

NATIONAL ASSEMBLY
SOCIALIST REPUBLIC OF VIET NAM
XITH NATIONAL ASSEMBLY 7TH SESSION
(May 5th to June 14th 2005)

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 25th December 2001 of the 10th National Assembly, Session 10;

This Law amends and supplements a number of Articles ratified by the National Assembly on 29th 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 applicawith cus6cith (nced4nge [t. iduals

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

- 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

- 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;

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 th

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

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

1. The export, import goods falling in

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.

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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 1st 2006.

Article 3

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

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

Chairman of the National Assembly

Nguyen Van An