

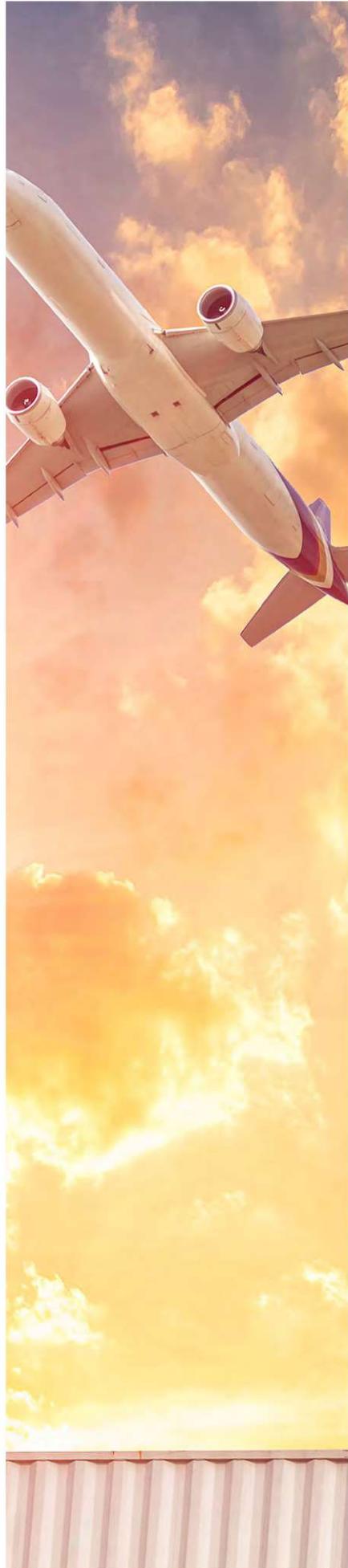


eBook on East Asia Customs Procedures

The Socialist Republic of Vietnam



An EABC Publication



eBook on East Asia Customs Procedures

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MESSAGE FROM CHAIRMAN

Blessed with geographical proximity, cultural affinity, close business ties and natural advantages for trade and economic cooperation, East Asia is one of the regions in the world with the most potential and development prospects. Since its establishment in 2004, East Asia Business Council (EABC) has always held the belief that cross-border trade, investment liberalization and facilitation are the prerequisites and foundations for East Asian countries to promote industrial advancement, reduce unemployment and improve the quality of economic development. EABC has long been devoting to reducing trade and investment barriers and facilitating enterprises to carry out cross-border trade and investment.



In 2018, EABC agreed to compile eBook on East Asia Customs Procedures and listed it as a top priority in the Council's annual work in 2019. Today, the eBook is officially launched, with the expectation to strengthen regional economic and trade information sharing and further improve trade facilitation and connectivity among East Asian countries.

The eBook on East Asia Customs Procedures covers the guides of Customs procedures in 13 countries in East Asia, with 24 major items related to the Customs clearance of goods such as legal system, clearance procedures,

prohibitions and restrictions, duty collection (including classification, valuation, rules of origin), trade statistics, violations and sanctions, FTAs, AEOs and etc. The eBook is published electronically in English, providing companies with practical reference for international trade.

I believe that the eBook will help enterprises in the region, especially small and medium-sized enterprises, improve their capabilities in business management, investment and financing, and international market development. We hope that enterprises will take full advantage of the eBook to actively explore the regional market and achieve development goals.

Lu Pengqi
EABC Chairman 2019

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Heartfelt gratitude and sincere respects should be addressed to China Committee, East Asia Business Council (in short EABC China, also China Council for the Promotion of International Trade - CCPIT), to organize, support and sponsor the edition and publication of the eBook on East Asia Customs Procedures to provide manufactures, trader and related service-providers with comprehensive information and elaborate references on Customs procedures in 10 ASEAN member countries and China, Japan and the Republic of Korea, which is a unique, innovative and significant contribution to regional and even international trade community.

Cordial appreciations should be extended to the Trilateral Cooperation Secretariat (TCS) for supporting and partially sponsoring the eBook of China, Japan and the Republic of Korea and CCPIT Guangxi Sub-council for supporting the project.

Dedicated gratitude should also be expressed to all members of the editing team, proofreading team, project team for their arduous and continuous efforts during the process.

EDITOR'S STATEMENT

Customs procedures in almost every country are usually very professional, diverse, technical, abstruse, ambiguous, and even trapped for cross-border manufactures, traders and related service-providers, sometimes even cause significant invisible “barriers” to trade. Thus all the stakeholders imminently need information, materials and references as comprehensive, elaborate and concrete as possible in different countries to enhance the effectiveness and efficiency of cross-border trade.

This eBook on East Asia Customs Procedures aiming to provide a general picture involves in almost all aspects of Customs procedures in 10 ASEAN member countries and China, Japan and the Republic of Korea. For each eBook, a framework of 24 parts of contents is basically followed with certain flexibility of adjustments according to specific situation of each individual country.

It is not an easy task to edit this panorama-type of eBook and during the process the editors are facing significant challenges including English language proficiency, professional competence and most importantly very limited information and materials in English for references.

The contents of each eBook are based on current publicly available information and materials in English, mainly contained in the publications and on the websites of related Customs administrations, government departments and agencies, international organizations and private professional institutions. The editors believe the selection and use of publicly available information will not affect the interests of the above-mentioned organizations and sincerely appreciate those organizations having their information and publications publicly available.

During the editing process, the biggest and greatest challenge is the lack of information and materials in English, which are very limited in almost all countries and even very deficient, very scarce in some countries. Therefore some citations from the official websites and excerpts from legal documents do exist in the eBook.

As a first remarkable pilot project in the fields, this eBook on East Asia Customs Procedures are not perfect and flawless and we are satisfies with the qualities of the majority and will keep on improving the rest.

ABBREVIATIONS

AEO	Authorized Economic Operator
APEC	Asia and Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ASW	ASEAN Single Window
ATIGA	ASEAN Trade in Goods Agreement
FTA	Free Trade Agreement
GATT	General Agreement on Tariff and Trade
HS	Harmonized Commodity Description and Coding System
VACCS	Vietnam Automated Cargo Clearance System
MFN	Most Favored Nation
NTSW	National Trade Single Window
PSI	Post-clearance Audit
WCO	World Customs Organization
WTO	World Trade Organization

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The Socialist Republic of Vietnam

1. INTRODUCTION OF VIETNAM CUSTOMS

Vietnam Customs with the first name as "Department of Tariffs and Indirect Tax" was established under the Ministry of Finance on October 3, 1945. On December 14, 1954, the Minister of Industry and Trade established the Customs Department. From April 16 to 29, 1958, the 8th Session of the first National Assembly decided to separate the Ministry of Trade into two Ministries: Ministry of Internal Trade and the Ministry of Foreign Trade. Central Customs Department was under the Ministry of Foreign Trade. On September 4, 2002, Central Customs Department changed name to the General Department of Vietnam Customs under the governance of Ministry of Finance.

1.1 Missions, Objectives & Functions

Vietnam Customs' missions are as follows:

- Enforcing the effective management over imports & exports activities and international trade, providing favorable conditions to the trade and production development;
- Protecting and contributing to the facilitation of development of national economy;
- Protecting revenues;
- Fighting against smuggling, combat commercial fraud, protecting the interests of consumers;
- Contributing to the protection of economic sovereignty, national security and community security;
- Assisting in socio-economic management.

Vietnam Customs has four major objectives:

- Customs Business Modernization;
- Automation and Computerization;
- Building regular Customs forces;
- Modernization of business equipment and material of the Customs.

Functions of Vietnam Custom are as follows:

- Collection of Customs taxes and duties;
- Collection of other import and export taxes on behalf of other government agencies such as value added tax (VAT), excise tax, and municipal tax;
- Supervision of imports and exports to ensure compliance with relevant laws and regulations;
- Prevention and suppression of smuggling, tax and duty evasion including other Customs offences;
- Promotion of manufacturing and export through tax measures;
- Facilitation of international trade;
- Providing recommendations on tariff policies to the Ministry of Finance by taking into consideration the current economic situation;
- Compilation and publication of export-import statistics and other Customs-related information.

1.2 Organizations

Departments under the General Department of Vietnam Customs include the Legal Department, the Personnel and Organization Department, the Inspectorate-Supervise Department and the International Cooperation Department. There are 12 divisions under the General Department of Vietnam Customs as follows:

- Office;
- Personnel and Organization Division;
- Finance and Administration Division;
- Customs Supervision Division;

- Anti-smuggling and Violation Handling Division;
- Import-export Duty Division;
- Customs IT and Statistics Division;
- Inspectorate Division;
- Customs Control Division;
- Anti-drugs Control Division;
- Risk Management Division;
- Post-clearance Audit Sub-department.

1.3 Specific Commitments

In recent year, Vietnam Customs has tried to improve their efficiency and made some specific commitments as follows:

A. Deadline for Receiving and Registering Declarations

- After 30 minutes at the latest from the time of receiving a declaration, Customs officers are to complete receiving, checking and registering the declaration;
- Except for complicated cases (with more than 10 items of goods); or to respond by producing a technical requirement note for unaccepted declarations or those that need modifying or adding information.

B. Deadline for Dealing with Duty Exemption Documents

- Within 10 working days after receiving a sufficient and legitimate duty exemption document, the Customs authority is to solve the document for organizations, individuals.

C. Deadline to Solve Difficulties of Clients

- After 5 working days at the latest from the date of receiving clients' written request concerning their difficulties, the Customs authority is to respond in writing;
- In case of over Customs' competence, within 5 working days, the Customs authority is to collect

competent agencies' opinions in writing and inform clients simultaneously. Within 3 working days from the date of receiving the feedback from the relevant agencies, the Customs authority is to answer clients in writing.

D. Deadline to Solve Clients' Appeals

- Conforming to the provisions stipulated in the Law on Appeal.

1.4 International Memberships

Vietnam is a member and/or signatory party of the following major international organizations and agreements relevant to the governance and regulation of import and export transactions:

- World Trade Organization;
- World Customs Organization;
- International Convention on Harmonized Commodity Description and Coding System (HS Convention);
- ASEAN Harmonized Tariff Nomenclature;
- The International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention);
- The Chemical Weapons Convention (CWC);
- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- WTO Trade Facilitation Agreement;
-

1.5 Resources for Importers and Exporters

The official website of Vietnam Customs (<https://www.customs.gov.vn>) hosted by Vietnam General Department of Customs has been discovered to be the most comprehensive and informative source for clearance procedures in English. While the official websites of Vietnam Ministry of Industry and Trade (<https://moit.gov.vn>) has some information on trade in English, and that of Vietnam National Single Window (<https://vnsw.gov.vn>) has no English version.

2. CUSTOMS LEGAL SYSTEM

2.1 Principal Customs Laws

Law on Customs No. 54/2014/QH13 dated June 23, 2014 and Law on Export and Import Duty No. 107/2016/QH13 dated April 06, 2016, are the principal legislations for the administration of Vietnam Customs.

Especially Law on Customs No. 54/2014/QH13, regulating the state administration of Customs with regard to goods being imported, exported or in transit, and means of transport of domestic and foreign organizations and individuals on exit, entry or in transit within the Customs territory; and regulates the organization and operation of Customs, comprises of 8 Chapters, 104 Articles and comes into effect on 1st January 2015.

The new 2014 Vietnam Customs Law is focusing on Customs procedure reform, modernization of Customs administration, codify international laws on international commitment in order to meet the requirements and facilitate integration beneficial for import and export activities; improve the effectiveness and efficiency of Customs operations management.

2.2 Related Laws and Regulations

Vietnam government also proposed a number of implementing Decrees and Circulars that set out Customs Law including:

- Law 05/2017/QH1 on Foreign Trade Management;
- Decree 08/2015/NĐ-CP on Customs Procedures and Customs Valuation;
- Decree 127/2013 and 45/2016 on Customs Penalties;
- Decree 134/2016/NĐ-CP on Import and Export Duties;
- Circular 14/2015/TT-BTC on Classification;
- Circular 38/2015/TT-BTC on Customs Procedures, Duty Exemption, Duty Refund, Toll Manufacturing etc.;

- Circular 39/2015/TT-BTC on Customs Valuation;
-

Further laws concerning the regulation of trade also includes:

- Law on Commerce;
- Law on Tax Administration;
- Law on Value Added Tax (VAT);
- Law on Special Excise Duty;
- Law on Environmental Protection Tax;
-

3. CUSTOMS CLEARANCE PROCEDURES

Customs clearance procedures for imports and exports in Vietnam usually include the following 7 steps:

- Registration;
- Declaration;
- Inspection of Customs File;
- Duty Collection;
- Physical Inspection;
- Release;
- Clearance

Figure 1 Customs Clearance Procedures in Vietnam



3.1 Registration

A locally established company must register its tax code with a local Department of Tax prior to carrying out any Customs procedures for the import and/or export of goods. A non-resident business may apply to the Ministry of Industry and Trade for a certificate of registration of export and import rights to conduct import or export activities in Vietnam. The application documents must be certified and legalized by an authorized body, this includes overseas diplomatic agencies. A Foreign Direct Investment (FDI) company may import and export machinery, equipment, materials and other goods relevant to its business scope. For the conduct of trading activity and associated import and export transactions, the applicable HS codes of the traded goods must be stated on the investment certificate of the FDI Company.

3.2 Declaration

3.2.1 Import Declaration

For imports, Customs declaration shall be made before or within 30 days after the date of goods arrival to a border gate. The date of goods arrival to a border gate is the date indicated on the Customs office's stamp appended to the goods declaration (manifest). It is included in the document of means of transport on entry (by sea, air or rail) or the date written on the declaration of means of transport running through the border gate or the mean of transport-monitoring book. The following documents are required to be submitted for import declaration:

- Import Declaration Form (E-Form/HQ / 2015 / NK);
- Bill of Lading;
- Import Permit (for restricted goods);
- Certificate of Origin;
- Cargo Release Order;
- Sales Invoice;
- Inspection Report;
- Packing List;
- Delivery Order (for goods imported through seaports);
- Technical Standard / Health Certificate;
- Terminal Handling Receipts.

3.2.2 Export Declaration

When carrying out the declaration of export, since Vietnam Custom promotes to use automatic declaration, the following documents are required to be submitted for export declaration:

- Electronic Export Customs Declaration (E-Form HQ/2015/XK);
- Bill of Lading;
- Contract;

- Certificate of Origin;
- Sales Invoice;
- Export Permit;
- Packing List;
- Technical Standard / Health Certificate.

3.2.3 Priority Customs Treatment

For some emergent import or export Vietnam Customs provides some standards for priority Customs treatment. The standards are as follows:

- Compliance with the law on Customs and taxation from the date on which the enterprise files a priority application for a period of two years;
- Compliance with the law on accounting and auditing and subsequent compliance with Vietnamese Accounting Standards (VAS);
- Maintenance of a system and process for managing, monitoring and controlling import and export supply chains;
- Maintenance of specific export and import turnover requirements. For those importing and exporting, an annual turnover of US\$100 million is required. For those exporting goods made in Vietnam, an annual turnover of just US\$40 million has been set while Vietnamese exporters of agricultural goods are only required to show turnover of US\$30 million.

3.2.4 Transit Declaration

When the goods come to transit, it should follow Customs supervision. Customs procedures of good in transit shall be performed at the Customs office, which manages the temporarily imported Customs branch.

Customs inspection and supervision of goods in transit are as follows:

1. Goods in transit shall be stored in areas of Customs branches or areas which are subject to Customs inspection and supervision in compliance with the provisions of the law.

2. Goods in transit are subject to Customs inspection and supervision from the time that Customs procedures are performed until they are re-exported from the territory of Vietnam; the declarant shall be responsible for maintaining the original state of goods during the process of storage in Vietnam. Besides the declaration form, the declarant for imports for transit should provide the following documents:
 - Commercial Invoice or Contract of Re-export;
 - Bill of Lading or Transport Waybill;
 - Packing List.
3. Goods in transit must be re-exported within stipulated time limit. Where temporarily imported goods without re-export are transferred for local consumption, such goods shall be subject to Customs procedures applicable to imported goods; if such goods are included in the list of prohibited goods or goods imported with conditions, the provisions on of the law on such goods shall apply.

3.3 Inspection of Customs File

After declaration, the Customs will conduct two inspections, the first one is to inspect Customs file and the second one is duty and tax examination. Customs will verify accuracy, completion and conformity between the information declared in Customs declaration and those in accompanying documents in Customs file, inspect the compliance of the management policies regarding import, export goods, duty and tax, and other regulation of legislation. The inspection of Customs file will be conducted via the electronic database processing systems of Customs or directed by Customs official.

3.3.1 Examination of Customs File

The examination of Customs file should follow the following procedures:

- Examining goods appellations and codes as prescribed in the Vietnam Finance Ministry's circular guiding the classification of imports and exports;
- Examination of goods quality;
- Examination of origin of goods based on the actual state of goods.

3.3.2 Duty and Tax Examination

After document inspection, the Customs will implement following duty and tax examination:

- Conditions for application of coercive measures and duty and tax payment time limit as prescribed;
- Grounds used to determine that goods are not liable to duty and tax;
- Grounds used to determine that goods are eligible for duty and/or tax exemption;
- Tax bases used for determining payable duty and tax amounts and calculating payable duty and tax amounts.

3.4 Physical Inspection

After document inspection, the Customs will launch the physical inspection for import and export goods. Priority will be given to inspection of such items of goods as which are live animals and plants, perishable or other special goods. The physical inspection of goods will be carried out by Customs officials by using machinery, technical equipment or other technical measures in the presence of the Customs declarant or his legal representative after the Customs file has been registered and the goods have been taken to the site of inspection.

3.4.1 Physical Inspections with the Absence of the Declarant

The Head of Customs branch where storing goods shall decide to carry out a physical inspection without the presence of Customs declarant in the following cases:

- For protection of security;
- For protection of hygiene or of the environment;
- There are indications of a breach of the law having been committed;
- Beyond the time limit stipulated for Customs procedures to be completed by Customs declarant;
- Other cases as stipulated by legislations.

3.4.2 Exemption of Physical Inspections

Goods to be imported, exported in one of the following categories shall be exempt from physical

inspection:

- Goods of urgent relief;
- Goods of national defense and security;
- Goods of other special categories as decided by Prime Minister of the Government.

3.5 Duty Collection

Once a declaration and inspection have been accepted by the Customs, the importers or exporters will be required to pay the duties.

Customs duties assessed on imports are usually determined based upon three main factors:

- The origin of goods;
- The Customs valuation of goods;
- The Customs classification of the imported goods.

After Customs has assessed the duty payable, the importer may pay the duty either in cash, or by a payment order (a bank money order) or online payment. Currency paying duties is Vietnamese Dong; in case foreign currency is permitted to pay duties, foreign currency used must be converted easily. The exchange rates between Vietnamese Dong and foreign currencies used to determine dutiable price shall be the exchange rate published by the State Bank of Vietnam at the time of calculation.

For exports, time-limit for duty payment shall be 30 days from the date the duty payers lodge their Customs declaration. For imported consumer goods, duty payers must pay taxes before receiving their goods; in cases where the payable duty amounts are guaranteed the duty payment time limit shall be guarantee period, but not exceeding 30 days since the duty payers lodge registration of Customs declaration.

3.6 Release

Goods permitted to be imported or exported but request of value determination, appraisement, analysis, classification to define the payable duties shall be released after the duties amount determined by Customs administration being paid by Customs declarant or guaranteed by credit institutions

3.7 Clearance

Customs clearance of goods shall be granted after release and the instructions are as follows:

- Customs procedures are completed;
- Exported or imported goods which are applying the time limit for paying tax and guaranteed by a credit institution;
- One of the document of the Customs document is missing but the Director of Sub-department of Customs extends the deadline for submission of the original copy;
- Goods subject to inspection by a specialized agency shall be granted Customs clearance when tax liabilities are fulfilled or a conclusion of the specialized agency or a decision issued by a competent authority with regard to the permitted shipment of imported goods.

4. SPECIAL CUSTOMS CLEARANCE PROCEDURES

4.1 Procedure for Temporary Import for Re-export

Customs procedures for temporary import to re-export are all done electronically, and should follow the following steps:

- The declarant registers, declares the import Customs declaration (temporary import) and presents the Customs dossier, actual goods (when required) to the Customs authority. The Customs office conducts the document inspection, actual inspection of goods (if any) and Customs clearance of goods;
- The declarant registers, declares the export Customs declaration (re-export) and presents the Customs dossier, actual goods (when required) to the Customs office. The Customs office conducts the document inspection, physical inspection of goods (if any) and Customs clearance of goods.

The temporary importer should provide the following documents:

- Declaration Form of imported goods;
- Commercial Invoice in case the buyer has to pay the seller;
- Bill of Lading or other transport documents of equivalent value for goods transported by sea, air, rail, multimodal transport as prescribed by law;
- Import Permit for goods requiring an import license;
- Value declaration: The Customs declarant declares the value of the standard form, sends it to the system in the form of electronic data or submits to the Customs authority;
- Documents certifying the origin of goods;
- Contract of purchase and sale of imported goods;
- For goods of the conditional form of temporary import for re-export according to the Government's regulations: a) The certificate of business code of temporary import for re-export granted by the Ministry of Industry and Trade, b) License for temporary import for re-export granted by the Ministry of Industry and Trade for goods which must be licensed by the Ministry of Industry and Trade.

4.2 Procedure for Temporary Admission

Customs requirements for temporary admission are as follows:

- Temporarily imported goods shall be stored in areas of Customs branches or areas which are subject to Customs inspection and supervision in compliance with the provisions of the law;
- Goods temporarily imported for re-export are subject to Customs inspection and supervision from the time that Customs procedures are performed until they are re-export from the territory of Vietnam; the declarant shall be responsible for maintaining the original state of goods during the process of storage in Vietnam;
- Goods temporarily-imported must be re-exported within stipulated time limit. Where temporarily imported goods without re-report are transferred for local consumption, such goods shall be subject to Customs procedures applicable to imported goods; if such goods are included in the list of prohibited goods or goods imported with conditions, the provisions on of the law on such goods shall apply.

4.3 Special Order Procedure for Duty-free Shops

Customs procedures for imported goods sold at duty-free shops are all done electronically and follow these steps:

- Traders trading in duty-free goods shall prepare a liquidity file to submit to the Customs office;
- The Customs office receives the dossier and examines it in accordance with regulations;
- The Customs confirms the liquidity of the documents to be paid to traders selling duty-free goods;
- Store documents as prescribed.

The documents for special order procedure for Duty-free Shops are as follows:

- Contract of goods purchase and sale or papers of equivalent legal value;
- Import consignment contract; the goods sale and purchase contract must be in Vietnamese or English version; if it is in another language, the Customs declarer must submit a Vietnamese translation and take responsibility before law for the translation;
- Commercial Invoice;
- Bill of Lading, for goods imported by international post without a Bill of Lading, the Customs declarant shall write the code of the parcel, parcel on the Customs declaration or submit the list of parcels and matters made by the post office;
- A detailed list of goods for goods of many categories or heterogeneous packaging;
- An examination registration certificate or a notice of exemption from inspection or a notice of inspection results issued by a designated technical organization;
- The value declaration of imported goods for goods subject to value declaration according to the Finance Minister's Decision;
- Import permit for goods must have an import license as prescribed by law.

Currently, the Customs processing time for special order procedure for Duty-free Shops is 8 hours after receiving the dossier and related fees and charges is VND 20,000 per declaration.

5. VNACCS AND NTSW

5.1 Introduction of VNACCS/VCIS

In order to enhance the management and supervision capacity in Customs, in 2014, the Ministry of Finance launched the electronic Customs clearance system - VNACCS/VCIS. The digitalization in Customs has facilitated businesses in goods declaration, helped reduce the time in Customs clearance as well as made Customs management, monitoring and statistics more convenient, transparent and effective.

VNACCS standing for Vietnam Automated Cargo and Port Consolidated System is an automated cargo clearance system of Vietnam Customs. VNACCS has become the core system of the Customs sector in implementing import and export goods clearance in Vietnam. Since being put into use, VNACCS has been operated stably with very high performance 99.9%.

VCIS standing for Vietnam Customs Intelligence Information System is an automation system of Customs intelligence for risk management and supervision of the operations of Vietnam Customs.

5.2 Development of VNACCS

According to the General Department of Customs of Vietnam, VNACCS/VCIS is deployed at the General Department of Customs and local Customs Office (applies nationwide). VNACCS is built on the principle of maximum applicable standards, with introduction of Japanese Customs' experiences to Vietnam. VCIS system built to serve the management of the Customs office (risk management activities) and the import and export of goods.

The process of VNACCS management, business software applications including:

- Software for electronic declarations (e-Declaration);
- Electronic manifest (e-Manifest);
- Electronic invoicing (e-Invoice);
- Electronic payment (e-Payment);
- Electronic Certification of origin (EC/O);

- Electronic Packing List (EP/L);
- Streamline (selectivity);
- Manage risk profiles / risk criteria;
- Export management companies;
- Customs clearance and release of goods, monitoring and control; checking system operation, training people to use the system, technical support and system maintenance.

5.3 Procedures by Using VNACCS

5.3.1 Import Procedures

An import declaration must be submitted in advance or within 30 days of arrival, and should be submitted to VNACCS/VCIS. Further supporting documents may also be required to be submitted through VNACCS/VCIS and usually include commercial invoice, inspection reports, value declarations and certificate of origin.

ECUS5VNACCS, a user-end software designed as standardized modern electronic Customs system, fully meets the requirements in Customs processes of the system VNACCS/VCIS funded by Japanese Customs, while remains the typical features of ECUS has been used by agencies.

The system includes a full range of modules:

- Automatic Customs clearance e-Declaration;
- Electronic Payment Transactions e-Payment;
- Invoice Transactions report e-Invoice;
- National Single Window Systems;
- Ship declaration System e-Manifest;
- Shipping declaration System OLA.

5.3.2 Export Procedures

ECUS5VNACCS system also allows businesses to create a new export declaration from the data on goods declared to the Customs by the following operations:

- Declare Invoice (IVA);
- Declare shipping (Manifest);
- Temporary declarations (IDA).
- Enter Goods on declarations;
- Declare the returns in advance;
- Register the official declaration to the Customs (IDC);
- Print declarations and other documents;
- Edit the registered declarations (IDD).

If goods are declared to the Customs by the operations above, one can use the system function with IDB code to get the information of declared goods into the new export declaration paper and receive feedback from the Customs to get flow report and clearance status.

5.4 National Trade Single Window (NTSW)

Vietnam introduced its implementation of the National Trade Single Window (NTSW) and presented the status of its connection with ASEAN Single Window. Internally, 11 of 16 Ministries have been connected through NTSW in 2017. Vietnam made a target to fully connect with all other Government agencies and ASEAN members. More importantly, Vietnam expects to establish a legal framework to enable the exchange of electronic documents among APEC Member Economies for the purpose of Customs clearance and release.

Major functions of Vietnam National Single Window (VNSW) can be generalized as follows:

- Customs declarants will make their Customs declaration and submit electronic documents in order to follow Customs and administrative procedures that regulatory agencies stipulate in relation to exports or imports through an integrated information system (hereinafter referred to as national single-window portal);
- Regulatory agencies will receive and handle information provided by Customs declarants; respond with the handling result to Customs declarants; exchange the declared information under administrative procedures and the result of such information with other regulatory agencies through the national single-window portal;

- Customs declarants will receive the handling results from regulatory agencies through the national single-window portal;
- Customs authorities will take a look at the handling result from regulatory agencies to make a final decision about export, import clearance, Customs transit, and respond with their handling result to Customs declarants through national single-window portal.

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Detailed information can be reached from the official website of Vietnam National Single Window (VNSW):
<https://vnsw.gov.vn>.

6. CUSTOMS BROKERAGE SERVICE

A Customs broker is the person who makes a Customs declaration under the authorization of another person who is entitled and obliged in performance of Customs procedures in respect of imported or exported goods.

Customs brokerage services are part of the logistics service supply chain, making an important contribution to the chain of cross-border transportation activities. The policy of developing Customs brokers is to create more favorable conditions for the logistics service to grow strongly when the Customs declaration service is professionalized, to shorten time of Customs clearance, and to reduce violations due to the lack of sufficient conditions to study Customs laws and policies on management of import and export goods, thereby reducing the costs related to import and export goods.

According to Article 20 of Customs Law, Customs brokers in Vietnam should fully meet the following conditions:

- To have the business registration certificate which specifies the business in export and import freight forwarding or Customs broker service;
- To have Customs broker staff;
- To have infrastructure of information technology to make online declaration and other conditions as provided by the government.

Article 20 of the Customs Law also stipulates “The Director General of the General Department of Customs shall decide on the recognition, suspension or termination of Customs brokerage activities; the grant of certificates of operation of Customs declaration and the grant and withdrawal of Customs broker identity codes” and “Customs brokers and their staffs shall exercise the rights and perform the obligations of the Customs declarant provided in Article 18 of this Law”.

7. CUSTOMS BOND

A Customs bond is an agreement that ensures any importer will pay all fees and taxes as well as operate according to law and regulations. Businesses will also implement requirements on special check-ups after Customs clearance.

A Customs bond system is also designed to streamline importers' process for bringing goods into the country. Anyone that is importing goods or transporting them locally is required by the Customs agency to purchase a bond from a surety company. If an importing company fails to pay fees or follow regulations, Customs can file a claim against the bond. The surety company would then pay to make restitution, but in the end the importing company is required to reimburse the surety company.

In Vietnam, Customs bond has not yet been utilized and a new Customs bond model for speeding up clearance of goods is required to deal with Vietnam's complicated administrative procedures and boost its competitiveness has been suggested and expected for years. In 2018, the Ministry of Finance collaborated with relevant ministries and agencies to review legal regulations to establish a Customs bond

system to facilitate Customs clearance in Vietnam in the period of 2018 and 2019. The pilot project on applying the bond system is expected to be implemented by 2020.

8. PROHIBITION AND RESTRICTION

8.1 Prohibitions

According to Decree No.187/2013/NĐ-CP and Circular No. 34/2013/TT-BCT of the Ministry of Industry and Trade, Vietnam currently prohibits the importation of some products, including weaponry, ammunition, explosive materials, military technical equipment, firecrackers, second-hand consumer goods, types of publications, and cultural products in the category prohibited from dissemination and circulation in Vietnam, right-hand-drive motor vehicles, materials and transport facilities, chemicals, plant protection agents prohibited from use in Vietnam, scrap and waste, refrigerating equipment using C.F.C., products, raw material containing asbestos of the group of amphibole, chemicals on list of prohibited chemicals.

8.1.1 Goods Prohibited to Export

- Arms, ammunition, explosive materials, military techniques equipment and effects;
- Antiquities;
- Drug of all kinds;
- Toxic chemicals;
- Wood logs, timber, preliminarily processed wood of all kinds, rattan materials;
- Wild animals and precious and rare animals and plants.

8.1.2 Goods Prohibited to Import

- Arms, ammunition, explosive materials, military techniques equipment and effects;
- Drug of all kinds;

- Toxic chemicals;
- Reactionary and depraved cultural products;
- Fireworks and children's toy that detrimentally influence personality education, social order and safety;
- Cigarettes (except personal quantitative luggage);
- Used consumer goods (including tailoring products, textile articles, automobile with fewer than 12 seats, two wheel and three - wheel vehicles with motor engine or without motor engine, electrical and electronic house hold appliances), except mobile property and personal quantitative luggage. Some goods that may cause environmental damages and other disadvantages (such as second hand spare parts, used tires, wastes, disposable materials etc.) are also classified as one that prohibited to import;
- Automobiles and other self-moving vehicles with reverse - steering wheel (including detached components and spare parts) except some special types of vehicles and self-moving transportation means subject to limited circulation.

8.2 Major Non-tariff Measures

8.2.1 Sanitary and Phytosanitary (SPS) Requirements

Vietnam SPS Office, under the Ministry of Agriculture and Rural Development was established under Decision 99/2005 / QD-TTg dated May 5, 2005 by the Prime Minister and acts as a focal point to fulfill the transparency obligations required by the Agreement on the Application of Sanitary and Phytosanitary Measures of WTO.

Vietnam SPS Office is the national focal point for the notification and inquiry on sanitary and phytosanitary measures.

Vietnam SPS Office has a network of technical supports from departments under the Ministry of Agriculture and Rural Development, Ministry of Health, Ministry of Science and Technology, Ministry of Industry and Trade.

Further and detailed SPS requirements can be reached from the official website of Vietnam SPS Office at: www.spsvietnam.gov.vn.

8.2.2 Technical Barriers to Trade (TBT) Requirements

Vietnam TBT Office under the General Department of Standards, Metrology and Quality, Ministry of Science and Technology, was established under the Decision No. 365/2003/QD-BKHCN dated March 25, 2003 of the Minister of Science and Technology and its tasks are clearly specified in Decision No. 114/2005/QD-TTg of 26 May 2005 On Establishing and Promulgating the Regulation on Organization and Operation of Vietnam's Network of Notification Authorities and Enquiry Points on Technical Barrier to Trade.

Vietnam TBT Office is the national focal point for the notification and inquiry on standards, technical regulations, conformity assessment procedures and other issues related to technical barriers in trade of Vietnam.

Vietnam TBT Office has a network of technical supports from departments under the Ministry of Industry and Trade, the Ministry of Transport, the Ministry of Agriculture and Rural Development, the Ministry of Labor, War Invalids and Social Affairs, the Ministry of Natural Resources and Environment, the Ministry of Information and Communications, the Ministry of Construction, the Ministry of Health and the Ministry of Culture, Sports and Tourism.

Further and detailed TBT requirements can be reached from the official website of Vietnam TBT Office at: www.tbt.gov.vn.

9. DUTIES AND TAXES

9.1 Major Duties and Taxes

Most goods imported into Vietnam are subject to Import Duty and other taxes. Duty rates vary, depending on the type of the product imported and consumer goods, especially luxury goods such as cars, alcohol, and cigarettes face higher import duties than raw materials, equipment, and machinery that are used for manufacturing. Export Duty is only charged on a few commodity items.

Major duties and taxes collected by Vietnam Customs include:

- Import Duty;
- Export Duty;
- Value-added Tax (VAT);
- Special Consumption Tax (SCT);
- Environmental Protection Tax (EPT).

Also Customs clearance fees are chargeable at import and export. The average cost is US\$1 per declaration form.

9.1.1 Import Duty

Import duties are to be paid before Customs clearance as goods won't be released otherwise. The rates applicable are dependent on the origin of the goods (certificate of origin will need to be presented) and there are three categories:

- Preferential rates – applicable if the country has a Most-favored Nation (MFN) status with Vietnam;
- Special preferential rates – applicable if there is a special preferential trade arrangement (e.g. ASEAN member states);
- Ordinary rates – for any other country.

Calculation formula for Import Duty is:

$$\text{Import Duty} = [\text{Total value of imported products} + \text{SCT (if any)} + \text{EPT (if any)}] \times \text{Import Duty rate.}$$

The rates applicable can be identified on the tariff database on the website of Vietnam Customs, and import duties must be paid before receipt of goods.

9.1.2 Export Duty

Export duties are charged only on a few items, basically natural resources such as sand, chalk, marble, granite, ore, crude oil, forest products, and scrap metal. Rates range from 0% to 40%. The duty base for computation of export duties is the FOB/Delivered at Frontier price, i.e. the selling price at the port

of departure as stated in the contract, excluding freight and insurance costs. Export duties must be paid within 30 days of registration of Customs declarations.

Calculation formula for Export Duty is:

$$\text{Export Duty} = \text{Total value of exported products} \times \text{Export Duty rate.}$$

9.1.3 Value-added Tax

In addition to Import Duty, goods brought to Vietnam are also subject to Value-added Tax (VAT). VAT rates are either 0%, or 5% or 10%, with 10% being the most common rate. Certain products, e.g. goods that are necessary but cannot be produced in Vietnam can even enjoy VAT exemption.

The calculation formula of VAT is:

$$\text{VAT} = (\text{Total value of the imported products} + \text{Import Duty}) \times \text{VAT rate}$$

9.1.4 Special Consumption Tax (SCT)

Other than Value-added Tax, Vietnam also levies a Special Consumption Tax (SCT) which is applicable to goods and services classified as luxury. Special Consumption Tax, or also known as the “Luxury Tax” applies to certain imported goods, e.g. alcoholic beverages, tobacco products, and petroleum products. Special Consumption Tax rates range from 10% to 75%. Goods and services subject to the Special Consumption Tax are also subject to the VAT. Special Consumption Tax on imports is calculated on the basis of price of taxable import plus import duties plus VAT.

The calculation formula of SCT is:

$$\text{SCT} = \text{Value of Special Consumption Goods} \times \text{SCT rate.}$$

Below are the Special Consumption Tax rates in Vietnam:

Table 1 SCT Rates in Vietnam

Product	Rate
Cigar/cigarette	70%
Spirit/wine With ABV $\geq 20^\circ$	55%

Product	Rate
Spirit/wine With ABV < 20°	30%
Beer	55%
Petrol	7 to 10%
Playing cards	40%
Golf	20%
Lottery	15%
Votive paper	70%

9.1.5 Environmental Protection Tax (EPT)

Environment Protection Tax (EPT) is applicable to the production and importation of certain goods deemed detrimental to the environment, the most significant of which are petroleum and coal. According to the Law No. 57/2010/QH12, goods such as plastic bags, gasoline, coal, etc. are subject to the Environmental Protection Tax. EPT rates are calculated based on specific basis.

The calculation formula of EPT is:

$$EPT = \text{Quantity of taxable goods} \times \text{EPT rate}$$

Specified rates for EPT are listed in the following Table.

Table 2 Specified rates for EPT.

No	Goods	Calculation Unit	Tax Rate
I	Gasoline, oil, grease		
1	Gasoline, except ethanol	Liter	1.000-4.000
2	Aircraft fuel	Liter	1.000-3.000
3	Diesel oil;	Liter	500-2.000
4	Petroleum	Liter	300-2.000

No	Goods	Calculation Unit	Tax Rate
5	Fuel oil	Liter	300-2.000
6	Lubricants	Liter	300-2.000
7	Grease	kg	300-2.000
II	Coal		
1	Lignite	Ton	10.000-30.000
2	Anthracite Coal (anthracite)	Ton	20.000-30.000
3	Fat coal	Ton	10.000-30.000
4	Other coal	Ton	10.000-30.000
III	Hydrogen-chlorofluorocarbon liquid (HCFC).	Ton	1.000-5.000
IV	Taxable-plastic bag	Ton	30.000-50.000
V	Herbicide which is restricted from use	Ton	500-2.000
VI	Pesticide which is restricted from use	Ton	1.000-3.000
VII	Forest product preservative which is restricted from use	kg	1.000-3.000
VIII	Warehouse disinfectant which is restricted from use	kg	1.000-3.000

9.1.6 Preferential Duty Rates

Import duty rates are classified into 3 categories: ordinary rates, preferential rates and special preferential rates.

Preferential rates are applicable to imported goods from countries that have Most Favored Nation (MFN, also known as Normal Trade Relations) status with Vietnam. The MFN rates are in accordance with Vietnam's WTO commitments and are applicable to goods imported from other member countries of the WTO.

Special preferential rates are applicable to imported goods from countries that have a special preferential trade agreement with Vietnam. Currently effective free trade agreements (FTA) to which Vietnam is a party include FTAs between ASEAN member states, between ASEAN members and Japan, ASEAN and China, ASEAN and India, ASEAN and Korea, ASEAN and Australia - New Zealand, Vietnam and Japan, Vietnam and Chile, Vietnam and Korea, Vietnam and Eurasian Economic Union (Vietnam and the Customs Union of Russia, Belarus, Kazakhstan).

Vietnam has also concluded two important agreements, the European Union FTA (EFTA) and Trans-Pacific Partnership (TPP – although its future is uncertain given the US withdrawal). In addition, Vietnam is negotiating other agreements including the Regional Comprehensive Economic Partnership (RCEP), and FTAs between ASEAN and Hong Kong, and with Israel.

To be eligible for preferential rates or special preferential rates, the imported goods must be accompanied by an appropriate Certificate of Origin. When goods are sourced from non-preferential treatment/non-favored countries, the ordinary rate (being the MFN rate with a 50% surcharge) is imposed.

9.1.7 Calculation Method for Import Duty and Export Duty

According to practical quantity of each article on the Customs declaration, their dutiable values, and duty rates, the amount of Import Duty, Export Duty payable shall be calculated as follows:

$$\text{Import Duty, Export Duty payable} = \frac{\text{Quantity of each article written on the Customs declaration}}{\times \text{Dutiable value of a unit of goods}} \times \text{Duty rate on each article}$$

Import Duty on crude oil or natural gases shall be calculated in accordance with instructions of the Ministry of Finance on taxes incurred by entities engaged in petroleum exploration and extraction as prescribed by the Law on Petroleum;

If the practical quantity of exported or imported goods is different from the commercial invoice because of their nature and such difference is conformable with the delivery terms and payment terms of the sale contract, the export duty, import duty payable shall be calculated according to the practical payment for the goods and tax rate on each article.

9.2 Duty Exemption

Exports or imports in the following cases may be considered for export duty or import duty exemption in Vietnam:

9.2.1 Import Duty Exemption

Import Duty can be exempted in Vietnam when:

- Imports being special-use goods directly used for security and defense which are on specific lists approved by line ministries and registered with the Ministry of Finance right from the beginning of the year (the deadline for annual registration of import plans by line ministries is March 31);
- Imports being special-use goods directly used for scientific research which are on a specific list approved by the line ministry;
- Imports being special-use goods directly used for education and training which are on a specific list approved by the line-managing ministry;
- Goods valued at up to VND 30 million which are given as gifts or donated by overseas organizations and individuals to Vietnamese organizations;
- Goods given as gifts or donated by overseas organizations and individuals to Vietnamese individuals, which are valued at up to VND 1 million or at more than VND 1 million but their total payable tax amount is less than VND 50,000;
- Goods permitted to be imported into Vietnam by overseas organizations and individuals as prizes for sport, cultural or artistic competitions, and valued at up to VND 2 million each (for individuals) or VND 30 million (for organizations);
- Sample goods sent by overseas organizations and individuals to Vietnamese organizations and individuals valued at up to VND 30 million for organizations or VND 1 million, for individuals.

9.2.2 Export Duty Exemption

Export Duty can be exempted in Vietnam when:

- Goods of domestic organizations and individuals allowed for export as gifts or donations for overseas organizations and individuals;

- Goods allowed for export of overseas organizations and individuals which are given as gifts or donations by domestic organizations and individuals during the former's working periods, tourist stays or visits to their relatives in Vietnam;
- Goods of domestic organizations and individuals allowed for export to participate in trade fairs or exhibitions or for advertisement, then to be used as gifts or donations for overseas organizations and individuals;
- Organizations and individuals sent by the State to work or study overseas or Vietnamese tourists on foreign tours may enjoy, apart from personal luggage quotas applicable to persons on exit, export duty -exempt quotas for goods they carry along for use as gifts or donations for foreign organizations and individuals;
- Sample goods sent by domestic organizations and individuals to overseas organizations and individuals.
- Goods being gifts, donations or sample goods valued at up to VND 30 million, for organizations considered for export duty exemption;
- Goods being gifts, donations or sample goods valued at up to VND 1 million, for individuals, or valued at more than VND 1 million with their total payable tax amount of less than VND 50,000 are exempt from export duty (exempt from procedures for export duty exemption consideration).

9.3 Duty Refund

Duty refund shall be considered in Vietnam in the following cases:

- An entity imports materials/supplies for manufacturing of goods for export or hires domestic contract manufacturers in manufacturing goods to be exported and receive products for export;
- An entity imports materials/supplies to manufacture goods for sale in Vietnam, but then uses them to manufacture goods to be exported;
- An entity actively imports materials/supplies to perform a processing contract for manufacturing goods to be exported;
- An entity imports materials/supplies to manufacture certain products, then sell such products (whether finished products or unfinished products) to another entity for further processing;
- The products made of imported materials/supplies are parts, components of exported knock-down kits;

- In case an entity imports materials/supplies to manufacture products that are sold to a foreign trader who requires that goods be delivered to another entity in Vietnam, the import tax on materials/supplies used for manufacturing of goods for export shall be refunded.

10. HS CLASSIFICATION

10.1 Tariff

In accordance with the Law on Customs, a notification was issued to regulate the classification of imported goods in Vietnam. The classification, or legal description, is based upon the goods classification under an international tariff nomenclature, the Harmonized Commodity Description and Coding System (2017), or “HS”, an international agreement administered by WCO version is at 6 digit level, the ASEAN AHTN 2017 version is at 8 digits level while VIETNAM’s 2017 national version at 10 digits level.

The 2017 Vietnam Customs Tariff is organized in 21 Sections, which are divide into 98 chapters of as usual but bearing 10 tariff rate bands which is reduced from previous 15 tariff rate bands as follows.

Table 3 Classification of HS Code in VIETNAM

HS Group 1 (Chapter 1-49)		HS Group 2 (Chapter 50-83)		HS Group 3 (Chapter 84-98)	
1	Live animal	1	Textile	1	Heavy machines
2	Foodstuff	2	Footwear, headwear	2	Electrical goods
3	Chemical	3	Ceramic products	3	Medical appliance
4	Medicines	4	Glassware	4	Vehicles
5	Plastic	5	Hardware (Base metal & articles)	5	Furniture

HS Group 1 (Chapter 1-49)		HS Group 2 (Chapter 50-83)		HS Group 3 (Chapter 84-98)	
6	Paper			6	Special Classification Provisions
7	Rubber				

10.2 General Rules for the Interpretation of the HS

One commodity item must have a single code according to Vietnam's List of Exports and Imports. The classification of exports and imports must comply with:

- Harmonized Commodity Description and Coding Nomenclature of the World Customs Organization (HS Nomenclature) comprises headings (with a four-digit code), subheadings (with a six-digit code) and legal notes of Sections, Chapters and subheadings which are systematically corresponding to names, description and codes of goods;
- ASEAN Harmonized Tariff Nomenclature (AHTN) is a commodity nomenclature adopted by ASEAN countries based on the HS of the World Customs Organization.

If it is impossible to identify a single code according to Vietnam's List of Exports and Imports, the following documents shall be used:

- Explanatory notes of the HS Nomenclature;
- Compendium of classification opinions of WCO;
- Supplementary explanatory notes of the AHTN;
- Database on Vietnam's List of Exports and Imports.

11. CUSTOMS VALUATION

Vietnam Customs has implemented the WTO Agreement on Customs Valuation in 2016. The WTO Agreement requires the use of the “price paid or payable” (contract price) as the primary valuation methodology. Vietnam’s current and main valuation approach is to use 6 methods: the CIF invoice price of the goods, sales contracts, insurance information, internet prices, similar prices and other recorded prices. On April 18, 2019, Vietnam Customs held the first meeting on the revised contents of the draft Circular amending and supplementing Circular 39/2015/TT-BTC on Customs value of imported and exported goods.

Customs valuation should be made at the same time the Customs declaration for imported goods is registered with the Customs agencies. The Customs valuation shall be computed in Vietnamese Dong. The exchange rate for determining the Customs value of imported goods is an average exchange rate of the inter-banks foreign currency market announced by the State Bank of Vietnam.

The primary basis for Customs value under the regulations is “transaction value”, which is defined as the price actually paid or payable for the goods when sold to export to Vietnam adjusted compulsorily including (or excluding) certain payments specified in the regulations in (or from) such price.

The following methods of determining the Customs value will be alternately applied where the Customs value cannot be determined on the basis of the transaction value of imported goods:

- Transaction value method with identical goods: Comparison with the price of identical goods imported into Vietnam within 60 days before or after the date of delivery.
- Transaction value method with similar goods: Comparison with the price of similar goods imported into Vietnam within 60 days before or after the date of delivery.
- Deductive value method: Calculation of the price of imported goods based on the resale price of similar products after the deduction of reasonable expenses.
- Computed value method: Calculation of the price of imported goods based on material costs, production expenses and profits.
- Fall-back method: Combined or modified version of the above methods.

12. RULES OF ORIGIN

Rules of Origin are the criteria needed to determine the national source of a product. Their importance is derived from the fact that duties and restrictions in several cases depend upon the source of imports.

In Vietnam, Rules of Origin are stipulated in Decree No. 19/2006/NĐ-CP providing detailed guidelines on the Law on Commerce on Origin of goods, Circular No. 07/2006/TT-BTM guiding the procedures for issuance and management of the Certificate of Origin and some other sub-law documents.

12.1 Origin of Goods

According to Decree No. 19-2006-ND-CP, Origin of Goods means the country or territory where goods were entirely manufactured, or in the case of goods for which a number of countries or territories participated in the manufacturing process where the final, fundamental processing stage was implemented.

12.2 Rules of Origin

In Vietnam, rules of origin are categorized into preferential rules of origin and non-preferential rules of origin.

12.2.1 Preferential Rules of Origin

Preferential rules of origin means rules of origin applicable to goods the subject of an agreement granting them preferential tariff or non-tariff treatment, mainly including preferential rules of origin pursuant to international treaties and preferential rules of origin pursuant to a regime on common tariff preferences and other unilateral preferences.

- Preferential rules of origin pursuant to international treaties: A determination of the origin of import or export goods for the purposes of entitlement to the regime granting them preferential tariff or non-tariff treatment shall be made in accordance with international treaties of which Vietnam is a member and related legal instruments providing regulations for detailed implementation of such treaties.
- Preferential rules of origin pursuant to a regime on common tariff preferences and other unilateral

preferences: A determination of the origin of export goods for the purposes of entitlement to a regime granting them common tariff preferences and other unilateral preferences shall be made in accordance with the rules of origin of the importing country which grants such preferences.

12.2.2 Non-preferential Rules of Origin

Non-preferential rules of origin means rules of origin applicable to goods outside those stipulated in clause 2 of this article and to which non-preferential commercial measures apply regarding most favored nation treatment; or to which anti-dumping, anti-subsidy or self-protective measures apply; or to which restrictions on quantity or volume apply; or to which tariff quotas apply; and means rules of origin used for Government procurement and trade statistics.

For non-preferential rules of origin, goods shall be deemed to have a country of origin when they belong to one of the following categories:

- Having a single country of origin;
- Having multiple countries of origin.

A. Single Country of Origin

According to Article 7 of Decree No. 19-2006-ND-CP, goods having a single country of origin as stipulated in article 6.1 of this Decree shall be recognized as originating from one country or territory when they fall into one of the following categories:

- Plants and products of plants harvested in that country or territory.
- Living Animals which were born and raised in such country or territory.
- Products from the living animals stipulated in clause 2 of this article.
- Products obtained by shooting, laying snares, catching, cultivating, gathering or hunting in such country or territory.
- Minerals and other natural objects which are generated, which are not listed in clauses 1 to 4 inclusive of this article, and which are extracted or taken from the land, water, ocean floor or sea of such country or territory.
- Products taken from water, ocean floor or sea outside the territorial waters of a country or territory

when such country or territory has the right pursuant to international law to exploit such water, ocean floor or sea.

- Products caught and other aquaculture products taken on the high seas by a vessel which is registered with such country and which is permitted to fly the national flag of such country.
- Products which are immediately processed or made on board vessels from the products stipulated in clause 7 of this article when such vessels are registered with such country or territory and when such vessels are permitted to fly the national flag of such country or territory.
- Objects which are in such country or territory but which are not able to perform their initial function, are unable to be repaired or restored, and are only able to be discarded or used as raw materials or recycled.
- Goods made or produced from the items stipulated in clauses 1 to 9 inclusive of this article in such country or territory.

B. Multiple Countries of Origin

According to Article 8 of Decree No. 19-2006-ND-CP, goods having a multiple country of origin as stipulated in article 6.2 of this Decree shall be recognized as originating from multiple countries or territories when they fall into one of the following categories:

- Goods having multiple countries of origin as stipulated in article 6.2 of this Decree shall be recognized as having one country or territory of origin namely the country or territory which carried out the final, fundamental processing stage which fundamentally changed such goods.
- The "change of goods' code number" criterion shall be the main criterion to determine whether there has been a fundamental change of goods as stipulated in clause 1 of this article.
- The "ad valorem" criterion and the "goods manufacturing or processing operation" criterion shall be taken as additional criteria or replacement criteria when verifying a fundamental change of goods.
- The Ministry of Trade shall promulgate a list of goods using the ad valorem criterion and a list of goods using the goods manufacturing or processing operation criterion as stipulated in clause 2 of this article.

C. Simple Manufacturing or Processing Operations

According to Article 9 of Decree No. 19-2006-ND-CP, the following manufacturing and processing

operations, when they are carried out individually or in combination with each other, shall be deemed to be simple and shall not be taken into consideration when making a determination of country of origin of goods:

- Work of preserving goods during the process of transportation and storage (ventilating, unwinding, drying, refrigerating, pickling in salt, steaming in sulphur or other additives, extracting damaged parts and other similar work).
- Work such as dusting, screening, selecting, classifying (including grading into sets), wiping, painting and separating each item.
- Changing packaging and wrapping, and dismantling or assembling a consignment; bottling, wrapping, placing in cans or tins and other simple work of packing or wrapping.
- Affixing onto products or wrapping products with trademarks, labels or other similar distinguishing signs.
- Simple blending of a product, including blending different components of the product if one or more of such components making up the overall structure of the product do not satisfy the stipulated conditions to be deemed as originating from the country where such work was carried out.
- Simple work of assembling sections of a product in order to create the one final product.
- A combination of two or more of the work stages listed in clauses 1 to 6 inclusive of this article.
- Slaughtering animals.

D. Determination of Country of Origin of Packaging, Peripheral Parts, Accessories, Tools, and Goods not yet Assembled or Dismantled

Article 10 of Decree No. 19-2006-ND-CP stipulates the determination of country of origin of packaging, peripheral parts, accessories, tools, and goods not yet assembled or dismantled as follows:

- Materials used to wrap and pack and the wrapping and packaging raw materials of goods shall be deemed to have the same country of origin as the goods contained in such wrapping and packaging where such materials are commonly used at the retail stage.
- Documents introducing goods and instructions on use; peripheral parts, accessories and tools which accompany goods in appropriate quantities shall also be deemed to have the same country of origin as such goods.

- With respect to goods which have not yet been assembled or which are in a state of being dismantled and which are imported via a number of journeys due to transportation or manufacturing conditions which do not allow them to be imported in the one journey, the country of origin of the goods on each journey shall be deemed to be the same country of origin if the importer so requests.

12.3 Certificate of Origin (C/O)

According to Decree No. 19-2006-ND-CP, Certificate of Origin (C/O) of goods means the written document specifying the origin of goods issued by an organization belonging to the country or territory which exported such goods and issued on the basis of regulations and requirements relating to origin of goods.

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

- 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.
- 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.
- 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.
- 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.
- 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.

13. CUSTOMS PRIOR DETERMINATION

According to Circular No. 128/2013/TT-BTC of Ministry of Finance of Vietnam, Customs' prior determination on tariff classification, origin of import, export goods and Customs valuation in Vietnam are as follows:

13.1 Prior Determination on HS Codes

Prior determination on HS codes of exported goods and imported goods shall be carried out before the Customs procedure is initiated at the request of the applicants.

13.1.1 Application Materials for Prior Determination on HS Codes

Application materials for prior determination on HS code include:

- Written request for prior determination of HS codes (the form No. 01/XDTMS/2013): 1 original copy;
- Contract with the foreign party to sell the goods being applied for prior determination of HS codes: 1 photocopy;
- Technical document describing in details the composition, properties, structure, features, and operation of the goods: 1 original copy;
- Catalogue or image of the goods: 1 photocopy;
- Goods samples if requested by the Customs authority;
- Manifest of documents in the application for prior determination of HS codes: 1 original copy.

13.1.2 Procedure for Prior Determination on HS codes

The applicant for prior determination of HS codes shall:

- Complete the form of application for prior determination on HS codes (the form No. 01/XDTMS/2013);
- Submit the sufficient application for prior determination on HS codes specified in Clause 2 of this Article to the Customs Department of the province or city where Customs procedures are follow at

least 90 days before the date of export or import;

- Provide information and documents to clarify the application for prior determination of HS codes to the Customs Department of the province (hereinafter referred to as Customs Department) or the General Department of Customs at their request;
- Notice the Customs Department within 10 days if any change in the goods is made, specifying the reasons and date of such change;
- Request the General Department of Customs to grant an extension of the notification of result of prior determination of HS codes when it expires, provided the information, documents, goods samples and laws related to prior determination of HS codes are not changed.

13.2 Prior Determination on Valuation

The method for determining the dutiable prices, additions, deductions of exported goods and imported goods shall be determined in advance in Vietnam if the applicant that requests the prior determination on valuation has not exported or imported the exact same goods.

The applicant for prior determination on valuation shall:

- Fill the application form for prior determination on valuation (the form No. 04/XDTTG/2013);
- Submit the sufficient application for prior determination of value to the Customs Department where they intend to follow the Customs procedures at least 90 days before the export or import; the documents are follows:
 - 1 original copy of the written request for prior determination on value (the form No. 04XDTMS/2013);
 - 1 photocopy of the sale contract that is directly executed by the applicant;
 - 1 photocopy of every technical documents, image or catalogue;
 - 1 photocopy of every document appropriate for the application for prior determination of value: 1 photocopy, such as:

For imported goods:

- Documents proving that special relationships do not affect the value;

- Documents related to the amounts paid by the buyers that are not included in purchase prices on the invoice;
- Documents related to the additions;
- Documents related to the deductions;
- Other documents related to the goods applied for prior determination of value (if any).

For exported goods:

- Relevant documents when the actual sale prices that are not FOB or DAF prices at the checkpoint of export;
- Other documents related to the goods applied for prior determination of value (if any).

13.3 Prior Determination on Origins

The prior determination on origins is applicable to imported goods and an application for prior certification of origins consists of:

- 1 original copy of the written request for prior certification on origins (the form No. 07/XDXX/2013);
- 1 original copy of manifest of raw materials used for the manufacture of goods including the information such as names, codes of goods, origins of raw materials, composition of the products, CIF prices or equivalent prices of raw materials based on the information provided by the manufacturer or exporter;
- 1 photocopy of the description of the production process or the certificate of composition analysis issued by the manufacturer;
- 1 copy of the catalogue or image of the goods;
- Goods samples if requested by the General Department of Customs.

14. FREE TRADE AGREEMENTS

Vietnam is a member of ASEAN and subsequently, a member of ASEAN Free Trade Area (AFTA). As part of AFTA, ASEAN members are committed to making this region a competitive trading area.

Together with the ASEAN countries, Vietnam has also signed trade agreements with China - ASEAN-China Free Trade Agreement (ACFTA), the Republic of Korea - ASEAN-Korea Free Trade Agreement (AKETA), Australia and New Zealand - ASEAN-Australia and New Zealand Free Trade Agreement (AANZFTA), India - ASEAN-India Free Trade Area (AIFTA) and Japan - The ASEAN-Japan Comprehensive Economic Partnership (AJCEP).

Vietnam has signed a bilateral trade agreement with Korea, Chile and Japan, as well as a trade agreement with the Russian-led Customs Union block. Vietnam has also signed the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) on March 8, 2018 and the European Union-Vietnam Free Trade Agreement (EVFTA) was signed on June 30, 2019.

Vietnam is currently negotiating a Free Trade Agreement with the EFTA countries including Norway, Iceland, Liechtenstein, and Switzerland.

14.1 AFTA

Vietnam is a member of the ASEAN Free Trade Area (AFTA) which aims to support local production within ASEAN member states, which means that import duties for certain products imported from other ASEAN countries vary between 0%-5%. However, most of these goods are free from import duty.

14.2 AANZFTA

ASEAN, Australia and New Zealand signed the ASEAN-Australia and New Zealand Free Trade Agreement (AANZFTA) on February 2, 2009, and it was enforced on January 1, 2010.

AANZFTA aims to facilitate economic and trade activities between Australian and New Zealand investors and Vietnam. The current tariff schedule, detailed in Decree 158/2017/ND-CP, is effective from 2018-2022.

By 2018, 86% of the tariff lines were exempt from tax, including confectionery, garment and garment accessories, computers, electronic products and accessories, corn, machines and equipment. Moreover, the goal is to abolish import tax on 92% of the products imported to Vietnam under AANZFTA by 2022.

14.3 AIFTA

AIFTA stands for ASEAN-India Free Trade Area. In 2003, ASEAN and the Republic of India signed the Framework of Comprehensive Economic Cooperation Agreement (CECA) and the final agreement in 2009. The AIFTA took effect on January 1, 2010.

Consequently, Vietnam has set specific import duty schedule for India for the period of 2018-2022, as stated in Decree 159/2017/ND-CP. In 2018, 59% of the tariffs were eliminated and by 2024, Vietnam aims to cut import taxes on 80% of the products imported from India.

14.4 AJCEP

The ASEAN-Japan Comprehensive Economic Partnership (AJCEP) was signed and enforced in 2008. This Partnership covers trade in goods and services, investment, and economic cooperation.

Vietnam announced the special preferential import tariff schedule 2018-2023 for Japanese exporters in Decree 160/2017/ND-CP. By 2018, Vietnam abolished taxes on 62.2% of the total product lines, including plastic materials and chemicals, machinery and equipment, tools and spare parts, computers and electronic products, various textile materials, medicine. Furthermore, the percentage will rise to 88.6% of the whole tariff list by 2025.

14.5 ACFTA

ACFTA stands for ASEAN-China Free Trade Area. The initial framework was signed in 2002 and the Comprehensive Economic Cooperation Agreement (CECA) of ASEAN and China came into effect on January 1, 2006.

ACFTA allows investors from China to engage in trade with Vietnamese partners and benefit from favorable import tariffs stated in the import tariff schedule. As per Decree 153/2017/ND-CP, the current special preferential tax schedule applies for the period of 2018-2022. In addition to duty eliminations,

Vietnam will also reduce import duty on sensitive products imported from China such as electric appliances and processed agricultural products to 5% by 2020.

14.6 AKFTA

AKFTA stand for ASEAN-Korea Free Trade Area. Vietnam, as a member of ASEAN, also entered Free Trade Agreement with Korea in 2005. Vietnam released the import tariff schedule for AKFTA in Decree 157/2017/ND-CP, effective from January 1, 2018. The current tariff table applies for the period of 2018-2022. By 2018, Vietnam eliminated import taxes on 86% of all the products in the list and the new tariff schedule lifted import taxes on over 700 additional products.

14.7 VCFTA

Vietnam and Chile have signed a Free Trade Agreement (VCFTA), which took effect in January 2014. Unlike other Vietnam trade agreements that also target other economic activities, VCFTA only includes the trade of goods. In accordance with the VCFTA, Vietnam will eliminate around 88% of tariff rates for 15 years starting from 2016, creating excellent opportunities for Chilean investors to explore and conduct business in the Vietnamese market.

14.8 VJEPA

Vietnam and Japan signed the Vietnam-Japan Economic Partnership Agreement (VJEPA) in 2008, and it took effect in 2009. Currently, the special preferential import tariff schedule for 2015-2019 is in force. It was announced in Circular No.25/2015/TT-BCT on February 14, 2015, and states tariff rates for each year separately, ultimately aiming to cut taxes on 90% of the products.

14.9 VKFTA

In addition to AKFTA, Vietnam and the Republic of Korea have also signed a Vietnam-Korea Free Trade Agreement (VKFTA). The latter one provides more preferences on goods, services, and investments than AKFTA, including duty eliminations on products such as electronic components and automotive parts, textile and garment and electrical appliances.

The VKFTA does not replace the AKFTA and these two agreements are in effect simultaneously.

Therefore, Korean investors have the advantage of choosing the preferable agreement to take the maximum benefit from duty reductions.

14.10 VEEUFTA

In May 2015, Vietnam and the Eurasian Economic Union (EAEU) including Armenia, Belarus, Kazakhstan, Kyrgyzstan, and Russia signed the Vietnam-Eurasian Economic Union Free Trade Agreement. The agreement took effect in 2016, and Vietnam aims to reduce import tariffs on 90% of products. This agreement eliminates tax on products such as agricultural commodities (immediately), electrical and agricultural machinery (after 3-5 years from the enforcement of the agreement), pork and chicken (after five years), alcoholic beverages and cars (after ten years from the enforcement of the agreement).

14.11 CPTPP

The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) was signed on March 8, 2018, and it took effect on January 14, 2019. The agreement includes 11 members: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

Participating countries agreed to remove almost all import duties according to schedule, creating more opportunities for small start-up businesses and more benefits for consumers and customers.

The CPTPP also concerns tariff reductions for goods, service market opening, intellectual property, trade-related technical barriers, labor, environment, government procurement, state enterprises, telecommunication and finance services.

14.12 EVFTA

The European Union Vietnam Free Trade Agreement (EVFTA) was signed on June 30, 2019 to increased trade with the EU and Vietnam.

The EVFTA is an ambitious pact providing almost 99 percent of elimination of Customs duties between the EU and Vietnam. 65 percent of duties on EU exports to Vietnam will be eliminated while the remaining will be gradually phased out over a period of 10 years. 71 percent of duties will be eliminated on Vietnam exports to the EU, with the remaining being eliminated over a period of seven years.

15. BONDED WAREHOUSES AND DEVELOPMENT ZONES

15.1 Bonded Warehouses

Vietnam Customs has been making continuous efforts to introduce Bonded System to encourage export trade and processing industry for years.

In Vietnam, Customs bonded warehouses are facilities where imported merchandise can be stored for up to two years duty-free. The proprietor is liable for the bonded cargo until it is exported, destroyed under Vietnam Customs supervision, withdrawn for use on an international aircraft or vessel, or withdrawn for commercial use in Vietnam territory after the duty is paid.

15.1.1 Services Available in Bonded Warehouses

When the owner of the goods conducts the shipment to the bonded warehouse, he/she will directly perform or authorize the bonded warehouse owner, or agents to carry out Customs procedures to perform the following services for goods stored in bonded warehouses:

- Reinforcement, package division, packaging; grafting goods;
- Classification of products for goods and goods maintenance;
- Taking samples of goods to serve management or Customs procedures;
- Transfer of ownership of goods.

15.1.2 Customs Procedure for Goods in Bonded Warehouse

A. Order of Implementation

- Declare the imported goods to Custom;
- Submit and produce the dossier the Customs managing the bonded warehouse;
- Update the information about bonded goods into the bonded warehouse management software of the bonded warehouse owner and send it to the Customs Branch managing the bonded warehouse.

The declarant can implement on the electronic clearance system or at the offices of the administrative agencies.

B. Composition, Number of Goods Records

- Import goods declaration;
- Transport documents with equivalent value as prescribed by law;
- Certificate of code number of temporary import for re-export by the Ministry of Industry and Trade for goods trading in temporary import for re-export with conditions as prescribed by the Ministry of Industry and Trade when bringing from abroad into bonded warehouses for export;
- The notice of inspection exemption or the notice of inspection result issued by a specialized inspection agency in accordance with law.

C. Charges and Fees

Customs clearance fees will be collected on goods deposited in bonded warehouses one time when carrying out warehousing procedures instead of at delivery. The collection standard is VND 20,000 per declaration.

15.2 Development Zones

Development zones started in Vietnam about 20 years ago when the United States lifted its trade embargo on the country. Manufacturing zones include industrial zones (IZs), economic zones (EZs), export processing zones (EPZs) and high-tech zones (HTZs). Firms investing in these zones enjoy preferential governmental policies and advantages like modern infrastructure and greater access to utility services.

15.2.1 Industrial Zones (IZs)

IZs specialize in manufacturing industrial products and providing services for them. They are established within defined geographical boundaries in accordance with government regulations and provide investment incentives such as land rental exemptions or reductions.

If an IZ is located in an area with “difficult socio-economic conditions”, newly established investment

projects in the zone are entitled to a 20 percent corporate income tax (CIT) rate for 10 years, tax exemptions for up to two years and a 50 percent reduction in taxes for up to four subsequent years. In an IZ located in an area with “especially difficult socio-economic conditions”, newly-established investment projects within the zone enjoy a 10 percent CIT rate for 15 years following their operation date, CIT exemption for the first four years after they generate taxable income and a 50 percent reduction in taxes for the next nine years.

15.2.2 Economic Zones (EZs)

Investors in EZs enjoy the same preferential CIT incentives that exist within IZs that are located in areas with “especially difficult socio-economic conditions”. EZs offer a highly favorable environment for foreign businesses and individuals – in particular, a 50 percent reduction in personal income tax (PIT) is applicable to both foreign and local individuals that earn a taxable income within the zone. Furthermore, foreigners who work, invest and do business in EZs are granted visas in accordance with their working time within the EZ. Other investment incentives are available, but these differ from zone to zone.

15.2.3 Export Processing Zones (EPZs)

EPZs are IZs which focus on manufacturing goods for export and providing services for the former. EPZs provide tax incentives, lower land rentals and reduced regulatory oversight in administration and Customs procedures.

EPZs are also non-tariff areas, so enterprises are exempt from export duties when exporting their products and materials, and do not pay import duties or value-added taxes. As a result, EPZ enterprises face fewer hurdles and are more investor-friendly. They are also conveniently connected to seaports and airports, making export more efficient.

There are four EPZs in Vietnam, three of which (Tan Thuan and Linh Trung I, II) are in Ho Chi Minh City; the newest EPZ, Linh Trung III, is in Tay Ninh Province.

15.2.4 High-tech Zones (HTZs)

HTZs specialize in high-tech manufacturing such as bio-technology, IT and green technology. They also specialize in research and development, personnel training and high-tech trade. Enterprises in HTZs enjoy the same CIT incentives as within IZs and EZs located in areas with “especially difficult socio-

economic conditions".

Import duties are also exempted for machinery, equipment, components and raw materials imported in order to create fixed assets. Export duties may also be exempted, but this varies zone by zone.

There are currently three HTZs in Vietnam: Hoa Lac HTZ in Hanoi, Da Nang HTZ in Danang and Saigon HTZ in Ho Chi Minh City.

16. POST-CLEARANCE AUDIT (PCA)

It is one of the guiding contents of the General Department of Vietnam Customs to strengthen the post-clearance audit in 2019.

Accordingly, the work of post-clearance audit should be based on resources, on the basis of collecting and analyzing risk information from high to low toward checking and evaluating the compliance of not more than 5% of the total number of post clearance audit cases. The works involves making detailed inspection plans, specific for each inspection, specifying the enterprise name, tax code, import and export turnover for at least 2 years, type of enterprise, tax, suspicious signs, reason for selection, expected amount of tax arrears (if any).

In the case of the post-clearance audits following signs of violation and conducting post clearance audit on the basis of the principles of applying risk management, the units propose plans on the number of enterprises needing to be inspected or a list of enterprises that need to be examined (if necessary). Signs of violation include illegal or invalid Customs declarations, unreasonable tariff duties, commercial and tax fraud and invalid import and export permits for those goods that fall into the sector management.

In particular, selecting special cases to conduct post-clearance audit once a year; cases of high-risk need to be conducted every 2 years and cases of average risk need to be conducted every 3 years; Low risk cases need to be conducted every 3-5 years.

Where merchandise has been released to the importer and Customs comes to believe that the merchandise has been entered in violation of the laws, they may decide to carry out post-clearance audit. Customs has the right to do so within five years after the date of registration of the Customs declaration.

Post-clearance audit may be conducted:

- At the Customs office to compare declarations with information, analysis and related Customs law or;
- At the enterprises to compare Customs declarations with accounting records of the importer;
- Actual examination of the cleared goods will be conducted if necessary.

The General Department of Customs has also directed Provincial Customs Departments to conduct post-clearance audit in Customs valuation for the purpose of strengthening valuation management in cases passed to post-clearance audit units. The General Department of Customs has asked its units to carry out post-clearance audit in terms of valuation within 30 days from the date of receiving price consultation results forwarded by the Customs clearance units in cases prescribed at item of the Article 25 under Circular No. 38/2015/TT-BTC.

17. PENALTIES AND APPEALS

17.1 Measures against Violations

Anyone that violates the provisions of the Law on Customs of Vietnam shall be handled as follows:

1. If they pay duties, taxes or fines later than the payment deadline or the deadline inscribed in the decisions on handling of duty and tax related violations, they have to pay a fine equal to 0.1% of the late paid amounts for each day of delayed payment. If the delayed payment prolongs for more than ninety days, they shall be coerced to pay them according to the provisions of Clause 4 of this Article;
2. If they fail to declare and pay taxes in strict accordance with the provisions of Customs Law, they

shall, depending on the nature and seriousness of their violations, be administratively handled for tax-related violations;

3. If they falsely declare or evade taxes, they shall, apart from having to fully pay taxes according to the provisions of this Law, depending on the nature and seriousness of their violations, be subject to a fine equal to one or five times the evaded tax amounts;
4. If they fail to pay taxes or fines according to the decisions on handling of tax-related violations, they shall be forced to do so through the following measures:
 - a) Their deposits at banks, other credit institutions or State treasuries are deducted for payment of taxes or fines.
 - b) Customs offices where Customs declarations are registered may temporarily seize goods or distrain property according to the provisions of law in order to ensure the full collection of deficit tax or fine amounts.
 - c) Customs offices shall not carry out import procedures for the next goods shipment of taxpayers until they fully pay taxes or fines;
5. If detecting that there is a tax fraud or evasion, Customs offices shall have to collect all tax and fine arrears incurred within five years back from the date of inspecting and detecting the tax fraud or tax evasion;
6. Those who commit acts of tax evasion in large amounts or have been administratively sanctioned for tax evasion but still commit violations shall be examined for penal liability according the provisions of law.

17.2 Customs Appeals

17.2.1 Appeal Application

Individuals, organizations or their legal representatives have the right to appeal to the direct senior management level of the officer who issued the decision on use of preventing measures in accordance with regulations in Articles 18, 19, 20, 21, 22, of the Decree No16/CP issued on March 20 1996. In cases of rejecting the code declared by Customs declarant, Customs has right to request Customs declarant to provide documents related to import, export goods; or taking sample of import, export goods with the

witness of Customs declarant to use other technical equipment for analysis, classification and making decision on the code of that import, export goods; if Customs declarant disagrees with the result given by Customs, he has right to appeal. The appeal shall be executed in line with legislations.

17.2.2 Authority to Settle the Appeal

First Level of Appeal: the authority to settle the appeal is the person who issued the decision on punishment imposed on administrative offense in Customs.

Second Level of Appeal: the authority to settle at second level against the decision on punishment issued by the Head of the Technical Customs Team is Chief of Technical Bureaus or Chief of Customs Checkpoints. The authority to settle the appeal at second level against the decision issued by the Chief of Customs Checkpoints or Chief of Technical Bureau is Directors of Provincial or City Customs Departments or Director of Investigation and Anti-smuggling Department (in case the decision is issued by the Enforcement Team of the Investigation and Anti-smuggling Department). The authority to settle the appeal at second level against decision made by the Directors of Provincial of Cities Customs Department or Director of Investigation and Anti-smuggling Department is Director General of Customs.

Higher levels of appeal: Authority to settle the appeal against the decision the Director General of Customs is the State Inspector General, and if the decision made by the Director General of Customs is related to the Laws and Taxes and Duties, the authority to settle the appeal is Minister of Finance and the decision of Minister of Finance is the final decision.

18. CUSTOMS IPR BORDER PROTECTION

Vietnam Customs Law prohibits the import of goods which infringe intellectual property rights registered within Vietnam. To this end, Customs authorities have the power to impose fines and confiscate infringing goods which have been stopped at the border. Customs authorities can also arrange for criminal proceedings to be brought against infringers for cases involving copyright or trade mark infringement. So

far these powers extend only to imports and as such, Customs authorities have no power to check and hold infringing products being exported.

Registration with Customs authorities in Vietnam is not a mandatory requirement, however it is often advisable to register as doing so will enable Customs officers to recognize counterfeit versions of the products, and improve the chances of suspect shipments being stopped at the border. Furthermore, if shipments are known to be en-route, rights holders can work with Customs to ensure they are detained before being released onto the market. In theory, all IPRs can be registered with the Vietnam Customs authority, in practice however, only trademarks, geographical indications, and copyrights and related rights are picked up.

In order to register with Customs, a Customs recordal must be filed with the General Department of Customs in Vietnam, containing the following documents:

- Certified copies of IP certificates of registration, e.g. a trade mark registration certificate;
- Documents relevant to the goods wish to register with Customs, including; a list of authorized importers/exporters, mode of import/export of genuine goods, descriptions of how to distinguish genuine goods from infringing copies, documents on the origin of genuine goods, and pictures of genuine goods;
- A notarized and legalized power of attorney, where the application is filed by a local IP agent;
- Any supporting documents, e.g. information on estimated times and location of import and export, expert opinions on known infringing goods, any sanctioning decisions made by enforcement agencies in previous cases of infringement of the goods you are registering, where applicable.

Confirmation is usually given by the Customs office within 20 days of application. Once registered, IPRs remain in the database for one year, extendable for a further year upon request. After this 2 year period the rights must be filed anew to continue monitoring operations.

The owners of intellectual property rights, who are protected in accordance with the provisions of the laws of Vietnam, shall be entitled to make a request on a long-term basis or in a particular case, to the Customs for suspension of Customs procedures in respect of imported or exported goods, which infringe intellectual property rights. The Customs may make a decision on temporary suspension of Customs procedures in respect of imported or exported goods when all conditions stipulated are satisfied. On temporary suspension of Customs procedures in respect of imported or exported goods with whose

intellectual property rights have been infringed, shall not apply to non-commercial goods or to goods in transit.

When making a request for temporary suspension of Customs procedures, the owner of intellectual property rights shall be obliged to:

- Submit an application for such a request, together with evidence of the lawful intellectual property rights and evidence of the infringement of his or her intellectual property rights to the Customs;
- Deposit in advance a certain amount of money or submit a letter of guarantee issued by a credit institution or another organization authorized to conduct banking activities in order to secure, in accordance with the provisions of the law, compensation for any damages and expenses caused by such an improper request.

19. AUTHORIZED ECONOMIC OPERATOR (AEO)

An AEO is defined as an economic operator that is reliable or compliant in the context of Customs-related operations and is therefore entitled to benefits provided under the AEO program. According to the General Department of Vietnam Customs, the implementation of the AEO regime is one of the important solutions made by the Vietnamese administration to promote trade facilitation in the business community.

Related legislations regarding AEO implementation by Vietnam Customs include:

- Customs Law No. 54/2014/QH13 dated 23/6/2014 (Articles: 42, 43, 44, 45);
- Import and Export Tax Law No. 107/2016/QH13 dated 6/4/2016 (Articles: 9);
- Decree No. 08/2015/NĐ-CP dated 21/1/2015 (Articles: 9, 10, 11, 12);
- Circular No. 72/2015/TT-BTC dated 12/5/2015;
- Decision No. 2659 / QD - GDC dated 14/9/2015.

In Vietnam, AEOs are divided into 5 groups: import-export enterprises, agricultural product export

enterprises, seafood export enterprises and high-tech enterprises and Customs brokers. Each enterprise group must meet the conditions for being recognized as an AEO. For example, for a high-tech enterprise to be recognized as an AEO, they must have a certificate from the Ministry of Science and Technology as a high-tech enterprise. For import-export enterprises to be recognized, the enterprise must achieve a turnover of \$US 100 million per year or more.

AEO program by Vietnam Customs has attracted the attention of the business community. Under Vietnam's Customs Law, Law on Import-Export Duty, and related regulations, AEOs enjoy special benefits such as freedom from inspection of Customs documents, and from physical inspection during Customs procedures, except in cases of violation of Customs laws, or in cases of random inspections to assess compliance with the law. Besides the facilitation of cargo clearance procedures, helping to reduce time and cost, enterprises recognized as AEOs would affirm their prestige and would enhance their position in the market. AEOs can help to create a strong shift from strict control mode to trust mode, to enable the right to self-declare and take responsibility before law in order to change the Customs inspection method from pre-audit to post-audit.

According to statistics from the General Department of Vietnam Customs, in 2018, AEOs accounted for 34.4% of the total import-export turnover nationwide (\$US 165 billion).

20. TRADE STATISTICS

Compilation of Customs statistics in general and compilation of international merchandise trade statistics of Vietnam in particular is one of the main tasks of General Department of Vietnam Customs.

Since 1996, foreign merchandise trade data has been collected, processed, provided and disseminated by Vietnam Customs as an independent data producer in Vietnam. Trade statistics plays an important role in policy-making, macroeconomic management and other purposes and currently, changes, developments and trends of the external merchandise trade activities of Vietnam have increasingly getting more attention of many domestic as well as foreign users.

For the purposes of disseminating the latest and up-to-date foreign merchandise trade statistics of Vietnam to the public users, the General Department of Vietnam Customs has compiles and produced various publications on statistics on exported and imported goods.

Trade statistics will be updated monthly on Vietnam Customs' website at "Vietnam International Merchandise Trade Statistics" page at the following official website of Vietnam Customs: <https://www.customs.gov.vn/Lists/EnglishStatistics/Default.aspx>.

21. CONTACT INFORMATION

For further and detailed information relating to Customs clearance procedures, enquiries shall be addressed to the following official contacts:

General Department of Vietnam Customs

Address: Block E3 - Duong Dinh Nghe Street, Yen Hoa, Cau Giay, Hanoi, Vietnam

Phone: (+8424) 39440833 (ext: 8613)

Hotline: 1900 96 96 47 (ext: 2)

Email: tongcuchaiquan@customs.gov.vn

bophanhhotrotchq@customs.gov.vn

22. OFFICIAL WEBSITE

The official website hosted and maintained by the General Department of Vietnam Customs for references is as follows: <https://www.customs.gov.vn/>.

REFERENCE

1. LAW ON CUSTOMS THE NATIONAL ASSEMBLY, THE SOCIALIST REPUBLIC OF VIETNAM No. 54/2014/QH13.
2. APPLICATION OF ADDITIONAL IMPORT DUTIES MINISTRY OF FINANCE No. 17707/BTC-TCHQ.
3. <https://www.dncustoms.gov.vn/en/document/law-on-customs-5878.html>.
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5. LAW ON IMPORT TAX AND EXPORT TAX ORDER No. 15/2005/L-CTN OF JUNE 27, 2005, ON THE PROMULGATION OF LAW.
6. <https://www.vietnamtradeportal.gov.vn/index.php?r=site/display&id=74>.
7. <https://www.export.gov/article?id=Vietnam-Trade-Agreements>.
8. <https://emerhub.com/vietnam/vietnam-trade-agreements-increasing-openness-foreign-investment/>.

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