

**DECREE No. 154/2005/ND-CP OF DECEMBER 15, 2005, DETAILING THE  
IMPLEMENTATION OF A NUMBER OF ARTICLES OF THE CUSTOMS LAW REGARDING  
CUSTOMS PROCEDURES, INSPECTION AND SUPERVISION**

**THE GOVERNMENT**

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

*Pursuant to Customs Law No. 29/2001/QH10 of June 29, 2001, and Law No. 42/2005/QH11 of June 14, 2005, Amending and Supplementing a Number of Articles of the Customs Law;*

*At the proposal of the Finance Minister,*

**DECREES:**

*Chapter I*

**GENERAL PROVISIONS**

*Article 1 - Regulation scope*

1. This Decree details the implementation of a number of articles of Customs Law No. 29/2001/ QH10 of June 29, 2001, and Law No. 42/2005/ QH 11 of June 14, 2005, Amending and Supplementing a Number of Articles of the Customs Law (referred to collectively as the Customs Law) regarding customs procedures, inspection and supervision.

Electronic customs procedures and customs procedures for luggage and gifts shall comply with separate regulations.

2. Where treaties to which Vietnam is a contracting party otherwise provide for, the provisions of such treaties shall apply.

*Article 2 .- Objects of customs procedures, inspection and supervision*

1. Imported, exported and transit goods; articles onboard means of transport on entry, exit or in transit; imported or exported foreign and Vietnamese currencies, precious metals, gems, cultural products, relics, postal packages and parcels; luggage of persons on entry or exit; other objects imported, exported, transited or stored within operation areas of customs offices.

2. Means of transport by road, railway, air, sea or river on entry or exit, in transit, or moving from port to port.

3. Customs dossiers and vouchers related to objects defined in Clauses 1 and 2 of this Article.

*Article 3.- Principles for carrying out customs procedures, customs inspection and supervision*

1. Principles for carrying out customs procedures, customs inspection and supervision shall comply with the provisions of Article 15 of the Customs Law.

2. Customs inspection principles:

- a/ Customs inspection shall be conducted during and after customs clearance;
- b/ Customs inspection shall be restricted to an extent compatible with the results of information analysis and assessment of law observance by goods owners, as well as the risks of violations of customs law;
- c/ Heads of customs offices which receive customs dossiers shall decide customs inspection forms and extent.

*Article 4.- Customs clearance venues*

1. Customs clearance venues include:

- a/ Headquarters of border-gate Customs Sub Departments: international seaports, river ports and civil airports, transnational railway stations, post offices and land border gates;
- b/ Headquarters of outside-border-gate Customs Sub-Departments: customs clearance points of inland ports and outside border gates.

2. The Transport Minister shall plan and publicize the inland port system.

The Finance Minister shall specify conditions for, and decide on, the establishment of customs clearance venues provided for at Point b, Clause 1 of this Article.

*Article 5.- Customs declarants*

1. Owners of imports or exports.
2. Organizations designated by owners of imports or exports.
3. Lawfully authorized persons (where goods or articles are imported or exported for noncommercial purposes).
4. Operators on means of transport on entry or exit.
5. Customs agents.
6. International postal service- or express mail service-providing enterprises.

*Article 6.- Customs clearance priority for goods owners strictly observing customs law*

1. Goods owners strictly observing customs law mean those who are involved in import or export activities and satisfy the following conditions: having not committed acts of smuggling and evading tax; not owed overdue tax debts; and implemented the financial reporting regime in accordance with the provisions of law.

The Finance Minister shall detail this clause.

2. Contents of priority:

- a/ To have customs dossiers registered and checked under the provisions of Point a, Clause 1, Article 28 of the Customs Law.
- b/ To be exempt from actual goods inspection.

## *Chapter II*

### **CUSTOMS PROCEDURES, CUSTOMS INSPECTION AND SUPERVISION FOR GOODS IMPORT AND EXPORT OF DIFFERENT TYPES**

#### Section I. COMMERCIAL IMPORTS AND EXPORTS

##### *Article 7.- Customs dossier*

When filling in customs procedures, customs declarants shall have to submit the following papers:

1. For exports:
  - a/ The export customs declaration (original); the detailed list (original) of goods of different categories or goods packed differently;
  - b/ The export permit (original) issued by a competent state agency, for goods required by law to have such permit; other documents (copies) required by law for each goods item;
  - c/ The goods sale and purchase contract or papers of equivalent legal validity (copies).
2. For imports:
  - a/ The import customs declaration (original); the declaration of imports value (submitted on a case by case basis); the detailed list (original) of goods, for goods lots of different categories or goods packed differently;
  - b/ The import permit (original) issued by a competent state agency, for goods required by law to have such permit; other documents (copies) required by law for each goods item;
  - c/ The goods sale and purchase contract or papers of equivalent legal validity (copies); commercial invoices (originals); and bills of lading (originals).
  - d/ The certificate of origin (original);
  - e/ The written registration for state inspection of goods quality or the written notice (original) on exemption of state inspection of goods quality, issued by a competent state management agency for imports or exports subject to state quality control.
3. Copies of papers defined in Clauses 1 and 2 of this Article shall be certified, signed and stamped by heads of traders or their authorized persons, who shall take responsibility before law for the validity of such papers.
4. Customs offices' requests for customs declarants to submit or present documents other than those

defined in Clauses 1 and 2 of this Article must be made in writing.

*Article 8.- Customs declaration*

1. Customs declaration shall be made in customs declaration forms provided by the Finance Ministry.
2. Customs declarants shall declare fully, accurately and explicitly appellations and codes of goods, units of calculation, quantities, weights, quality, origin, unit prices, customs value, assorted tax rates and other elements specified in customs declaration forms; calculate by themselves to determine tax amounts and other amounts payable to the state budget, and take responsibility before law for their declarations.

*Article 9.- Registration of customs declarations*

1. Deadline for registration of customs declarations
  - a/ The deadline for registration of customs declarations for imports and exports shall comply with the provisions of Clauses 1 and 2, Article 18 of the Customs Law;
  - b/ For goods exported through international river, land or airway border-gates or international post offices, the customs declarations must be registered at least 02 hours before goods are exported across the border;
  - c/ Customs declarants may register customs declarations for imports before such imports reach the border-gate of unloading under the provisions of Clause 1, Article 18 of the Customs Law.
  - d/ If refusing to register customs declarations, customs offices shall notify in writing customs declarants of the reasons therefore
2. In case of plausible reasons, directors of Customs Sub-Departments shall decide to extend the time limit for submission of the originals of some documents enclosed with customs declarations (except import/export permits for goods requiring such permits), which, however, must not exceed 30 (thirty) days, counting from the date of registration of customs declarations.
3. Before the time of actual goods inspection or the issuance of the decision\_ on exemption from actual goods inspection, if customs declarants give plausible reasons, make a written request and get the consent of directors of Customs Sub Departments, they may supplement or amend the registered customs declarations; in case of changing the mode of import or export, they may make new customs declarations.
4. Goods imported or exported during the valid term of customs declarations specified in Clauses 1 and 2, Article 18 of the Customs Law shall be entitled to imports and exports management policies and tax policies which are effective at the time of registration of customs declarations.
5. For imports and exports serving emergency needs under the provisions of Article 35 of the Customs Law, customs declarants may submit brief customs declarations for customs clearance, then submit the official ones and accompanied documents within 15 (fifteen) days after the date of registration of brief

declarations.

A brief customs declaration shall have the following details: name and address of the importer or exporter; brief information on goods' appellations and quantity; border-gate of importation; and time of transportation of the imported or exported goods lot.

Dutiable goods shall be entitled to tax policies effective at the time of registration and submission of brief customs declarations.

The Finance Minister shall specify other cases of urgency provided for at Point c, Clause 1, Article 35 of the Customs Law.

#### 6. Single registration of customs declarations

a/ Customs declarants who regularly import or export certain goods items within a certain period under the same goods sale and purchase contracts and through the same border-gate may register customs declarations and submit customs dossiers only once for multiple customs clearance for such goods items within the goods delivery time limit specified in the goods sale and purchase contracts.

b/ A customs declaration for single registration must be liquidated within 15 days after the last goods lot is imported or exported or the contract terminates.

#### *Article 10.- Examination of customs dossiers*

1. Examination shall cover examining what declared by customs declarants in customs declarations, comparing the declared contents with documents in customs dossiers defined in Article 7 of this Decree, and examining the compliance of such contents with current provisions of law.

##### 2. Extent of examination:

a/ For goods owners strictly observing customs law:

Customs officers shall examine the declaration of the elements in declaration forms, preliminarily examine the contents declared by customs declarants, count documents accompanying such declarations and check their types. Where violations are detected, dossiers shall be examined under the provisions of Point b of this Clause.

b/ For other goods owners:

Customs officers shall examine the contents declared by customs declarants, check the quantity and types of papers in customs dossiers and their consistency; and examine the observance of import and export management and tax policies, and other provisions of law.

#### *Article 11.- Actual goods inspection*

1. Inspection shall cover inspecting goods' appellations, codes, quantities, weights, categories, quality and origin; inspecting and comparing the compatibility of the actual condition of goods with customs dossiers.

##### 2. Extent of inspection:

a/ Actual goods inspection shall be exempt for:

a.1. Imports and exports whose owners strictly observe customs law;

a.2. The following imports and exports of other owners:

- Exports (except those produced from imported materials and those subject to conditional export under the export management policy);

- Duty-free machinery and equipment for creation of fixed assets of foreign or domestic investment projects.

- Goods brought from overseas into free trade zones, entrepots or bonded warehouses; transit goods; emergency relief goods defined at Point b, Clause 1, Article 35 of the Customs Law; specialized goods in direct service of defense or security; humanitarian aid goods; goods temporarily imported for re-export within a definite term as specified in Articles 30, 31, 32 and 37 of this Decree;

- Goods in other special cases as decided by the Prime Minister;

- Goods other than those mentioned above shall be exempt from actual inspection when the results of information analysis show that they will possibly not violate customs law (except for goods mentioned at Point b1, Clause 2 of this Article).

b/ Actual inspection of all goods lots shall apply to:

b.1. Imports and exports of owners that have repeatedly violated customs law;

b.2. Imports and exports entitled to actual inspection but showing signs of violating customs law as detected by customs offices;

b.3. Goods possibly in violation of customs law as shown by the results of information analysis by customs offices.

c/ Random inspection shall be conducted on not more than 5% of the total number of customs declarations to assess the observance of customs law by goods owners.

### 3. Handling of inspection results

a/ Where customs declarants disagree with customs offices' inspection conclusions on goods' appellations, codes, weights, categories or quality, they may join the latter in selecting specialized expertise agencies or organizations to expertise goods. The specialized expertise agencies or organizations shall take responsibility for their expertise conclusions.

Where customs declarants and customs offices fail to reach agreement in the selection of expertise organizations, customs offices shall select such organizations and base themselves on such organizations' expertise results to make conclusions. If customs declarants disagree with such conclusions, they may make complaints in accordance with the provisions of law.

b/ With regard to imports subject to state quality control, within 30 (thirty) days after issuing state quality control registration papers, the competent state management agency in charge of quality must make conclusions on the quality of imports for customs offices to complete customs clearance.

With regard to exports, customs declarants shall have to strictly comply with legal provisions on quality of exports.

*Article 12.- Customs clearance*

1. Customs offices shall allow customs clearance on the basis of:

a/ Declarations of customs declarants, or conclusions of state inspection agencies or expertise organizations for goods exempt from actual inspection;

b/ Results of their actual goods inspection, for goods having gone through such inspection;

c/ State quality control registration papers or notices on exemption from state inspection, issued by a competent state management agency, for imports subject to state quality control;

d/ Expertise results, for goods requested to be expertized;

e/ Imports or exports which are non-dutiable at the stage of importation, duty-free goods, processed goods or other special goods shall be cleared from customs procedures immediately after customs offices certify the results of actual goods inspection in customs declarations;

f/ Dutiable imports or exports shall be cleared from customs procedures after customs declarants have paid duties or been granted guarantee by credit institutions or when they are allowed to apply the tax payment time limit specified at Point c, d or e, Clause 1, Article 15 of the Import Tax and Export Tax Law.

2. For imports or exports awaiting expertise results to determine whether they will be imported or exported or not, if the goods owners request to receive them back for preservation, the directors of Customs Sub-Departments shall accept such requests only when they satisfy customs supervision requirements.

3. Conditional customs clearance cases:

a/ Cases specified in Clauses 2 and 3, Article 25 of the Customs Law;

b/ Goods permitted for import or export, provided that the goods valuation, expertise, analysis and classification shall be conducted to determine accurately tax amounts payable for customs clearance under the provisions of Clause 4, Article 25 of the Customs Law.

*Article 13.- Supervision of imports and exports*

1. Goods subject to customs supervision include:

a/ Goods having gone through customs procedures for export but not yet been exported actually;

b/ Goods having gone through customs procedures for import but not yet enjoyed customs clearance;

c/ Imports or exports having not yet gone through customs procedures and being kept in warehouses or storing yards within operation areas of customs offices;

d/ Goods or means of transport in transit;

e/ Goods or means of transport moving from border-gate to border-gate;

f/ Goods or means of transport moving from port to port.

2. Modes of customs supervision:

a/ Customs sealing, either by customs paper, string or locks. Customs sealing shall comply with the provisions of Article 14 of this Decree;

b/ Personal supervision by customs officers; c/ Supervision with technical equipment.

Personal supervision by customs officers shall not apply to goods kept or transported beyond the scope or outside the areas of operation of customs offices, except for necessary cases defined by the General Director of Customs.

*Article 14.- Customs sealing for imports and exports*

The following cases are subject to customs sealing:

1. Imports moving from border-gate to border gate.
2. Imports moving from port to port, unloaded at the border-gate of importation and loaded onto other means of transport for transportation to the port of destination.
3. Exports inspected outside border-gates and transported to the border-gate of exportation.
4. Exports subject to actual inspection by border gate customs.

*Article 15.- Customs procedures for goods imported or exported on the spot*

1. Goods exported on the spot which are considered as exports and goods imported on the spot which are considered as imports shall have to comply with legal provisions on imports and exports management and tax policies for imports and exports.
2. Basis for determining that goods imported or exported on the spot must have two separate contracts:
  - a/ The export, processing or hire contract containing a provision that the goods shall be delivered to recipients in Vietnam;
  - b/ The import, processing or hire contract containing a provision that the goods shall be received from deliverers in Vietnam.
3. The Finance Ministry shall guide in detail customs procedures for goods imported or exported on the spot.

*Section 2. GOODS TRANSPORTED FROM PORT TO PORT, FROM BORDER-GATE TO  
BORDER-GATE, OR IN TRANSIT*

*Article 16.- Principles for customs management of goods transported from port to port, from border gate to border-gate, or in transit*

Goods transported from port to port, from border-gate to border-gate, or in transit must satisfy the following conditions: their condition being kept unchanged with unbroken seals; being transported by



proper routes, to proper places and border-gates and on schedule already registered in the customs dossiers.

*Article 17.- Goods transported from port to port*

1. Imports transported from port to port mean goods imported from overseas into Vietnam which, when reaching the border-gate of importation, are further transported to the port of destination stated in the bill of lading under the transportation contract for completion of import procedures.

The port of destination means the border-gate of an international seaport, civil airport or railway station, a land border-gate, an international post office, the border-gate of an international river port or an inland port.

Imports transported from port to port shall be transported by the very means of transport which have entered Vietnam, or by other means of transport to the port of destination.

2. Exports transported from port to port mean exports which have gone through customs procedures, been delivered by the exporter to the transporter under a transportation contract at the border-gate of delivery and for which the transporter has endorsed a bill of lading but which, instead of being exported at the border-gate of delivery, are further transported by the transporter to another border-gate and loaded onto the means of transport for exit.

The border-gate of delivery means the border gate of an international seaport, civil airport or railway station, an international post office, the border-gate of an international river port or an inland port.

Exports transported from port to port may be transported by one or different means of transport from the first port of delivery to the port of exit to a foreign country.

3. Port-to-port transportation procedures: at Responsibilities of transporters:

- To carry out customs procedures for port-to-port transportation of goods;
- To circulate customs dossiers between the customs office at the port of departure and that at the port of arrival;
- To keep the conditions of goods unchanged with unbroken customs seals (if any) and seals of transportation companies in the course of transporting goods from port to port.

b/ Responsibilities of the customs office at the port of departure:

- To make 02 hand-over records;
- To seal up the customs dossier, comprising a hand-over record, a manifest (copy) and a bill of lading (copy), and hand it to the transporter for transfer to the customs office at the port of arrival;
- To keep a manifest (copy), a bill of lading (copy) and a hand-over record.

c/ Responsibilities of the customs office at the port of arrival:

- To receive the port-to-port transportation dossier and supervise the goods until they are exported or until the imports have gone through import procedures;
- To keep a manifest and a bill of lading (copies) and a hand-over record;
- To immediately notify the customs office at the port of departure of the receipt of goods and port to-port

transportation dossiers as well as the situation of goods transported from port to port.

*Article 18.*- Goods transported from border-gate to border-gate

1. Exports transported from border-gate to border-gate mean exports being under customs inspection or supervision, transported from a customs clearance point outside border-gate or from an inland goods inspection site to the border gate of exportation.

2. Imports transported from border-gate to border-gate mean exports being under customs inspection or supervision, transported from the border-gate of importation to the customs clearance point outside border-gate or to an inland goods inspection site.

3. Imports transported from border-gate to border-gate include:

a/ Equipment, machinery and materials imported for construction of factories or works, which are transported to inland goods inspection sites being construction sites or warehouses of works;

b/ Raw materials, materials, parts and accessories for production, transported to customs clearance points outside border-gate or to inland goods inspection sites where factories or production establishments are located;

c/ Imports of many owners sharing the same bill of lading, which are transported to inland goods inspection sites;

d/ Goods temporarily imported for participation in fairs or exhibitions, which are transported from the border-gate of importation to the fair or exhibition venues; fair or exhibition goods transported from fair or exhibition venues to the border-gate of exportation for re-export.

e/ Goods imported for duty-free shops, transported from border-gates to duty-free shops;

f/ Imports brought into bonded warehouses, which are allowed for transportation from the border-gate of importation into bonded warehouses; goods kept in bonded warehouses for export, transported from such bonded warehouses to the border-gate of exportation;

g/ Imports of export-processing enterprises in export-processing zones, which are transported from the border-gate of importation to export processing zones; exports of export-processing enterprises in export-processing zones, which are transported from export-processing zones to the border-gate of exportation.

14. Customs procedures for goods transported from border-gate to border-gate:

a/ For imports transported from border-gate to border-gate:

- Customs declarants: shall send written requests to Customs Sub-Departments outside border-gate; submit customs dossiers as prescribed; circulate customs dossiers between Customs Sub-Departments of border-gates of importation and those of border-gates of exportation; keep the condition of goods unchanged, customs seals and seals of transportation companies unbroken in the course of transportation of

goods from border-gates of importation to customs clearance venues outside border-gate;

- Customs Sub-Departments outside border gate shall receive dossiers; register customs declarations for imports; give certifications in written requests for border-gate to border-gate transportation; seal up customs dossiers under regulations and hand them to customs declarants for transfer to Customs Sub-Departments of border gates of importation so that the latter may carry out procedures for the goods lots to be transported from border-gates of importation to customs clearance points outside border-gate; receive goods from border-gates of importation; collate goods with hand-over records which have been made by Customs Sub-Departments of border gates of importation and give certifications in such records; carry out import procedures for goods according to regulations; notify in writing Customs Sub-Departments of border-gates of importation of the results of verifying the information on goods which has already been noted by the border-gate Customs Sub-Departments.

- Customs Sub-Departments of border-gates of importation shall inspect the outer condition of goods; make hand-over records and hand over goods to customs declarants for transportation to customs clearance points outside border-gate; seal up goods in cases defined in Clause 1, Article 14 of this Decree; and notify Customs Sub Departments outside border-gate of noteworthy information about the goods.

b/ For exports transported from border-gate to border-gate

- Customs declarants shall submit customs dossiers as prescribed at Customs Sub Departments outside border-gate; transport goods to customs clearance points outside border-gate for customs offices to conduct actual goods inspection (with regard to goods lots subject thereto); circulate customs dossiers between Customs Sub-Departments outside border-gate and those of border-gates of exportation; keep the condition of goods unchanged, customs seals (if any) unbroken in the course of transportation of goods from actual goods inspection sites to border gates of exportation;

- Customs Sub-Departments outside border gate shall carry out customs procedures for exports strictly according to regulations; make hand-over records, hand over goods and customs dossiers to customs declarants for transfer to Customs Sub Departments of border-gates of exportation;

- Customs Sub-Departments of border-gates of exportation shall receive goods; collate goods with hand-over records transferred from Customs Sub Departments outside border-gate; and supervise goods until they are exported.

#### *Article 19.- Goods in transit*

1. Customs procedures for goods in transit must be carried out at headquarters of customs offices at the first border-gate of importation and the last border-gate of exportation.

2. Goods in transit not transported across the mainland territory shall be kept in border-gate warehouses.

3. Goods in transit to be kept in warehouses outside border-gate areas or transported across the mainland territory must be permitted by the Trade Ministry.

4. Documents required for carrying out customs procedures for goods in transit:

a/ A list of goods in transit, submitted by customs declarants or their representatives to border-gate

customs offices, for non-stop transit goods which are kept in the condition as imported and transit goods transshipped from one means of land, railway, river, sea or air transport to another of the same type (except for non-stop air-transported goods in transit);

b/ A customs declaration and a list of goods in transit, submitted by customs declarants or their representatives to border-gate customs offices, for goods in transit which must be warehoused or transshipped from a means of transport of one type to another means of transport of another type.

#### 5. Responsibilities of customs offices

a/ Customs offices at border-gates of entry shall receive the lists of or customs declarations of goods in transit, seal up the places where the goods are stored and certify the condition of the goods in their lists or customs declarations (where customs declaration is required) and hand them to operators of the means of transport for transfer to customs offices at border-gates of goods' exit;

b/ Where goods in transit cannot be sealed, transporters, customs declarants and accompanying customs officers (if any) shall have to ensure that the goods are kept in the same condition from border-gates of their entry to border gates of their exit;

c/ Customs offices at border-gates of exit shall receive the lists or customs declarations of goods transferred from customs offices at border-gates of entry, inspect the customs seals or condition of goods and compare them with the contents certified by customs offices at border-gates of entry in such lists or customs declarations before carrying out exit procedures for those goods.

6. In case of accidents or *force majeure* circumstances, which alter the customs seals or condition of goods, transporters, customs declarants and accompanying customs officers (if any) must apply measures to limit losses and immediately notify such to the nearest commune/ ward/township People's Committees for making written records to certify the altered condition of the goods.

### Section 3. GOODS BROUGHT INTO OR OUT OF ENTREPOTS, FREE TRADE ZONES, BONDED WAREHOUSES OR TAX SUSPENSION WAREHOUSES

*Article 20.*- Customs procedures for goods brought from overseas into or out of entrepots

1. Transshipped goods mean goods brought from overseas into entrepots, from which they shall further be transported to foreign countries. Transshipped goods lots shall be transported overseas wholly or partially from entrepots.

2. Transshipped goods lots shall be subject to customs declaration and supervision while being kept in entrepots. Actual inspection shall only apply to those goods showing signs of law violation.

#### 3. Responsibilities of entrepot traders:

a/ To carry out customs procedures for goods brought into or out of entrepots;

b/ To keep the condition of goods unchanged throughout the time they are kept in entrepots;

c/ To provide services of reinforcing packages, putting goods into smaller parcels and re-packing goods for preservation and to meet transportation requirements.

*Article 21.- Customs procedures for goods brought into or out of free trade zones*

Goods brought into or out of free trade zones shall be subject to customs inspection and supervision as follows:

1. Goods brought from overseas into free trade zones or vice versa shall be subject to customs declaration. Actual inspection shall only apply to goods showing signs of law violation.
2. Goods brought from free trade zones to inland areas must go through customs procedures like exports.
3. Goods brought from inland areas into free trade zones under commercial contracts must go through customs procedures like exports.
4. Goods brought from one free trade zone to another must go through customs procedures like goods transported from border gate to border gate under the provisions of Article 18 of this Decree.

The Finance Minister shall specify customs procedures for goods brought into or out of free trade zones and other non-tariff zones.

*Article 22. Bonded warehouses*

1. A bonded warehouse means a storehouse or storing yard area separated from the surrounding area for temporary storage and preservation of, or for provision of the services for, goods taken from overseas or the country under a bonded warehouses-hire contract between the bonded warehouse's owner and the goods owner.
2. Bonded warehouses may be established in the following areas:
  - a/ International seaports or civil airports, international railway or land border gates, which are goods exchange hubs between Vietnam and foreign countries and convenient for transportation of imports and exports.
  - b/ Industrial parks, hi-tech parks, export processing zones or other special economic zones.
3. Conditions for the establishment of bonded warehouses:
  - a/ Enterprises established under the provisions of law;
  - b/ Having the function of trading in storehouses and storing yards, forwarding of imports and exports, which is stated in business registration certificates;
  - c/ Storehouses and storing yards established in the areas defined in Clause 2 of this Article must be separated from the surrounding areas with fencing walls and meet the requirements of regular customs inspection and supervision;
  - d/ Having adequate material and technical facilities and means of transport up to the requirements of goods storage and preservation as well as customs inspection and supervision.
4. Bonded warehouses, goods and means of transport, which leave or enter, are kept or preserved in bonded warehouses, shall be subject to customs procedures, inspection and supervision.
5. The General Director of Customs shall issue decisions on the establishment of bonded warehouses.

*Article 23. Services provided within bonded warehouses*

Owners of goods in bonded warehouses may personally provide or authorize bonded warehouse owners to provide the following services related to their goods:

1. Reinforcing, parceling or packing goods; classifying goods by quality, maintaining goods.
2. Carrying out customs procedures for goods brought into or out of bonded warehouses.
3. Transporting goods from border-gates into bonded warehouses or vice versa, from one bonded warehouse to another.
4. Transferring the ownership of goods.

*Article 24.- Hire of bonded warehouses*

1. Subjects permitted to hire bonded warehouses:

- a/ Vietnamese traders of all economic sectors that are licensed to engage in import/export business;
- b/ Foreign traders;
- c/ Foreign organizations and individuals.

2. Bonded warehouse-hire contracts:

A bonded warehouse-hire contract is an agreement made between a bonded warehouse owner and a goods owner in accordance with the provisions of law. Such a contract must specify goods appellations, categories, quantity, quality, hire term, and services defined in Article 23 of this Decree if requested by the goods owner, and responsibilities of the contracting parties.

3. The term of a bonded warehouse-hire contract shall not exceed 365 days (three hundred and sixty five) days from the date the goods are warehoused. The bonded warehouse owner shall have to give the bonded warehouse-customs office a written advance notice of the expiration of the term of the bonded warehouse-hire contract. If requested in writing by the goods owner and consented in writing by the director of the Customs Department, such term may be extended for not more than 180 (one hundred and eighty) days after the expiration of the contract.

4. Past ninety (90) days after the expiration of the contract, if the goods owner fails to sign an extended contract or bring the goods out of the bonded warehouse, the Customs Department shall organize the liquidation of goods kept in such warehouse under the provisions of law.

5. During the term of a bonded warehouse-hire contract, if the goods owner issues a document abandoning its/his/her goods in the bonded warehouse, the Customs Department shall organize the liquidation thereof.

6. The liquidation of goods kept in bonded warehouses shall comply with the provisions of law. The proceeds from goods liquidation (less the warehousing costs and other costs connected with the liquidation according to the provisions of law), shall be remitted into the state budget.

*Article 25.- Management and preservation of goods in bonded warehouses*

1. Goods having gone through customs procedures for export from Vietnam, overseas goods in need of transit and storage in Vietnam before export to a third country or completion of procedures for import into Vietnam, which are owned by subjects permitted to hire bonded warehouses defined in Clause 1, Article 24 of this Decree, may be put into bonded warehouses for preservation.

The following goods must not be kept in bonded warehouses:

- a/ Goods with fake Vietnamese labels, appellations or origin;
- b/ Goods which are dangerous for humans or pollute the environment;
- c/ Goods banned from import or export, except when permitted by the Prime Minister.

2. Goods brought from overseas into bonded warehouses include:

- a/ Goods of foreign owners that have not yet entered into sale contracts with Vietnamese enterprises;
- b/ Goods imported by Vietnamese enterprises and waiting to be brought into the country, for which import tax has not been paid yet.
- c/ Goods transited and warehoused in Vietnam before export to a third country.

3. Goods brought from inland Vietnam into bonded warehouses include:

- a/ Exports having gone through customs procedures and waiting to be exported;
- b/ Goods which must be re-exported and the term of temporary import has expired; and,
- c/ Goods which are forced to be re-exported by competent state agencies.

4. Goods kept and preserved in bonded warehouses must be compatible with bonded warehouse-hire contracts. Goods brought into or out of bonded warehouses must go through customs procedures according to the provisions of law.

5. Bonded warehouse owners must open accounting books to monitor the warehousing and ex-warehousing of goods under regulations of the Finance Ministry. Once every 6 (six) months, they must report in writing to the directors of Customs Departments on the actual condition of warehoused goods and the situation of operation of their warehouses.

6. In case bonded warehouse owners want to destroy goods which are broken, damaged, deteriorated or expired while being stored in their warehouses, they must reach written agreement with the owners of such goods or their lawful representatives on the destruction thereof. The written agreements shall be sent to Customs Departments of the localities where the bonded warehouses are located. The destruction procedures shall comply with the provisions of law.

*Article 26.- Customs procedures for goods brought into or out of bonded warehouses*

1. Goods brought into bonded warehouses:

a/ For goods from overseas: Goods owners or their lawful representatives must submit bonded warehouse-hire contracts, declarations of goods to be warehoused and bills of lading;

b/ For goods from inland Vietnam: Goods owners or their representatives shall have to submit bonded warehouse-hire contracts and customs declarations of exports which have gone through customs procedures.

2. Goods brought out of bonded warehouses:

a/ For goods brought to foreign countries: Goods owners or their lawful representatives shall have to submit customs declarations of exports; written authorizations for goods ex-warehousing (if it is not stated in bonded warehouse-hire contracts); and ex-warehousing bills made strictly according to the form provided by the Finance Ministry;

b/ For goods imported into Vietnam:

- For goods brought from overseas into bonded warehouses and transferred to other owners, and goods stored in bonded warehouses and liquidated by Customs Departments, if they are imported into Vietnam, they shall have to go through the prescribed customs procedures like other imports;

- The time of actual importation of goods shall be the time of registration of the customs declarations for such goods by customs offices.

c/ Goods stored in bonded warehouses for coercive re-export under decisions of competent state management agencies must not be reimported into Vietnam.

#### *Article 27.- Establishment of tax suspension warehouses*

1. Tax suspension warehouses shall be established only for preservation of imported raw materials, for which tax has not yet been paid, for the production of exports of enterprises having such warehouses.

2. Conditions for the establishment of tax suspension warehouses:

a/ Enterprises set up under the provisions of law;

b/ Owing no tax debts subject to coercive measures;

c/ Having a system of books and vouchers to fully monitor the import, export, warehousing and ex-warehousing of goods according to the provisions of law;

d/ Building warehouses in an area that meets customs management and supervision requirements.

3. The directors of Customs Departments shall issue decisions on the establishment of tax suspension warehouses.

4. Enterprises having tax suspension warehouses shall have to organize the management of such warehouses; closely coordinate with customs offices in inspecting and supervising them according to regulations. Customs offices shall not directly supervise and seal up tax suspension warehouses.

#### *Article 28.- Customs procedures for goods brought into tax suspension warehouses*



1. Customs procedures for imported raw materials brought into tax suspension warehouses shall be the same as those applicable to imports, except for tax payment procedures.

2. For imported raw materials brought into tax suspension warehouses for the production of exports, customs offices shall not collect tax but shall specify their appellations, categories and quality in customs declarations and make entries in their monitoring books in accordance with the , provisions of law.

*Article 29.- Handling of goods which are damaged or deteriorated while being stored in tax suspension warehouses, and liquidation of goods in tax suspension warehouses*

1. Goods which are damaged or deteriorated, failing to meet production requirements, while being stored in bonded warehouses, may go through customs procedures for re-export or destruction. The destruction shall be conducted as follows:

a/ Enterprises shall send a written request to Customs Departments managing tax suspension warehouses, clearly stating the reason for destruction, names of raw materials, their types and quantity and import customs declarations (serial numbers, dates);

b/ Enterprises shall themselves organize and take responsibility for the destruction of goods. The destruction shall be conducted under supervision of customs, tax and environment offices;

c/ The destruction results must be recorded and certified. Such records shall later serve as liquidation documents.

2. Liquidation of goods in bonded warehouses

At the end of every plan year (December 31) and by January 31 of the subsequent year at the latest, every enterprise shall have to make a sum up report on import customs declarations and the total volume of raw materials already imported under the tax suspension regime and a sum-up report on export customs declarations and the total quantity of products which must be exported, then send them to the customs office.

- If the export percentage is lower than the tax suspension percentage, enterprises shall have to immediately pay tax for the quantity of finished products being the difference between the quantity of products which must be exported and that of actually exported products. The late tax payment shall be handled according to the provisions of law.

- If the export percentage is higher than the tax suspension percentage, enterprises shall be refunded a tax amount for the difference between the quantity of exported products and the quantity of goods for which tax has been paid.

- Enterprises having tax suspension warehouses shall take responsibility for the accuracy and completeness of sum-up reports specified in this Article.

#### Section 4. GOODS IMPORTED OR EXPORTED BY OTHER MODES

*Article 30.-* Goods temporarily exported or imported for participation in fairs, exhibitions, or for product show

1. Goods temporarily imported for participation in fairs, exhibitions, or for product show (hereinafter referred to collectively as temporarily imported goods ).

a/ temporarily imported goods may go through customs procedures at border-gates of importation or be checked at fair or exhibition venues;

b/ The sale, donation or exchange in Vietnam of temporarily imported goods which are banned from import

or subject to conditional import must be permitted by competent state agencies.

2. Goods temporarily exported for participation in fairs, exhibitions, or for show in foreign countries (hereinafter referred to collectively as temporarily exported goods).

a/ Temporarily exported goods may go through customs procedures at headquarters of border-gate customs offices or at customs clearance points outside border-gate;

b/ The sale, donation or exchange in foreign countries of temporarily exported goods which are banned from export or subject to conditional export must be permitted by competent state management agencies.

3. Temporarily imported goods which are banned from import and temporarily exported goods which are banned from export must go through customs procedures at the same border gates.

*Article 31.-* Machinery, equipment, professional instruments temporarily exported or imported for a definite term

1. Machinery, equipment and professional instruments needed for the jobs of persons on entry or exit may be temporarily imported or exported for a definite term suitable to the requirements of their jobs.

2. Customs dossiers shall each comprise:

a/ A customs declaration; a detailed list of goods;

b/ A written request of the customs declarant;

c/ A bill of lading (for temporarily imported goods);

d/ Papers certifying the use of temporarily imported or exported machinery, equipment or professional instruments for the job of the person on entry or exit, issued by the agency or organization where such person works.

*Article 32.-* Components, spare parts temporarily imported for re-export in service of the replacement or repair of foreign seagoing ships or airplanes

1. Foreign ocean shipping companies or airlines which have seagoing ships or airplanes repaired in

Vietnam, may send to Vietnam components or spare parts thereof in service of such repair.

2. Components or spare parts temporarily imported for re-export in service of the replacement or repair of foreign seagoing ships or airplanes may be carried along onboard such ships or airplanes upon their entry or sent before or after their entry to the addresses of shipping agents or repairing factories.

3. Customs declarants shall be airplane or seagoing ship operators, shipping agents or repairing factories. Customs declarants shall take responsibility before law for the use of temporarily imported components or spare parts for the declared purposes, and for the liquidation thereof.

4. Customs dossiers shall each comprise:

a/ A customs declaration; a detailed list of goods;

b/ A bill of lading;

c/ A written request of the customs declarant.

*Article 33.- Goods exported or imported by post or sent through international express mail service*

1. The application of customs procedures to imports or exports shall depend on the mode of import or export of those goods.

2. Postal service- and international express mail service-providing enterprises shall be lawful representatives of goods owners. When carrying out customs procedures for goods, postal service providing

enterprises shall exercise the following rights and perform the following obligations of goods owners:

a/ To make customs declaration;

b/ To produce goods for customs inspection;

c/ To pay taxes (if any);

d/ To receive goods for delivery to goods owners.

4. Postal service- and international express mail service-providing enterprises may declare goods of different owners in the same customs declaration form.

residents who carry goods within set quotas across the borders shall not have to make customs declarations but shall have to make customs declarations if the goods quantity exceeds the set quota and observe the provisions of tax law and imports and exports management policy.

2. Where customs offices are not located, the border-guards shall manage goods under the provisions of Clause 1 of this Article.

*Article 35.- Imported, exported moveable property*

1. Foreigners taking their moveable property into Vietnam in service of their work and daily life during

their stay in Vietnam shall, when filling in the customs procedures, submit and produce the following papers:

a/ A customs declaration; a detailed list of property;

b! A written certification of his/her works in Vietnam, issued by a competent Vietnamese state management agency;

c! A bill of lading.

2. Foreigners who bring their moveable property out of Vietnam, when carrying out customs procedures, shall have to submit and produce the following papers:

a! A customs declaration; a detailed list of assets;

b! A written certification of the expiration of his/her working term in Vietnam, issued by the Vietnamese Foreign Ministry or competent state management agency;

c! An import declaration with customs certification, accompanied by documents on liquidation of temporarily imported property with the customs office and tax payment vouchers for goods liable to tax.

3. Moveable property of Vietnamese organizations or individuals taken from Vietnam to foreign countries for working purposes or purchased in foreign countries and brought into Vietnam upon the expiration of the working term of such organizations or individuals shall be subject to customs procedures. Customs dossiers shall each comprise:

a! A customs declaration;

b! A decision of a competent agency permitting the concerned subject to do business or work overseas or return to Vietnam;

c! An export customs declaration and other documents evidencing that the goods have been brought overseas or invoices on the purchase of goods overseas.

4. Moveable property brought into Vietnam by Vietnamese persons and families residing overseas who are permitted to settle in Vietnam or taken out of Vietnam by those who are permitted to settle abroad shall be subject to customs procedures. Customs dossiers shall each comprise:

a! A customs declaration; a detailed list of assets;

b! A decision permitting the settlement in Vietnam or overseas (in case of exit);

c! Papers proving the ownership over property in question, except for articles and items serving the daily life of the concerned family or individual.

*Article 36.- Imported and exported foreign currencies, precious metals, gems and Vietnamese currency*

1. People on entry or exit who carry gems or precious metals (except gold of international standards) must adhere to regulations of competent state management agencies and fill in customs procedures.

2. People on entry or exit who carry foreign currencies or Vietnamese currency in cash:

a! People on entry or exit who carry foreign currencies in cash (including banknotes, coins and traveler's checks) or Vietnam dong in cash or gold in excess of the limit set by the State Bank shall have to make customs declarations at border gates;

b! People on exit who carry foreign currencies in cash or Vietnam dong in cash in excess of the set limit or of the foreign currency amount already declared with customs offices upon their entry must obtain the State Bank's permits; .

c! People on exit who carry foreign currencies in cash or Vietnam dong in cash in excess of the set limit but not in excess of the foreign currency amount already declared with customs offices upon their entry shall have to produce the entry customs declarations but shall not have to obtain the State Bank's permits.

3. People on entry or exit who carry gold of international standard shall observe regulations of the State Bank.

Article 37.- Imports and exports in service of emergency requirements; imports and exports exclusively in direct service of defense or security

1. Customs procedures for goods in service of emergency requirements:

al Heads of agencies shall issue written certifications for goods imported or exported in service of emergency requirements and shall take responsibility before law therefore;

b/ Imports and exports in service of emergency requirements shall be cleared from customs procedures before the submission of their customs dossier documents. Such documents must be submitted within 30 (thirty) days after the customs clearance for goods;

cl Directors of Customs Sub-Departments shall base themselves on the characteristics and kinds of goods as well as the extent of emergency to decide on the appropriate form of actual inspection of such goods.

2. Customs procedures for imports and exports in direct service of defense or security requirements:

a/Imports and exports accompanied by written certifications of the Minister of Public Security or the Minister of Defense that they are in direct service of defense or security requirements shall be cleared from customs procedures before the submission of their customs dossier documents.

Such documents must be submitted within 30 (thirty) days after the customs clearance for goods;

b/ Goods in direct service of defense or security requirements accompanied by written certifications of the Minister of Public Security or the Minister of Defense which require that their safety or confidentiality (classified as strictly confidential or top secret) strictly be protected shall be exempt from actual inspection and customs declaration.

The Minister of Public Security and the Minister of Defense shall take responsibility before the Prime Minister for the contents of their written certifications.

*Article 38.- Customs procedures under preferential or immunity regime*

1. Diplomatic bags and consular bags shall be exempt from customs procedures.
2. Personal luggage and vehicles of the following individuals and organizations shall be exempt from customs inspection:
  - a/ Vehicles and articles used for performance of official duties of foreign diplomatic representative missions or consulates or representative offices of international organizations in Vietnam shall enjoy preferential treatment or diplomatic immunity under the provisions of law;
  - b/ Holders of diplomatic passports granted by the Vietnamese Foreign Ministry or foreign-based embassies or general consulates or by foreign ministries or competent agencies of the countries which have recognized the Socialist Republic of Vietnam;
  - c/ Wives (or husbands) and minor children accompanying the persons defined at Point b of this Clause.
3. Other goods exempt from customs their entry, exit or transit. When carrying customs procedures, if customs offices detect signs of law violations, the operators of means of transport in question must abide by customs requests for inspection or search under the provisions of law.
  2. Authorities of airports, seaports and international railway stations shall have to notify in advance border-gate Customs Sub Departments of the information specified in Article 56 of the Customs Law. Transport organizations shall have

*Article 39.- Goods and luggage consigned for import or export which are strayed or mistakenly claimed*

1. When filling in customs procedures for transport as well as information relating to the claiming their drifted, strayed or mistakenly claimed customs management of means of transport on goods or luggage which had been consigned for import or export, goods owners or their authorized persons must submit the following papers:
  - a/ Documents evidencing their ownership over the consigned goods or luggage;
  - b/ Lists of consigned goods or luggage (if any).
2. Where it is impossible to identify the recipients of consigned goods or luggage specified in this Article, such goods or luggage shall be handled according to the provisions of Article 45 of the Customs Law.

***Chapter III***

**CUSTOMS PROCEDURES FOR, INSPECTION  
AND SUPERVISION OF, MEANS OF  
TRANSPORT ON ENTRY, EXIT OR IN TRANSIT**

*Article 40.- General provisions*

1. Means of transport, when entering, leaving or transiting the Vietnamese territory, shall be subject to

customs procedures at border-gates of their entry, exit or transit. When carrying customs procedures, if customs offices detect signs of law violations, the operators of means of transport in question must abide by customs requests for inspection or search under the provisions of law.

2. Authorities of airports, seaports and international railway stations shall have to notify in advance border gate Customs Sub-Departments of the information specified in Article 56 of the Customs Law. Transport organizations shall have to supply border gate Customs Sub-Departments with information on goods, passengers, crew members and persons working on their means of transport as well as information relating to the customs management of means of transport on entry, exit or in transit.

3. Information specified in Clause 2 of this Article shall be supplied in writing or via a computer network connected to Customs Sub-Departments.

4. Means of transport on entry, exit or in transit shall be subject to customs supervision according to the provisions of Article 13 of this Decree.

5. Military means of transport carrying passengers and civil goods shall be subject to customs procedures upon their entry, exit or transit, like other means of transport.

#### *Article 41.- Airplanes on entry, exit or in transit*

1. Right after the entry of airplanes and before airline agencies complete airline procedures for passengers on exit and exports, operators of airplanes or their representatives must each submit to customs offices at the airports the following documents:

a/ A list of goods and luggage;

b/ A list of crew members and servants working onboard the airplane;

c/ A list of passengers.

2. Airplanes in transit for technical stopovers shall not be subject to customs declaration but be subject to customs supervision.

#### *Article 42.- Seagoing ships on entry, exit, in transit*

1. Customs procedures:

*al* At least 01 (one) hour before the entry or exit of seagoing ships which are ready to go through customs procedures, port authorities and ship owners or representatives of ship owners shall notify customs offices at ports of information specified in Clauses 2 and 3, Article 40 of this Decree;

*bl* Customs offices shall carry out procedures for entry or exit seagoing ships at prescribed locations. Where competent state agencies decide that seagoing ships will moor or anchor at other places in the Vietnamese sea areas, customs procedures for ships on entry or exit shall be carried out at such places.

2. Customs procedures:

When filling in customs procedures, shipmasters or their representatives must present to the customs office at port the ship's log book (for entry), and a diagram of goods loaded onboard the ship, and submit the

following declarations:

- a/ A manifest of cargo transported onboard the seagoing ship;
- b/ The declaration on departure and arrival of the ship, for entry and exit
- c/ The declaration on materials and fuel, food and foodstuff provisions of the ship;
- d/ The declaration on explosives, flammables, anesthetics, toxics and weapons onboard the ship;
- e/ A list of crew members;
- f/ A list of passengers (if any);
- g/ The declarations on goods and luggage of crewmembers.

3. All customs dossier documents already submitted to customs offices must neither be withdrawn nor amended, except for plausible reasons and the amendment of such documents will not affect the observance of the provisions of tax law and the imports and exports management policy, and is approved by Customs Sub Department directors.

*Article 43.- Seagoing ships and airplanes moving from port to port*

1. Seagoing ships or airplanes moving from port to port means that ships or airplanes are moving from one port to another for unloading imports or loading exports under customs inspection and supervision.

2. Before moving from port to port, operators of ships or airplanes or their lawful representatives must submit the cargo manifests to customs offices.

3. Customs offices at places from which seagoing ships or airplanes leave shall carry out customs procedures for port-to-port movement and hand customs dossiers to the ship or airplane operators for transfer to customs offices at places in which the ships or airplanes will arrive.

4. Goods transferred from port to port, food and foodstuff provisions of seagoing ships moving from port to port must be affixed with customs seals, except where exports remain in cargo compartments and have not been unloaded from the ships.

*Article 44.- Transnational trains on entry, exit, in transit*

1. Transnational trains on exit: When a train arrives at a border railway station, the train master or his/her representative must submit to the customs office at the station the following papers:

a/ A declaration on the train's members, a list of crewmembers and people working on the train, and a declaration of their luggage;

b/ A list of exports, including in-transit goods, a record of hand-over and receipt of wagons (for cargo trains);

c/ A list of passengers and their registered luggage-claim tickets (for passenger trains);

d/ A declaration on fuels, materials, food, foodstuff provisions of the train.



2. Transnational trains on entry: When such a train arrives at a border railway station, the train master or his/her representative shall submit to the customs office at the station the following papers:

a/ A declaration on the train's members, a declaration on luggage of crewmembers and people working on the train;

b/ A declaration on imports, a record of handover and receipt of wagons (for cargo trains);

c/ A list of passengers and their registered luggage-claim tickets (for passenger trains);

d/ A declaration on fuels, materials, food, foodstuff provisions of the train;

e/ A manifest of cargo unloaded at each inland international railway station.

3. Transnational trains at inland international railway stations: When such a train arrives at an inland international railway station, the train master or his/her lawful representative must submit to the customs office at the station the following papers:

a/ A manifest of imports, certified by the customs office at the border international railway station;

b/ A bill of lading;

c/ A record on hand-over and receipt of in-transit goods (if the train carries international in-transit goods).

4. Managers of transnational trains or goods owners shall take responsibility for keeping goods and wagons in the same condition in the course of transportation from the inland station of loading to the station of exit (for exports) and from the station of entry to the inland station of unloading (for imports ).

#### *Article 45.- Cars on entry, exit or in transit*

1. Cars defined in this Article mean cargo trucks and passenger cars for commercial purposes.

2. Cars on-entry, exit or in-transit must, when arriving at border-gates, stop at prescribed places for carrying out customs procedures. Customs declarants must declare and submit to the border gate customs office the following papers:

a/ An entry or exit permit as provided in the land transport treaty concluded between Vietnam and the bordering country or concluded between regional countries;

b/ A customs declaration for the car on entry, exit or in transit;

c/ A declaration of imports or exports (for cars carrying imports or exports);

d/ A declaration of imported or exported luggage of the driver;

e/ A list of passengers and a declaration of their luggage (if any).

#### *Article 46.- Other means of transport*

For rudimentary vehicles on entry, exit or in transit, their owners or operators must declare and submit to customs offices the following papers:

1. A declaration of imports or exports (if any).
2. A declaration of luggage of the operator of the means of transport, people working on such means of transport and passengers (if any).

*Article 47.-* Means of transport of individuals or agencies or organizations which are temporarily imported for re-export or temporarily exported for re-import for non-commercial purposes

1. Means of transport of individuals or agencies or organizations on entry or exit for non-commercial purposes defined in this Article mean passenger cars, passenger-cum-cargo cars, motorbikes, boats or canoes with or without motor engines. The temporary import or export of such means must be permitted by competent agencies under the provisions of the land transport treaty between Vietnam and the bordering country.

2. Means of transport of individuals or organizations in border areas that regularly cross the borders shall need no permits.

3. Customs dossiers shall each comprise:

- a/ A customs declaration;
- b/ A permit (except for temporary import for circulation in the border area);
- c/ A circulation registration certificate.

4. The Finance Ministry shall guide the implementation of the provisions of Clauses 1 and 2 of this Article.

#### ***Chapter IV***

### **INTELLECTUAL PROPERTY CONTROL OVER IMPORTS AND EXPORTS**

*Article 48.-* Procedures for suspension of customs procedures

1. Holders of intellectual property (IP) rights or their lawfully authorized persons (hereinafter called applicants) shall have the right to file with customs offices applications for a long term or specific suspension of customs procedures for imports or exports suspected of infringing upon IP rights (hereinafter called suspension applications for short).

2. The authorization of the filing of applications shall be conducted as follows:

a/ Vietnamese individuals, legal persons and other subjects as well as foreign individuals residing in Vietnam may authorize industrial property representation service organizations to file applications on their behalf;

b/ Foreign legal persons having representative offices in Vietnam, foreign individuals or legal persons having production and/or business establishments in Vietnam may authorize their Vietnam-based

representative offices or production and/or business establishments or industrial property representation service organizations to file applications on their behalf;

c/ Foreign individuals not residing in Vietnam and having no production and/or business establishments in Vietnam, foreign legal persons having neither lawful representatives nor production and/or business establishments in Vietnam may only authorize industrial property representation service organizations to file applications on their behalf.

3. When requesting the suspension of customs procedures, applicants must provide customs offices with the following documents:

a/ For long-term suspension requests:

- The application (made according to a set form);
- Copies of industrial property protection titles or other documents evidencing industrial property rights being protected in Vietnam or copies of certificates of registration of contracts on the transfer of rights to use industrial property objects; copies of copyright and relevant right registration certificates or other documents evidencing copyright and relevant rights;
- The written authorization of application filing (in case of authorization);
- The detailed description of goods infringing upon IP rights, including photos (if any), and characteristics for distinguishing genuine goods from goods infringing upon IP rights;
- The list of lawful importers or exporters of goods requested to be supervised; the list of importers or exporters that are likely to import or export goods infringing upon IP rights;
- The mode of import or export and other information related to the import or export of goods infringing upon IP rights (if any);
- The receipt of payment of fee for suspension of customs procedures with regard to goods suspected of infringing upon IP rights.

b/ For specific suspension requests:

- The application (made according to a set form);
- Copies of industrial property protection titles or other documents evidencing industrial property rights currently protected in Vietnam or copies of certificates of registration of contracts on the transfer of rights to use industrial property objects; copies of copyright and relevant right registration certificates or other documents evidencing copyright and relevant rights;
- The written authorization of application filing (in case of authorization);
- The address of the goods importer or exporter (if any);
- The predicted time and venue of carrying out import and export procedures;
- The detailed description or photos of goods infringing upon IP rights;
- The results of expertizing initial evidence by an IP expertise organization;
- The receipt of payment of security money into the customs custody account at the state treasury equal to 20% of the goods lot's value stated in the contract or of at least VND 20,000,000 (where the value of such

goods lot has not yet been determined), or the guarantee document issued by a credit institution to secure the payment of damages for the goods owner and other expenses which may be incurred by concerned agencies, organizations or individuals due to improper suspension of customs procedures;

- The receipt of payment of fee for suspension of customs procedures for goods suspected of infringing upon IP rights.

#### *Article 49.- Term and scope of application*

1. The effective term of a long-term suspension application shall be 01 (one) year, counting from the date it is accepted by the customs office. This term may be extended for one more year but shall not be longer than the time limit for protection of relevant IP objects and the applicant shall have to pay an extension fee under regulations of the Finance Ministry.

2. Venues for receipt of applications:

a/ Customs Sub-Departments shall receive applications falling within the scope of border-gates under their management;

b/ Customs Departments shall receive applications falling within the scope of border-gates under their management;

c/ The General Department of Customs shall receive applications falling within the scope of border-gates under management of 02 or more Customs Departments;

3. Within 30 (thirty) days after receiving long-term suspension applications or within 24 working hours after receiving specific suspension applications, which are complete under the provisions of Clause 3, Article 48 of this Decree, customs offices shall have to consider and issue written notices on the acceptance of such applications and acknowledgement of information therein. If rejecting the applications, they must give written replies, clearly stating the reasons therefore.

#### *Article 50.- Procedures for exercise of IP rights*

1. After accepting applications, the General Department of Customs and Customs Departments shall supply relevant Customs Sub-Departments in charge of such applications with acknowledged information about goods bearing fake labels or infringing upon IP rights, and direct follow-up work.

2. If accepting applications, basing themselves on information in such applications and instructions of the General Department of Customs and provincial/municipal Customs Departments, Customs Sub-Departments shall have to inspect and detect goods suspected of bearing fake labels or infringing upon IP rights. When detecting goods lots with fake labels or infringing upon IP rights, directors of Customs Sub-Departments shall suspend the carrying out of customs procedures and notify applicants thereof in writing, concurrently request the latter to pay an advance amount for security or submit guarantee documents (if not paid or submitted yet) within 03 (three) working days after the issuance of notices.

a/ Within 03 (three) working days after suspension, if applicants neither request further suspension of

customs procedures nor pay an advance security amount or submit guarantee documents, Customs Sub-Departments shall continue carrying out customs procedures for concerned goods lots;

b/ Where applicants satisfy the said requirements, directors of Customs Sub Departments shall decide on the suspension of customs procedures for the goods lots and immediately send such decisions to the concerned parties.

A decision on suspension of customs procedures must specify the goods lot subject to suspension; the names, addresses, fax and telephone numbers of the goods lot owner and the applicant; the holder of IP rights; the reasons for suspension of customs procedures and the suspension term.

*Article 51.- Term of suspension of customs procedures and inspection for determination of legal IP status*

1. The term of suspension of customs procedures shall be 10 (ten) working days from the date of issuance of suspension decisions.

During the term of suspension of customs procedures, if applicants request the extension of such term and pay additional security money amounts at the levels specified in Clause 3, Article 48 of this Decree, directors of Customs Sub Departments shall issue decisions to prolong this term for another 10 (ten) working days at most.

2. The time for concerned parties to supplement evidence, arguments and documents or the time for expertise at an IP state management agency at the request of Customs Sub-Departments shall not be counted into the term mentioned in Clause 1 of this Article.

3. Determination of legal IP status of goods subject to customs procedure suspension

a/ Contents of determination shall cover;

- Whether the goods contain infringing elements or not;
- Whether the goods have been marketed by IP right holders, persons permitted by such holders or persons with the lawful use rights (hereinafter called IP rights holder for short) or not.

b/ Customs Sub Departments shall determine the legal IP status of goods subjects to customs procedure suspension on the basis of evidence, arguments and documents of goods owners and IP right holders. Evidence, arguments and documents of applicants shall be considered only when they are supplied to Customs Sub Departments during the customs procedure suspension term;

c/ Base on supplied evidence, arguments and documents, if Customs Sub Departments cannot determine the legal IP status of goods subjects to customs procedures suspension, they may requests to IP expertise organizations for expertise and conclusion.

*Article 52. Continuation of customs procedures for goods suspended there from and handling of involved parties*

1. Directors of Customs Sub Department shall issue decisions to continue carrying out customs procedures for goods lots suspended there from in the following cases:

- a/ Upon the end of the suspension term, Customs Sub Departments have not received any written requests for handing of acts in infringing upon IP rights from the applicants or any documents from competent state management agencies or courts which have received written requests for the settlement of disputes over IP rights related to the goods lots suspended from customs procedures;
  - b/ The results of determination of the legal IP status of the goods lots suspended from customs procedures so that they do not infringe upon IP rights;
  - c/ The decisions of competent IP dispute-setting agencies affirm that the goods lots suspended from customs procedures do not infringe upon IP rights;
  - d/ The decisions on customs procedures suspension are suspended or withdrawn under complaint-setting decisions;
  - e/ The applicants withdraw their applications for customs procedure suspension.
2. Customs offices shall issue decisions to force applicants to pay all expenses incurred by goods owners due to the improper suspension of customs procedures. Such expenses shall cover costs of warehousing, loading, unloading and preservation of goods. Damage caused by customs procedure suspension shall be agreed upon by involved parties or determined according to civil procedures.
  3. Applicants shall be refunded all security amounts already paid into custody accounts of customs offices or receive back guarantee documents granted by credit institutions after they have fully paid incurred expenses and damage under decisions of customs offices or competent agencies.
  4. The tax payment time limit (if any) shall be counted from the date of issue of the decision on continuation of customs procedures for a goods lot.

*Article 53. Handling of involved parties in case of IP right infringement*

1. Where it is concluded that goods suspended from customs procedures infringe upon IP rights, goods owners and their goods shall be handled in accordance with the provisions of law.
2. Owners of imports or exports shall bear responsibility before law, implement decisions of competent state agencies, pay damages to IP right holders and expenses incurred due to customs procedure suspension.
3. Goods owners and applicants shall have the right to complain about decisions and conclusions of customs offices regarding the application of IP related border control measures under the provisions of law.

*Article 54.- Responsibilities of IP right holders*

IP right holders shall have to take initiative in providing information relating to goods infringing upon IP rights to customs offices; coordinate with the National Office of Intellectual Property, the Copyright Office and the General Department of Customs in annually organizing professional refresher courses for customs officers in order to raise their awareness and initiative in inspecting and stopping goods infringing upon IP rights at border-gates.

*Article 55.- Responsibilities of competent agencies*

1. The General Department of Customs shall have to organize the implementation of IP-related border control measures in compliance with the provisions of law.

2. The National Office of Intellectual Property under the Ministry of Science and Technology and the Copyright Department under the Ministry of Culture and Information shall have to provide the General Department of Customs with information about IP objects currently protected in Vietnam and coordinate with the latter in giving professional instructions and organizing professional IP refresher courses for customs units directly implementing IP-related border control measures.

3. The National Office of Intellectual Property, the Copyright Department and local IP management agencies shall have to conduct IP expertise at the request of customs offices and involved agencies according to their competence and procedures provided for by IP law.

***Chapter V***

**ORGANIZATION OF COLLECTION OF TAXES AND OTHER LEVIES ON IMPORTS AND EXPORTS**

*Article 56.- Rights and obligations of customs declarants in making tax declaration, calculation and payment*

1. Customs declarants shall have the rights:

a/ To request state agencies to explain and guide policies on taxes and other levies on imports and exports;

b/ To request customs offices to keep secret the declared and supplied information under the provisions of law;

c/ To request customs offices and concerned agencies to exempt taxes; consider tax exemption; reduce or refund taxes, or not to collect taxes and other levies on imports and exports under the provisions of law;

d/ To request state agencies to notify inspection and examination results or comments on inspection and examination conclusions regarding the declaration, calculation and payment of taxes and other levies on their imports and exports; to request customs offices and concerned agencies to explain inspection, examination or tax calculation contents which are different from tax declaration contents;

e/ To request customs offices and concerned agencies to pay damages caused by late issue of tax-refund decisions or issue of wrong decisions on taxes or other levies on imports and exports under the provisions of law;

f/ To make complaints or denunciations, or initiate lawsuits according to the provisions of law.

2. Customs declarants shall have the obligations:

a/ To declare by themselves fully and explicitly tax bases, tax amounts and other levies in customs declaration forms and take responsibility for their declarations;

b/ To calculate, pay taxes, fines and other levies by themselves in full and on time under the guidance of customs offices.

Where customs declarants are not allowed to authorize the tax payment, the responsibility to pay taxes shall rest with owners of imports and exports.

c/ To supply truthful information and necessary documents concerning tax bases, methods of calculating taxes and other levies at the request of customs offices;

d/To do bookkeeping, practice cost-accounting and make accounting reports; organize the archive of relevant customs dossiers, invoices and documents; supply such documents at the request of customs offices and in strict compliance with the provisions of law;

e/ To execute customs offices' decisions on handling of taxes and other levies on imports and exports;

f/ To explain tax bases, methods of calculating taxes and other levies on imports and exports when customs offices and concerned agencies have grounds to suspect them; and about unclear contents in the course of tax declaration, calculation and payment.

#### *Article 57.- Responsibilities and powers of customs offices*

In the course of organizing the collection of taxes and other levies on imports and exports, customs offices shall have the following responsibilities and powers:

1. To explain, guide, support and create favorable conditions for customs declarants to declare, calculate and pay taxes, fines and other levies on imports and exports.

2. To inspect and examine tax declaration, calculation and payment by customs declarants.

3. To uniformly manage the collection and payment of taxes; to effect tax exemption, consider tax exemption, reduction and refund, not to collect taxes and other levies on imports and exports under the provisions of law.

4. To keep secret information stated and provided by customs declarants.

5. To request customs declarants to supply in full and on time accounting dossiers, documents, vouchers and books when having grounds to suspect tax bases or methods of calculating taxes and other levies on imports and exports so as to examine the declaration, calculation and payment of taxes and other levies; or make clear other contents in the course of tax declaration, calculation and payment.

6. To retrospectively collect and determine tax amounts and other levies on imports and exports in necessary cases according to the provisions of law.

7. To apply measures provided for by law to ensure full collection of taxes.

8. To handle administrative violations and settle tax-related complaints in accordance with the provisions of law;

9. To pay interests on lately refunded tax amounts under the provisions of law.

#### *Article 58.-Imposition of tax amounts and other levies on imports and exports*



Customs offices shall impose tax amounts and other levies on imports and exports in the following cases:

1. Customs declarants have based themselves on invalid documents to declare tax bases, calculate and declare payable tax amounts; fail to declare or incompletely and inaccurately declare tax bases which also serve as a basis for calculation of taxes and other levies on imports and exports under the provisions of law.

2. Customs declarants refuse to supply or delay or prolong the time limit set for the supply of, related documents for customs offices to verify the accuracy of tax amounts and other levies on imports and exports.

3. Customs offices have grounds to believe that the declared value of goods is different from their actual value.

4. The determination of payable tax amounts shall be based on current tax policies, customs information and principles for determination of taxable values provided for in Article 4 of the Decree on customs valuation of imports and exports.

*Article 59.- Tax payment and tax credit*

1. Taxes, fines and other levies on imports and exports shall be paid at state treasuries.

2. The payment of taxes, fines and other levies shall follow the following order:

*al* Payment of debts, including fine debts, tax debts and other due debts (if any);

*bl* Payment of taxes and other levies.

3. Taxes, fines and other levies paid in excess of the payable amounts shall be handled in the following order:

*al* To be credited into the amounts of taxes, fines and other levies which customs declarants are owing to the state budget.

*bl* To be offset against the amounts of taxes and other levies on subsequent lots of imports or exports at the request of customs declarants;

*cl* To be refunded from the state budget.

4. The Finance Minister shall specify forms, dossiers, procedures and order of paying and crediting taxes, fines and other levies.

*Article 60.- Tax receipts and other receipts*

1. Receipts on payment of taxes, fines and other levies shall be issued uniformly by the Finance Ministry. When paying taxes, fines and other levies, customs declarants must specify every amount and serial numbers of customs declarations.

2. State treasuries or customs offices shall, when collecting taxes, fines and other levies, have to issue receipts or sign, stamp and certify the collection of such amounts in tax receipts.

*Article 61.- Tax settlement*

If imports entitled to tax preferences under the provisions of tax law are subject to tax settlement, customs declarants shall have to settle taxes with customs offices.

If imports are used for purposes other than those for which they are entitled to tax preferences, they shall be subject to retrospective tax and fine collection under the provisions of tax law.

*Article 62.- Responsibilities in relation to changes in legal persons or addresses*

1. If in the course of production and/or business operation, organizations and individuals having registered import and export codes for import and export business undergo changes in legal persons as a result of merger, dissolution or bankruptcy or changes in their addresses or headquarters, they must notify customs offices thereof in writing and pay all debts to the state budget.

2. Functional agencies competent to decide on dissolution, bankruptcy or merger shall have to notify customs offices in writing and coordinate with the latter in handling tax debts, fine debts and other levies before issuing bankruptcy, dissolution or merger decisions.

*Article 63.- Application of measures to secure full collection of taxes*

1. Measures to secure the proper and full collection of taxes and other levies shall be applied to imports and exports' owners or their authorized persons.

2. Applicable measures:

a/ To request banks, state treasuries or other credit institutions to make deductions from deposit accounts of taxpayers to pay taxes and fines;

b/ Not to carry out import procedures for subsequent goods lots of taxpayers till full collection of tax debts and other levies. Where customs declarants actually meet with financial difficulties, customs offices may allow them to continue import and export activities so that they may gradually pay tax debts according to schedule and owe no new tax debts;

c/ To seize goods or distrain assets of taxpayers under the provisions of law in order to ensure full collection of taxes. Past the legally established time limit from the date customs offices issue decisions to seize goods or distrain assets, if taxpayers still fail to fully pay taxes or fines, customs offices may auction goods or assets under the provisions of law to fully collect taxes and fines. The proceeds from such auction, after making deductions to pay taxes and fines, shall be returned to taxpayers;

d/ To apply other professional measures in accordance with the provisions of law.

3. The Finance Minister shall specify the competence and procedures for, and order of, the application of measures to secure the full payment of tax liabilities and other liabilities related to imports and exports.

## ***Chapter VI***

### **POST-CUSTOMS CLEARANCE INSPECTION**

#### *Article 64.- Cases of post-customs clearance inspection*

Post-customs clearance inspection shall be conducted after imports or exports have been cleared from customs procedures in the following cases:

1. There are signs or possibilities of violation of customs law as shown by the results of information analysis by customs offices.
2. Planned inspection to assess the observance of customs law by customs declarants (hereinafter called inspected units) in cases other than those specified in Clause 1 of this Article.

#### *Article 65.- Contents of post-customs clearance inspection*

1. Examination of customs dossiers:

a/ To examine the legitimacy and accuracy of customs dossier documents, the consistency of documents enclosed with declarations with the declared contents and with the provisions of law on import and export of goods;

b/ To examine the valuation of goods; tax bases, methods of calculating taxes and other levies; the observance of regulations and policies on management of imports and exports, IP rights, treaties, and other provisions on management of imports and exports;

c/ To examine enterprises' accounting vouchers and books, financial statements and other documents relating to goods which have been cleared from customs procedures.

2. The actual inspection of imports shall be conducted in case of necessity and when conditions permit.

#### *Article 66.- Inspection methods*

Customs offices shall conduct post-customs clearance inspection by the following methods:

1. Requesting the inspected units to produce accounting dossiers, books and vouchers and other documents relating to imports or exports, already cleared from customs procedures, which are preserved by such units, and give explanations at customs offices' headquarters.

2. Verifying the accuracy and truthfulness of customs dossier documents filed at relevant agencies and organizations.

3. Directly conducting post-customs clearance inspection at concerned units after customs clearance in necessary cases.

4. Customs declarants shall themselves conduct inspection and examination to verify the accuracy and truthfulness of customs declarations, tax calculation and payment related to goods lots which have been cleared from customs procedures. If discovering errors, they must notify them to customs offices and

voluntarily redress consequences within a time limit prescribed by law in order to be exempt from fines.

*Article 67.- Competence to decide on inspection*

1. Directors of provincial/inter-provincial/ municipal Customs Departments shall decide on inspection in the following cases:

a/ Inspection under the provisions of Clause 1, Article 64 of this Decree. Customs Departments which detect signs or possibilities of violation shall decide on inspection and concurrently report them to the General Director of Customs;

b/ Planned inspection as provided for in Clause 2, Article 64 of this Decree at units headquartered in localities under their management.

2. The General Director of Customs shall decide on post-customs clearance inspection for cases involving complicated inspection contents related to many provinces and centrally run cities.

*Article 68.- Inspection duration*

1. The inspection duration for every inspection decision at the head-offices of inspected units shall be no more than 05 (five) working days for cases defined in Clause 1, Article 64 of this Decree and 15 (fifteen) working days for cases defined in Clause 2, Article 64 of this Decree.

2. In complicated cases, inspection deciders may extend the inspection duration for a time not exceeding the duration specified in Clause 1, Article 68 of this Decree. The extended time and extension reasons shall be notified in writing to inspected units.

3. Customs offices shall have to notify in writing inspected units of post-customs clearance inspection decisions at least 05 (five) working days before conducting inspection (except for inspection cases specified in Clause 1, Article 64 of this Decree ).

*Article 69.- Processing of inspection results*

1. Inspection results shall be updated onto the customs information system for analysis and assessment of the observance of law by goods owners, risks of law violation, which shall serve as bases for customs inspection to determine whether enterprises have strictly observed customs law, and help customs offices in the fight against smuggling.

2. Inspection conclusions and explanations of inspected units (if any), and records of law violations of inspected units shall serve as bases for customs offices to decide on retrospective tax collection, tax refund and handling of tax-related violations under the provisions of law.

3. The retrospective tax collection, tax refund and handling of tax-related violations shall comply with the provisions of tax law and relevant laws.

*Article 70.- Rights and obligations of inspectors* 1. Obligations of inspectors:

- a/ To produce inspection decisions and customs 10 cards;
- b/ To strictly comply with inspection principles, contents and order;
- c/ Not to make unlawful requests; not to intentionally make untrue conclusions; take responsibility before law for inspection conclusions;
  
- d/ To report inspection results to inspection deciders and propose measures for the processing of such results;
- e/ To observe confidentiality regulations; manage and use for proper purposes supplied vouchers and documents.

## 2. Rights of inspectors

- a/ To conduct inspection at headquarters of customs offices or inspected units;
- b/ To request inspected units to explain related contents;
- c/ To examine, duplicate and seize customs dossiers, accounting vouchers and books, financial statements, and other related dossiers and documents of inspected units;
- d/ To inspect, copy and seize computer systems and other equipment storing data and figures on production and/or business activities of inspected units;
- e/ To conduct actual inspection of imports which have been cleared from customs procedures;
- f/ To use necessary equipment to facilitate inspection work;
- g/ To receive assistance of experts in different specialized domains;
- h/ To make working records and inspection conclusions;
- i/ To make records of customs-related administrative violations and apply handling measures under the provisions of law;
- j/ To apply coercive measures for completion of customs procedures and other handling measures to inspected units which fail to comply with written requests of customs offices.

## *Article 71.- Rights and obligations of inspected units*

### 1. Rights of inspected units:

- a/ To request inspectors to produce inspection decisions and customs 10 cards;
  
- b/ To reject inspection if inspection decisions are contrary to law;
  
- c/ To receive inspection conclusions;
  
- d/ To be explained about inspection conclusions and make recommendations on handling measures

proposed by inspectors;

*el* To request customs offices to pay damages caused by the unlawful handling of inspection results;

*fl* To complain about or denounce acts of violating law committed by inspectors in the course of inspection and decisions based on post-customs clearance inspection results;

*gl* To enjoy priorities in the course of filling in customs procedures if having strictly observed customs law and regulations on post-customs clearance inspection.

## 2. Obligations of inspected units:

*al* To designate competent persons to work with inspectors;

*b/* To create conditions for inspectors to perform their duties; not to obstruct inspection in any form;

*cl* To keep customs dossiers for imports and exports which have been cleared from customs procedures for 05 (five) years from the date of registration of customs declarations; to keep accounting vouchers and books, financial statements and other dossiers and documents relating to imports and exports already cleared from customs procedures within the legally established time limit;

*dl* To explain related contents at the request of inspectors;

*e/*To supply in full and on time accurate customs dossiers, accounting vouchers and books, financial statements and related dossiers and documents at the request of inspectors;

*fl* To create conditions for the inspection of imports;

*gl* To observe regulations on post-customs clearance inspection, and abide by inspection decisions and conclusions and handling decisions.

## ***Chapter VII***

### **CUSTOMS INFORMATION**

#### ***Article 72.-*** Customs information system

1. Customs information means a collection of information on imports, exports and in-transit goods as well as means of transport on entry, exit and in transit; on organizations and individuals directly or indirectly involved in the import, export or transit of goods, and related to means of transport on entry, exit and in transit; and other information relating to customs activities.

2. Customs information shall be used as a basis for making statistics on imports and exports; assessing

the observance of law by customs declarants, the risks of committing violations of customs law, serving customs clearance, post customs inspection as well as prevention and combat of violations of law in customs-related activities.

3. Acts of illegally accessing, manipulating and destroying the customs information system are strictly prohibited.

*Article 73.- Building of the system of, gathering, processing and exploiting, customs information*

1. The General Department of Customs shall have to organize the building, management and development of the database and technical infrastructure of the customs information system uniformly from the General Department of Customs to grassroots units; organize units specialized in gathering and processing information, managing the database, maintaining and operating the customs information system; coordinating with agencies, organizations and individuals outside the customs service in connecting networks for exchange of relevant information.

2. Customs offices at all levels shall have to gather, process and update customs information in the system according to the objectives and management requirements of each period.

Customs information may be gathered and processed from the following sources: dossiers and documents kept by the General Department of Customs; customs procedure clearance, customs inspection and supervision, analysis and classification of goods; results of activities of customs control forces; denunciations about acts of violating customs law committed by agencies, organizations or citizens; agencies, units and organizations involved in customs activities; domestic and foreign mass media; exchange of information with customs offices of foreign countries or international customs organizations; and other sources.

3. Customs units and officers, state agencies, enterprises, organizations and individuals have the right to exploit customs information.

4. The Finance Minister shall specify the building of the system of customs information, and the gathering, processing as well as scope and extent of exploitation of such information.

*Article 74. Providing information responsibilities*

1. Responsibilities of Customs offices

Customs offices shall have to provide information and documents to authorities, organizations and individuals, which have the rights to exploit and use customs information under the provisions of law.

2. Responsibilities of agencies, organizations and individuals

a/ Organizations and individuals shall have to provide information and documents to customs offices under the provisions of law.

b/ Ministries, ministerial-level agencies, Government-attached agencies and People's Committees at all levels shall have to provide and exchange information related to customs activities as follows:

- The Ministry of Trade: To supply information on policies for management of Vietnamese and foreign imports, exports and in-transit goods; and market management information;

- The Ministry of Public Security: To supply and exchange information on the prevention and fight of crimes related to economic management and national security in the domain of state management over customs; provide information on individuals on entry and exit, and information on registration and



management of means of transport;

- The Ministry of Defense: To supply and exchange information on the state management of borders, sea areas and islands and information on individuals on entry and exit for the purpose of state management over customs;

- The Ministry of Post and Telematics: To direct and guide postal and telecommunication service providing enterprises in providing customs offices with information on postal import and export packages and parcels; information on goods receivers and senders; and coordinate with the latter in building an information network;

- The Ministry of Planning and Investment: To direct and guide provincial/municipal Planning and Investment Services in providing information on business registration, investment, establishment, merger and dissolution of import/export enterprises;

- The Ministry of Transport: To direct and guide state management agencies, enterprises, sea and air transport agents in providing information on manifests, bills of lading, transport routes and other information on goods, passengers and means of transport involved in import, export, entry, exit or transit activities;

- Banks and credit institutions: To supply information on payment activities related to imports, exports or in-transit goods of individuals, organizations or enterprises;

- The Ministry of Industry, the Ministry of Agriculture and Rural Development, the Ministry of Health, and other ministries and branches shall, within the ambit of their functions and tasks, have to supply to and share with customs offices information about specialized management of imports and exports of all kinds.

3. Information shall be provided and exchanged in form of documents or electronic data through computer networks connected directly between customs offices and the above-mentioned agencies, organizations and individuals.

4. The Finance Ministry shall assume the prime responsibility for, and coordinate with other ministries and branches in, elaborating specific regulations on exchange and provision of customs information.

## ***Chapter VIII***

### **COMPLAINT, DENUNCIATION, COMMENDATION AND HANDLING OF VIOLATIONS**

#### ***Article 75.- Complaint and denunciation***

1. Organizations and individuals shall have the right to complain about administrative decisions and acts of customs offices and officers when having grounds to believe that such decisions or acts are contrary to law, infringing upon their legitimate rights and/or interests.

Individuals shall have the right to denounce acts of violating law committed by customs officers to heads of customs offices at all levels.

2. Heads of customs offices at all levels, when receiving complaints or denunciations, shall have to consider and settle them and give written replies in strictly compliance with the provisions of complaint and denunciation law.

3. Organizations and individuals have the right to initiate administrative lawsuits before administrative courts against administrative decisions or acts of customs offices or officers under the provisions of law.

*Article 76.- Commendation and handling of violations*

1. Customs offices and officers, organizations and individuals involved in import and export activities as well as other organizations and individuals that make achievements in implementation or coordination in implementation of regulations on customs procedures, inspection and supervision shall be commended under the provisions of law.

2. Customs declarants and concerned organizations and individuals, if violating the provisions of this Decree shall, depending on the nature and seriousness of their violations, be administratively handled, pay damages (if any) or be subject to examination for penal liabilities according to the provisions of law.

3. Customs offices and officers as well as concerned organizations and individuals, if committing acts of abusing their positions and/or powers to violate the provisions of this Decree shall, depending on the extent of their violations, be disciplined, pay material damages (if any) or be subject to examination for penal liabilities under the provisions of law.

***Chapter IX***

**IMPLEMENTATION PROVISIONS**

*Article 77.- Effect of the Decree*

This Decree takes effect 15 days after its publication in "CONG BAO" and replaces the Government's Decree No.1 01/2001/ND-CP of December 31, 2001, detailing the implementation of a number of articles of the Customs Law regarding customs procedures, inspection and supervision, and Decree No. 102/2001/ND-CP of December 31, 2001, detailing post-customs clearance inspection for imports and exports.

All previous regulations contrary to this Decree are hereby annulled.

*Article 78.- Responsibilities for implementation of the Decree*

The Finance Ministry shall guide the implementation of this Decree.

Ministers, heads of ministerial-level agencies, heads of the Government-attached agencies and presidents of provincial/municipal People's Committees shall have to implement this Decree.

***On behalf of the Government Prime Minister***

**PHAN VAN KHAI**