1, 2 Article 78 of the Customs Law, the Director of the Customs Department at provincial, inter-provincial or centrally-affiliated municipal levels, and the Director of the Customs Sub-department, shall take a decision to carry out customs post-clearance examination that takes place at customs authorities' offices. In case the quantity of cargos is large and types of cargos are complicated as well as there is a risk concerning taxation, the Director of the Customs Department at provincial or municipal levels shall grant the Decision to carry out customs post-clearance examination that takes place at customs declarants' offices.
2. The Ministry of Finance shall provide guidance on customs post-clearance examination that takes place at the customs authorities' offices.

### **Article 98. Customs post-clearance examination that takes place at customs declarants' offices**

1. Customs post-clearance examination that takes place at customs declarants' offices shall be applicable to the cases regulated in Article 78 of the Customs Law, except for customs documentation that has been examined in accordance with regulations laid down in Clause 1 Article 97 hereof.
2. Authority to decide customs post-clearance examination for the purpose of assessing customs declarants' compliance with laws:
  - a) The Director of the General Department of Customs shall have authority to decide customs post-clearance examination that focuses on priority-given enterprises, enterprises executing national important projects, incorporations or corporations that operate their export production facilities, import or export branches located at various areas;
  - b) The Director of the Customs Department at provincial, inter-provincial or centrally-affiliated municipal levels shall carry out customs post-clearance examination to assess compliance with laws which focuses on enterprises' offices located under their jurisdiction;
  - c) The Director of the Customs Post-clearance Examination Department shall take a decision on customs post-clearance examination which focuses on enterprises other than those stipulated at Point a, b of this Clause.
3. Authority to decide customs post-clearance examination towards the cases stipulated in Clause 1, 2 Article 78 of the Customs Law:
  - a) The Director of the Customs Department at provincial, inter-provincial and centrally-affiliated municipal levels shall decide to examine customs declarants who have completed customs

procedures within the jurisdiction of the Customs Department at provincial, inter-provincial or municipal levels;

b) The Director of the Customs Post-clearance Examination shall decide customs post-clearance examination that takes place across the nation.

4. Within a period of 05 working days from the date on which such examination is completed, the leader of the examination team shall put their signatures to the examination record. Within a period of 05 days from the signing date of such examination record, customs declarants shall complete any explanation (when applicable).

5. Within 15 days upon completion of such examination, the person who makes decision on the examination must put his/her signature to the examination conclusion and then send it through to customs declarants.

6. If the examination conclusion needs professional advice from competent regulatory agencies, and customs authorities have not had sufficient grounds for any conclusion, the permitted period of issuing the examination conclusion shall be 15 days from the date when competent authority agencies' advice is obtained. Competent specialized agencies must give their advice within a permitted period of 30 days from the date on which customs authorities' requests have been obtained.

By the end of the permitted period of 30 days, if competent specialized agencies have no written advice, customs authorities shall issue the examination conclusion.

#### **Article 99. Amendment, supplementation, temporary suspension, cancellation to be carried out towards the decision on customs post-clearance examination**

1. The issuer of the decision on customs post-clearance examination shall consider any amendment or supplementation to the decision on customs post-clearance examination if:

a) There is a change to examination team members, time, examination scope and contents:

b) The Decision on customs post-clearance examination contains errors in manners, contents and document design techniques.

2. The issuer of the decision on customs post-clearance examination shall consider the temporary suspension of the decision on customs post-clearance examination if:

a) Customs declarants are being inspected or investigated by taxation, investigation, State audit or police authorities;

b) Customs declarants are not able to adhere to the examination decision due to unexpected events.

3. The issuer of the decision on customs post-clearance examination shall decide to cancel the decision on customs post-clearance examination if customs declarants have made a getaway, or have been dissolved, bankrupted, lost, ceased operations and other events that cause customs authorities to fail to implement their examination decision. The decision to cancel the decision on customs post-clearance examination must give clear reasons for such cancellation.

#### **Article 100. Handling of the result of the customs post-clearance examination**

1. In case the Director of the Customs Sub-department has issued the decision on customs post-clearance examination, (s)he is responsible for:

- a) Issuing the decision on imposition of taxes;
- b) Issuing the administrative decision on taxes and customs activities in accordance with legal regulations;
- c) Collecting taxes and encouraging customs declarants to pay taxes under decisions on tax imposition and extra amount of money for their late tax payment (when applicable) in accordance with laws;
- d) Issuing the decision and implementing the enforcement in accordance with laws;
- dd) Pleading a criminal case in accordance with the law on criminal procedures;
- e) Keeping track of and inputting data into the accounting system.

2. In case the Director of the Customs Department at provincial, inter-provincial or centrally-affiliated municipal levels has issued the decision on customs post-clearance examination, (s)he is responsible for:

- a) Issuing the decision on imposition of taxes;
- b) Issuing the administrative decision on taxes and customs activities in accordance with legal regulations;
- c) Issuing the decision and implementing the enforcement in accordance with laws;
- d) Pleading a criminal case in accordance with the law on criminal procedures;
- dd) Collecting taxes and encouraging customs declarants to pay taxes under decisions on tax imposition and extra amount of money for their late tax payment (when applicable) in accordance with laws;
- e) Keeping track of and inputting data into the accounting system.

3. In case the Director of the General Department of Customs has issued the decision on customs post-clearance examination, (s)he is responsible for:

- a) Issuing the decision on imposition of taxes;
- b) Issuing the administrative decision on taxes and customs activities in accordance with legal regulations;
- c) Issuing the decision and implementing the enforcement in accordance with laws;
- d) Collecting taxes and encouraging customs declarants to pay taxes under decisions on tax imposition and extra amount of money for their late tax payment (when applicable) in accordance with laws;
- dd) Assigning competent person to plead a criminal case in accordance with the law on criminal procedures;
- e) Keeping track of and inputting data into the accounting system.

4. In case the Director of the Customs Post-clearance Department has issued the decision on customs post-clearance examination, (s)he is responsible for:

- a) Issuing the administrative decision on taxes and customs activities in accordance with legal regulations;
- b) Collecting taxes and encouraging customs declarants to pay taxes under decisions on tax imposition and extra amount of money for their late tax payment (when applicable) in accordance with laws;
- c) Issuing the decision and implementing the enforcement in accordance with laws;
- d) Pleading a criminal case in accordance with the law on criminal procedures;
- dd) Keeping track of and inputting data into the accounting system;
- e) Requesting the General Department of Customs to issue the decision on imposition of tax.

## **Chapter VII**

### **PROFESSIONAL CUSTOMS CONTROL METHODS**

#### **Article 101. Professional customs control methods**

1. Professional customs control methods shall include:

- a) Mobilize the public to get involved in preventing or combating smuggling or illicit transportation of commodities across borders;
  - b) Carry out the customs patrol;
  - c) Collect and study information about regions, commodity transportation routes, cases, phenomena, incoming, outgoing or in-transit transports and related persons;
  - d) Collect and study information about any individual who shows the sign of smuggling, illicit transportation of commodities across borders;
  - dd) Collect and deal with domestic or foreign information concerning customs operations. Send government cadres or officials abroad to verify, collect information and materials in accordance with Vietnam's laws and international agreements to which the Socialist Republic of Vietnam is a signatory;
  - e) Select, organize and use employees who are not in the payroll of customs authorities in order to perform tasks of preventing and combating smuggling and illicit transportation of commodities across borders;
  - g) Assign customs officers to examine, supervise and monitor activities of smugglers or illegal carrier of commodities across borders;
  - h) Use dedicated equipment or techniques in accordance with laws in order to perform tasks of examining, supervising and monitoring activities of smugglers or illegal carrier of commodities across borders.
2. Customs authorities shall use combined professional methods of customs control, and dedicated transports or technical equipment for preventing and combating smuggling and illicit transportation of commodities across borders.
3. The Ministry of Finance shall stipulate benefit or supportive policies in order to ensure that professional customs control methods prescribed in this Article shall be applied.

## **Article 102. Customs patrol**

1. Customs authorities shall be responsible for organizing personnel and preparing transports for customs patrol methods within their customs areas in order to preventing and combating smuggling and illicit transportation of commodities across borders.
2. In the customs patrol process, customs authorities shall have the right to:
  - a) Use warning lights, flags, flares, loudspeakers or whistles;
  - b) Stop and search transports and cargos loaded on transports to find out any sign of violations against the customs law;



c) Carry out frisk search and search transports or items in accordance with the law on handling of administrative violations;

d) Detain persons or impound exhibits or transports that committing violations in accordance with the Law on Handling of administrative violations;

dd) If customs control team any transport that shows the sign of violations against laws whilst performing the task of patrolling inland waterway areas or territorial waters, they can send a warning signal to stop transports for examination in accordance with the Vietnam's Law of the Sea. If the search is required for a violation against laws, transports must be brought back to ports or anchoring site in order to ensure safety for this search. The search must be carried out in accordance with the law on handling of administrative violations.

After finishing the examination, customs authorities must make a record on this. Each of the transport owner or operator shall keep 01 copy.

### **Article 103. Temporary cessation of departure and transport stopping**

1. Departure of transports shall be temporarily ceased and transports shall be stopped if:

a) Customs authorities receive a report on acts of smuggling, illicit transportation of commodities across borders, and verify that such report is reliable;

b) Customs authorities receive a report from competent agencies on acts of smuggling, illicit transportation of commodities across borders, or receive a request from such agencies for stop or delay of transports;

c) Customs authorities receive information reported from customs authorities of different countries on acts of smuggling or illicit transportation of commodities across borders;

d) In the course of customs patrol or control, customs authorities have found out that transports show the sign of smuggling or illicit transportation of commodities across borders ;

dd) Cargo transports, though they are going through customs procedures, or cargos have yet to be customs cleared or released, intentionally move out of customs areas;

e) There are reasonable grounds that transports are carrying illegal commodities or show other violations against customs regulations.

2. Authority to carry out temporary cessation of departure and transport stopping

a) The Director of the Customs Sub-department, the Leader of the Customs Control Team affiliated to the Customs Department at provincial, inter-provincial or municipal levels, the Leader of the Smuggling Control Team affiliated to the Smuggling Investigation and Prevention Department shall be vested authority to stop or delay the departure of transports within customs areas.

In case there are reasonable grounds that, unless such transports have been stopped, exhibits, materials or transports may intentionally vanish or be destroyed, customs officials whilst on duty shall have authority to stop these transports for search and immediately report this to competent persons as stipulated in this Clause;

b) The Leader of the Marine Control Team affiliated to the Smuggling Investigation and Prevention Department, the Leader of the Customs Control Team affiliated to the Customs Department at provincial, inter-provincial or municipal levels, shall have authority to stop or delay the departure of transports at inland waterway areas or territorial waters in conformity with regulations enshrined in the Vietnam's Law of the Sea.

3. When stopping transports, customs officials shall be entitled to use warning lights, flags, flares, loudspeakers or whistles.

Temporary cessation of the departure of transports must be subject to the decision made by competent persons as prescribed in Clause 2 of this Article. With regard to temporary cessation of the departure of inland waterway and sea transports, customs authorities must send a report to the Maritime Administration Authority.

4. Persons who make a decision temporary cessation of departure and transport stopping shall be held legally responsible for such decision.

#### **Article 104. Chasing of transports, commodities smuggled or illegally carried across borders**

1. In case there is clear evidence that commodities smuggled or illegally carried across borders, or transports used for smuggling and illegally carrying commodities across borders are moving out of customs areas, customs authorities shall continue to chase to prevent or handle these illegal activities in accordance with laws.

2. The Director of the Customs Sub-department, the Leader of the Customs Control Team affiliated to the Customs Department at provincial, inter-provincial or centrally-affiliated municipal levels, the Leader of the Smuggling Control Team or the Leader of Marine Control Team affiliated to the Smuggling Investigation and Prevention Department shall be vested authority to decide such chase.

In case there are reasonable grounds that, unless such chase have occurred, transports, commodities that are smuggled or illegally carried across borders may intentionally vanish or be destroyed, customs officials whilst on duty shall have authority to carry out a chase and then report this to competent persons as prescribed in this Clause.

3. When chasing transports, commodities smuggled or illegally carried across borders, customs officials stipulated in Clause 2 of this Article shall be entitled to stop transports.

4. Chasing and stopping transports, commodities smuggled or illegally carried across borders must be reported to the police authority, border guard, coastguard and market management team

in the area in order to collaborate and concurrently apply preventive or controlling measures in accordance with laws.

## **Chapter VIII**

### **CUSTOMS INFORMATION**

#### **Article 105. Customs information**

Customs information shall be composed of:

1. Information obtained from professional customs operations:

- a) Information included in the customs documentation relating to exported, imported, incoming, outgoing or in-transit cargos or transports;
- b) Professional customs information obtained from the process of customs examination, supervision and control relating to exported, imported, incoming, outgoing or in-transit cargos or transports.

2. Information from relevant Ministries or Ministerial-level agencies:

- a) Information relating to the policy on management of products, exported, imported, in-transit goods, and outgoing, incoming and in-transit transports within their specialized management scope;
- b) Information relating to the certification of exported, imported, outgoing, incoming or in-transit goods or transports;
- c) Information relating to handling of violations that organizations or individuals involved in export or import transactions may commit.

3. Information relating to organizations or individuals involved in production activities and export, import, entry, exit or transit activities:

- a) Information relating to registration, establishment, dissolution, bankruptcy and financial status;
- b) Information relating to production, business, export, import, entry, exit or transit activities;
- c) Information relating to the compliance with laws on customs, taxation, accounting and statistics;
- d) Information relating to export, import, entry, exit, transit activities performed by organizations or individuals.

4. Other information relating to customs-related state management activities.

#### **Article 106. Customs authorities' responsibility for collecting and providing information**

1. Responsibility for collecting and providing information shall be assumed by customs authorities as follows:

a) Receive and deal with customs information through the supply, exchange, connection and sharing of information with regulatory agencies, organizations, individuals pertaining to the customs sector;

b) Apply other necessary professional measures to collect information relating to goods, transports, organizations or individuals involved in export, import, entry, exit and transit activities.

2. Customs authorities shall be responsible for providing the following customs information:

a) Customs regime, policy and instructions for organizations or individuals involved in production, export, import, entry, exit, transit activities;

b) Rights and obligations of customs declarants;

c) Customs information provided for judicial agencies or other regulatory agencies;

d) Customs statistical data and information stipulated by the law on statistics;

dd) In case data or figures included in the customs documentation that customs declarants have submitted are required to be restored due to unexpected events, customs authorities shall provide information relating to such customs documentation for these customs declarants.

#### **Article 107. Regulatory agencies' responsibility for providing information**

1. Ministries, Ministerial-level, judicial agencies, within their delegated powers and assigned duties, shall be responsible for providing the following information for customs authorities:

a) Information relating to the policy on management of exported, imported, in-transit goods, and outgoing, incoming and in-transit transports, and information relating to goods within the specialized management scope;

b) Information relating to the certification of exported, imported or in-transit goods, or outgoing, incoming or in-transit transports;

c) Information relating to organizations or individuals subjected to handling of violations that they commit, and the result of handling of violations that may happen in the management of import or export activities;

d) Information relating to seaports, river ports located at borders, inland waterway ports, international airports, and international intermodal rail terminals where exports or imports are handled;

dd) Information relating to organizations or individuals involved in commodity export, import operations;

e) Information relating to inbound or outbound passengers, and incoming, outgoing or transit transports.

2. The Ministry of Finance shall preside over and collaborate with Ministries, Ministerial-level agencies or judicial agencies in providing specific regulations on customs information exchange and supply.

#### **Article 108. Responsibility of organizations or individuals involved in customs-related state management for providing information**

1. Pursuant to regulations enshrined in the Law on Credit Institutions, credit institutions shall be responsible for providing information for customs authorities in order to assist collection, handling of information, customs examination, inspection, and investigation, verification and handling of acts of smuggling and illegally carrying commodities across borders as follows:

a) Records, information on transactions in payments for exports, imports, and payment of import and export taxes through bank accounts opened by customs declarants; information relating to the guarantee sum that the bank offers to tax payers at the request of customs authorities;

b) Documents, records, information relating to current accounts, duplicates of detailed accounting records on current accounts, duplicates of documentation of organizations or individuals proving that international, domestic or cross-border payments have been made via banks at the request of customs authorities.

2. Insurance organizations shall be obligated to provide records or materials relating to insurance transactions at the request of customs authorities in order to assist them in customs examination, inspection, and investigation, verification and handling of acts of smuggling and illegally carrying commodities across borders.

3. Organizations or individuals who are business partners or clients of customs declarants shall be responsible for providing information relating to export, import activities of customs declarants at the request of customs authorities.

4. Vietnam Chamber of Commerce and Industry shall be responsible for providing information relating to the certification of the origin of commodities exported from Vietnam to overseas countries; information relating to the registration and protection of intellectual property rights, technology transfer in Vietnam and overseas countries at the request of customs authorities.

5. Trade associations shall be responsible for providing information relating to export contracts signed by customs declarants in case the law stipulates that these trade associations can confirm these export contracts before completing customs procedures at the request of customs authorities.

#### **Article 109. Forms of information provision**

1. Customs information shall be provided or exchanged in the form of a document or electronic data. The legal value of customs information provided in the form of electronic data shall be stipulated by the Law on Electronic Transactions.

2. Exchanging and providing customs information in the form of electronic data shall be carried out through computer connection system or mobile network system in the form of an electronic mail or text message sent from addresses or phone numbers that customs authorities have officially announced.

### **Chapter IX**

#### **IMPLEMENTARY PROVISIONS**

#### **Article 110. Effect**

1. This Decree shall take effect from March 15, 2015.

2. This Decree shall replace the Decree No. 154/2005/ND-CP dated December 15, 2005 on providing specific regulations on implementation of several articles of the Customs Law in terms of customs procedures, examination and supervision; the Decree No. 87/2012/ND-CP dated October 23, 2012 on providing specific regulations on implementation of several articles of the Customs Law in terms of electronic customs procedures for commercial exports or imports; the Decree No. 66/2002/ND-CP dated July 01, 2002 on providing regulations on duty-free limits on luggage of outbound or inbound persons, imported gifts or presents; the Decree No. 06/2003/ND-CP dated January 22, 2003 on providing regulations on classification of exports or imports; the Decree No. 40/2007/ND-CP dated March 16, 2007 on providing regulations on customs valuation of exported or imported goods.

3. Clause 2 Article 4, 6, 7, 5 Article 25, Article 50 of the Government's Decree No. 83/2013/ND-CP dated July 22, 2013 on providing specific regulations on implementation of several articles of the Law on Tax Administration and the Law on the amendments to the Law on Tax Administration; the Prime Minister's Decision No. 65/2004/QĐ-TTg dated April 19, 2004 on promulgating the regulations on operations of customs forces specializing in prevention and control of smuggling, illicit transportation of commodities across borders, and the Prime Minister's Decision No. 19/2011/QĐ-TTg dated March 23, 2011 on providing regulations on piloting receipt of electronic commodity manifest or relevant documents and customs clearance for incoming or outgoing sea ships.

#### **Article 111. Implementation**

1. The Ministry of Finance shall provide guidance on implementing articles or provisions enshrined in this Decree.

2. Ministers, Heads of ministerial-level agencies, Heads of Governmental agencies, Presidents of the People's Committees of centrally-affiliated provinces or cities shall take responsibility to enforce this Decree ./.

**PP. THE GOVERNMENT  
THE PRIME MINISTER**

**Nguyen Tan Dung**