

CIRCULAR No. 112/2005/TT-BTC OF DECEMBER 15, 2005, Guiding Customs Procedures, Customs Inspection And Supervision

Pursuant to June 29, 2001 Customs Law No. 29/2001/QH10 and June 14, 2005 Law No. 42/2005/QH11 Amending and Supplementing a Number of Articles of the Customs Law;

Pursuant to the Government's Decree No. 77/2003/ND-CP of July 1, 2003, defining the functions, tasks, powers and organizational structure of the Finance Ministry;

Pursuant to the Government's Decree No. 154/2005/ND-CP of December 15, 2005, stipulating customs procedures, customs inspection and supervision regime;

Pursuant to the Government's Decree No. 149/2005/ND-CP of December 8, 2005, detailing the implementation of the Import Tax and Export Tax Law;

The Finance Ministry hereby guides the customs procedures and the customs inspection and supervision regime as follows:

Part A

GENERAL GUIDANCE

1. This Circular guides the implementation of customs procedures and the customs inspection and supervision regime stipulated in the Government's Decree No. 154/2005/ND-CP of December 15, 2005, detailing a number of articles of the Customs Law on customs procedures, customs inspection and supervision (hereinafter referred to as the Decree for short) before customs clearance for exports and imports, means of transport on entry or exit.

2. Customs procedures, customs inspection and supervision shall be carried out on the basis of assessment of law observance by customs declarants, with priority and favorable conditions given to goods owners who have well observed the customs law. Exports and imports of goods owners who have repeatedly committed violations of the customs law shall not be given priority when customs procedures are carried out.

2.1. Goods owners that have well observed the customs law mean those who have been engaged in export and/or import activities for 365 days counting to the date customs procedures are carried out for their exported or imported goods lots and are determined by customs offices as:

- Not having been handled by law for acts of smuggling or illegally transporting goods across the border;
- Having been handled not more than twice for customs-related administrative violations subject to a fine level falling beyond the competence of Customs Sub-Department directors;
- Not having evaded tax; not having been prosecuted or fined at a level equal to the payable tax amount or higher;
- Not having owed tax for more than 90 days;
- Paying value added tax by the credit method.

2.2. Goods owners that have repeatedly committed violations of the customs law mean those who have been engaged in export and/or import activities for 365 days counting to the date when customs procedures are carried out for their exported or imported good lots, and handled 3 (three) times for customs-related administrative violations with a fine level imposed each time falling beyond the sanctioning competence of the Customs Sub-Department directors, or handled once for customs-related administrative violations with a fine level falling beyond the sanctioning competence of Customs Sub-Department directors.

Part B

SPECIFIC GUIDANCE

Section 1. CUSTOMS PROCEDURES FOR COMMERCIAL EXPORTS AND IMPORTS

I. Commercial imports and exports defined in Section 1, Chapter II of the Decree include:

1. Goods imported or exported under commercial contracts;
2. Goods imported and exported by mode of temporary import for re-export;
3. Goods exported or imported by mode of border-gate transfer;
4. Goods exported or imported by mode of import of raw materials for manufacture of exports;
5. Goods exported or imported for performance of processing contracts signed with foreign traders;
6. Goods exported or imported for execution of investment projects;
7. Goods exported or imported for trading by mode of border export and import;
8. Goods exported or imported by organizations which are not traders (without tax/export-import identification numbers) or individuals for commercial purposes;
9. Goods exported or imported by export processing enterprises;
10. Goods brought into or out of tax suspension warehouses;
11. Goods temporarily imported for re-export or temporarily exported for re-import for participation in trade fairs or exhibitions;
12. Goods being machinery, equipment or means of transport in service of construction of works or execution of investment projects, or leased or rented assets, which are temporarily imported for re-export, or temporarily exported for re-import.

II. Customs dossiers:

When carrying out customs procedures, customs declarants shall submit to customs offices customs dossier sets, each comprising the following:

1. For exports:

1.1. A principal dossier shall comprise:

- The customs declaration: two originals.

1.2. Depending on the following specific cases, a customs dossier set may be added with the following documents:

- In cases where goods are of various kinds or differently packed: One original and one copy of the detailed list of goods;
- In cases where goods require export permits according to the provisions of law: One original (for single export) or one copy (for multiple export, with the original to be produced for comparison) of the export permit of a competent state agency;
- For goods exported by mode of import of raw materials for manufacture of export or processed goods: One original of a table of raw material consumption norms of the goods item (to be submitted only once when such goods item is exported);
- Other documents which are required under relevant provisions of law: One original each.

2. For imports:

2.1. A principal dossier shall comprise:

- The customs declaration: Two originals.
- The goods sale and purchase contract or papers of equivalent legal validity: One copy (except for goods specified at Points 5, 7 and 8, Section I, Part B);
- The commercial invoice (except for goods specified at Point 8, Section I, Part B): One original and one copy;
- The bill of lading (except for goods specified at Point 7, Section I, Part B): One photocopy of the original or the originals of the bills of lading printed with the word “copy”.

2.2. Depending on the following specific cases, a customs dossier set may be added with the following documents:

- Where goods are of various kinds or differently packed: One original and one copy of the detailed list of goods;
- Where imports are subject to state quality inspection: One original of the registration for state inspection of goods quality or the written notice on exemption from state quality inspection issued by a competent state management agency;
- Where goods are released on the basis of expertise results: One original of the expertise certificate;
- Where goods are subject to value declaration: One original of the import value declaration;
- Where goods require import permits under the provisions of law: One original (for single import) or one copy (for multiple import, with the original to be produced for comparison) of the import permit of a competent state management agency;

- Where goods owners wish to enjoy a special preferential import tax rate: One original and a third copy of the certificate of origin (C/O).

If the total value of the imported goods lot (at FOB price) does not exceed 200 US dollars, no C/O is required to be submitted or produced;

- Other documents which are required under relevant provisions of law: One original each.

III. Customs inspection

Inspection in the course of carrying out customs procedures covers examination of customs dossiers and actual inspection of goods.

1. Examination of customs dossiers

1.1. Preliminary examination before registration of customs dossiers:

Before a customs dossier is registered, the customs officer who receives it shall examine the following contents:

- The declaration of the name and export/import and tax identification number of the customs declarant;
- The consistency of conditions and regulations on carrying out of customs procedures;
- The number of required documents of the customs dossier.

Upon completion of the examination of customs dossiers, customs officers shall decide to accept or not to accept dossiers for registration. In case of refusal to accept dossiers for registration, customs officers must clearly notify in writing the customs declarants of the reasons therefor.

1.2. Detailed examination of dossiers:

After a dossier has been received and registered, the customs office shall examine in detail:

- The elements and contents declared in the customs declaration;
- The accuracy and consistency of documents in the customs dossier set with the contents declared in the customs declaration;
- The observance of regulations on customs procedures, goods export and import management policies, the enforcement of intellectual property rights and other relevant regulations;
- The declaration by the customs declarant of the name, code, quantity, quality, weight and origin of the goods, the tax declaration and tax declaration bases according to the provisions of Point III.3, Section 1, Part B;

Upon completion of the detailed examination of dossiers, leaders of Customs Sub-Departments shall decide on customs clearance for goods or decide to conduct the actual inspection of goods, consult price experts or invite expertise of goods.

2. Actual inspection of goods

2.1. Cases of actual inspection of goods:

a/ Actual inspection of the whole goods lot shall apply to:

- Exports or imports of goods owners who have repeatedly violated the customs law;
- Exports or imports which, though eligible for exemption from actual inspection, are detected by customs offices to have signs of violation of the customs law;
- Goods, of which owners are, through the information analysis by customs offices, determined as having possibly violated the customs law.

b/ Probability inspection of goods for assessing the observance of the customs law by goods owners.

2.2. Levels of actual inspection of goods:

a/ For exports or imports of goods owners who have repeatedly violated the customs law, inspection shall be conducted on the whole goods lots;

After several times of inspection, if no violation is detected, the inspection level shall be gradually reduced but must not be lower than the inspection level specified at Point III.2.2.b, Section 1, Part B.

b/ For exports or imports eligible for exemption from actual inspection but detected by customs offices to have signs of violation of the customs law; and goods of which owners are, through the information analysis by customs offices, determined as having possibly violated the customs law, actual inspection shall be conducted on 10% of the goods lot. If no violation is detected, the inspection shall be terminated. If a violation is detected, the inspection shall be continued until a conclusion on the extent of violation can be made.

c/ For goods subject to probability inspection for assessment of observance of the customs law by their owners (not exceeding 5% of the total number of customs declarations), such inspection shall be conducted as follows:

- The total number of customs declarations determined for calculating the percentage subject to probability inspection is the number of declarations which went through customs procedures on the preceding day at the concerned units. For units having a small number of declarations, at least one declaration shall be inspected every day.
- For goods lots which must be inspected, actual inspection shall be conducted on up to 5% thereof. If no violation is detected, the inspection shall be terminated. If violations are detected, the inspection shall continue until a conclusion on the extent of violation is made.

2.3. The selection of bales/containers for inspection shall be made at random by the computer or decided by Customs Sub-Department leaders, and specifically expressed in customs dossiers.

2.4. In the course of carrying out customs procedures for exported or imported goods lots, basing themselves on the actual condition of goods lots and newly received information, leaders of Customs Departments or Sub-Departments may decide to change the inspection levels and forms previously decided.

2.5 The actual inspection of goods shall be conducted by means of machinery and equipment. In case of unavailability of machinery and equipment, or where manual

inspection is deemed necessary to make final conclusions after the inspection by means of machinery and equipment is made, manual inspection shall be conducted.

2.6. Upon completion of actual inspection of goods (by manual or mechanical methods), customs officers conducting such actual inspection shall have to record in writing the inspection results under the guidance of the General Department of Customs.

3. Contents of inspection in the course of customs clearance for goods

3.1. Inspection of names and codes of goods

a/ Directors of Customs Sub-Departments where customs dossiers are received and processed shall have to identify names and codes of goods. Where declarations by customs declarants are detected to be inaccurate, they shall have to explain them to customs declarants so that the latter can adjust names and codes of goods in compliance with regulations and guidance on the classification and encoding of goods.

Where provincial/municipal Customs Departments or Customs Sub-Departments fail to identify names and codes of goods, they shall have to report such to their immediate superiors for guidance on identification, except for cases specified at Point b below.

b/ Where Customs Sub-Departments fail to accurately identify names and codes of goods items, which require laboratory analyses for identification of composition and contents of their ingredients as well as their natures and utilities, they shall, together with goods owners, take and send samples to a customs center for analysis and classification of exports or imports (hereinafter referred to as the center) for analysis and classification. Basing themselves on the center's analysis and classification results and other information, Customs Sub-Departments which receive and process customs dossiers shall decide on codes of goods.

c/ Where customs declarants disagree with goods names and codes identified by customs offices, they shall, together with customs offices, take samples and agree on selection of specialized expertising agencies or organizations for conducting the expertise. The results of analysis and expertise by specialized expertising agencies or organizations shall be binding on the parties. Specialized expertising agencies or organizations shall bear responsibility for their expertise conclusions. Expertise expenses shall be paid by the expertise requesters.

Where customs declarants and customs offices fail to reach agreement on selection of expertising organizations, the parties shall conduct expertise independently and lodge complaints according to the provisions of law.

3.2. Inspection of the quantity of goods

For goods items the quantity of which cannot be identified by manual methods or by means of equipment of customs offices (liquid goods, bulk goods, large-quantity goods lots, etc.), customs offices shall base themselves on the expertise results provided by the expertising organizations to identify their quantity. Expertising organizations shall bear responsibility before law for their expertise results.

3.3. Inspection of the quality of goods

a/ For goods subject to state quality inspection.

- For imports: Customs offices shall base themselves on registrations for state quality inspection or written notices on exemption from state quality inspection issued by competent state management agencies in charge of quality to carry out customs procedures.

- For exports: Customs offices shall not request the above-said papers to be submitted or produced, but customs declarants shall have to strictly comply with the provisions of law on quality of exports.

Goods owners whose goods are subject to state quality inspection shall be held responsible before law for keeping their goods in the same condition until conclusions on their goods quality are made by competent state management agencies in charge of quality. Within 30 days after goods are brought to the places of preservation, goods owners shall have to add to their customs dossiers the goods quality conclusions of competent state management agencies in charge of quality.

b/ For goods not subject to state quality inspection:

- Where customs offices, with their devices and equipment, cannot determine the quality of goods for application of goods export and import management policies, they shall, together with goods owners, take goods samples or catalogues, and request goods owners to keep their goods in the same condition and agree with the latter on selection of specialized expertising agencies or organizations to conduct the expertise. Conclusions made by such specialized expertising agencies or organizations shall be binding on the parties.

- Where customs declarants and customs offices fail to reach agreement on selection of specialized expertising organizations, the concerned parties shall conduct independent expertises and lodge complaints according to the provisions of law.

3.4. Inspection of the origin of goods

a/ The inspection of the origin of goods must be based on their actual conditions and customs dossiers.

b/ When checking certificates of origin (C/O) of goods, customs offices shall examine the following contents:

- Basic criteria in the C/O, consistency of its contents with customs dossier documents;
- Seal specimens, names and sample signatures, names of agencies or organizations competent to grant C/O under governments of countries or territories which have concluded agreements on special preferences in trade relations with Vietnam.
- The valid duration of C/O.

c/ Where there exists a minor disparity between the contents of C/O and those in customs dossier documents but customs offices have no doubt about the truthfulness of the origin of goods and such contents are still compatible with actually imported goods, such C/O shall still be considered valid.

d/ C/O which have been submitted to customs offices shall not be replaced or modified, except where exist plausible reasons therefor and where the replacement or modification is made by the very agencies or organizations competent to grant such C/O within a legally established time limit;

3.5. Tax inspection

Customs offices shall inspect tax declaration dossiers made by taxpayers. Where such dossiers are incomplete or some of their contents are not fully declared or not presented in proper legal form according to regulations, customs offices shall notify such to taxpayers for supplementation. Where dossiers are complete with all contents declared and presented in a proper legal form according to regulations, customs offices shall take subsequent steps of inspection as follows:

- Inspection of bases for determining that the goods are not liable to tax in cases where customs declarants declare that their goods are not liable to export tax, import tax, value added tax or special consumption tax.
- Inspection of bases for determining that the goods are eligible for tax exemption, or consideration for tax exemption or reduction in cases where customs declarants declare that their goods are eligible for tax exemption, consideration for tax exemption or reduction.
- Inspection of tax bases for determining payable tax amounts in cases where exports or imports are liable to tax. Inspection covers:
 - + Declaration by customs declarants of the quantity, weight and units of calculation of exports or imports;
 - + Values declared by customs declarants;
 - + Declaration by customs declarants of the export tax or import tax rate, value added tax rate or special consumption tax rate; and price differences (if any);
 - + Declaration by customs declarants of the exchange rate for tax calculation;
 - + Tax calculation results declared by customs declarants, including arithmetic operations and the payable amount of each tax on each goods item, total payable tax amount of the whole customs declaration;
 - + Conditions for application of the tax payment time limit or coercive measures for tax payment provided for by the tax law.

3.6. Customs officers who are tasked to inspect each content specified at Point 3 of this Section must be professionally qualified for the job and report inspection results upon completion of the inspection. Where they have opinions divergent from declarations of customs declarants, they shall have to report such to their immediate superiors.

4. Taking and keeping of samples, and archive of images of imported goods

4.1. Samples shall be taken only in case of necessity and in a minimum number necessary for analysis and expertise.

4.2. Cases where samples are taken

- a/ Customs declarants request the taking of samples in service of customs declaration;
- b/ Raw materials and materials imported for processing or manufacture of exports;
- c/ Samples of imports must be taken in service of analysis and expertise at the request of customs offices;

4.3. Sampling procedures

- a/ The taking of samples must be based on sampling request cards of concerned units or customs offices. Each sampling card shall be made in two copies, one to be kept together with the taken sample, another to be kept at the unit requesting the sample taking. The General Department of Customs shall set form of such cards.
- b/ Samples shall be taken in the presence of representatives of goods owners and customs offices;
- c/ Samples must be signed for certification and sealed up by the two parties;
- d/ Upon handover of samples, there must be handover minutes signed by the two parties for certification.

4.4. Preservation of samples

a/ Preservation places:

- Analysis and classification centers, for samples analyzed by such centers;
- Customs Sub-Departments (in cases where such sub-departments need to take samples for carrying out operations related to samples);
- Enterprises (for raw materials imported for processing or manufacture of exports).

b/ Sample preservation duration

- Analytical samples at analysis and classification centers and Customs Sub-Departments in service of requirements of goods export and import management policies shall be kept for 90 days after the date they are taken. In case of disputes or complaints, they shall be kept until such disputes or complaints are completely settled;
- Samples of raw materials for processing shall be kept at enterprises until procedures for liquidating processing contracts are completed;
- Samples of raw materials for manufacturing exports shall be kept at enterprises until procedures for liquidating import declarations are completed.

4.5. Preservation of images of imports

In the following cases, images of goods subject to actual inspection must be recorded and preserved together with customs dossiers:

- Imports are liable to taxes at high tax rates;
- Goods traded by mode of temporary import for re-export.

IV. Customs clearance for goods

1. Goods lots eligible for normal customs clearance are those for which procedures have been completed under decisions of Customs Sub-Department leaders and tax has been calculated and paid.

2. Conditional customs clearance in the cases specified in Clause 2, Article 25 of the Customs Law, Clause 15, Article 1 of the Law Amending and Supplementing a Number of Articles of the Customs Law and Clauses 2 and 3, Article 12 of the Decree shall be effected as follows:

- For exports or imports, pending the availability of expertise results for determining whether they are permitted to be exported or imported or not, Customs Sub-Department directors shall accept requests of goods owners to take their goods back for preservation only in cases where such goods have satisfied the conditions for customs supervision.

- Exports or imports which are subject to price determination, expertise assessment, analysis or classification for accurate determination of payable tax amounts, shall be cleared from customs procedures after their owners have fulfilled tax obligations on the basis of tax declaration, calculation and payment by taxpayers or been provided with guarantees for payable tax amounts by credit institutions or other organizations licensed to conduct a number of banking activities.

3. Where goods are cleared from customs procedures following availability of expertise results, such expertise results shall be applicable to all identical goods lots subsequently imported by enterprises which carry out procedures at such Customs Sub-Departments. This guidance shall not apply to the determination of goods quantity.

V. Certification of actual exportation:

1. For goods exported through sea, air or railway border-gates: Customs offices where export procedures are carried out shall base themselves on bills of lading and commercial invoices produced by goods owners to certify the actual exportation thereof on customs declarations.

2. For goods exported through land or inland waterway border-gates: Customs offices of border-gates of exportation shall base themselves on the results of export supervision to certify the actual exportation thereof on customs declarations.

3. For exports consigned into bonded warehouses: Bonded warehouse customs offices shall certify “goods consigned into bonded warehouses” on export customs declarations to serve as a basis for liquidation.

VI. Recompilation of customs dossiers

The recompilation and archive of customs dossiers shall be conducted within 60 days after the date of customs clearance. Within that time limit, if customs declarants detect by themselves errors and propose customs offices to correct them, Customs Sub-Department leaders shall consider and permit the correction without imposing administrative sanctions on such errors.

VII. Post-customs clearance inspection

Post-customs clearance inspection shall be conducted under the guidance in the Circular guiding the post-customs clearance inspection.

Section 2. CUSTOMS PROCEDURES FOR SOME OTHER CASES

I. For the registration of single customs declarations specified in Clause 6, Article 9 of the Decree:

1. Conditions for application of the registration of single customs declarations:

- The names of goods on customs declarations remain unchanged throughout the valid duration of the registered single declarations;
- Goods declared in such a declaration must be under the same contract; for goods sale and purchase contracts, there must be a clause on multiple delivery of goods;
- Enterprises do not violate regulations on registration of single declarations;
- Enterprises are not subject to coercive application of customs procedures.

2. The registration of single declarations shall apply to all kinds of exports and imports which satisfy the conditions specified at Point I.1, Section 2, Part B above.

3. Validity of registered declarations:

3.1. Declarations shall be valid within the valid duration of contracts. Processed goods declarations shall be valid within the valid duration of contract annexes. Particularly for taxed exports and imports, and goods manufactured for export, declarations shall be valid within the grace period.

3.2. Declarations shall be invalidated ahead of time in the following cases:

- There are changes in tax policies, export and import management policies concerning goods items declared in registered single declarations.
- The valid duration of export/import permits or contracts has expired;
- Enterprises have exported or imported fully the goods quantities declared in the registered single declarations.
- Enterprises announce that they shall not further carry out procedures for fully exporting or importing the goods quantities declared in customs declarations;
- The names of goods exported or imported by enterprises in separate shipments are inconsistent with those already declared in registered single customs declarations;
- Enterprises have been put on the list of enterprises subject to coercive application of customs procedures within the valid duration of registered single declarations.

4. Places where the customs procedures are carried out:

The export or import procedures for goods under registered single declarations shall be carried out at Customs Sub-Departments.

5. Procedures for registration of single declarations:

5.1. Responsibilities of enterprises:

5.1.1. Customs declaration:

Customs declarants must fill in customs declaration forms and exports/imports-monitoring books. Some contents applicable to procedures for each export/import shipment (bills of lading, means of transport, etc.), shall not have to be declared upon registration of single declarations.

5.1.2. Submission and production of customs dossiers:

a/ Documents to be submitted:

- Customs declaration of export goods/import goods: Two originals.
- Goods purchase and sale contract or a paper legally valid as a contract: One copy.
- Export/import permit of a competent state management agency (for goods requiring export permits or import permits according to law): One copy or one original (If the goods permitted for export/import stated in the permits are fully declared in single declarations).
- Exports/imports-monitoring book: Two duplicates.

b/ Documents to be produced:

Export/import permits for comparison with their copies and issuance of monitoring and reconciliation bills by customs offices (if the goods permitted for export/import stated in the permits are not fully declared in single declarations): One original.

6. Procedures for export or import of each goods lot:

6.1. Customs dossiers:

Upon each exportation/importation of goods, goods owners shall declare the quantity of goods exported or imported at that time in the monitoring books, then submit and produce the following papers:

a/ Papers to be submitted: Customs dossier documents as prescribed for each type (except for papers already submitted upon registration of declarations).

b/ Papers to be produced include registered customs declarations and books for monitoring export goods/import goods.

7. Liquidation of declarations:

7.1. Responsibilities of enterprises:

- Within 15 working days after their declarations expire, enterprises shall have to carry out procedures for liquidating customs declarations with Customs Sub-Departments.
- A liquidation dossier shall comprise the registered customs declaration and the book for monitoring export goods/import goods.

7.2. Tasks of customs offices:

Customs sub-departments shall conduct the inspection, comparison and certification of total quantity of actually exported/imported goods in customs declarations, and determine the payable and paid tax amounts.

II. For on-spot exports and imports specified in Article 15 of the Decree:

1. Goods shall be permitted for on-spot export or import under the Trade Ministry's guidance.

2. Customs dossiers:

- On-the-spot export-import declaration (made by exporter): Four originals.

- Foreign trade contract containing a clause on designated place of goods delivery in Vietnam (for exporter), foreign trade contract or processing contract containing a clause on the designated place of goods receipt in Vietnam (for importer): One copy.

- Value added invoices made by the exporting enterprise (copies to be handed to customers): One copy.

- Other papers required for exports or imports(except for bills of lading).

3. Validity of on-the-spot export or import declarations:

- On-the-spot export or import declarations shall be valid within 30 days after Customs Sub-Departments which carry out procedures for importing enterprises sign for certification in the said four customs declaration copies.

- On-the-spot export or import declarations shall be valid for liquidation when:

- + For exporting enterprises: A customs declaration must be fully filled out, with certifications, signatures and stamps of the following four parties: the exporting enterprise, the importing enterprise, the customs office carrying out export procedures, and the customs office carrying out import procedures.

- + For importing enterprises: A customs declaration must be fully filled out, with certifications, signatures and stamps of the following three parties: the exporting enterprise, the importing enterprise and the customs office carrying out import procedures.

- + Where the on-the-spot exporting enterprise and the on-the-spot importing enterprise carry out procedures at a particular Customs Sub-Department, such Customs Sub-Department shall sign for certification in the capacity of both the customs office carrying out export procedures and the customs office carrying out import procedures.

4. The General Department of Customs shall promulgate specific professional processes for implementing this guidance. Customs procedures for on-spot export or import of processed products shall comply with the Finance Minister's Decision No. 69/2004/QĐ-BTC of August 24, 2004.

III. For goods brought into or out of entrepot ports specified in Article 20 of the Decree

1. Customs procedures for goods brought into or out of entrepot ports before being transported overseas:

a/ Customs declaration:

- All goods brought into or out of entrepot ports are subject to customs declaration. Customs declarants shall be enterprises providing goods entrepot services.
- Goods brought into or out of entrepot ports shall be declared in the same declaration form set by the General Department of Customs.

b/ Customs dossiers:

Entrepot goods declarations;

c/ Customs inspection and supervision of goods brought into or out of entrepot ports

For goods brought into or out of entrepot ports and eligible for exemption from inspection, customs offices shall only inspect the quantity of containers and compare the numerical signs of such containers with declarations. When detecting signs of law violation, customs offices shall conduct inspection thereof according to regulations.

d/ For goods transported through entrepot ports in the Vietnamese territory, customs procedures shall comply with regulations on goods in transit.

2. Liquidation of entrepot goods:

- Within 10 days after goods are fully brought out of entrepot ports, enterprises providing entrepot services shall have to liquidate entrepot goods declarations;
- Quarterly, enterprises providing entrepot services shall report to, and make comparisons with, entrepot zones' customs offices on goods quantities brought into, out of or stored in entrepot zones.

3. Handling of goods still stored in entrepot ports:

Goods still stored in entrepot ports shall be handled like imports not yet handled at seaports.

IV. For raw materials and materials imported for manufacture of exports

Customs procedures for raw materials and materials imported for manufacture of exports shall comply with regulations on commercial exports and imports. However, due to the particular nature of this type, customs procedures shall be additionally guided as follows:

1. Registration of contracts:

The procedures for registration of contracts for import of raw materials and materials for manufacture of exports (hereinafter referred to as contracts for short) shall be carried out when enterprises import the first lot of raw materials under contracts at a Customs Sub-Department where enterprises find the most convenient.

2. Places where customs procedures are carried out:

Customs procedures for lots of raw materials and materials imported for manufacture of exports must be carried out at customs offices where contracts for import thereof have been registered. When exporting products manufactured from imported raw materials and materials, enterprises may carry out export procedures at different customs offices but

must notify such in writing to the customs offices where they have registered the contracts for monitoring, liquidation and settlement.

3. Liquidation and settlement of raw materials and materials imported for manufacture of exports:

a/ Principles for liquidation and settlement:

- Earlier import declarations and export declarations must be liquidated first;
- Import declarations of raw materials must be made before export declarations of products;

b/ Responsibilities of enterprises for liquidation and settlement:

- Enterprises shall have to report on, explain and calculate in an adequate, timely and accurate manner the actual condition of imported raw materials and materials, products manufactured for export and the performance of relevant tax obligations to customs offices.
- Enterprises shall submit their liquidation and settlement dossiers to customs offices where they have registered for opening of import customs declarations;
- A liquidation and settlement dossier comprises:
 - + A list of import declarations of raw materials and materials subject to liquidation and settlement;
 - + A list of declarations of exported products subject to liquidation and settlement;
 - + A report on raw materials and materials used in manufacture of exported goods;
 - + A report on warehoused, ex-warehoused and in-stock imported raw materials and materials;
 - + A report on calculation of taxes on imported raw materials and materials.

c/ Management responsibilities of customs offices

- Customs offices shall examine liquidation and settlement dossiers submitted by enterprises. Where signs of law violation are detected, violators shall be handled according to the provisions of law. Where dossiers are complete, valid and accurate, customs offices shall issue tax-related handling decisions according to the provisions of tax law on exports and imports.

4. The General Director of Customs shall specify professional management processes applicable to raw materials and materials imported for manufacture of exports.

V. For processed exports or imports

Customs procedures for processed exports or imports shall comply with regulations on commercial exports or imports. However, due to the particular nature of this mode, specific customs procedures shall comply with the provisions of the Finance Minister's Decision No. 69/2004/QĐ-BTC of August 24, 2004, promulgating the Regulation on customs procedures for goods processed under contracts with foreign traders.

VI. For goods brought into or out of free-trade zones or non-tariff zones:

1. Customs procedures specified in this Section shall apply to both goods brought into or out of free-trade zones specified in the Customs Law and goods brought into or out of non-tariff zones specified in the Export Tax and Import Tax Law (hereinafter referred to as free-trade zones for short).

2. All goods brought into or out of free-trade zones must go through customs declaration procedures, be subject to customs inspection and supervision, except for goods of Vietnamese origin brought from free-trade zones into inland areas, which are exempt from customs procedures.

3. Customs procedures for goods brought from overseas into free-trade zones:

- When goods are brought from foreign countries into free-trade zones, customs declarants must fill in customs declaration forms in strict compliance with regulations on each import mode at customs offices of free-trade zones. Goods imported from abroad into free-trade zones shall not be liable to taxes on imports, and therefore, shall not be subject to tax calculation declaration by customs declarants upon customs declaration.

- Goods brought into free-trade zones shall be exempt from customs inspection. If detecting signs of law violation, customs offices shall conduct the actual inspection of goods. The level of actual inspection of goods shall comply with the provisions of this Circular.

4. Customs procedures for goods brought from inland areas into free-trade zones:

- Goods brought from inland areas into free-trade zones shall be regarded as exports, for which inland enterprises must carry out customs procedures in strict compliance with regulations applicable to each mode of export. Enterprises in free-trade zones shall carry out customs procedures in strict compliance with regulations applicable to each mode of import.

- Where inland enterprises order establishments located within free-trade zones to process goods, customs procedures shall be carried out as for enterprises which order overseas processing of goods. Inland enterprises shall register processing contracts and carry out procedures for exporting raw materials and auxiliary materials into free-trade zones at inland Customs Sub-Departments. Customs offices of free-trade zones shall supervise and certify goods brought into trade zones.

- The actual inspection of goods shall be conducted as for goods exported to foreign countries. Where procedures for goods brought into free-trade zones are carried out by Customs Sub-Departments other than those of free-trade zones, and signs of violation are detected, Customs Sub-Departments of free-trade zones shall re-inspect the goods according to regulations.

5. Customs procedures for goods exported from free-trade zones to foreign countries.

5.1. For goods brought from foreign countries or the inland into free-trade zones, then exported in the same condition as they were to foreign countries, enterprises shall make

customs declarations according to export declaration forms applicable to free-trade zones and detailed lists of goods (if any).

5.2. For goods manufactured or processed in trade zones from raw materials imported or brought from the inland, in addition to the above-said documents, the list of consumption norms shall also be submitted.

5.3. For goods of 100% Vietnamese origin, customs procedures shall be carried out as for ordinary exports.

The above-said goods shall be exempt from actual inspection. Where law violations are detected, actual inspection shall be conducted in accordance with the provisions of Clause 2, Section III of this Circular.

6. Customs procedures for goods brought from free-trade zones into the inland

All goods brought from free-trade zones into the inland shall be regarded as goods imported from foreign countries, and subject to customs procedures in strict compliance of regulations applicable to each mode of import, except for goods of Vietnamese origin.

7. Customs supervision of goods brought out of, into or through free-trade zones:

- Free-trade zones must have fencing walls separating them from surrounding areas, and customs control gates for supervising goods brought out of or into the zones.
- All goods brought out of or into free-trade zones, goods transported through free-trade zones for import into the inland or export to foreign countries must go through customs control gates and be subject to customs supervision at such control gates.
- Goods imported from foreign countries into the inland or goods exported from the inland to foreign countries must, when going through free-trade zones, be transported on routes jointly prescribed by customs offices of free-trade zones and the management boards of such zones.

VII. Procedures for setting up, relocation, expansion or narrowing of bonded warehouses and customs procedures for goods brought into or out of bonded warehouses

1. Procedures for setting up of bonded warehouses:

1.1. Dossiers of application for setting up of bonded warehouses:

Enterprises satisfying the conditions specified in Clause 3, Article 22 of the Decree and Point I.1.d.e.f, Section 4, Part B of this Circular and wishing to set up bonded warehouses shall send applications and dossiers to the Customs Departments of localities where they intend to set up bonded warehouses for consideration. A dossier of application for setting up of bonded warehouses comprises:

- a/ An application for setting up of bonded warehouses (made according to a set form);
- b/ The business registration certificate (copies), which states the function of dealing in warehouses and storing yards;
- c/ The designing plan of the warehouse and storing yard area, clearly showing its boundaries, positions of warehouses, the system of internal transport routes, the systems of

fire and explosion prevention and fighting and security, the warehouse office and the customs' working office;

d/ Lawful documents evidencing the right to use warehouses and storing yards.

1.2. Procedures for considering the grant of permits for setting up of bonded warehouses:

a/ Within 15 (fifteen) days after receiving complete and valid dossiers of enterprises, Customs Departments shall:

- Examine such dossiers;
- Make field surveys of warehouses and storing yards;
- Report on examination and survey results and make proposals with the General Director of Customs;

b/ Within 15 (fifteen) days after receiving reports and proposals of Customs Departments and dossiers of application for setting up of bonded warehouses, the General Director of Customs shall issue decisions on grant of permits for setting up of bonded warehouses or reply enterprises in writing in cases where the conditions specified in Article 22 of the Decree are not fully satisfied.

2. Withdrawal of permits for setting up of bonded warehouses:

The General Director of Customs shall issue decisions on withdrawal of permits of bonded warehouses in the following cases:

a/ Enterprises request in writing the termination of operation of bonded warehouses;

b/ Within 01 (one) year, owners of bonded warehouses commit customs-related administrative violations for three times and are administratively sanctioned with fines at the fine level for each time falling beyond the Customs Sub-Department directors' competence to sanction administrative violations in the customs domain; or commit administrative violations only once but are fined at the level falling beyond the Customs Department directors' competence to sanction administrative violations in the customs domain, or are examined for penal liability.

c/ Within 6 (six) months, enterprises fail to put their bonded warehouses into operation without any plausible reasons.

3. Procedures for relocation, expansion or narrowing of bonded warehouses:

3.1. Customs dossiers:

Enterprises wishing to expand the warehouse or storing yard areas of bonded warehouses, which have been set up under permits of the General Department of Customs, right in the building locations of such warehouses, or wishing to relocate their bonded warehouses from locations already permitted by the General Department of Customs to new places which still lie within the same zone permitted for setting up of bonded warehouses, shall make and send application dossiers to Customs Departments currently managing the bonded warehouses, each comprising:

- An application for a permit for relocation, extension or narrowing of bonded warehouses;

- A site plan of warehouses and storing yards in the area where bonded warehouses are to be relocated to, expanded or narrowed;
- Lawful documents on the right to use warehouses and storing yards to be relocated or expanded.

3.2. Procedures for considering and granting permits for relocation, extension or narrowing of bonded warehouses:

After receiving complete and valid dossiers of enterprises, provincial/municipal Customs Departments shall:

- Conduct the examination of dossiers;
- Conduct field survey of warehouses and storing yards;
- Within 15 days after receiving complete and valid dossiers of enterprises, directors of provincial/municipal Customs Departments shall have to issue decisions to permit the relocation, extension or narrowing of bonded warehouses or reply enterprises in writing in cases where such enterprises fail to fully satisfy the conditions for relocation, extension or narrowing of bonded warehouses.

4. Consignment of goods into bonded warehouses

4.1. Goods brought from foreign countries into bonded warehouses:

4.1.1. A dossier to be submitted to a bonded warehouse customs office comprises:

- A declaration on consignment into or delivery from the bonded warehouse: Two originals.
- A bonded warehouse rent contract already registered with the customs office (a photocopy signed for certification and affixed with the seal of the bonded warehouse owner).
- A mandate for goods reception (if no mandate is stated in the bonded warehouse rent contract): One original or one facsimiled copy signed for certification and affixed with the seal of the bonded warehouse owner.
- A bill of lading (clearly stating goods to be consigned into bonded warehouse).
- A detailed list of goods (particularly for automobiles and motorcycles, their frame and engine numbers must be clearly specified).

4.1.2. Customs procedures:

- The procedures for registration of declarations shall be carried out as for other business types.
- Bonded-warehouse customs offices shall compare container numbers and sealing numbers, for goods stored in sealed containers; bale numbers, signs and codes, for baled goods, with those stated in document sets. If the numbers are consistent, the seals and packings remain unbroken, they shall carry out procedures for warehousing.

- For goods to be consigned into bonded warehouses, if signs of violation of the customs law are detected, actual inspection must be conducted. The inspection level shall comply with the provisions of this Circular.

- Customs officers who supervise goods consigned into bonded warehouses shall sign for certification that goods have been warehoused in the bonded warehouse consignment or delivery customs declarations. For goods which are exported right after their arrival at border-gates of importation without going through procedures for deposit into bonded warehouses, such bonded warehouse consignment or delivery customs declarations must clearly state “goods exported right at border-gates of importation without being warehoused.”

4.1.3. For goods transferred from border-gates to bonded warehouses for warehousing, the procedures for border-gate transfer shall comply with the guidance at Point b, Section 5 below.

4.1.4. In case of plausible reasons accepted by directors of Custom Departments of localities where bonded warehouses are located, goods for which warehousing contracts have been signed shall be transported directly from border-gates of importation to border-gates of exportation without having to be warehoused.

4.2. For goods brought from the inland into bonded warehouses:

4.2.1. Goods shall be brought from the inland into bonded warehouses in the following cases:

- Exports requested to be consigned into bonded warehouses;
- Goods previously permitted to be delivered from bonded warehouses into the inland for processing or recycling;
- Goods which are beyond the temporary import time limit and must be re-exported;
- Goods coerced by competent state agencies for re-export.

4.2.2. Customs procedures and dossiers:

a/ For exports and goods which must be re-exported:

- Enterprises must complete procedures and customs dossiers as for exports and re-exported goods specified in this Circular before consigning them into bonded warehouses.
- (Foreign) goods owners or their lawful representatives shall complete customs procedures and dossiers for goods to be consigned into bonded warehouses as for goods brought from foreign countries into bonded warehouses.
- Border-gate transfer procedures shall be carried out for goods transferred from border-gates to bonded warehouses.

b/ For goods brought from bonded warehouses into the inland for processing or reprocessing and subsequently re-imported, customs procedures and dossiers shall be the same as those applicable to exported or imported processed goods.

5. Bringing of goods out of bonded warehouses:

5.1. For goods brought from bonded warehouses to foreign countries:

a/ Goods owners or their lawful representatives shall submit to bonded-warehouse customs offices the following documents:

- The bonded warehouse consignment or delivery declaration: Two originals.
- The customs declaration of exported goods: One copy (An export declaration which requires multiple ex-warehousing must be produced for reconciliation by customs);
- The mandate for export (if not stated in the warehouse rent contract);
- The ex-warehousing bill made according to a form set by the Finance Ministry.

b/ Bonded-warehouse customs offices shall compare ex-warehousing declaration documents with those for carrying out warehousing procedures and the actual condition of goods lots. If they are consistent, customs offices shall carry out export procedures and conduct customs supervision according to the provisions of Article 18 of the Decree.

c/ Goods involved in one ex-warehousing time declared in the bonded warehouse consignment or delivery declaration may be brought out of bonded warehouses in one or many shipments;

5.2. For goods brought from bonded warehouses into the inland:

a/ Goods shall be brought from bonded warehouses into the inland in the following cases:

- Imports are put in circulation in the Vietnamese market as defined at Point b, Clause 2, Article 26 of the Decree;
- Goods are brought into the inland for processing or reprocessing;
- Goods being machines and equipment leased from foreign countries, which have been re-exported upon termination of lease contracts and consigned into bonded warehouses, are brought into the inland for performance of subsequent lease contracts;
- In case of plausible reasons accepted by directors of Customs Departments of localities where bonded warehouses are located, goods which have been exported and consigned into bonded warehouses may go through procedures for being imported into the inland. Customs procedures for such goods shall be carried out as for goods imported from foreign countries.

b/ Goods owners or their lawful representatives shall have to carry out import procedures for goods brought into the inland as for import of goods from foreign countries in strict compliance with regulations applicable to each corresponding mode of import.

c/ Bonded warehouse customs offices shall supervise the ex-warehousing of goods from bonded warehouses and give certifications in bonded warehouse consignment or delivery declarations.

6. Transport of goods from one bonded warehouses to another in the Vietnamese territory:

- Goods owners or their lawful representatives shall have to file applications for prior consent of Customs Departments of provinces or cities where bonded warehouses storing their goods are located.
- Customs procedures for bringing goods from one bonded warehouse to another shall be carried out as for goods lots transferred from border-gate to border-gate.
- The term of a bonded warehouse rent contract shall start from the date the goods are brought into the first bonded warehouse.

7. Procedures for liquidating goods stored in bonded warehouses:

These procedures shall comply with the Finance Ministry's Circular No. 36/2003/TT-BTC of April 17, 2003.

8. Customs management of bonded warehouses:

- Goods transported from border-gates of importation to bonded warehouses, from bonded warehouses to border-gates of exportation, from one bonded warehouse to another, goods stored in bonded warehouses and services provided within bonded warehouses shall be subject to inspection and supervision by bonded warehouse customs offices.
- Bonded-warehouse customs offices and owners must open books for monitoring warehoused and ex-warehoused goods.
- Once every six months, bonded warehouse owners shall have to report in writing to directors of Customs Departments of localities where their bonded warehouses are located on the actual condition of goods stored in their warehouses and operation of their warehouses.
- Upon expiration of bonded warehouse rent contracts, bonded warehouse owners and goods owners shall have to liquidate such contracts. Bonded warehouse owners shall carry out procedures for liquidating warehoused and ex-warehoused goods of such contracts with bonded warehouse customs offices.
- Once a year, Customs Departments shall conduct inspection of operation of bonded warehouses and the observance of the customs law by bonded warehouse owners. Upon detecting signs of law violation, Customs Departments shall conduct extraordinary inspection of bonded warehouses.

VIII. For goods brought into or out of tax suspension warehouses

1. Goods brought into or out of tax suspension warehouses mean imported raw materials having not yet been taxed and used for manufacture of exported goods of the very enterprises owning such tax suspension warehouses.

Such enterprises must make separate customs declaration dossiers for the quantities of imported raw materials eligible for tax suspension.

2. Customs procedures for imported raw materials brought into tax suspension warehouses shall be carried out as for a single imported lot of raw materials for manufacture of exports, except for procedures for tax payment and liquidation of imported raw materials which shall comply with the provisions of Articles 28 and 29 of the Decree.

3. The procedures for tax payment for quantities of raw materials already brought into tax suspension warehouses for manufacture of products which, however, cannot be exported shall be carried out on the principle that those quantities warehoused earlier shall be ex-warehoused first and those warehoused later shall be ex-warehoused later, more concretely: quantities of raw materials which are not yet exported and kept in stock shall be incorporated in the last raw materials import declarations made during the goods liquidation period at the tax suspension warehouses. The time of tax calculation shall be the time of registration of declarations.

IX. For goods brought into or out of container freight stations (CFS)

The customs procedures for goods brought into or out of CFS shall be the same as those applicable to goods lots transferred from border-gate to border-gate.

X. For exports and imports of export processing enterprises

1. Customs procedures for exports and imports of export processing enterprises shall comply with the procedures already guided for each mode of export or import. Apart from papers which must be submitted, export processing enterprises shall, due to characteristics of this mode, have to carry out the following procedures:

- Make liquidation once every quarter;
- Enterprises shall have to submit liquidation dossiers, each comprising:
 - + A sum-up table of customs declarations of imported raw materials;
 - + A sum-up table of quantities of imported raw materials;
 - + A sum-up table of customs declarations of exported products;
 - + A sum-up table of quantities of exported products;
 - + A list of material consumption norms of each goods item;
 - + A report on warehoused, ex-warehoused and in-stock quantities of imported raw materials.

2. Customs management of imported raw materials and exported products:

Basing themselves on reports of export processing enterprises, customs offices managing export processing enterprises shall examine dossiers. Where enterprises show signs of law violation, the inspection of in-stock goods shall be conducted. Violations, if any, shall be handled according to law.

XI. For parts and accessories temporarily imported in service of replacement or repair of foreign seagoing ships or aircraft specified in Article 32 of the Decree:

1. Customs declarants:

a/ For temporarily imported parts and accessories which are carried along onboard such aircraft or seagoing ships on their entry, customs declarants shall be operators of such means of transport.

b/ For parts and accessories consigned before or after shipping voyages to addresses of shipping agents, customs declarants shall be such shipping agents.

2. Customs procedures:

a/ For parts and accessories temporarily imported in service of performance of seagoing ship or aircraft repair contracts signed between foreign ship or aircraft owners and repairing establishments in Vietnam, customs procedures shall be carried out as for processing for foreign countries.

b/ Temporarily imported parts and accessories which have not yet been used up shall be re-exported out of Vietnam. In cases where they are sold in Vietnam, they must comply with the exports and imports management policies and tax policies applicable to goods imported from foreign countries. Shipping agents or Vietnamese purchasers shall have to carry out import procedures with customs offices and pay taxes according to law.

c/ Parts and accessories knocked down in the course of repair or replacement must be re-exported out of Vietnam or destroyed according to the provisions of law.

XII. For goods traded by mode of temporary import for re-export

Customs procedures for goods traded by mode of temporary import for re-export shall comply with the provisions applicable to commercial exports and imports. Besides, due to the particular nature of this mode, some other specific regulations shall be apply as follows:

1. Places where customs procedures are carried out:

a/ For exports or imports traded by mode of temporary import for re-export, customs procedures shall be carried out only at border-gates;

b/ For re-exported goods, customs procedures may be carried out at border-gates of importation or border-gates of exportation.

c/ If goods temporarily imported for re-export are on the list of goods banned from import, they shall be retained within import border-gate areas, and the procedures for their re-export must be carried out at Customs Sub-Departments of border-gates of temporary import.

2. Management of re-export goods:

a/ When carrying out re-export procedures, apart from documents required for a commercial exports lot, customs declarants must also submit a copy and produce the original of the temporarily imported goods declaration.

b/ A temporarily imported goods lot may be divided into smaller lots for re-export. Upon each re-exportation, enterprises must fully re-export the whole goods quantity declared in each re-export declaration.

c/ Re-exported goods must be exported through border-gates within 8 working hours after their arrival at border-gates of exportation. In case of plausible reasons accepted by directors of Customs Sub-Departments of border-gates of exportation, such goods may be

retained at border-gates of exportation for a duration not exceeding the valid duration of re-export declarations.

3. Liquidation of temporary import declarations:

Customs Sub-Departments carrying out the procedures for temporary import of goods shall have to liquidate temporary import declarations as soon as goods are fully re-exported.

XIII. Goods temporarily imported for re-export or temporarily exported for re-import for participation in trade fairs or exhibitions

Customs procedures for goods temporarily imported for re-export or temporarily exported for re-import for participation in trade fairs or exhibitions shall comply with the provisions applicable to commercial exports and imports. Besides, due to the particular nature of this mode, some other specific regulations shall be apply as follows:

1. Places where customs procedures are carried out:

Customs Sub-Departments of localities where trade fairs or exhibitions are organized or border-gates Customs Sub-Departments.

2. Time limit for re-export or re-import:

Thirty days after the end of a trade fair or exhibition, enterprises shall carry out procedures for re-export or re-import of goods which have participated in such fair or exhibition. In case of plausible reasons, the time limit for re-export or re-import may be prolonged but for not more than three times, each not exceeding 30 days.

3. Competence to prolong the time limit for re-export or re-import:

- Directors of provincial/municipal Customs Departments shall prolong such time limit for goods exported or imported without export or import permits.

- The Trade Ministry shall prolong such time limit for goods exported or imported with export or import permits.

4. Liquidation and settlement by customs offices:

Customs Sub-Departments where the procedures for temporary import or temporary export have been carried out (for the first time) shall have to monitor, manage and make liquidation and settlement of goods temporarily imported for re-export. For goods participating in and put on sale at trade fairs which require export or import permits, the Trade Ministry's permits are required.

Goods sold at trade fairs or exhibitions must be taxed according to law.

XIV. For goods being machines and equipment temporarily imported for re-export or temporarily exported for re-import in service of construction of works or investment projects, or leased assets or rented assets

Customs procedures for goods being machines and equipment temporarily imported for re-export or temporarily exported for re-import in service of construction of works or investment projects, or leased assets or rented assets shall comply with the provisions applicable to commercial exports and imports.

XV. For goods traded by mode of border-gate transfer

Customs procedures for goods traded by mode of border-gate transfer shall comply with the provisions applicable to commercial exports and imports without tax calculation and collection. Besides, due to the particular nature of this mode, some other specific regulations shall also apply as follows:

1. If goods transferred from border-gate to border-gate are transported directly from exporting countries to importing countries without going through Vietnamese border-gates, customs procedures are not required.
2. If goods transferred from border-gate to border-gate are transported from exporting countries to importing countries through Vietnamese border-gates and brought into bonded warehouses or entrepot ports, customs procedures shall comply with the provisions applicable to goods brought into or out of bonded warehouses or entrepot ports.
3. Goods traded by mode of border-gate transfer must be re-exported at border-gates of importation.
4. Goods traded by mode of border-gate transfer shall be eligible for exemption from inspection. Where signs of law violation are detected, customs inspection must be conducted according to the provisions of Point III.2.2, Section 1, Part B of this Circular.

XVI. For temporary import and re-export of means containing goods by mode of rotation

1. These means include:

- a/ Empty containers;
- b/ Flex tanks for containing liquid goods;
- c/ Containers with special-use hangers.

2. Customs procedures:

a/ In cases where the above-said means are owned by carriers:

- On import: Shipping agents shall submit manifests of such means included in manifests of carried cargoes, specifically enumerating imported means.

- On export:

- + Shipping agents shall submit lists of empty containers (before being loaded onto ships);
- + Shipmasters or shipping agents shall submit manifests of carried cargoes.

b/ In cases where the above-said means are not owned by carriers:

- Customs declarants shall be owners of goods already contained or to be contained in such means.

- Customs declarants must make written explanations to get procedures carried out for this mode.

XVII. For goods sold at duty-free shops:

The sale of goods at duty-free shops shall comply with the Regulation on customs management of goods sold at duty-free shops, promulgated together with the Finance Minister's Decision No. 77/2004/QĐ-BTC of September 28, 2004.

XVIII. For postal items and parcels, exports and imports sent by postal services, export and import objects and goods sent by express mail services

The provisions of the Finance Ministry's Circular No. 33/2003/TT-BTC of April 16, 2003 shall be complied with.

Section 3. CUSTOM PROCEDURES FOR GOODS EXPORTED OR IMPORTED FOR NON-COMMERCIAL PURPOSES

I. Goods exported or imported for non-commercial purposes

Goods exported or imported for non-commercial purposes (hereinafter referred to as non-commercial goods for short) include:

1. Gifts and presents sent by overseas organizations or individuals to domestic organizations or individuals; or sent by domestic organizations or individuals to overseas organizations or individuals;
2. Goods of Vietnam-based diplomatic missions and international organizations and people working at these agencies or organizations;
3. Humanitarian aid goods;
4. Temporarily imported goods of individuals eligible for tax exemption granted by the Vietnamese State;
5. Free sample goods;
6. Professional and working instruments of people on exit or entry;
7. Movable assets of organizations and individuals;
8. Personal belongings of people on entry consigned under bills of lading, hand luggage carried by people on entry in excess of duty-free quotas;
9. Other non-commercial goods.

II. Declarants of non-commercial exports and imports include:

1. Goods owners;
2. Customs clearance agents, in cases where goods owners sign contracts with agents; or,
3. People mandated in writing by goods owners. In this case, mandataries may fill out, sign and affix their seals on customs declarations in their capacity.

III. Customs procedures:

1. For imported goods:

a/ Papers to be submitted:

- Non-commercial exports or imports declaration: Two originals;

- Bill of lading (except for hand-carried goods in excess of the duty-free luggage quotas according to the provisions of Point I.8, Section II, Part B): One copy;
- Written mandate specified at Point II.3, Section III, Part B: One original;
- The Finance Ministry's written certification of aid goods (for import of humanitarian aid goods): One original;
- The competent state agency's written permit for settlement in Vietnam (for import of movable assets of individuals or their families): One notarized copy;
- The competent state agency's written permit for movement of assets of foreign organizations into Vietnam: One copy;
- Goods import permits (for import of banned goods or goods subject to conditional import, except for the cases specified at Points I.7 and I.8, Section 3, Part B): One original;
- Other papers, which are required under law for specific cases.

b/ Papers to be produced:

- The carrier's goods-receiving note (except for hand-carried goods of passengers in excess of the duty-free quotas according to the provisions of Point I.8, Section 3, Part B);
- Contract signed with a customs agent (applicable to the cases specified at Point II.2, Section 3, Part B);
- The duty-free quota book of the diplomatic mission, international organization or foreigner working in such agency or organization.

2. For exported goods:

a/ Papers to be submitted:

- Non-commercial exports or imports declarations: Two originals;
- Written mandate specified at Point II.3, Section 3, Part B: One original;
- The competent state agency's written permit for export of humanitarian aid goods (for export of humanitarian aid goods): One copy certified by the aid-receiving organization;
- The competent state agency's written permit for overseas settlement (for export of movable assets of individuals or their families): One notarized copy;
- The competent state agency's written permits for movement of assets of organizations to foreign countries: One notarized copy;
- Goods export permits (for export of banned goods or goods subject to conditional export, except for goods of the cases defined at Points I.7 and I.8 above): One original;
- Other papers, which are required under law for specific cases.

b/ Papers to be produced:

Contracts signed with customs agents (for the cases specified at Point II.2 above).

IV. Customs procedures:

1. Customs declarants shall fill in the declarations and submit customs dossiers, whereas customs offices shall receive and register the dossiers;
2. Customs declarants shall receive goods from carriers (for import goods);
3. Customs declarants produce their goods for customs inspection.

The inspection of non-commercial goods must also adhere to the customs inspection principles provided for in the Customs Law and the Decree.

Particularly, goods of diplomatic missions or international organizations which are eligible for diplomatic privileges in Vietnam and foreigners having the diplomatic status and working in such agencies or organizations shall be exempt from inspection in all circumstances, except for case of flagrant delicto. The above-said organizations and individuals and their mandataries shall be held responsible before law if they are detected having committed violations of the law on goods export and import;

4. Customs declarants shall pay taxes, fees and other charges according to the provisions of law;

Customs procedures shall be completed and goods shall be customs-cleared after the above-said jobs are performed.

Section 4. PROCEDURES FOR SETTING UP CUSTOMS CHECKPOINTS AT DOMESTIC PORTS, CUSTOMS CHECKPOINTS OUTSIDE BORDER-GATE AND INLAND GOODS INSPECTION POINTS

I. Procedures for setting up customs checkpoints at domestic ports, and procedures for setting up customs checkpoints outside border-gate:

1. Conditions for setting up customs checkpoints at domestic ports (hereinafter referred to as domestic ports for short):

1.1. Enterprises must have business registrations for forwarding and transportation of exports and imports; or dealing in warehouses and storing yards.

1.2. A zone for setting up a domestic port must satisfy the following conditions:

a/ Being established to cope with the congestion of exports and imports at international seaports and having been planned in the system of domestic ports publicized by the Transport Ministry;

b/ Covering an area of 10 hectares or more;

c/ Ensuring working conditions for customs, such as: working office, goods inspection site and warehouse for storing violation exhibits.

d/ Warehouses and storing yards must have walls or fences separating them from surrounding areas, be furnished with cameras, detectors, electronic scales and other equipment for quick customs clearance. Goods brought into or out of warehouses or storing yards must be controlled by computer systems. These systems and equipment shall be connected with supervisions systems of customs offices.

2. Conditions for setting up customs checkpoints outside border-gate (hereinafter referred to as checkpoints for short):

2.1. A zone for setting up a site must satisfy the following conditions:

a/ Being under the Finance Ministry's planning on the system of customs checkpoints outside border-gate.

b/ Being situated in an industrial park, export processing zone, free-trade zone, non-tariff zone, another special economic zone or a geographical area where many industrial production factories engaged in regular and stable export and import activities are concentrated.

c/ Being in a place where traffic is convenient for container goods transport.

d/ Covering an area of one hectare or more.

e/ Satisfying other conditions specified at Points d and e, Point 1, Part I above.

3. A dossier of application for the setting up of a domestic port or a customs clearance site outside border-gate comprises:

a/ An application for setting up: One original.

b/ A written approval of the People's Committee of the province or city where the domestic port or customs clearance site is to be located.

c/ The business registration certificate: One copy.

d/ A construction economic and technical study report: One copy.

e/ The operation regulation: One original.

4. Setting-up procedures:

4.1. Dossiers of application for setting up of domestic ports/checkpoints shall be sent to the General Department of Customs.

a/ The General Department of Customs shall:

- Examine the planning of domestic ports/checkpoints;

- Examine dossiers;

- Conduct field survey of warehouses and storing yards;

- Assess the satisfaction of the conditions specified in Clause 2, Article 4 of the Decree and Points I.1 and I.2 above.

b/ Within 30 days after receiving complete and valid dossiers of enterprises, the General Department of Customs shall complete the examination and assessment, report on the results thereof and propose the Finance Minister to decide on the setting up of domestic ports/checkpoints.

4.2. Once a year or when detecting signs of law violation, the General Department of Customs shall inspect the observance of the customs law by enterprises permitted to set up

and deal in these domestic ports/checkpoints. Where enterprises are detected to have violated the customs law, they shall, depending on the seriousness of their violations, be handled according to the provisions of law or proposed to the Finance Minister for withdrawal of decisions on setting up of domestic ports/checkpoints.

4.3. The Finance Minister shall decide on withdrawal of decisions on setting up of domestic ports/checkpoints in the following cases:

- Enterprises request in writing the termination of operation thereof;
- Past the time limit of 6 months after the setting-up decisions are issued, enterprises fail to put their domestic ports/checkpoints into operation without plausible reasons;
- Enterprises dealing in domestic ports/checkpoints violate the customs law according to the provisions of Point 4.2 above;
- Enterprises already permitted to operate fail to maintain the conditions specified in Clause 2, Article 4 of the Decree, or Points I.1 and I.2 above (except for the cases where operation permits have been granted according to Decision No. 52/2003/QĐ-BTC).

4.4. Basing themselves on the growth rate of quantities of goods exported and imported through domestic ports/checkpoints, proposals of enterprises and the suitability to the geographical positions and operation conditions of domestic ports/checkpoints, directors of Customs Departments shall decide to permit the enterprises to narrow or expand their domestic ports/checkpoints.

II. Procedures for setting up of points for actual inspection of exports and imports (referred to in this Section as checkpoints for short):

1. Checkpoints include:

- a/ Concentrated checkpoints and inland container depots;
- b/ Border export checkpoints within border-gate economic zones;
- c/ Works' construction sites, factories, workshops and manufacturing places.

2. Setting-up conditions

2.1. A concentrated checkpoint or inland container depot shall be set up if the following conditions are satisfied:

- a/ Enterprise has business registration for forwarding and transportation of exports and imports (for enterprises applying for setting up of checkpoints at inland container depots);
- b/ Being located in a geographical area where export and import activities are regularly conducted, traffic is convenient for container transport of goods, and no more than 20 km away from the managing Customs Sub-Department.
- c/ Other conditions specified in Items d, e and f, Point I.1, Section 4, Part B above.

2.2. For border export checkpoints within border-gate economic zones

- a/ Being located within border-gate economic zones;

b/ Obtaining provincial People's Committees' permits for passage of goods.

2.3. For checkpoints at works' sites, factories, workshops or places of manufacture.

a/ Works' sites or warehouses mean places where imported equipment, machines and supplies are gathered for construction of factories or works.

b/ Places of manufacture mean factories or manufacturing workshops of enterprises (applicable to exported and imported goods items with specific preservation, packing, hygienic, technological and safety requirements.

Enterprises shall have to arrange means and equipment in service of customs offices' inspection at works' sites, factories, workshops or places of manufacture.

3. Competence to recognize checkpoints:

- The General Director of Customs shall decide to recognize concentrated checkpoints, inland container depots and border exported goods checkpoints within border-gate economic zones;

- Directors of Customs Departments shall decide on setting up of checkpoints at works' sites, factories, workshops or places of manufacture.

Section 5. CUSTOMS PROCEDURES FOR EXPORTS AND IMPORTS TRANSFERRED FROM BORDER-GATE TO BORDER-GATE

Customs procedures for goods transferred from border-gate to border-gate are specified in Article 18 of the Decree. The Finance Ministry hereby provides additional guidance as follows:

1. Imports with declarations registered at Customs Sub-Departments outside border-gate shall be exempt from border-gate transfer procedures if they are exempt from actual inspection.

2. For border gate-transfer imports brought into export processing zones, customs offices of export processing zones shall sign for customs clearance of imported goods lots only after such goods lots have been brought into their zones.

3. Supervision of exports and imports transferred from border-gate to border-gate:

a/ Exports and imports transferred from border-gate to border-gate must be contained in containers or in means of transport or trucks satisfying the requirements on customs sealing.

For goods which cannot be sealed up (extra-long or extra-heavy cargoes), Customs Sub-Departments of border-gates of importation must notify in writing Customs Sub-Departments outside border-gate of the fact that goods are transported without customs seals.

b/ Exports and imports transferred from border-gate to border-gate and exempt from actual inspection shall not be sealed up.

3. The General Director of Customs shall guide in detail customs procedures for exports and imports transferred from border-gate to border-gate.

Section 6. CUSTOMS PROCEDURES FOR MEANS OF TRANSPORT ON ENTRY OR EXIT OR MOVING FROM PORT TO PORT

Customs procedures for means of transport on entry or exit or moving from port to port are specified in Chapter III of the Decree, the Finance Ministry hereby provides additional guidance as follows:

1. Means of transport being seagoing ships, airplanes, cars and transnational trains (hereinafter referred to as means of transport for short) must go through customs procedures and be subject to customs supervision in the course of operation in the Vietnamese territory;
2. Authorities of airports, seaports and transnational railway stations shall have to notify in advance customs offices of information related to means of transport, cargoes and passengers on entry or exit carried by such means of transport.
3. Carriers shall have to declare with customs offices cargoes, passengers, crews and employees working onboard means of transport and other information relating to the customs offices' management of means of transport on entry, exit or in transit.
4. Means of transport must operate on transport routes and through border-gates, stop at stations or ports as prescribed and discharge cargoes at places stated in bills of lading. Their operators shall be held responsible before law for operation of such means throughout the course of operation in Vietnam.
5. Operators of means of transport or their lawful representatives in Vietnam shall have to carry out customs procedures for such means of transport at customs offices of first border-gates of importation and last border-gates of exportation or other places specified by the Government.
6. The supply of information and customs declaration by agencies and organizations defined in Clauses 2 and 3 above and among Customs Sub-Departments shall be effected through computer networks directly connected with customs offices or in writing. Customs offices encourage and give priority to owners of means of transport to make customs declarations in electronic form.
7. Explosives, inflammables, poisons, anesthetics, foreign currencies, weapons and military gears, liquors, beer, cigarettes and alcoholic drinks carried onboard ships must be declared in declarations of their cargo holds, kept in separate stores and sealed up by customs offices when necessary.

Where ships carry imports moving from port to port or cargoes in transit, shipmasters must also submit manifests of goods moving from port to port or goods in transit when carrying out entry procedures at the first Vietnamese border-gate.

When requested by customs offices, shipmasters must produce documents related to cargoes carried onboard, technical dossiers of their ships, and dossiers related to crewmembers and passengers onboard.

8. The General Director of Customs shall specify customs procedures for means of transport on entry or exit, in transit or moving from port to port.

9. Means of transport of individuals, agencies or organizations, which are temporarily imported for re-export or temporarily exported for re-import not for commercial purposes (hereinafter referred to as means of transport temporarily imported for re-export or temporarily exported for re-import) shall observe the following specific guidance:

9.1. Means of transport temporarily imported for re-export or temporarily exported for re-import include:

- Tourist cars;
- Motorcycles;
- Motorized or non-motorized boats, canoes;
- Personal aircraft.

9.2. Customs procedures:

For means of transport temporarily imported for re-export or temporarily exported for re-import, their operators must submit and produce the following dossiers and documents:

- Entry or exit permit or papers of equivalent validity under the agreements on land transport signed between Vietnam and the bordering countries or the multilateral agreements on land transport among regional countries (to be produced);
- List of passengers: One copy (to be submitted);
- Declaration of means of transport temporarily imported for re-export or temporarily exported for re-import: One copy (to be submitted);
- Declaration of luggage of the operator of means of transport and passengers whose luggage must be declared (if any): One copy (to be submitted).

9.3. Separate regulations on means of transport of individuals or organizations residing or located in border regions and frequently traveling across the border:

9.3.1. These means of transport include:

a/ Foreign trucks which enter into Vietnamese border-gate zones for delivery of imports or receipt of exports, then return to their home countries within a day.

b/ Vietnamese trucks which travel across the border to deliver exports and receive imports within border-gate zones, then return to Vietnam within a day.

c/ Means of transport of individuals, agencies or organizations residing or located in border regions and frequently traveling across the border for their daily-life needs.

9.3.2. Conditions for temporary import for re-export:

These types of means of transport shall only be temporarily imported for re-export or temporarily exported for re-import through a particular border-gate.

9.3.3. Customs procedures:

These types of means of transport require no permit and are not subject to customs declaration but are only managed and monitored by border-gate customs offices on books.

The General Department of Customs shall specify the procedures for management of these types of means of transport.

Part C

COMPLAINTS, DENUNCIATIONS, COMMENDATION AND HANDLING OF VIOLATIONS

I. Lodging of complaints or denunciations, initiation of lawsuits

1. Individuals, organizations or their representatives may lodge complaints or initiate lawsuits against administrative decisions or acts related to the carrying out of customs procedures, the inspection and supervision by customs offices and officers.
2. All citizens may denounce law-breaking acts committed in carrying out customs procedures, customs inspection and supervision.
3. The competence, order and procedures for settling complaints and denunciations shall comply with the provisions of law on complaints and denunciations.

II. Commendation and handling of violations

1. Individuals and organizations that well observe the regulations on customs management shall be commended according to the State's common regimes.
2. Individuals and organizations that intentionally or unintentionally violate the regulations on customs procedures, inspection and supervision shall, depending on the nature and seriousness of their violations, be administratively sanctioned according to the provisions of the Government's Decree No. 138/2004/ND-CP of June 17, 2004, on sanctioning of administrative violations in the state management of customs, or examined for penal liability.
3. Customs officers, when carrying out customs procedures, or conducting customs inspection and supervision, commit acts of harassing or causing troubles, thus impeding goods export and import activities, shall, depending on the nature and seriousness of their violations, be disciplined or examined for penal liability. If causing damage, they must pay compensations therefor according to the provisions of law.

Part D

ORGANIZATION OF IMPLEMENTATION

1. The General Director of Customs shall base himself/herself on the guidance in this Circular to promulgate a regulation on grant of customs procedure priority cards to enterprises having well observed the customs law, and grant such cards; promulgate customs procedures and guide customs units to uniformly apply such procedures, ensuring favorable conditions for export and import activities and effective customs management.
2. This Circular takes effect 15 days after its publication in "CONG BAO," and replaces the Finance Ministry's Circular No. 32/2003/TT-BTC of April 16, 2003, and the Finance Minister's Decisions No. 52/2003/QD-BTC, No. 53/2003/QD-BTC, No. 54/2003/QD-BTC, No. 55/2003/QD-BTC, No. 56/2003/QD-BTC and No. 57/2003/QD-BTC of April 16, 2003.

Any difficulties or problems arising in the course of implementation should be promptly reported by concerned units to the Finance Ministry for study and additional guidance.

For	the	Finance	Minister
Vice			Minister
<i>TRUONG CHI TRUNG</i>			