

**DECREE**  
**Making detailed provisions for Commercial law**  
**on the Origin of Goods**

**THE GOVERNMENT**

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

Pursuant to the Commercial Law dated June 14, 2005;

Based on the proposal by the Minister of Trade,

**DECREES:**

**Chapter I**  
**GENERAL PROVISIONS**

**Article 1. Scope of Application**

This Decree shall regulate the origin of export goods, the origin of import goods.

**Article 2. Subjects of Application**

This Decree shall be applied to:

1. Traders;
2. Vietnamese management bodies on Certificates of Origin, organizations issuing Certificate of Origin (hereinafter referred to as C/O issuing organizations) for export goods;
3. Bodies checking the origin of export goods, import goods;

4. Organizations inspecting the origin of the goods;
5. Other individuals and organizations trading in activities related to commerce.

### **Article 3. Definitions**

For the purposes of this Decree, the following terms shall be construed as follows:

1. “Origin of goods” means the place (a country or territory) where the goods are manufactured or been in the last processing in case of having many countries or territories joining in the processing of the goods.

2. “Rules of Preferential Origin” means rules of origin applied for preferential tariff and non – tariff agreements.

3. “Rules of Non-Preferential Origin” means rules of origin applied for commodities not covered in paragraph 2 in this Clause and non-preferential trade measures such as MFN, anti-dumping, countervailing, safeguard measures, quantitative restrictions or tariff quotas, government procurement and trade statistics.

4. “Certificate of Origin” is a document issued by an organization of the exporting country/territory on the basis of requirements and regulations relating to the origin to certify the origin of the goods.

5. “Change in code classification” means a change in the code of goods as prescribed in the List of Export-Import Goods, which is generated in a country/territory within the manufacturing from non-originating materials of that country or territory.

6. “Ad valorem percentage” means the ratio of the value added obtained after a country/territory manufactures, subcontracts or processes the materials which does not originate from that country/territory, to the total value of goods turned out.

7. “Manufacturing or processing operations” mean specified manufacturing operations which constitute major features of goods.

8. “Substantial transformation” means a good is changed through a production process which results in a new and different commercial article with a

new shape, character or major features, or using purpose different from that existing before the change.

9. "Production" means methods of obtaining goods including growing, mining, harvesting, raising, breeding, extracting, gathering, collecting, fishing, capturing, trapping, hunting, manufacturing, processing, subcontracting or assembling.

10. "Materials" include raw materials, ingredients, accessories, parts, separated components and goods that can be incorporated to constitute other goods after a production process.

11. "Product" is the article of commercial value, which underwent at least a manufacturing process.

12. "Goods" comprise materials or products

## **CHAPTER II RULES OF PREFERENTIAL ORIGIN**

### **Article 4. Rules of Preferential Origin under International Treaties**

The determination of origin of goods for the purpose of enjoying tax incentives and non – tariff incentives under international treaties of which Vietnam is a member shall be based on the related documents issued by ministries and sectors making detailed provisions for implementing such agreements.

### **Article 5. Rules of Preferential Origin under common tariff regimes and other unilateral preferentials**

The determination of origin of exports for the purpose of enjoying the common tariff regime and other unilateral preferentials shall be made in accordance with the rules of origin of the preference-granting countries.

## **CHAPTER III RULES OF NON-PREFERENTIAL ORIGIN**

### **Article 6. Origin of goods**

Origin of goods comprises as follows:

1. Origin of wholly obtained goods

2. Origin of not wholly obtained goods.

### **Article 7. Determining wholly obtained goods**

Wholly obtained goods in a country or territory as specified in clause 1, Article 6 of this Decree shall include:

1. Plants and products of plants harvested in that country or territory;
2. Animals born and raised in that country or territory;
3. Products made from live animals which are mentioned in paragraph 2 above;
4. Products obtained from hunting, trapping, fishing, aquaculture, gathering or capturing there;
5. Minerals and naturally occurring substances, not included in paragraphs 1 to 4 above, extracted or taken from a country/territory's soil, waters, seabed or beneath the seabed;
6. Products taken from the water, seabed or beneath the seabed outside the territorial waters of that country or territory, provided that that country or territory has the rights to exploit such waters, seabed and beneath the seabed in accordance with international law;
7. Products of sea fishing and other marine ones taken from the seas by vessels registered with a country and entitled to hang the flag of that country;
8. Products processed and/or made right on board registered with a country or territory and entitled to hang the flag of that country or territory, excluding those mentioned in paragraph 7 above;
9. Articles collected in that country or territory which can no longer perform their original purpose nor are capable of being restored or repaired and are fit only for the disposal or use as raw materials, or for recycling purposes; and
10. Goods obtained or produced in that country or territory solely from products referred to in paragraphs 1 to 9 above.

### **Article 8. Determining not wholly obtained goods**

1. Not-wholly-obtained goods specified in clause 2, Article 6 of this Decree are certified as the origin from the country/territory where the last process is performed to make the substantial transformation of the goods.

2. The criteria of “Change in the code classification” are the main ones for determining the substantial transformation as set out in paragraph 2 of this Article.

Other criteria including “Ad valorem percentage” and “Manufacturing or processing operations” shall be regarded as additional or substitute criteria in specific cases

3. List of goods to be determined in accordance with criteria of Ad valorem percentage and Manufacturing or processing operations specified in clause 2 of this Article shall be issued by the Ministry of Trade

**Article 9. Simple manufacturing and processing operations which are not taken into account in determining the origin of goods**

The following manufacturing and processing operations listed below, when undertaken by themselves or in combination with each other, are considered to be simple and shall not be taken into account in determining the origin of goods:

1. Operations to ensure the preservation of products in good condition during transport and storage (ventilating, spreading out, drying, freezing, soaking in salt, acid sulfuric smoking, or adding other additives, removing damaged parts and other like operations);

2. Such operations as removing dust, screening, sorting, classifying, (including the making-up of sets of articles), washing, painting, cutting up;

3. Changes of packing and breaking-up or assembly of consignments; bottling, packaging and other simple packing operations;

4. Labelling products with marks, labels or other similar distinguishing signs.

5. The simple mix of products, including different components, if one or more components which constitute the mix do not meet the regulated conditions to be regarded as the origin from the country where this operation is carried out.

6. The simple assembly of the product’s parts to constitute a complete one;

7. A combination of two or more operations specified in paragraph 1 to 6 above; and

8. Animal slaughter.

**Article 10. Determining origin of packages, accessories, spare parts, tools, disassembled or unassembled goods**

1. Packing, packaging materials and containers are considered to have the same origin as that of the goods inside and used for retail.

2. Instructional or information materials presented together with the goods and relevant in terms of sorts and quantities are also considered to have the same origin as that of the goods.

3. The origin of goods in each single consignment of any unassembled or disassembled goods which are imported in more than one consignment because they are not feasible, for transport or production reasons, to import them in a single consignment should, if the importer so requests, be treated as having the same origin as such goods.

**Article 11. Indirect Elements not taken into account in determining the origin of goods.**

For the purpose of determining the origin of goods, the origin of power and fuel, plant and equipment, or machines and tools used to turn out the goods, or the materials used in the manufacturing process but do not remain in the goods or from a part of the goods, shall not be taken into account.

**Chapter IV**

**ISSUANCE OF THE CERTIFICATE OF ORIGIN OF GOODS,  
INSPECTION PROCEDURE FOR THE ORIGIN OF GOODS**

**Article 12. Issuance of the C/O of export goods**

1. The Certificate of Origin shall be issued by issuing organizations in the regulated forms.

2. The applicants who request for issuing Certificates of Origin have to lodge with the C/O issuing organization a set of documents of request for the C/O and

must be legally responsible for accuracy and honesty of the contents of such documents.

3. The C/O issuing organization shall examine such documents shall carry out actual examination of goods in order to determine the origin of exports and shall issue a C/O within no more than 3 working days from the date of lodgment of a complete and valid set of documents. Where it is required to conduct actual examination of goods, the time limit for issuing a C/O may be extended but for no more than 5 working days.

4. The applicants shall not be issued with a C/O if the exports do not meet the origin-related criteria as set out in this Decree or when the set of documents of request for the C/O is not valid.

5. In case either Customs Authorities or the competent agency of the countries/territories that imported the Vietnamese goods or Vietnamese competent bodies request to verify the authenticity of the origin of goods, the C/O issuing organization shall carry out an inspection to verify the origin of such goods and inform the aforementioned requirers of the fact.

### **Article 13. Requirements for the C/O of import goods in submitting to Customs Authority**

The importer must submit the C/O to the Customs Authority by the time he makes registration procedures for the customs declaration form in the following circumstances:

1. Goods originating in countries or groups of countries offered preferential import tariff and non – tariff treatment by Vietnam pursuant to the Vietnamese laws or relevant international treaties that Vietnam is a member which importers desire to enjoy such preferences.

2. Goods originate from those countries to which Vietnam has granted the most favored nation (MFN) treatment on a reciprocal or unilateral basis.

In case of not having C/O, the importing trader must commit that the goods originate from such countries and the importing trader must be responsible before the law for the accuracy and truthfulness of their commitments.

3. Goods under import management regimes pursuant to the Vietnamese laws or bilateral or multilateral international treaties which Vietnam and foreign countries, groups of countries are members.

4. Goods that are likely to cause harm to the community health or environmental hygiene, as the Vietnamese Government or international organizations announced at a specific time.

5. Goods imported from the countries that are being imposed anti-dumping duties, anti-subsidizing duties, and other safeguard measures, customs quotas and quantitative restrictions, as the Vietnamese Government announced at a specific time.

#### **Article 14. Advance ruling of C/O for import goods**

The importers that need to be certified the origin of incoming import goods prior to the importation shall send relevant documents to the Customs Authority and request for a written ruling of C/O for the incoming import goods.

#### **Article 15. Determination and Inspection Procedures for the origin of import goods**

1. The Customs Authority shall consider the determination of the origin of import goods after receiving a set of documents of customs declarations from the importer.

2. For the imports goods which are actually suitable to the goods stated in the pre-certification of origin, the Customs Authority shall not re-determine the origin. In case the imported goods differ materially from the goods which were the subject of the ruling, the Customs Authority will base on the regulations specified in this Decree to re-determine the origin of import goods.

3. The Customs Authority of Vietnam may send a request for a check and the relevant C/O to the Issuing Authority to ask for an inspection when it has reasonable doubt as to the authenticity of the documents or as to the accuracy of the information regarding the true origin of goods. The request for the check shall clearly raises reasons together with information expecting that the C/O is unreliable or the information regarding the origin of goods under examination is somewhat unauthentic.

4. The Customs Authority may suspend the provisions on preferential treatment while awaiting the result of verification. However, it may release the goods to the importer pursuant to necessary administrative customs procedures.

5. The checking process stipulated in paragraph 3 in this Clause should be completed as soon as possible, but not exceeding 150 working days after the importers submit their sufficient and proper documents.

#### **Article 16. Archiving and Confidentiality**

1. Documents relevant to issuance of the C/O and determination of the C/O are kept valid by the issuing organizations, the Customs Authorities and entrepreneurs in at least three years from the date of issuance or determination.

2. Information and documents used for checking and determining the origin, apart from being provided for competent authorities, must be kept confidential by authorities or organizations concerned.

### **Chapter V STATE MANAGEMENT ON THE ORIGIN OF GOODS**

#### **Article 17. Responsibilities and authorities of Ministry of Trade**

1. Establishing, submitting to competent authorities to issue or issuing legal normative documents on origin of goods within its competence;

2. Instructing to implement the issuance of C/O for export and import goods; Issuing or delegating to the The Vietnam Chamber of Commerce and Industry or organizations eligible to issue the C/O;

3. Managing research activities and implementing the international cooperation on the origin of goods.

4. Taking lead in negotiations for Rule of Origin clauses according to international treaties.

#### **Article 18. Responsibilities and authorities of Ministry of Finance**

1. Setting up and submitting to competent authorities to issue or issuing legal documents on checking the origin of export-import goods within its competence;

2. Organizing to implement regulations on checking the origin of export-import goods;

3. Organizing information network, reporting regime; setting up and managing the database which serves and creates good conditions for agencies checking the origin of export-import goods.

### **Article 19. Responsibilities and authorities of related Ministries and Governmental agencies**

Ministries, ministry-level bodies, Governmental agencies within their functions, tasks and authorities shall take responsibilities to co-ordinate with the Ministry of Trade and the Ministry of Finance to perform the State management on the origin of goods relating to each line's operation according to regulations of this Decree and related Vietnamese law .

## **Chapter VI DEALING WITH BREACHES AND COMPLAINTS**

### **Article 20. Dealing with breaches**

1. All fraudulent acts regarding the Certificate of Origin by the applicants shall be fined in accordance with the regulations of the Decree on administrative punishment in the commercial sector. If it results in serious consequences, depending on its nature and level, such entrepreneurs shall be criminally imposed the blame. In case of damaging benefits of the State, of offices, organizations or individuals, they have to compensate for damage pursuant to related regulations.

2. Officers, civil servants and individuals working for any organization authorized to issue C/Os; agencies examining origin of goods and goods inspection agencies that, during carrying out their assigned duties, breach any provisions of this Decree or take benefit from their positions or powers to improperly issue C/Os or that cause difficulties or obstacles to the issue of C/Os or to the examination of origin of goods or that takes other acts of breaches shall, depending on the seriousness and nature of the breach, be disciplined, subject to and administrative penalty or prosecuted for criminal liability. If any breach causes damage to the benefits of the State or other organizations, agencies or individuals, compensation must be paid in accordance with Vietnamese law.

3. The C/O serving wrong purposes and the C/O issued by taking illegal actions shall be revoked.

### **Article 21. Settlement of complaints over the Origin of Goods**

In case the C/O issuance of export goods or the determination of the origin of import goods is refused, the applicants or the importers shall have the right to lodge a complaint based on regulations relating to disputes and accusations.

## **Chapter VII IMPLEMENTATION PROVISIONS**

### **Article 22. Implementation effectiveness**

1. This Decree takes effect fifteen days after the date it is published in the Official Gazette.

2. Except for the documents on preferential rules to make specific provisions for implementing relevant treaties, other previous documents relating to rules of the origin in respect of imports and exports are hereby abolished.

3. Ministers, heads of ministry-level bodies, Governmental agencies, presidents of people's committees of provinces and cities under Central Authority shall be in charge of providing instructions on implementation of this Decree.

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Phan Van Khai**