

Government

SOCIALIST REPUBLIC OF VIETNAM
Independence-Freedom-Happiness

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Hanoi, 20/02/2006

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

THE GOVERNMENT

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

Pursuant to the Commercial Law dated June 14, 2005;

Based on the proposal by the Minister of Trade,

DECREES:

Chapter I
GENERAL PROVISIONS

Article 1. Scope of Application

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

Article 2. Subjects of Application

This Decree shall be applied to:

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

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

Article 3. Definitions

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

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

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

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

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

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

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

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

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

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

9. "Production" means methods of obtaining goods including growing, mining, harvesting, raising, breeding, extracting, gathering, collecting, fishing,

2. Origin of not wholly obtained goods.

Article 7. Determining wholly obtained goods

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

1. Plants and products of plants harvested in that country or territory;
2. Animals born and raised in that country or territory;
3. Products made from live animals which are mentioned in paragraph 2 above;

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

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

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

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

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

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

1. Operations to ensure the preservation of products in good condition during transport and storage (ventilating, spreading out, drying, freezing, soaking in salt, acid sulfuric s15(IITD {376 T)-30(of)-1 srs76 T15-16w6e4ding 8c5(ing -1 stul)1329(pres,(a)

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

8. Animal slaughter.

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

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

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

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

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

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

Chapter IV

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

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

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

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

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

3. The C/O issuing organization shall examine such documents shall carry out actual examination of goods in order to determine the origin of exports and shall issue a C/O within no more than 3 working days from the date of lodgment of

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

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

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

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

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

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

2. For the imports goods which are actually suitable to the goods stated in the pre-certification of origin, the Customs Authority shall not re-determine the origin.

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

Article 16. Archiving and Confidentiality

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

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

Chapter V STATE MANAGEMENT ON THE ORIGIN OF GOODS

Article 17. Responsibilities and authorities of Ministry of Trade

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

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

Ministries, ministry-level bodies, Governmental agencies within their functions, tasks and authorities shall take responsibilities to co-ordinate with the Ministry of Trade and the Ministry of Finance to perform the State management on

