

organizations and individuals engaged in export and import activities to participate in setting up and *carry out electronic transactions through customs electronic data processing system and applying customs electronic procedures.*

2. The Government shall specify the system of technical standards for electronic data exchange, the legal validity of electronic documents, and the responsibilities and powers of *customs offices at all levels*, concerned State bodies, organizations and individuals engaged in export and import, exit and entry activities *in the implementation of electronic customs procedures; the encourageous measures stated in item 1 of this Article.*

Electronic transations in the field of customs must conform with the statutory regulations on electronic transactions.

4- Article 11 is amended as follows:

“Article 11. Tasks of Customs

Viet Nam Customs is tasked to inspect and supervise goods and transport means; to prevent and combat smuggling and illegal cross-border transportation of goods; to organize the implementation of tax legislation with regard to export and import goods; *to compile statistics on exported and imported goods*; to propose policies and measures for Customs-related State management over the export, import, exit, entry and transit activities as well as tax policies for export and import goods.”

5- Article 13 - System of Customs organization

Article 13. System of Customs organization

1. The organizational system of Vietnam Customs consists of:
 - a. *The General Department of Customs*;
 - b. The Customs Departments of the provinces, inter-provinces, and centrally-run cities;
 - c. The border-gate Customs Sub-Departments, Customs Control squads and equivalent units.

6- Article 15 is supplemented with item 1 as follows:

Article 15. Principles for carrying out Customs procedures, conducting Customs inspection and supervision

“1a. Customs inspection is carried out on the basis of analyzing information, evaluating the possibility of customs law violation and be restricted to an adequate extent that ensures both state management on customs and restriction to a minimum of cases subject to customs inspection as provided by this Law”

7- Article 16 is amended and supplemented as follows:

“Article 16. Customs procedures

1. While carrying Customs procedures, the Customs declarants shall have to:
 - a. Fill in and submit the Customs declaration forms; submit, produce documents attributed to the Customs dossiers. *In case of applying electronic customs procedures, customs declarants are allowed to declare and submit the Customs dossiers through customs electronic data processing system..*
 - b. Conduct goods and/or transport means to the designated sites for physical inspection;
 - c. Pay taxes and fulfill other financial obligations as prescribed by law;
 2. While carrying out Customs procedures, the Customs officers shall have to:
 - a. Receive and register the Customs dossiers. *In case of applying electronic customs procedures, the reception and registration of the Customs dossiers are made through customs electronic data processing system.*
 - b. Examine the Customs dossiers and carry out the physical inspection of goods and transport means;
 - c. Collect taxes and other revenues as prescribed by law;
 - d. Decide on the Customs clearance for goods and transport means.
- 8- Article 17 is amended and supplemented as follows:

Article 17. Depots of Customs procedures completion

The depots of Customs procedures completion are the head offices of the border gate Customs and head offices of the outside-of-border gate Customs, *the head offices which receive and process the customs dossiers.*

In cases of necessity, the physical inspection of export and import goods may be conducted at other sites as prescribed by the General Department of Customs.

- 9- Item 1, 2 of Article 18 are amended and supplemented as follows:

Article 18. Time limits for declaration and submission of Customs declaration forms

The Customs declarants must fill in and submit Customs declaration forms for goods and transport means within the following time limits:

1. For import goods, within 30 days after the date when the goods arrive at the border gate; *the customs declaration forms shall be valid for the completion of customs procedures within 15 days since the date of registration.*
2. For export goods, no later than 8 hours before the transport means leave Viet Nam; *the customs declaration forms shall be valid for the completion of customs procedures within 15 days since the date of registration.*

- 10- Item 1 of Article 20 is amended and supplemented as follows:

“Article 20. Customs declaration

1. Customs declaration shall be *made in the manner: paper base declaration, electronic declaration, self channelising declaration.*

Customs declaration forms are set by the General Department of Customs.

11- Item 2 of Article 22 is amended and supplemented as follows:

Article 22. Customs dossiers

1. A Customs dossier shall consist of:
 - a. Declaration form;
 - b. Commercial invoices;
 - c. Goods purchase and sale contract;
 - d. Permit of the competent State body for goods exported, imported or transited or transport means on exit, entry or in transit, which are subject to such permit under the provisions of law;
 - e. Other documents as prescribed by law for each goods item, which the Customs declarants must submit or produce to the Customs offices.

Customs dossiers may be in paper or electronic forms.

2. Customs dossiers shall be submitted, produced to the Customs at the Customs offices.

Where there are plausible reasons accepted by *the heads of customs offices which receive customs dossiers*, the customs declarants may have the time limit extended for submission or production of certain documents of the Customs dossiers; amend, modify or replace the already-registered Customs declaration forms before the physical inspection of goods and transport means starts *or before the decision on exemption of goods inspection is issued; submit simplified customs declaration form and complete customs declaration form within prescribed time; make single declaration for multi-import, export within specific time and for certain items of goods.*

12- Article 23 is amended and supplemented as follows:

Article 23. Rights and obligations of the Customs declarants.

1. The Customs declarants shall have the right to:
 - a. Be supplied by the Customs offices information relating to the Customs declaration for export, import and transit goods, transport means on exit, entry or in transit and guidance on carrying out the Customs procedures;
 - b. Have a prior look at the goods, take samples of the goods under the supervision by Customs offices before making Customs declaration so as to ensure accurate Customs declaration;

- c. Propose the Customs offices to carry out physical re-inspection of the goods already inspected if they disagree with the Customs offices' decisions, in cases where the goods are yet released;
- d. Lodge appeals and denunciations against illegal acts committed by Customs offices and Customs officers'
- e. Claim compensation for damages caused by Customs offices and/or Customs officers according to law provisions.

f. Utilize customs dossiers in electronic formats for goods clearance.

2. The Customs declarants shall have the obligation to:

- a. Make Customs declaration and comply with the provisions of Clause 1 of Article 16, Article 18, 20 and 68 of this Law;
- b. Be accountable to law for the truthfulness of the declared contents and the submitted and/or produced documents, *for the conformity between paper dossiers and dossiers in electronic formats.*
- c. Abide by decisions and requests of the Customs offices and Customs officers when they carry out Customs procedures for goods and transport means according to the provision of this Law;
- d. Keep *Customs dossiers*, accounting records and vouchers and other documents related to the export and import goods having enjoyed Customs clearance for a period of 5 years counting from the date of registration of Customs declaration forms; *submit paper dossiers*, supply information and documents related thereto when the Customs offices request the examination thereof according to the provisions of Articles 28, 32 and 68 of this Law;
- e. Arrange personnel to serve the physical inspection of goods and transport means;
- f. Pay taxes and fulfill other financial obligations as prescribed by law.

13- Item 4 of Article 25 is amended and supplemented as follows:

“Article 25. Customs clearance for goods and transport means

- 4. For export and import goods subject to technical expertise, the Customs offices shall base themselves on the expertise results to decide on Customs clearance thereof. In cases where pending the expertise results if the goods owners request to take the goods for preservation, the Customs offices may accept such requests only when all Customs supervision conditions prescribed by the General Department of Customs have been met.

When those goods which are permitted to export, import satisfy the conditions stated in item 2 and 3 of this Article but are subject to appraisal or analysis and classification for determining payable tax amounts, they are cleared pending the results of goods appraisal or analysis and classification. The official payable tax amounts shall be determined after analysis and classification give results.

14- Article 28 is replaced with Article 29 and is supplemented as follows:

“Article 28 . Examination and registration of Customs dossiers

1. When receiving Customs dossiers, the Customs officers shall check the declarations according to the requirements on the declaration forms, documents of the Customs dossiers, the compatibility of the declaration contents and the Customs dossier documents; register the Customs dossiers according to law provisions; in case of refusal to register the Customs dossiers, the Customs officer must inform the Customs declarants of the reasons thereof.

For goods owners who have good records of Customs Law compliance according to the Government stipulations, customs offices shall base themselves on the customs declaration forms and their particulars furnished by goods owners to approve the registration of customs declaration forms.

After customs clearance is completed, the customs clearance forms shall be checked and collated with the documents in the customs dossiers.

2. *When electronic customs procedures are in use, the customs dossiers are registered through the customs electronic data processing system. If through the analysis of information and the evaluation of possible violation customs offices determine the necessity of inspection, they shall check the conformity between the declared particulars with the documents of customs dossiers in paper base.*

14 - Article 29 is amended and supplemented as follows:

Article 29. Bases and competence to decide on the forms of physical inspection of exported and imported goods for Customs clearance

1. Bases for decision on the forms of physical inspection of exported and imported goods include the law observance records of the goods owners; the State’s policies on management over export and import goods; the nature, categories and origins of export and import goods; the Customs dossiers and other information related to the export and import goods.
2. *The heads of customs offices which receive and process customs dossiers decide the forms of physical inspection of exported and imported goods for customs clearance.*

15 - Article 30 is amended, supplemented as follows:

Article 30. Forms of physical inspection of export and import goods for Customs clearance

1. Forms of physical inspection of export and import goods include:

- a. *Exemption from physical inspection of exported and imported goods are applied in one of the following cases:*
- *the exported, imported goods of the goods owners who have a good record of Customs legislation compliance*
 - *Exported goods excluding exported goods which are produced from imported materials and conditionally exported goods;*
 - *Imported goods which are the machineries, equipments forming fixed assets and being exempt from tax payment of investment projects;*
 - *Foreign goods which are brought into free trade zones, transit ports, bonded warehouses; transit goods; emergent relief goods; goods which are specially and directly used for national security, defense, humanitarian goods, temporary imported, exported goods for certain periods of time.*
 - *Other cases as prescribed by the Government.*

For goods, which have been decided to be exempt from physical inspection but afterwards detected to have signs of Customs offences, the form of inspection prescribed at Point c of this Clause shall apply.

- b. *For those items of goods which are not stated in point a, item 1 of this Article, the physical inspection of goods shall be decided on the basis of analyzing information, evaluating the possibility of customs legislation violation.*
- c. The physical inspection of the whole consignment of exported or imported goods of the goods owners who have committed violations of the Customs legislation time and again; and consignments detected to have signs of violation of the Customs legislation.
2. The physical inspection of goods shall be conducted by the Customs officers either personally or with the aid of machinery, technical equipment and other professional measures in the presence of the Customs declarants or their lawful representatives, after the Customs dossiers have been registered and the goods have been brought to the inspection sites.

The goods being live animals or plants difficult to preserve and other special goods shall be inspected first.

16 - Item 1 of Article 32 is amended and supplemented as follows:

Article 32. Post-Customs clearance inspection

1. Post-customs clearance inspection means inspection measures which the customs satisfy themselves as to the accuracy and authenticity of the contents stated in the

documents which the goods owners or authorized persons, organizations, individuals who directly export, import goods declared and submitted to the customs in order to prevent, resolve customs legislation offences, tax frauds, offences against import, export control policy committed by cleared goods.

2. Based on the collection and analysis of information, the customs shall carry out post customs clearance inspection in the following cases:

- a) Customs dossiers are illegal, invalid and uniform;*
- b) Customs values for duty assessment are unreasonable, not corresponding to the regulations on customs values for duty assessment;*
- c) Origin, certificate of origin (C/O) are not corresponding to the actual conditions of goods;*
- d) Information on frauds to obtain preferentials on tax policy, commercial frauds is available;*
- e) Information on offences against import, export control policy;*
- h) The conclusion of appraisal letter does not meet with the regulations in order to commit commercial frauds, avoid tax.*

3. Current item 2.

4. Current item 3.

5. Current item 4

17 - Article 57 is supplemented with one additional item as follows:

Article 57. Principles for temporary postponement of Customs procedures completion

1a. When evidences are available to determine that the imported, exported goods infringe the intellectual property rights which are protected by the statutory regulations on intellectual property, customs offices have responsibility to postpone the completion of customs procedures for imported, exported goods and handle them according to the statutory regulations on intellectual property and are accountable for their decision .”

18 – Article 69 is supplemented as follows:

Article 69. Responsibility of the Customs offices in organizing the collection of taxes and other levies

1. The General Department of Customs *carries out* uniformly the collection of taxes and other levies on export and import goods and the application of measures to ensure the correct and full collection of taxes and other levies according to law provisions.
2. The Customs offices which carry out the procedures for export and import of goods shall check the tax declaration and calculation by Customs declarants; when discover the wrong calculation of the payable tax amounts by Customs declarants, Customs offices must, after adjusting such amounts, notify the Customs declarants thereof. The

time limits for retrospective collection and payment of the payable tax amounts shall comply with the provisions of tax legislation.

19- Article 71 is amended and supplemented as follows:

Article 71. Customs valuation for tax calculation

Customs offices determine the value of imported and exported goods on the basis of transaction value of goods. Whereas transaction value is not available, customs office shall determine customs value upon the statutory regulations.

The customs value of imported goods consists of the value of goods, freight of transportation, insurance fees and charges directly related to the goods, which may arise till the goods arrive at the first border gate of entry, after the related amounts are adjusted according to the tax legislation.

The customs value of exported goods consists of the value of goods, freight of transportation, other related domestic charges till the goods arrive at the border gate of exit.

Customs value of imported, exported goods and articles shall be determined according to the statutory regulations as the basis for duty assessment and goods statistics.

20 – Item 2, 3 of Article 74 are amended as follows:

Article 74. Bodies in charge of the State management over Customs

1. The Government shall perform the uniform State management over Customs.
2. The **Ministry of Finance** is the body assisting the Government in performing the uniform State management over Customs.
3. The ministries, the ministerial-level agencies, the agencies attached to the Government shall, within the scope of their tasks and powers, have to coordinate with the **Ministry of Finance** in performing the State management over Customs.
4. The People's Committee at all levels shall, within the scope of their tasks and powers, have to organize the implementation of the Customs legislation in their respective localities.

Article 2

This Law comes into effect from.....2006.

Article 3

The Government shall detail and guide the implementation of this Law.

This Law was passed on2005 by the XI National Assembly of the Socialist Republic of Viet Nam.

Chairman of the National Assembly

Nguyen Van An