

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

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Hanoi, 31 December 2001

**DECREE  
ON  
CUSTOMS PROCEDURES,  
CUSTOMS INSPECTION AND CONTROL**

**Making detailed provisions for  
implementation of a number of articles of  
the Law on Customs**

**The Government**

Pursuant to the *Law on the Organization of the Government* dated 30 September 1992;

Pursuant to the *Law on Customs* dated 29 June 2001;

On the proposal of the General Director of Customs;

**Decrees:**

CHAPTER I

**General Provisions**

**Article 1** *Scope of regulation*

This Decree makes detailed provisions for implementation of a number of articles of the *Law on Customs* with respect to customs procedures, customs inspection and control. Where the provisions of an international agreement which Vietnam has signed or acceded to differ from those of this Decree, the provisions of such international agreement shall apply.

**Article 2** *Objects of customs procedures, customs inspection and control*

1. Exported goods, imported goods and goods in transit; articles aboard means of transportation upon exit, entry or in transit; foreign exchange, Vietnamese currency, precious metals, gems; cultural products, relics, antiques, national precious objects; postal items and parcels, luggage of persons entering and exiting; other articles exported, imported, in transit or stored within the geographical areas of operation of the customs offices.
2. Means of transportation by land, railway, air, sea and river upon entry, exit or in transit.

**Article 3** *Customs declarants*

1. Customs declarants shall comprise:
  - (a) Possessors of objects of customs procedures;
  - (b) Persons lawfully authorized by possessors of objects of customs procedures;
  - (c) Customs clearance procedures agents.
2. Customs declarants shall have the rights and obligations stipulated in article 23 of the *Law on Customs*.

**Article 4** *Location for completion of customs procedures*

1. Locations for completion of customs procedures are places where the tasks related to customs procedures as stipulated in article 17 of the *Law on Customs* are carried out. The locations for completion of customs procedures shall be:
  - (a) Bordergate customs offices established at international seaports, international river ports, international civil airports, international railway stations, international posts and land bordergates;
  - (b) Ex-bordergate customs offices established in areas outside of bordergate areas pursuant to the decision of the Prime Minister.
2. Locations for completion of customs procedures for means of transportation upon entry, exit or transit shall be the customs offices of the bordergates through which such means of transportation enter, exit or transit the country.

**Article 5** *Locations for inspection of exported and imported goods*

Locations for inspection of exported and imported goods are the places where the customs offices inspect the actual condition of exported and imported goods, specifically as follows:

- (a) Bordergate locations for completion of customs procedures;
- (b) Ex-bordergate locations for completion of customs procedures;
- (c) Other locations prescribed by the General Director of Customs in necessary cases.

**Article 6** *Customs procedures clearance agents*

1. Customs clearance procedures agents (hereinafter referred to as *agents*) are persons who represent the persons having rights and obligations in carrying out the customs procedures for goods and/or means of transportation (hereinafter referred to as *goods owners*) in making customs declarations and who perform the tasks as agreed in the customs clearance procedures agency contracts (hereinafter referred to as *agency contracts*).
2. Conditions for acting as agents:
  - (a) Being traders having business registration in accordance with law;
  - (b) Having the business line of goods forwarding services stated in the business registration certificate.
3. Rights and obligations of agents:
  - (a) To exercise the rights and fulfill the obligations stated in an agency contract;
  - (b) To complete and sign customs declaration forms;
  - (c) To request the goods owners to pay any damages and expenses incurred as a result of any breach of the agency contract by the goods owner;
  - (d) To request the goods owners to supply all documents and accurate information necessary for customs clearance procedures in respect of the consignments of exported goods or imported goods;
  - (dd) To perform all tasks relating to customs procedures as authorized by the goods owner and stated in the agency contracts;

- (e) To bear responsibility before the law within its scope of authority for the obligations of the customs declarant.
4. Rights and obligations of goods owners with respect to the authorization of agents:
- (a) To sign an agency contract (clearly defining the scope of authorization, the responsibilities of the authorizer and the agent);
  - (b) To supply the agent with full documents and accurate information necessary for completion of customs procedures in respect of the consignments of exported or imported goods;
  - (c) To pay damages and all expenses incurred by the agent as a result of any breach of the agency contract by the goods owner;
  - (d) To bear responsibility before the law for any breach of the law by the goods owner, or by the agent if such breach is not due to the fault of the agent.

## CHAPTER II

### **Customs Procedures, Customs Inspection and Control**

#### SECTION 1

##### **For Exported and Imported Goods**

##### **Article 7** *Customs files, registration of customs files*

1. When carrying out customs procedures, the customs declarant must submit and present a customs file comprising the following documents:
- (a) For exported goods:
    - Customs declaration of exported goods;
    - Detailed list of goods, in the case of consignments of goods of multiple categories;
    - Permit of the competent State management body, in the case of goods requiring export permits in accordance with law;
    - Goods purchase and sale contract or a paper of equivalent legal value in necessary cases as prescribed by the General Director of Customs;

- Other documents prescribed by law for each particular item of goods, which the customs declarant must submit or present to the custom office.
- (b) For imported goods:
- Customs declaration of imported goods;
  - Commercial invoice;
  - Goods purchase and sale contract or a paper of equivalent legal value;
  - Permit of the competent State management body, in the case of goods requiring import permits in accordance with law;
  - Copy of bill of lading;
  - Detailed list of goods, in the case of consignments of goods of multiple categories;
  - Certificate of origin (C/O), as stipulated in article 10.2 of this Decree;
  - Written certification of goods quality in inspection registration made by a goods evaluation organization, or a notice on exemption from State quality inspection issued by the competent State management body, in the case of exported or imported goods subject to State quality inspection;
  - Other documents as prescribed by law for each particular item of goods.

If the above documents are copies, they must be certified, signed and stamped by the heads of the business organizations or their authorized representatives. The person certifying, signing and stamping shall bear responsibility before the law for the lawfulness of these documents.

2. In cases where they obtain the approval of the director of the bordergate customs office or the director of the ex-bordergate customs office (hereinafter referred to as *director of customs office*), a customs declarant may submit the following documents at a later time:
- (a) Certificate of origin (C/O): The time-limit for late submission shall be sixty (60) days, calculated from the date of registration of the customs declaration;

- (b) Other documents comprising the customs file (except customs declaration): The time-limit for late submission shall be thirty (30) days, calculated from the date of registration of the customs declaration.
- 3. Prior to the time when a customs officer conducts the actual goods inspection, if the customs declarant makes a written request which is approved by the director of the customs office, the declarant may withdraw the registered customs declaration for the purpose of supplementation, amendment and/or replacement.
- 4. Requirements for customs files and customs file registration in other cases:
  - (a) The customs declarant may register the customs declaration for imported goods prior to the arrival of the goods at the bordergate within the time-limit prescribed by the tax legislation for exported and imported goods.
  - (b) A goods owner regularly exporting and/or importing the same items of goods within a given period under the same purchase and sale contract may use a single customs declaration (registered once) for carrying out customs procedures for the exportation or importation of such items of goods within the delivery time determined in the purchase and sale contract.
  - (c) Tax policies and policies on export-import management implemented in accordance with the provisions of law shall apply at the time of the actual exportation or importation of goods.
  - (d) The customs declarant may make the customs declaration via computer connected with the computer network of the customs offices in accordance with law.
- 5. When carrying out the procedures for customs file registration, the customs officer shall be responsible to: check the documents of the customs file; check the contents of the customs declaration; compare the contents of the customs declaration with the documents of the customs file; register the customs file in accordance with the provisions of the law. In any case of refusal to register a customs file, the reasons therefor must be clearly stated for the information of the customs declarant.

**Article 8** *Inspection of actual condition of goods*

1. Customs officers of all levels shall be required to organize the collection and exchange of information for establishment of a database on: records of compliance with the law by goods owners; policies on export-import management; characteristics, categories and origins of exported and imported goods; information relating to exported and imported goods.
2. Directors of customs offices shall, on the basis of the database established pursuant to clause 1 of this article, customs files and other relevant information, decide the method of determining the percentage of goods to be inspected in respect of each particular consignment of exported or imported goods.
3. The customs officers assigned to carry out actual goods inspection shall, on the basis of the decision of the director of the customs office on the form of inspection and the percentage of goods to be inspected, apply measures and methods for goods inspection as appropriate for each particular consignment of goods. During any inspection, if they identify any indication of a breach of the law, they shall report it to the director of the customs office in order for the director to decide to change the form of inspection and/or the percentage of goods to be inspected.
4. Exemption from actual inspection of exported and imported goods:
  - (a) Conditions for goods owners to enjoy exemption from actual goods inspection:
    - An owner of exported goods must have a record of exportation for one year, calculated from the date of carrying out the customs procedures, and must not have been dealt with for any customs-related administrative offence, or if so dealt with, the customs-related administrative offence must have been subject to a fine level falling within the jurisdiction of the director of a customs office.
    - An owner of imported goods must have a record of importation for two years, calculated from the date of carrying out the customs procedures, and must not have been dealt with for any customs-related administrative offence, or if so dealt with, the customs-related administrative offence must have been subject to a fine level falling within the jurisdiction of the director of a customs office.

- (b) The exported or imported goods of owners satisfying the conditions for exemption from inspection prescribed in point (a) of this clause shall be:
- For exported goods: agricultural and aquatic goods; textiles and garments; footwear, natural rubber; fresh and raw foodstuffs; processed foodstuffs; goods requiring special preservation; mechanical goods and machinery; liquid and bulky goods; items of goods having volume, quality and categories which must be determined on the basis of the conclusions of competent State management bodies or evaluation organizations; exported goods of enterprises in export processing zones; regularly exported goods; other goods stipulated by the Government.
  - For imported goods: Equipment, machinery; fresh and raw foodstuffs; goods requiring special preservation; goods stored in customs bond or bonded warehouses; imports to be taken into export processing zones, bonded or other customs preference zones; liquid and bulky goods and items of goods having volume, quality and categories which must be determined on the basis of conclusions of competent State management bodies or evaluation organizations; regularly imported goods; other goods stipulated by the Government.
- (c) In the case of goods exempted from inspection, the customs office shall state in the certification of actual condition of goods as follows:
- For goods having inspection or evaluation results of competent State management bodies or evaluation organizations, the customs office shall state the conclusions of such bodies or organizations in the certification for the actually exported or imported goods.
  - For other goods, the customs office shall state the contents declared by the customs declarant in the certification for the actually exported or imported goods.. The customs declarant shall bear responsibility before law for the contents declared by it.
5. Probability inspection of the actual condition of goods shall be applied to no more than ten (10) per cent of each consignment of exported or imported goods in accordance with the provisions of article 30.1(b) of the *Law on Customs*. If the goods are packed in bales, the inspection rate shall be the rate of inspected bales. If the goods are packed in containers, the inspection rate shall be the rate of inspected containers or the rate of inspected bales in each container.

6. Inspection of the actual condition of the whole consignment of exported or imported goods of goods owners having repeatedly breached the customs laws; of consignments of exported or imported goods indicating signs of breach of the customs laws, shall be conducted as follows:
- (a) A goods owner having repeatedly breached the customs laws is one having been dealt with for more than three customs-related administrative offences within two years, calculated from the date of carrying out the customs procedures for import activities, or one year, calculated from the date of carrying out the customs procedures for export activities, subject to a fine level falling beyond the jurisdiction of the director of a customs office.
  - (b) In cases where, within the time-limit stipulated in point (a) of this clause, a goods owners has been dealt with on one occasion only for a customs-related administrative offence subject to a fine level falling beyond the jurisdiction of the director of a provincial, inter-provincial or municipal customs department (hereinafter referred to as *director of Customs Department*), the exported or imported goods of such owner shall be subject to the form of inspection applicable to the goods of owners having repeatedly breached the customs laws.
  - (c) Where indications of a breach of the customs laws are identified, the customs officers shall inspect the whole consignment of exported or imported goods as follows:
    - If the indications of breach are indications of fraud in terms of quantity of goods, the customs officers shall count, weigh or measure the whole consignment of goods;
    - If the indications of breach are indications of fraud in terms of category of goods, the customs officers shall inspect all bales of goods;
    - If the indications of breach are indications of fraud in terms of quality of goods, the customs officers shall take a number of random samples or samples of suspected goods for examination, analysis or opinion and evaluation in the presence of the customs declarant. The sampling shall be recorded in a report, which shall be signed for certification by the customs officer and the customs declarant.
7. On the basis of the provisions of this article and the specific information on goods owners and consignments of exported or imported goods at the time of carrying out the customs procedures, the director of a Customs Department shall decide on any change of the form of inspection and the

actual inspection rate for goods in respect of which the director of a customs office has already made a decision on the form of inspection and the actual inspection rate.

**Article 9** *Analysis, classification, evaluation and State inspection of goods quality*

1. In the case of goods not subject to State quality inspection but in respect of which the customs officers are unable to determine the names, quantity and/or quality, they shall be dealt with as follows:
  - (a) The customs officer shall take samples of goods in the presence of the customs declarant for the purpose of analysis or opinion and evaluation. The taking of samples of goods shall be recorded in a report, which must be signed for certification by the customs officer and the customs declarant.
  - (b) In cases where the customs declarant disagrees with the inspection, analysis or evaluation results concluded by the customs office (hereinafter referred to as *initial results*), he or she may select another specialized evaluation body or organization to conduct re-evaluation, and shall be required to pay the evaluation charges.
  - (c) Pending the re-evaluation results, the initial results shall serve as the basis for the customs office to carry out customs procedures. When the re-evaluation results are available, the customs office shall carry out the customs procedures for the goods on the basis of the re-evaluation results.
  - (d) The goods owner shall bear responsibility before law for the lawfulness of the evaluation results if the goods are evaluated abroad at the request of the goods owner.
2. For goods subject to State quality inspection, the customs office shall, on the basis of the customs file and the certificate of registration of State inspection of goods quality issued by the body in charge of State inspection of goods quality, carry out the customs procedures for such goods.
3. The customs declarant shall be entitled to lodge a complaint with the customs office or the competent State management bodies or initiate legal proceedings at court in respect of the decisions of the customs office or the bodies or organizations analyzing, classifying and evaluating the goods in accordance with the provisions of the law.

**Article 10** *Inspection of goods origin*

1. The inspection of goods origin must be based on the results of inspection of the actual condition of goods as well as the customs files.
2. Regulations on certificates of origin (C/O):
  - (a) For exported goods, the customs declarant shall not be required to submit a C/O;
  - (b) For imported goods, if the goods owner requests any origin-related preferences pursuant to any agreement or undertaking between the Socialist Republic of Vietnam and other countries or international organizations, the goods owner must submit a C/O or documents of equivalent legal validity and bear responsibility before the law for the lawfulness of the C/O;
  - (c) For any goods which are the subject of an announcement by Vietnam or an international organization that they are in a period of apparent risk of causing danger to people's health, production and/or environmental hygiene, the customs declarant must submit a C/O when importing such goods.

**Article 11** *Goods customs clearance*

1. Bases on which the customs offices shall carry out customs clearance of goods:
  - (a) Declaration of the customs declarant or the results of the State inspection body or evaluation organization, in the case of goods exempt from actual inspection;
  - (b) Results of actual goods inspection by the customs office, in the case of goods subject to actual inspection;
  - (c) Certificate of registration of State inspection of goods quality issued by the evaluation organization of goods quality or issued by the competent State management body, in the case of imported goods subject to State inspection of goods quality;
  - (d) Evaluation results, in the case of goods subject to evaluation.
2. Exported goods and imported goods not being subject to taxes collected by the customs office, duty-free goods, processed goods, and other special goods shall enjoy customs clearance immediately after certification by the customs office of the goods inspection results on the declaration forms.

3. Exported goods and imported goods being subject to taxes shall enjoy customs clearance immediately after payment of taxes by the customs declarant. Goods enjoying a grace period for tax payment shall enjoy customs clearance immediately after issuance of the tax notice by the customs office.

**Article 12** *Control of exported and imported goods*

1. Goods subject to customs control:

Goods subject to customs control shall comprise:

- (a) Goods which have undergone export customs procedures but are not yet exported;
- (b) Goods which have undergone import customs procedures but have not yet been cleared by customs;
- (c) Exported or imported goods which have not yet undergone customs procedures and have been stored in a warehouse or yard within the geographical area of operation of the customs office;
- (d) Goods and means of transportation in transit;
- (dd) Goods and means of transportation being transported from one bordergate to another.

2. Methods of customs control:

- (a) Customs control shall be carried out by the following methods:
  - Customs sealing, comprising sealing with customs sealing papers and sealing with special-use customs strings or locks;
  - Direct control by customs officers;
  - Control by technical means.
- (b) Direct control by customs officers shall not apply to goods stored or transported outside the geographical area of operation of the customs office, except in necessary cases as prescribed by the General Director of Customs.

**Article 13** *Goods transported from one bordergate to another*

1. Goods transported from one bordergate to another must be transported along the correct routes to the correct places stated in the customs files.
2. The transporters and the accompanying customs officers (if any) shall be responsible to maintain the original condition of the goods or customs seal during the process of transportation from bordergate to bordergate.
3. During the process of transportation from bordergate to bordergate, if accidents or events of force majeure occur, thereby damaging the customs seal or changing the original condition of the goods, the transporters, goods owners or accompanying customs officers (if any) shall notify as soon as possible the customs office or the people's committee of the nearest commune, ward or township thereof for the purpose of making records certifying the present condition of the goods.
4. Customs procedures for transportation from bordergate to bordergate:
  - (a) For imported goods with bills of lading stating that the destination is an ex-bordergate location for completion of customs procedures:
    - The bordergate customs office shall be required to inspect the outer appearance of the goods, prepare minutes and deliver them to the transporters for transportation to the ex-bordergate location for completion of customs procedures; then notify the customs office at the ex-bordergate location for completion of customs procedure of any information about the goods which requires attention.
    - The customs office at the ex-bordergate location for completion of customs procedures shall receive the delivered goods; compare the goods with, and make certification in, the delivery records of the bordergate customs office; carry out the customs procedures for importation of the goods; notify the bordergate customs office of the results of verification of the information on the consignment of imported goods already noted by the bordergate customs office.
  - (b) For imported goods with bills of lading stating that the destination is a bordergate location for completion of customs procedures:
    - The customs declarant must make a written request for transportation from bordergate to bordergate. On the basis of such request, the customs office at the ex-bordergate location for completion of customs procedures shall complete the procedures for receiving the files; register the import customs declarations, make certification in the request for

transportation from bordergate to bordergate, then send them to the bordergate customs office for carrying out the procedures for transportation of the goods from the bordergate to the ex-bordergate location for completion of customs procedures.

- Upon receiving a request from the customs office at the ex-bordergate location for completion of customs procedures as stated in the request for transportation from bordergate to bordergate, the bordergate customs office and the customs office at the ex-bordergate location for completion of customs procedures shall carry out customs procedures as prescribed in this clause 4(a).
- (c) For exported goods:
- The customs office at the ex-bordergate location for completion of customs procedures shall carry out export customs procedures, make delivery records, and deliver the goods and files thereof to the customs declarant for the purpose of sending them to the bordergate customs office.
  - The customs office at the export bordergate shall receive the goods; compare them with the delivery records of the customs office at the ex-bordergate location for completion of customs procedures; supervise the goods until they are exported, and make certification of actual exportation thereof in accordance with regulations.
- (d) The customs office at the ex-bordergate location for completion of customs procedures shall be responsible to carry out the customs procedures for consignments of exported or imported goods. The bordergate customs office shall be responsible to co-ordinate with, and supply information requiring attention about the exported or imported goods, to the customs office at the ex-bordergate location for completion of customs procedures. When receiving information requiring attention about the exported or imported goods, the custom office at the ex-bordergate location for completion of customs procedures must check such information and inform the director of the concerned Customs Department and customs offices of the results of such check.

**Article 14** *Procedures for temporary suspension of customs clearance procedures in respect of exports and imports being subject of request for protection of intellectual property*

1. When wishing to request the customs office to suspend temporarily the customs clearance procedures for exported or imported goods, an owner of intellectual property rights, or its authorized representative (hereinafter referred to as *temporary suspension requester*), must:
  - (a) Submit a written request for temporary suspension of customs clearance procedures to the director of the customs office at the place where the goods are exported or imported;
  - (b) Deposit in advance an amount equal to twenty (20) per cent of the value of the consignment of goods as stated in the contract into the temporary custody account of the customs office at the State Treasury or submit a letter of guarantee issued by a credit institution in order to secure compensation for damage to the goods owner as well as the payment of expenses incurred by the concerned agencies, organizations and/or individuals in the event of an improper request for temporary suspension of customs clearance procedures;
  - (c) Produce to the customs office the protection titles or documents proving the lawful intellectual property rights;
  - (d) Present initial evidence of the alleged infringement of intellectual property rights by the exported or imported goods;
  - (dd) Present the written authorization to file the request for temporary suspension, prepared in accordance with the provisions of the law (in cases of authorization).
2. Temporary suspension procedures:
  - (a) Upon satisfaction of clause 1 of this article by the temporary suspension requester, the director of the customs office shall decide on the temporary suspension of customs clearance procedures (hereinafter referred to as *temporary suspension decision*). It must clearly state the reason for and duration of temporary suspension for the purpose of information of and implementation by the parties concerned with the consignment of goods.
  - (b) The duration of temporary suspension shall be ten (10) days as from the date of issuance of the temporary suspension decision.
  - (c) The director of the customs office shall decide on the extension of the duration of temporary suspension in cases where the temporary

suspension requester files a written request therefor prior to the expiry date of the suspension decision. In this case, the temporary suspension requester must pay in advance an additional amount as prescribed in clause 1 of this article. The extended duration shall not exceed ten (10) days as from the date of expiry of the temporary suspension decision.

- (d) Upon expiry of the duration specified in point (b) or (c) of this clause, if the temporary suspension requester fails to supply any evidence, or the conclusion of the competent agencies and/or organizations fails to prove, that the consignment of goods infringes the intellectual property rights, or there is no written request from the competent State management body or court for the customs office to deliver the goods being subject to temporary suspension, the director of the customs office may decide:
- To carry out the customs clearance procedures for the consignment of goods;
  - To compel the temporary suspension requester to pay compensation to the exporter or importer for any damage caused by the improper temporary suspension request, pay any expenses for the storage and preservation of goods, as well as expenses incurred by the customs office and other concerned agencies, organizations and/or individuals in accordance with law;
  - To complete the procedures for returning to the temporary suspension requester any amount of the advance payment remaining after payment of compensation to the exporter or importer as well as expenses incurred relating to the temporary suspension request. If the advance payment is not sufficient to pay all of the above expenses, the temporary suspension requester shall be required to pay an additional amount to offset the deficit.
- (dd) Where the temporary suspension requester is able to prove that the owner of the exported or imported goods has infringed its intellectual property rights, the goods owner and the goods shall be dealt with in accordance with the provisions of the law. The owner of the exported or imported goods shall bear responsibility before the law, comply with the decisions of the competent State bodies; pay compensation for any damage caused to the owner of intellectual property rights; and pay all expenses arising from the temporary suspension. The customs office shall return to the temporary suspension requester the amount of the advance payment.

## SECTION 2

**For Other Exported and Imported Goods****Article 15** *Goods in transit*

1. The customs procedures for goods in transit shall be carried out at the customs office at the bordergates through which the goods are imported or exported. The goods in transit must be imported or exported through the correct bordergate and transported along the correct routes in accordance with the schedule stated in the customs file, and shall be subject to customs control.
2. Goods in transit must not be sold, given as a gift or exchanged in Vietnam, except in cases where it is so permitted by the competent Vietnamese State body and, in such cases, they must undergo import customs procedures as prescribed by law.
3. Goods in transit which are not transported across land territory may be warehoused within the bordergate areas.
4. In the case of goods in transit which are required to be warehoused outside the bordergate area or transported across land territory, or other goods in transit which are required by law to have transit permits, the permission of the competent State body must be obtained.
5. Documents required to be submitted when carrying out customs procedures for goods in transit:
  - (a) List of goods in transit, submitted by the customs declarant or representative to the bordergate customs office in the case of goods in transit which are directly transported in their original condition; transshipped onto the same means of transportation by land, railway, river, sea or air (except for goods in transit which are directly transported by air);
  - (b) Customs declaration for goods in transit and list of goods in transit, submitted by the customs declarant or representative to the bordergate customs office in the case of goods in transit which are required to be warehoused or transshipped onto another type of means of transportation.
6. Responsibilities of the customs office:
  - (a) The custom office of the bordergate through which the goods enter the country shall receive the list of goods in transit or the customs declarations for the goods in transit or the customs declarations for the consignment of goods in transit, seal up the goods-storing

places and certify the original condition in the declaration (for cases where a customs declaration is required) and hand them over to the operator of the means of transportation for the purpose of presentation to the customs office of the bordergate through which the goods exit the country.

- (b) Where the goods in transit are unable to be sealed up, the carriers, the customs declarant and the accompanying customs officers (if any) must ensure the original condition of the goods from the bordergate through which the goods enter the country to the bordergate through which they exit the country.
  - (c) The customs office of the bordergate through which the goods exit the country shall receive the list of goods or the customs declarations forwarded from the customs office of the bordergate through which the goods enter the country; check the state of the customs seal or the original condition of the goods against the contents certified by the customs office of the bordergate through which the goods enter the country on the manifest or the transit customs declaration prior to carrying out the exit procedures.
7. Where events of force majeure occur, resulting in the displacement of the customs seal or change in the original condition of the goods, the carriers, the customs declarant and the accompanying customs officers (if any) must apply measures to limit loss and immediately notify such to the people's committee of the nearest commune, ward or township for the purpose of making a written record of the current condition of the goods.

**Article 16** *Goods temporarily exported or imported for participation in fairs, exhibitions or goods introduction*

- 1. Goods temporarily imported for participation in fairs, exhibitions or goods introduction (hereinafter collectively referred to as *temporary imports*):
  - (a) The customs file shall comprise:
    - Customs declaration;
    - Copy of bill of lading;
    - Detailed list of goods;
    - Permit of the competent State management body (in the case of goods requiring permission).
  - (b) Temporary imports shall be permitted to undergo customs procedures at the bordergate customs office or ex-bordergate customs office in the locality where the exhibition or fair is held.

- (c) The temporary import duration shall comply with provisions of Vietnamese laws.
  - (d) In the case of temporary imports subject to a prohibition on import or conditional import, if they are sold, given as a gift or exchanged in Vietnam, the permission of the competent State body must be obtained.
2. Goods of Vietnamese organizations and individuals which are temporarily exported for participation in fairs, exhibitions or goods introduction in foreign countries (hereinafter collectively referred to as *temporary exports*):
- (a) The customs file shall comprise:
    - Customs declaration;
    - Detailed list of goods;
    - Permit of the competent State management body (in the case of goods requiring permission).
  - (b) Temporary exports shall be permitted to undergo customs procedures at a bordergate customs office or an ex-bordergate location for completion of customs procedures.
  - (c) The temporary export duration shall comply with provisions of Vietnamese laws.
  - (d) In the case of temporary exports subject to a prohibition on export or conditional export, if they are sold, given as a gift or exchanged in foreign markets, the permission of the competent Vietnamese State body must be obtained.

**Article 17** *Machinery, equipment, specialized tools temporarily exported or imported for specific period*

1. Machinery, equipment and specialized tools (hereinafter collectively referred to as *temporarily exported or temporarily imported goods*) required for the duties of persons entering or exiting may be temporarily exported or imported for a specific period in accordance with their working requirements.

2. The customs file shall comprise:
  - (a) Customs declaration;
  - (b) Written request;
  - (c) Detailed list of goods;
  - (d) Copy of bill of lading (in the case of temporarily imported goods);
  - (dd) Written certification of the duties necessitating use of the temporarily exported or imported goods, issued by the body or organization at which the goods owner is working.

**Article 18** *Accessories and spare parts temporarily imported for purpose of replacement and repair of foreign seagoing ships and aircraft*

1. A foreign sea or air transportation company which has a seagoing ship or aircraft repaired in Vietnam shall be permitted to send accessories and spare parts for the purpose of such repair.
2. Accessories and spare parts temporarily imported for the purpose of replacement or repair of a foreign seagoing ship or aircraft shall be permitted to be carried by such aircraft or seagoing ship upon its entry or sent in advance or afterwards to the address of the shipping agent or the repair factory.
3. The customs declarant shall be the operator of the aircraft or seagoing ship or the shipping agent or the repair factory. The customs declarant shall bear responsibility before the law for the use of temporarily imported accessories and spare parts for the correct purposes as declared.
4. The customs file shall comprise:
  - Customs declaration;
  - Detailed list of goods;
  - Written request of customs declarant;
  - Copy of bill of lading.

**Article 19** *Goods exported or imported by post*

1. Goods exported or imported under a certain form of export or import shall undergo customs procedures as prescribed for such form of export or import.

2. The customs declarant of goods exported or imported by post shall be the goods owner or the postal service-providing enterprise. The postal service-providing enterprise shall be the lawful representative of the goods owner. When carrying out the customs procedures for the goods, the postal service-providing enterprise shall be required to exercise the following rights and perform the following obligations on behalf of the goods owner:
  - (a) To make the customs declaration;
  - (b) To present the goods for customs inspection;
  - (c) To pay tax (in the case of taxable goods);
  - (d) To receive goods and return them to their owner.
3. The postal service-providing enterprise may declare the goods of multiple goods owners in a single customs declaration form.

**Article 20** *Goods purchased and sold on means of transportation entering or exiting sea or river ports of Vietnam*

1. Traders purchasing goods from or selling goods to persons entering or exiting on means of transportation must carry out customs procedures, fulfil tax obligations and comply with policies on goods management as prescribed by law.
2. The customs file shall comprise:
  - (a) Customs declaration;
  - (b) Detailed list (if the goods are of multiple categories);
  - (c) Business registration certificate.

**Article 21** *Goods purchased, sold or exchanged by residents of border areas*

1. If residents living in border areas bring goods across the border within a prescribed quantity, they shall not be required to make customs declaration; if bringing goods in excess of the prescribed quantity, they shall be required to make customs declaration and comply with the provisions of the laws on taxes and the policies on export-import management.
2. In the case of places where there are no customs offices, the border guards shall perform the task of goods management as prescribed in clause 1 of this article.

**Article 22** *Moveable assets which are exported or imported*

1. Foreigners who bring moveable assets into Vietnam for the purpose of their work and daily life during their stay in Vietnam shall be required to submit and present the following papers when carrying out customs procedures:
  - (a) Customs declaration;
  - (b) Written certification of their working visit in Vietnam, issued by the competent Vietnamese State management body;
  - (c) Copy of bill of lading;
  - (d) Detailed list of assets.
  
2. Foreigners who take moveable assets out of Vietnam shall be required to submit and present the following papers when carrying out customs procedures:
  - (a) Customs declaration;
  - (b) Papers certifying completion of their working and residence duration, issued by the Ministry of Foreign Affairs or the competent management body of Vietnam;
  - (c) Detailed list of assets;
  - (d) Import declaration bearing the certification of the customs office, enclosing the document on liquidation of the temporarily imported assets with the customs office and the tax payment voucher for goods subject to tax.
  
3. For moveable assets taken by Vietnamese organizations or individuals from Vietnam to foreign countries for working purposes or purchased in foreign countries for working purposes or purchased in foreign countries, if, after finishing their working duration, such Vietnamese organizations or individuals send their assets back home, they shall be required to carry out customs procedures. The customs file shall comprise:
  - (a) Customs declaration;
  - (b) Decision of the competent body permitting them to do business and work abroad or to return to Vietnam;
  - (c) Export customs declaration and other documents proving that they took the goods abroad, or the invoice of the goods purchased abroad.

4. For moveable assets brought by overseas Vietnamese and their families into the country when they are permitted to reside in Vietnam or taken abroad by Vietnam persons when they are permitted to reside abroad, they shall be required to undergo customs procedures. The customs file shall comprise:
  - (a) Customs declaration;
  - (b) Decision permitting the residence in Vietnam or the decision permitting the residence in a foreign country (in the case of persons exiting);
  - (c) Detailed list of assets;
  - (d) Papers proving the ownership of the assets, excluding articles and items in service of normal daily life needs of families and individuals.

**Article 23** *Luggage, foreign exchange, precious metals, gems, Vietnamese currency exported or imported*

1. Upon arriving at the bordergate, persons exiting or entering must declare and present their accompanied luggage (both hand-luggage and luggage consigned on the same trip) to the customs office for inspection when so requested. In the case of luggage sent prior to or after the trip, when the luggage owners complete the procedures for receiving them, they must present the customs declaration, passport and bill of lading.
2. Persons entering who possess articles and declare them as temporarily imported goods shall be required to take the same articles out of the country upon exit. Persons exiting who possess articles and declare them as temporarily exported goods shall be required to bring back the same articles upon re-entry. Where temporarily imported goods are lost or misplaced, written certification of the competent police office must be obtained.
3. Persons entering or exiting who carry gems and/or precious metals (except for international standard gold) must comply with the regulations of the competent State management body and carry out customs procedures.
4. Persons exiting who carry foreign currencies in cash, Vietnamese currency in cash and/or international standard gold in excess of the prescribed limit shall be required to have a permit from the Governor of the State Bank of Vietnam and to make customs declaration at the bordergate.
5. Persons entering who carry international standard gold in excess of the limit prescribed by the Governor of the State Bank of Vietnam shall be

required to deposit the excessive amount of gold in the warehouse of the customs office and take it out of the country upon exit or sell it in accordance with the regulations of the State Bank of Vietnam.

**Article 24** *Goods exported and imported for urgent, security and defence requirements*

1. Goods exported or imported for urgent requirements shall comprise:
  - (a) Goods stipulated in article 35.1 of the *Law on Customs*;
  - (b) Other goods exported or imported for urgent requirements as decided by the Prime Minister.
2. Customs procedures:
  - (a) In the case of goods for urgent requirements:
    - The head of the body or enterprise shall issue a written certification that the goods are exported or imported for urgent requirements and shall bear responsibility before the law for such certification.
    - The goods exported or imported for urgent requirements shall enjoy customs clearance prior to submission of the documents in the customs file. The time-limit for late submission shall not exceed thirty (30) days as from the date of customs clearance of the goods.
    - The director of the customs office shall, on the basis of the characteristics and categories of the goods as well as the level of urgency, decide on the appropriate form of actual goods inspection.
  - (b) In the case of goods for security and/or defence requirements:
    - Goods exported or imported with the written certification of the Minister of Public Security or the Minister of Defence that they are for security or defence requirements shall enjoy customs clearance prior to submission of the documents in the customs files. The time-limit for late submission shall not exceed thirty (30) days as from the date of customs clearance of the goods.
    - Goods for security or defence requirements having the written certification of the Minister of Public Security or the Minister of Defence that they require high security or special

confidentiality (top secret or strict confidentiality) shall be exempt from actual inspection and customs declaration.

- The Minister of Public Security and the Minister of Defence shall be responsible before the Prime Minister for the contents of their written certifications.

**Article 25** *Privileges and immunities in customs declaration and customs inspection*

1. Diplomatic and consular bags shall enjoy immunity from customs declaration and inspection.
2. Personal luggage and means of transportation of the following individuals and organizations shall enjoy immunity from customs inspection:
  - (a) Means of transportation and items used for the official activities of Vietnam-based foreign diplomatic missions and consular offices and representative offices of international organizations shall enjoy diplomatic privileges and immunities in accordance with the provisions of the law;
  - (b) Holders of diplomatic passports issued by the Ministry of Foreign Affairs or overseas Vietnamese embassies and general consulates or by the foreign ministry or competent authorities of those countries which have recognized the State of the Socialist Republic of Vietnam;
  - (c) Spouses and minor children accompanying the subjects specified in point (b) of this clause.
2. Other goods exempt from customs declaration and/or inspection as decided by the Prime Minister.
3. When there are grounds to confirm that means of transportation, goods and/or items of the subjects referred to in clauses 1 and 2 of this article are in breach of the diplomatic privilege and immunity regime stipulated by law, the General Director of Customs shall decide on the inspection and handling of these subjects in accordance with the provisions of article 62 of the *Law on Customs*.

**Article 26** *Goods and luggage under consigned exportation or importation which are misplaced, lost, taken by mistake*

1. When carrying out the customs procedures for receiving back goods and/or luggage under consigned exportation or importation which have been misplaced, lost or taken by mistake, the owners or their authorized representatives shall be required to submit the following papers:
  - (a) Documents proving ownership of the consigned goods and/or luggage;
  - (b) List of consigned goods and/or luggage (if any).
2. Where it is impossible to identify the recipients of the consigned goods and luggage referred to in this article, such goods and luggage shall be dealt with in accordance with the provisions of article 45 of the *Law on Customs*.

SECTION 3

**For Goods at Customs Bond Warehouses and Bonded Warehouses**

**Article 27** *Bond warehouses*

Bond warehouses are warehouses or yards established in the territory of Vietnam which are separated from the surrounding area for the purpose of temporary storage and preservation of, or providing a number of services in respect of, goods brought from abroad or from within the country and into the warehouses under bond warehouse lease contracts signed between the bond warehouse owners and the goods owners.

**Article 28** *Customs inspection and control of bond warehouses*

Bond warehouses, goods and means of transportation entering or exiting or stored and preserved in bond warehouses shall be required to undergo customs procedures and shall be subject to inspection and control by customs offices.

**Article 29** *Areas in which bond warehouses may be established*

Bond warehouses may be established in the following areas:

1. Provinces and cities under central authority which act as goods exchange hubs between Vietnam and foreign countries and have favourable conditions for transportation of exported and imported goods.
2. Industrial zones, high tech zones, export processing zones, and other special economic zones (hereinafter referred to as *industrial zones*).

**Article 30** *Establishment of bond warehouses*

1. Conditions for being permitted to establish a bond warehouse:
  - (a) Being an enterprise established in accordance with the provisions of the law;
  - (b) Having the function of dealing in warehouses and yards and exported and imported goods forwarding stated in the business registration certificate;
  - (c) Warehouses and yards to be established are within the areas stipulated in article 29 of this Decree; separated from the surrounding area with walls and/or fences, enabling regular inspection and control by customs offices;
  - (d) Having material and technical bases and means of transportation suitable for the requirements of goods storage and preservation as well as inspection and control by customs offices.
2. The file for application for establishment of a bond warehouse shall comprise:
  - (a) Application for establishment of a bond warehouse, in accordance with the form prescribed by the General Department of Customs;
  - (b) Business registration certificate;
  - (c) Diagram of the design of the warehouse or yard area, clearly showing the boundary separating the outside area, the position of storage facilities, the system of internal transportation roads, the system of fire and explosion prevention and fighting, security, offices, storehouses and the customs working places;
  - (d) Lawful documents on the right to use storehouses and/or yards.

**Article 31** *Procedures for consideration and licensing of establishment of bond warehouses*

1. The file for application for establishment of a bond warehouse shall be addressed to the provincial, inter-provincial or municipal Customs Department (hereinafter referred to as *Customs Department*) of the locality where the enterprise applying for permission proposes to establish the bond warehouse.

- (a) Within fifteen (15) days of receipt of a complete and proper file of the enterprise, the Customs Department shall:
    - Check the file;
    - Survey the actual condition of storehouses and yards;
    - Report the results and make proposals to the General Director of Customs.
  - (b) Within fifteen (15) days of receipt of the report and proposals from the Customs Department and the file for application for establishment of a bond warehouse, the General Director of Customs shall issue a decision on issuance of a licence to establish a bond warehouse, or reply in writing if the enterprise fails to satisfy the conditions stipulated in article 30 of this Decree.
2. Once every year, the Customs Departments shall inspect the status of operation of the bond warehouses and the observance of the laws on customs by the licensed enterprises. Upon identifying any indication of a breach of the law, the Customs Departments shall conduct unannounced inspections of the bond warehouses.
3. The General Director of Customs shall decide on the termination of the operation of a licence to operate a bond warehouse in the following cases:
  - The enterprise files a written request for termination of the operation of the bond warehouse;
  - Within any one year, the bond warehouse owner has committed three customs-related administrative offences subject to a fine on each occasion at a level falling beyond the jurisdiction of the director of a customs office to impose penalties for customs-related administrative offences; or has committed one customs-related administrative offence subject to a fine at a level falling beyond the competence of the director of a Customs Department to impose penalties for customs-related administrative offences, or has been prosecuted for criminal liability;
  - Within six months, the enterprise fails to commence operation of the bond warehouse without reasonable cause.
4. On the basis of the business needs and proposals of the enterprise and the geographic location and operating conditions of the bond warehouse, the director of the Customs Department shall make the decision to permit the enterprise to expand, downsize or relocate the bond warehouse, but must ensure conditions for strict management by the customs offices.

**Article 32** *Services provided in respect of goods stored at bond warehouses*

If so agreed or authorized in writing by the goods owner, a bond warehouse owner may provide the following services in respect of the goods stored at the bond warehouse:

1. Consolidating packing, categorizing goods, taking goods samples within the bond warehouse under direct control by the customs officers;
2. Carrying out on behalf of the goods owner the customs procedures for the goods taken out or brought into the bond warehouse;
3. Transporting goods from the bordergates into the bond warehouse and *vice versa*, or from one bond warehouse to another;
4. Carrying out the transfer of ownership of goods in accordance with the provisions of the law.

**Article 33** *Lease of bond warehouses*

1. Subjects permitted to lease bond warehouses:
  - (a) Vietnamese traders of all economic sectors permitted to conduct export and import business;
  - (b) Foreign traders;
  - (c) Foreign organizations and individuals.

2. Bond warehouse lease contracts:

A bond warehouse lease contract shall be agreed by the bond warehouse owner and the goods owner in accordance with the provisions of the law. The bond warehouse lease contract must clearly state the names, categories, quantities and quality of the goods; lease duration; any services as stipulated in article 32, if requested by the goods owner; responsibilities of the contracting parties.

3. The term of a bond warehouse lease contract shall not exceed three hundred and sixty five (365) days, calculated from the date on which the goods are brought into the warehouse. The bond warehouse owner shall be required to send a written notice of expiry to the customs office for the bonded warehouse prior to expiry of the bond warehouse lease contract. Where the goods owner files a written request and the approval of the director of the Customs Department is obtained, the term of the bond warehouse lease contract may be extended for no more than one hundred and eighty (180) days, calculated from the date of expiry of the bond warehouse lease contract.

4. Upon expiry of the bond warehouse lease contract, any failure by the goods owner to carry out the procedures for extension shall be dealt with as follows:
  - (a) If the goods owner signs a contract on extension of the bond warehouse lease contract within ninety (90) days of expiry of the bond warehouse lease contract, the Customs Department shall deal with this as an administrative offence in accordance with the provisions of the law and shall accept the extension of the contract;
  - (b) After ninety (90) days from expiry of the contract, if the goods owner fails to sign an extension contract or take the goods out of the bond warehouse, the Customs Department shall organize the liquidation of the goods stored in the bond warehouse in accordance with the provisions of the law.
5. During the term of the bond warehouse lease contract, if the goods owner issues a document to abandon the goods stored at the bond warehouse, the Customs Department shall organize the liquidation of such goods.
6. The liquidation of goods stored at bond warehouses shall be conducted in accordance with the provisions of the law. The proceeds from liquidation of goods shall be remitted into the State Budget, after deduction of warehousing expenses and other expenses related to the liquidation of goods in accordance with the provisions of the law.

**Article 34** *Goods brought into, taken out of, stored and preserved in bond warehouses*

1. Goods coming from Vietnam having undergone export customs procedures, and goods coming from abroad requiring to transit through or be warehoused in Vietnam prior to leaving for a third country or undergoing the procedures for importation into Vietnam, which are owned by the subjects permitted to lease bond warehouses as stipulated in article 33.1 of this Decree shall be permitted to be stored in bond warehouses, excluding the following goods:
  - (a) Goods bearing fake labels or fake appellation of origin of Vietnam;
  - (b) Goods which may cause danger to the public or environmental pollution;
  - (c) Goods prohibited from export or prohibited from import, except in cases permitted by the Prime Minister.

2. Goods brought from abroad into bond warehouses shall comprise:
  - (a) Goods of foreign owners who have not yet signed sale contracts with enterprises in Vietnam;
  - (b) Goods imported by Vietnamese enterprises from abroad, awaiting circulation on the domestic market and payment of import duty.
3. Goods brought from inside Vietnam into bond warehouses shall comprise:
  - (a) Exported goods which have gone through customs procedures but not yet exported;
  - (b) Goods which have passed the temporary import duration and must be re-exported;
  - (c) Goods which are subject to compulsory re-exportation by a competent State body.
4. Goods stored and preserved in bond warehouses must accord with the bond warehouse lease contracts. Goods brought into or taken out of bond warehouses must go through customs procedures in strict accordance with the provisions of the law.
5. The transportation of goods from a bordergate or a goods collection place after they have undergone customs procedures (in the case of exported goods to be brought into bond warehouses) to a bond warehouse or from a bond warehouse to a bordergate shall be subject to customs control.

**Article 35** *Customs procedures for goods brought into bond warehouses*

1. For goods coming from abroad and brought into bond warehouses, the goods owner or its lawful representative must submit the bond warehouse lease contract, customs declaration and other necessary documents as stipulated by the General Director of Customs to Customs of the bond warehouse.
2. For goods coming from Vietnam and brought into bond warehouses, the goods owner or its lawful representative must complete all customs procedures for exported goods in accordance with the provisions of the law prior to its goods into the bond warehouses; to submit the bond warehouse lease contract, customs declaration for exported goods which have undergone customs procedures, declarations of goods brought into the bond warehouse and other necessary documents for completion of warehousing procedures in accordance with the provisions of the law to Customs of the bond warehouse.

**Article 36** *Customs procedures for taking goods out of bond warehouses*

## 1. Goods to be taken abroad:

- (a) A goods owner or its lawful representative, wishing to take goods out of a bond warehouse for export, must make customs declaration and submit to Customs of the bond warehouse the following documents:
  - Customs declaration for exported goods;
  - Paper on authorization of goods exportation (if not so stated in the bond warehouse lease contract);
  - Ex-warehousing bill, in accordance with the form prescribed by the Ministry of Finance.
- (b) Customs of the bond warehouse shall compare the file of declaration documents for ex-warehousing goods with the documents for completion of warehousing procedures and the actual condition of the consignments of goods; if such documents are in order, shall complete the delivery procedures and comply with the regime of customs control in accordance with the provisions in article 12 of this Decree.
- (c) If all goods under a single contract are unable to be exported at one time, it may be done incrementally until the whole amount of goods stated in the contract has been exported.
- (d) Where the bond warehouse lease contract has expired but the goods owner meets with difficulties in the goods delivery, the goods may be retained in the bordergate area where the bond warehouse is located in accordance with the following regulations:
  - The goods are stored in the bond warehouse within the bordergate area;
  - The duration for storage of the goods in the bond warehouse within the bordergate area shall not exceed one hundred and eighty (180) days from the date on which the goods are brought into the warehouse. After one hundred and eighty (180) days, if all of the goods have not yet been taken out of Vietnam, the Customs Department shall organize the liquidation of the remaining quantity of goods in accordance with the provisions in article 33.6 of this Decree.

2. Goods imported into the Vietnamese market:
  - (a) Goods coming from abroad and brought into bond warehouses; goods coming from abroad, stored in bond warehouses and having their ownership transferred; goods stored in bond warehouses, which the liquidating Customs Department wishes to sell on the Vietnamese market, shall be required to undergo customs procedures, comply with the provisions of the laws on tax and the policy on export-import management in the same manner as other imported goods.
  - (b) The time of actual importation of goods shall be the time at which the customs office registers the customs declaration for the imported goods.
  - (c) Goods stored at bond warehouses and subject to re-exportation pursuant to a decision of a competent State management body must not be re-imported into the Vietnamese market.

**Article 37** *Management of storage and preservation of goods in bond warehouses*

1. The bond warehouse owner must send a notice to Customs of the bond warehouse prior to providing services in respect of the goods stored in its bond warehouse as prescribed in article 32.1 of this Decree.
2. The transfer of goods from one bond warehouse to another must be approved in writing by the director of the Customs Department. The duration of the new bond warehouse lease contract shall be calculated from the date on which the goods are brought into the first bond warehouse.
3. The bond warehouse owner must open accounting books to monitor the warehousing and ex-warehousing of goods in accordance with the regulations of competent State bodies.
4. Once every forty five (45) days, the bond warehouse owner shall be required to send reports to the director of the Customs Department on the present condition of goods in its bond warehouse and the status of operation of its warehouse.
5. Where it wishes to destroy consignments of goods which have been broken, damaged, deteriorated or expired during the course of warehousing, the bond warehouse owner must have the written consent of the goods owner or its lawful representative for destruction of the goods. The written consent shall be sent to the Customs Department of the locality where the bond warehouse is located. The procedures for destruction of goods shall comply with the provisions of the law.

**Article 38** *Bonded warehouses*

Bonded warehouses are established for the purpose of storing raw materials imported for production by enterprises which own the bonded warehouses. For raw materials imported and brought into bonded warehouses, import duty and other taxes shall not be paid yet.

**Article 39** *Conditions for permission to establish bonded warehouses*

1. Being an enterprise established in accordance with law.
2. Exporting at least fifty (50) per cent of the products made by the enterprise from the raw materials imported and brought into the bonded warehouse.
3. Not owing any tax debts the payment of which is compulsory.
4. Having a system of adequate books and documents for strictly monitoring exportation, importation, ex-warehousing and warehousing in accordance with the provisions of the law.
5. The warehouse is built in an area convenient for management and control by the customs office.

**Article 40** *Procedures for application for establishment of bonded warehouses*

1. An enterprise wishing to establish a bonded warehouse shall submit to the Customs Department of the locality where it operates two sets of a file comprising the following documents:
  - (a) Application for establishment of a bonded warehouse (prepared in accordance with the form prescribed by the General Department of Customs);
  - (b) Business registration certificate (notarized copy);
  - (c) Diagram of the design of the bonded warehouse;
  - (d) Operating rules of the bonded warehouse.
2. Within fifteen (15) days of receipt of a complete file for application for establishment of a bonded warehouse, the director of the Customs Department shall issue a decision on approval of issuance of a licence to establish a bonded warehouse, or a written reply clearly stating the reasons for refusal to approve if the enterprise does not satisfy the conditions for establishment of a bonded warehouse as stipulated in article 39 of this Decree.

3. The director of the Customs Department shall issue a decision on revocation of a licence to operate a bonded warehouse in the following cases:
  - (a) The enterprise submits a written request to the director of the Customs Department for termination of the operation of the bonded warehouse;
  - (b) The enterprise fails to satisfy the conditions stipulated in article 39 of this Decree.
4. The amount of raw materials remaining in a bonded warehouse after its operating licence is no longer valid shall be dealt with as follows:
  - (a) Where the goods owner no longer requires to use it and makes a written request, the customs office shall carry out the procedures for re-exportation or destruction in accordance with the provisions of the law;
  - (b) Where the goods owner makes a written request for changing to another type of business, it must register and complete a new customs declaration form. The customs office shall calculate taxes and issue a tax notice. The time for registration of the customs declaration and tax calculation shall be the time of expiry of the operating licence of the bonded warehouse.

**Article 41** *Customs procedures for goods brought into and taken out of bonded warehouses*

The customs procedures for imported raw materials brought into bonded warehouses shall be the same as those for imported goods, with the exception of the procedures for tax calculation and payment which shall be as follows:

1. The enterprise must register and complete two separate customs declaration forms for the bonded portion of imported raw materials and the portion of imported raw materials for production of products to be domestically consumed.
2. The basis for determining the percentage of bonded imported raw materials shall be the percentage of exported products stated in the investment licence (if the enterprise exports its products in accordance with the percentage stated in the investment licence) or the percentage determined by the enterprise itself, which must not be lower than fifty (50) per cent of the products made from the imported raw materials stored in the bonded warehouse. In both of the above cases, the enterprise must submit a written registration to the Customs Department managing the bonded warehouse prior to 1 January every year.

3. On the basis of the percentage of products to be domestically consumed which has been registered by the enterprise, the customs office shall carry out the registration of the declarations, calculate and collect import duty on the portion of raw materials used for production of products to be domestically consumed.
4. For the portion of imported raw materials brought into the bonded warehouse for production of exported products, the customs office shall not calculate duty on the declaration, but must determine clearly the names, categories and quantities of goods and record them in a monitoring book in accordance with the provisions of the law.

**Article 42** *Handling of goods stored in bonded warehouses which are damaged or deteriorated*

Goods stored in bonded warehouses which are damaged or deteriorated to the extent that they fail to satisfy production requirements may undergo customs procedures for re-exportation or destruction.

Destruction shall be carried out as follows:

1. The enterprise shall send a document to the Customs Department managing the bonded warehouse, clearly stating the reason for destruction, the names, categories and quantities of the raw materials, the import customs declaration (serial number, date).
2. The enterprise itself shall organize the destruction under the supervision of the customs office, tax office and environmental body in accordance with the provisions of the law.
3. The results of destruction must be recorded in a report, to be signed for certification by the bonded warehouse owner and the representatives of the supervising bodies. The written report on destruction shall serve as evidence of the liquidation of the goods stored in the bonded warehouse.

**Article 43** *Liquidation of goods in bonded warehouses*

At the end of the plan year (31 December every year), no later than 31 January of the following year, the enterprise must make a list of import customs declarations together with the total amount of raw materials already imported under the bonded regime, and a list of export customs declarations together with the total quantity of products to be exported, and send them to the customs office. After verifying the accuracy of these reports and comparing them with the files filed at the customs office, the customs office shall, on the basis of the percentages of products to be exported as registered by the enterprise, calculate taxes for the enterprise as follows:

1. If the export percentage is lower than the bonded percentage, the enterprise must immediately pay duty on the quantity of finished products being the difference between the quantity of to-be-exported products and the quantity of actually-exported products. The late tax payment shall be dealt with in accordance with the provisions of the law.
2. If the export percentage is higher than the bonded percentage, the enterprise shall be refunded the amount of duty for the difference between the quantity of to-be-exported products and the quantity of actually-exported products.
3. Enterprises having bonded warehouses shall bear responsibility before the law for the accuracy and completeness of the overall reports prescribed in this article.

**Article 44** *Customs inspection and control of bonded warehouses*

1. The inspection and control by the customs offices of bonded warehouses shall be mainly conducted during the processing of customs procedures for imported or exported goods to be stored in bonded warehouses, during the liquidation of goods stored in bonded warehouses, and during the post-customs clearance inspection of goods stored in bonded warehouses. The customs offices shall neither directly control nor seal up bonded warehouses.
2. Enterprises shall be responsible for organizing the management of bonded warehouses and for co-ordinating closely with the customs offices in the conduct of inspection and control of bonded warehouses.

SECTION 4

**Provisions Applicable to Means of Transportation Entering,  
Exiting or In Transit**

**Article 45** *General provisions*

1. Means of transportation entering into, exiting from or in transit in the territory of Vietnam shall be required to undergo customs procedures at the bordergates through which they enter, exit or transit the country. When carrying out the customs procedures, if the customs offices identify indications of a breach of the law, the operators of the means of transportation must comply with the requests of the customs offices for inspection and search in accordance with the provisions of the law.
2. Port authorities, airports, seaports and international railway stations shall be required to submit notices in advance to the bordergate customs offices on the information stipulated in article 56 of the *Law on Customs*. Transporting organizations shall be required to provide to the bordergate

customs offices the information on goods, passengers, crews and persons working on their means of transportation as well as other information related to the work of the customs offices with respect to management of means of transportation entering, exiting, or in transit.

3. The information referred to in clause 2 of this article shall be provided in writing or via computers directly connected with the customs offices.
4. Means of transportation entering, exiting, or in transit shall be subject to customs control as stipulated in article 12 of this Decree.
5. Military means of transportation carrying civilian passengers and goods must, when entering, exiting, or in transit, undergo customs procedures in the same manner as other means of transportation entering, exiting, or in transit.

**Article 46** *Aircraft entering, exiting or in transit*

1. Immediately after an aircraft enters and the aviation body has completed all flight formalities for passengers to depart from the country and for cargo to be exported, the aircraft operators or their lawful representatives must submit to the airport customs office the following documents:
  - (a) Cargo and luggage declaration;
  - (b) List of crew members and persons working on the aircraft;
  - (c) List of passengers.
2. Aircraft in transit, if making technical stops-over, shall not be required to undergo customs declaration procedures, but shall be subject to customs control.

**Article 47** *Seagoing ships entering, exiting or in transit*

1. Customs procedures:
  - (a) Within one hour before a seagoing ship entering or exiting is ready to undergo customs procedures, the port authority and the transporting organization shall be required to notify the port customs office of the information stipulated in article 45.2 and 45.3 of this Decree.
  - (b) The customs office shall carry out procedures for the seagoing ship to enter or exit the country at the prescribed place. Where a competent State management body decides that a seagoing ship shall anchor at other places on the Vietnamese sea area, the

customs procedures for the seagoing ship upon exit or entry shall be carried out at such other place.

2. The customs file shall comprise:

When carrying out customs procedures, the captain or his or her lawful representative must present to the port customs office the itinerary of the ship (in the case of entry) and the diagram of the cargo arrangement on the ship and submit the following papers:

- (a) Declaration of goods carried aboard the ship;
- (b) Ship declaration, in the case of entry;
- (c) List of materials, raw materials, fuels, food and foodstuffs of the ship;
- (d) List of explosives, inflammables, anaesthetics, toxins, weapons on the ship;
- (dd) List of crew;
- (e) List of passengers (if any);
- (g) Goods and luggage declarations of crew.

3. Once submitted, the documents comprising the customs file shall not be withdrawn and corrected, unless plausible reasons can be given and the correction of such documents does not affect the observance of the provisions of the laws on tax and the policy on export-import management, and the approval of the director of the customs office is obtained.

**Article 48** *Seagoing ships and aircraft moving from port to port*

- 1. Seagoing ships or aircraft moving from port to port are those being in the period of moving from one port to another for the purpose of unloading of imported goods or loading of exported goods under inspection and control by the customs offices.
- 2. When seagoing ships or aircraft move from port to port, their operators or their lawful representatives must submit the cargo declarations to the customs offices.
- 3. The customs office at the port from which the seagoing ship or aircraft exits shall certify the files and hand them over to the operator for the purpose of delivery to the customs office at the port to which the seagoing ship or aircraft moves.

4. Cargo moving from ports to ports and food and foodstuffs in warehouses of seagoing ships moving from ports to ports must bear customs seals, except in cases where the imported goods remain in cargo holds and are not yet brought out of the ships.

**Article 49** *International trains entering, exiting or in transit by railway*

1. International trains upon exit: When a train exits the country at a bordergate station, the train captain or his or her lawful representative must submit to the station customs office the following papers:
  - (a) Declaration of train personnel, the list and luggage declarations of the crew and persons working on the train;
  - (b) Declaration of exported goods, including transited goods, carriage transfer papers (for cargo trains);
  - (c) List of passengers and their slips of unaccompanied luggage (for passenger trains);
  - (d) Declaration of fuels, materials, food and foodstuffs of the train.
2. International trains upon entry: When a train enters a country at a bordergate station, the train captain or his or her lawful representative must submit to the station customs office the following papers:
  - (a) Declaration of train personnel, the list and luggage declarations of the crew and persons working on the train;
  - (b) List of imported goods, carriage transfer papers (for cargo trains);
  - (c) List of passengers and their slips of unaccompanied luggage (for passenger trains);
  - (d) Declaration of fuels, materials, food and foodstuffs of the train;
  - (dd) Manifest of goods to be unloaded at each inland international station.
3. International trains at inland international stations. When trains arrive at an inland station, the train captain or his or her lawful representative must submit to the station customs offices the following papers:
  - (a) Manifest of imported goods, with the certification by the customs office at the bordergate station;
  - (b) Bills of lading;

- (c) Transited goods forwarding documents (if there are international transited goods).
4. The manager of an international train or the goods owner (if any) shall be responsible for ensuring the original condition of goods and carriages during the process of transportation from the inland station at which the cargo is loaded to the exit station (for exported goods) and from the entry station to the inland station at which the cargo is unloaded (for imported goods).

**Article 50** *Automobiles entering, exiting, or in transit*

When arriving at bordergates, automobiles entering or exiting must park at prescribed locations for completion of customs procedure. The customs declarants must declare and submit to the bordergate customs office the following papers:

1. Customs declaration, for automobiles entering, exiting, or in transit;
2. Declaration of exported or imported goods (if any);
3. Declaration of the exported or imported luggage of the driver;
4. List of passengers (if any) and their luggage declarations.

**Article 51** *Other means of transportation*

In the case of rudimentary means of transportation entering, exiting, or in transit, their owners or operators must make declarations and submit to the customs offices the following papers:

1. Declaration of exported or imported goods (if any);
2. Luggage declarations of the operators of the means of transportation, persons working on the means of transportation, and passengers (if any).

**Article 52** *Means of transportation temporarily imported for re-export and temporarily exported for re-import for specific period*

1. Means of transportation referred to in this article means tourist cars, motorbikes, and boats with or without motors.
2. Means of transportation temporarily imported for re-export and temporarily exported for re-import for a specific period must be declared to the customs offices and shall be subject to customs inspection and control.

3. In the case of means of transportation temporarily imported for use within the bordergate area for no more than forty eight (48) hours or for use within the territory of the bordergate district for no more than twelve (12) hours, the permission of the head of the bordergate police office must be obtained.
4. In the case of means of transportation temporarily imported for use within the territory of the bordergate province or city for no more than five days, the permission of the director of the police office of the locality where they are to be used must be obtained.
5. In the case of means of transportation temporarily imported for use outside the territory of the bordergate province or city, the permission of the Minister of Public Security must be obtained.
6. In the case of means of transportation temporarily imported for use in Vietnam which fall within the category of means of transportation prohibited from use in Vietnam, the permission of the Prime Minister must be obtained.
7. In the case of means of transportation temporarily exported for a specific period, if they are re-imported through the same bordergate, the permission of the director of the customs office must be obtained; if re-imported through another bordergate in the same province or city of the export bordergate, the permission of the director of the customs office must be obtained; and if re-imported through a bordergate in another province or city, the permission of the General Director of Customs must be obtained.
8. The customs file shall comprise:
  - (a) Customs declaration;
  - (b) Permit (except in cases of temporary import for use within the bordergate area);
  - (c) Certificate of registration.

## CHAPTER III

### Dealing with Breaches

#### **Article 53** *Dealing with breaches*

1. Any customs declarants and concerned organizations and individuals breaching the provisions of this Decree shall, depending on the nature and seriousness of the breach, be dealt with administratively, be subject to payment of compensation for damage (if any), or be prosecuted for criminal liability in accordance with the provisions of the law.
2. Any customs officers and officials and concerned organizations and individuals abusing their positions and/or powers to act against the provisions of this Decree shall, depending on the nature and seriousness of the breach, be disciplined, be subject to payment of compensation for material damage (if any), or be prosecuted for criminal liability in accordance with the provisions of the law.

#### **Article 54** *Complaints and denunciations*

1. Organizations and individuals shall be entitled to lodge complaints in relation to the decisions of a customs office with the immediately superior customs office. Organizations and individuals shall be entitled to lodge complaints or denunciations in relation to acts of breach of the law by customs officials of different levels.
2. When receiving written complaints or denunciations, the heads of the customs offices of all levels shall be required to consider, settle and reply to them in accordance with the provisions of the laws on complaints and denunciations.
3. Organizations and individuals shall be entitled to initiate administrative proceedings at administrative courts in relation to the administrative decisions of customs offices and/or administrative offences of customs officers in accordance with the provisions of the law.

## CHAPTER IV

**Implementing Provisions****Article 55** *Effectiveness of this Decree*

This Decree shall be of full force and effect as of 1 January 2002.

Decree 16-1999-ND-CP of the Government dated 27 March 1999 on customs procedures, customs control and customs fees and Decision 212-1998-QD-TTg of the Prime Minister dated 2 November 1998 issuing *Regulations on Customs Bond Warehouses* shall cease to be effective as from the date of effectiveness of this Decree.

All previous provisions which are inconsistent with this Decree are hereby repealed.

**Article 56** *Responsibility for implementation of this Decree*

Ministers, heads of ministerial equivalent bodies, heads of Government bodies, and chairmen of people's committees of provinces and cities under central authority shall be responsible for implementation of this Decree.

On behalf of the Government  
The Prime Minister

PHAN VAN KHAI