

**NATIONAL ASSEMBLY**  
**SOCIALIST REPUBLIC OF VIET NAM**  
**XI<sup>TH</sup> NATIONAL ASSEMBLY 7<sup>TH</sup> SESSION**  
**(May 5<sup>th</sup> to June 14<sup>th</sup> 2005)**

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**THE LAW AMENDING AND SUPPLEMENTING**  
**A NUMBER OF ARTICLES OF THE CUSTOMS LAW**

Pursuant to the 1992 Constitution of Socialist Republic of Vietnam, being amended and supplemented by the Resolution No. 51/2001/QH10 of 25<sup>th</sup> December 2001 of the 10<sup>th</sup> National Assembly, Session 10;

This Law amends and supplements a number of Articles ratified by the National Assembly on 29<sup>th</sup> June 2005;

**Article 1.**

Amendments and supplementations of a number of the Customs Law:

***1. The Article 2 is amended and supplemented as follows:***

***“Article 2: Scope of regulation***

This Law prescribes the State management over Customs with regard to exported, imported or transited goods, transport means on exit, entry and in transit, of foreign and domestic organizations and individuals in the customs territory; the organization and operation of the Customs service.

**2. Clause 18 was supplemented to the Article 4 as follows:**

“18. The custom territory consists of the areas in the territory of the Socialist Republic of Viet Nam, in its exclusive economic zone and the continental shelf, where the Customs Law applies.”

***3. The Article 5a is supplemented as follows:***

***“Article 5a. International cooperation activities of the Customs Service***

Pursuant to legal provisions, and within the power delegated to, the Vietnam Customs is responsible for:

1. Exercising rights and obligations and interests of the Socialist Republic of Viet Nam at the World Customs Organization;
2. Negotiation, conclusion and organization of executing bilateral cooperation arrangements with customs administrations of other countries;
3. Organization of exploitation and exchange of information and cooperation in customs techniques with customs administrations of other countries, and related international organizations.”

***4. The Article 8 is amended and supplemented as follows:***

***“Article 8. Modernization of Customs management***

1. The State prioritizes the investment in, and encourages organizations and individuals to participate in the development of advanced technologies and technical means in order to ensure the application of modern Customs management methods; encourages organizations and individuals engaged in export and import activities to participate in development and in execution of electronic transactions and electronic customs procedures.
2. The Government shall prescribe in detail the system of technical standards for electronic data exchange, the legal validity of electronic documents in conformity with the legal provisions on electronic transactions; the responsibilities and powers of customs units at all levels, of concerned State bodies, of organizations and individuals engaged in export and import, exit and entry activities, in the implementation of electronic customs procedures; and the incentives stated in clause 1 of this Article.

***5. Article 11 is amended and supplemented as follows:***

***“Article 11. Tasks of the Customs***

Vietnam 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 exported and imported goods; to compile statistics of imported, exported 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.”

**6. Clause 1 Article 13 is amended and supplemented as follows:**

“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 Customs Sub-Departments, Customs Control squads and equivalent units.”

**7. Clause 3 is supplemented to the Article 14 as follows:**

“3. Customs officers are prohibited to screen, to collude for the purpose of smuggling, commercial and tax fraud activities; causing troubles and difficulties in customs procedures; to receive bribes; to appropriate and peculate the temporarily seized goods and have other acts for personal benefits.”

**8. The clause 1a is supplemented to the Article 15 as follows:**

“1a. Customs inspection is carried out on the ground of the analysis of information, of the assessment of the compliance of customs legislation of the importers, of the levels of risks for non-compliance to ensure state management on customs without causing difficulties to import, export activities;”

**9. Article 16 was amended and supplemented as follows:**

**“Article 16. Customs procedures**

1. While carrying out 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 this procedure is carried out electronically, the declarants may declare and send customs dossiers through the 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 this procedure is carried out electronically, the reception and registration of customs dossiers shall be carried out through the 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.

***10. The 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 sub-department and head offices of the outside-of-border gate Customs sub-department.

In case the electronic customs procedures are applied, the places for reception and processing of customs dossiers may be the head offices of Customs departments of provinces, inter-provinces and centrally-run cities.

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

***11. Clauses 1 and 2 of the Article 18 was amended and supplemented as follows:***

“1. For import goods, the declaration and submission customs declaration forms may be made prior to the arrival of goods or within 30 days from the date on which the goods arrives at the border gate; the customs declaration form is valid 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.”

***12. Clause 1 of the Article 20 is amended and supplemented as follows:***

“1. “Customs declaration shall be made uniformly according to regulations prescribed by the Ministry of Finance”

***13. Article 22 is amended and supplemented as follows:***

***“ Article 22. Customs dossiers***

1. The Customs dossiers shall consists of:

- a) The declaration form;
- b) Commercial invoices;

- c) Goods purchase and sale contracts;
- 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. Electronic Customs dossiers shall be in the appropriate format and manner as being prescribed by the provisions of law.

2. The Customs dossiers shall be submitted, produced to the Customs at the Customs offices. In case there are plausible reasons accepted by the heads of customs offices where customs dossiers are received, 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 moment where the decision on exemption of goods inspection is issued; submit the temporary customs declaration form and complete customs declaration form within prescribed time; make single declaration for plural imports, exports within specific time and for certain goods items

***14. The Article 23 is amended and supplemented as follows:***

***“ Article 23. Rights and obligations of the declarants***

- 1. The declarants shall have the right to:
  - a) Be supplied by the Customs offices information relating to the customs declaration for export, import or transit goods; transport means on exit, entry or in transit and guidance on carrying out customs procedures;
  - b) Have a prior look at the goods, take samples of the goods under the supervision of Customs officers 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 not yet released.
  - d) Lodge appeals and denunciations against illegal acts committed by Customs offices and Customs officers;
  - đ) Claim compensation for damages caused by Customs offices and/or Customs officers according to law provisions;

e) Use customs dossiers in electronic forms for goods clearance.

g) Request the Customs offices confirm in writing their requests for submission or supplementation of dossiers and documents other than those prescribed by the provisions of Customs legislation.

2. The declarants shall have the obligation to:

a) Make Customs declaration and comply with the provisions of the Clause 1 of Article 16, Article 18, Article 20, and Article 68 of this Law;

b) Be accountable to law for the truthfulness of the declared contents and the submitted, and/or produced documents, and for the consistency of the content between paper-based dossiers kept by businesses and electronic dossiers;

c) Abide by the decisions and requests of the Custom offices and customs officers when they carry out Customs procedures for goods and transport means according to the provisions of this Law;

d) Keep the Customs dossiers of export, import goods having enjoyed customs clearance for a period of 5-years counting from the date of registration of Customs declaration forms; keep accounting records and other documents related to the export, import goods having enjoyed customs clearance within the period of time as prescribed by the provisions of law; submit dossiers and supply with information and documents related thereto when the Customs offices request the examination thereof according to the provisions of Article 28, Article 32 and Article 68 of this Law;

đ) Arrange personnel to serve the physical inspection of goods and transport means;

e) Pay taxes and fulfill other financial obligations as prescribed by the law;

g) To be not allowed to exert acts of smuggling , commercial frauds, and bribery or other acts for illegal benefits.

***15. Clause 4 of the Article 25 is amended and supplemented as follows:***

“4. For export and import goods subject to technical expertise to decide on their importation, exportation, if the goods owners request to take the goods for preservation, the Customs offices may accept such requests only when all Customs supervision conditions are met.

Goods that are allowed to be imported/ exported but subject to verification of customs value or to technical expertise, analysis for tariff classification for the determination of duties payable may be cleared after the goods owners have

fulfilled the tax obligations on the basis of self-declaration and assessment and met the requirements stated in clause 2.b, clause 3 of this Article. The due amount of duties and taxes will be decided when the results of value determination, technical expertise, analysis for tariff classification are available.

***16. Clause 2a is supplemented after Clause 2 of the Article 27 as following:***

“2a. Giving written confirmation when requesting the declarants to submit, to supplement the Customs dossiers, documents other than the Customs dossiers and documents as prescribed by the provisions of Customs legislation.”

***17. The Article 28 is amended and supplemented as follows:***

***“Article 28. Examination and registration of the Customs dossiers***

The examination and registration of the Customs dossiers are carried out as follows:

“1. Paper-based dossiers are examined and registered in one of the following methods :

a) Customs dossiers of goods owners who have a record of good observation of Customs legislation shall be registered immediately after the customs authorities have checked the declarations according to the requirements on the declaration forms, the quantity of supporting documents of the customs declaration.

b) The customs dossiers other than those specified in item a of Clause 1 of this Article shall be registered immediately after the customs authority have carried out detail check. When receiving Customs dossiers, the Customs officers shall check the declared particulars in the declaration forms, documents of the Customs dossiers, the compatibility of the declared contents and the Customs dossier documents; register the Customs dossiers according to law provisions; in case of refusal to register the Customs dossiers, Customs officers must inform the Customs declarants of the reasons thereof.

2. The electronic Customs dossiers must be examined, registered, classified through Customs electronic data processing system.”

***18. Clause 2 of the Article 29 is amended and supplemented as follows:***

“2. Heads of the Customs offices where the Customs dossiers are received and processed, shall decide on the form of physical inspection of export and import goods as well as the change of the inspection form as prescribed in the Article 30 of this Law.”

***19. The Article 30 is amended and supplemented as follows:***

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

1. The export, import goods falling in one of the following cases shall be exempted from physical inspection:

a) Export goods, excluding those manufactured from imported materials, and conditional export goods;

b) Goods from foreign countries brought into free trade zones, transshipment ports, bonded warehouse; goods in transit, goods for emergency relief, goods for specific purpose of national defence, security, humanitarian aids, goods of temporary import-reexport in finite period.

c) import goods are machinery, equipment forming fixed assets which are granted with duty exemption in investment projects.

2. Beside cases stipulated at clause 1 of this Article, the import and export goods of owners who have a records of good observation of Customs legislation and goods of other special cases as prescribed by Prime Minister are also exempted from physical inspection.

3. The import and export goods of owners who have committed violation of Customs legislation time and again; the goods which are exempted from physical inspection as stipulated at clause 1 and 2 of this Article but are detected to have signs of violation of Customs legislation are subject to physical inspection.

4. For the goods not being stipulated at Clause 1 and 2 of this Article, which are determined of possible violation of legislation based on the analysis of information from database, the findings of customs surveillance, information from agencies, organizations and individuals and foreign customs, are subject to physical inspection.

5. 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 into the inspection sites.

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

The Government shall prescribe in detail the physical inspection level of the goods stipulated at items 3 and 4 of this article.”

***20 - Article 32 is amended and supplemented as follows:***

## **Article 32. Post-Customs clearance inspection**

1. Post-customs clearance inspection means examination measures taken by Customs offices with the aims of:

a) verifying the accuracy and authenticity of the contents stated in the documents which the goods owners or authorized persons, organizations, individuals directly export or import goods have declared and submitted to the customs with regard to import, export goods cleared ;

b) verifying legislation observation in the process of carrying out customs procedures for import and export goods.

2. Post- customs clearance inspection is conducted in the following cases:

a) There are signs of tax fraudulence, commercial frauds, violation of regulation on import and export.

b) For those cases not being stipulated at the point (a) clause 2 of this Article, the results of database analysis, the findings of customs surveillance, the information from agencies, organization, individuals and foreign customs shall be the basis to decide on post customs clearance inspection .

3. Within 5 years from the date of registration of Customs declaration of import-export goods which have enjoyed customs clearance, the Directors of Customs departments of provinces, inter-provinces and centrally run cities may issue decisions on post-customs clearance inspection. In necessary cases, the Director General of Customs may issue decisions on post- customs clearance inspection.

4. Basing themselves on the post- customs clearance inspection decisions, the customs officers shall personally examine accounting records and invoices and other documents related to the lots of export or import goods which already enjoyed customs clearance at the enterprises so as to make comparison with the customs declarations and documents of the customs dossiers. In cases of necessity and if the conditions permit, they may carry out the physical inspection of the goods.

5. In the course of the inspection, at the requests of customs offices, the concerned agencies, organizations and individuals shall be responsible to create conditions, supply necessary accounting records, information and documented materials in service of the inspection effected by customs offices.

The Government shall prescribe in detail the post- customs clearance inspection.”

***21 - Article 57 is amended and supplemented as follows:***

**Article 57. Principles for temporary postponement of Customs procedures completion**

1. Holders of intellectual property rights already protected under the provisions of Vietnamese law shall have the right to request the customs offices in the long term or in specific cases to temporarily stop carrying out the customs procedures for export or import goods of which the intellectual property rights are infringed upon.
2. The Customs offices may decide to temporarily stop carrying out Customs procedures for export or import goods only when all conditions set in Article 58 of this Law are met.
3. Provisions for temporary postponement of customs procedure completion applied to the import or export goods of intellectual property right infringement as prescribed by this Law shall not be applied to non-commercial articles; transited goods .”

**22 – Article 69 is amended and 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 shall uniformly carry out 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, pursuant to their functions and authorities, shall check the tax declaration and calculation, the exercise of tax exemption, reduction and withdrawal, non-collection of taxes, retrospective collection of taxes of Customs declarants; the collection of taxes and the management of tax payment; when discover the wrong calculation of the tax amounts payable by Customs declarants, Customs offices must, after adjusting such amounts, notify the Customs declarants thereof. The time limits for retrospective collection, repayment of the tax amounts payable shall comply with the provisions of tax legislation.

**23- Article 71 is amended and supplemented as follows:**

**Article 71. Customs valuation**

The customs values shall be used as grounds for tax calculation and statistics compilation of import or export goods.

The customs values on import and export goods shall be determined according to the provisions of the Law of import or export tax.

The Government shall prescribe in detail the customs value for import and export goods.

***24 – Clause 2, 3 of Article 74 are amended and supplemented as follows:***

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

2. The Ministry of Finance is responsible to the Government for the uniform implementation of state management over Customs.
3. The ministries, the ministerial-level agencies, within the scope of their tasks and powers, have responsibility to coordinate with the Ministry of Finance in performing the State management over Customs.

**Article 2**

This Law comes into effect from January 1<sup>st</sup> 2006.

**Article 3**

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

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This Law was passed on June 14<sup>th</sup>, 2005 by the XI National Assembly of the Socialist Republic of Viet Nam at its session 7<sup>th</sup>.

Chairman of the National Assembly

***Nguyen Van An***