

Australian Government Anti-Dumping Commission

Exporter Questionnaire



ABB Ltd, Vietnam

Product:

From:

Period of Investigation:

Response due by:

Power transformers

China, Indonesia, Korea, Taiwan, Thailand and Vietnam

1 July 2010 - 30 June 2013

9 September 2013

Extended to 27 September 2013

Investigation case manager:

Phone:

Fax:

E-mail:

Anti-Dumping Commission website:

Return completed questionnaire to:

Chris Vincent

+61 2 6275 6729

1300 882 506

operations1@adcommission.gov.au

www.adcommission.gov.au

Anti-Dumping Commission Customs House 5 Constitution Avenue Canberra ACT 2600

Attention: Director Operations 1

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GOODS UNDER CONSIDERATION

The goods under consideration (the goods) i.e. the goods exported to Australia, allegedly at dumped prices are:

Liquid dielectric power transformers with power ratings of equal to or greater than 10 MVA (mega volt amperes) and a voltage rating of less than 500kV (kilo volts) whether assembled or unassembled, complete or incomplete.

Incomplete transformers are subassemblies consisting of the active part and any other parts attached to, imported with or invoiced with the active parts of power transformers. The active part of a power transformer consists of one or more of the following when attached to or otherwise assembled with one another:

- the steel core;
- the windings;
- electrical insulation between the windings; and
- the mechanical frame.

The product definition includes step-up transformers, step-down transformers, autotransformers, interconnection transformers, voltage regulator transformers, rectifier transformers, traction transformers, trackside transformers and power rectifier transformers.

Distribution transformers are not the subject of this application.

SECTION A COMPANY STRUCTURE AND OPERATIONS

This section requests information relating to company details and financial reports.

A-1 Identity and communication

Please nominate a person within your company who can be contacted for the purposes of this investigation:

Head	Office	and	factory
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Name	Bradley Havlin
Position in the company	DTR Product Group Manager
Address	Km 9, National Road 1A Hoang Liet Hoang Mai Hanoi Vietnam
Telephone	+84 4 3861 1009
Facsimile number	+84 4 3861 1009
E-mail address	bradley.havlin@vn.abb.com

A-2 Representative of the company for the purpose of investigation

If you wish to appoint a representative to assist you in this investigation, provide the following details:

Name	Alistair Bridges Solicitor Moulis Legal		
Address	6/2 Brindabella Circuit Brindabella Business Park Canberra International Airport Australian Capital Territory Australia 2609		
Telephone	+ 61 2 6163 1000		
Facsimile number	+ 61 2 6162 0606		
E-mail address	alistair.bridges@moulislegal.com		
All communications in relation to this matter should be directed to Moulis Legal in the first instance.			

Note that in nominating a representative, the Commission will assume that confidential material relating to your company in this investigation may be freely

released to, or discussed with, that representative.

A-3 Company information

1. What is the legal name of your business? What kind of entity is it (eg. company, partnership, sole trader)? Please provide details of any other business names that you use to export and/or sell goods.

ABB Limited ("ABB VN") is a Vietnamese registered company.

ABB VN does not use any other business names to export and or sell the goods.

2. Who are the owners and/or principal shareholders? Provide details of shareholding percentages for joint owners and/or principal shareholders. (List all shareholders able to cast, or control the casting of, 5% or more of the maximum amount of votes that could be cast at a general meeting of your company.)

ABB VN is 100% owned by ABB Asea Brown Boveri Ltd.

3. If your company is a subsidiary of another company, list the principal shareholders of that company.

The principal shareholders of by ABB Asea Brown Boveri Ltd are:

- Investor AB 7.9%; and
- Blackrock Inc 3%.

To the best of ABB VN's knowledge, no other shareholder currently holds 3% or more of by ABB Asea Brown Boveri Ltd total share capital and voting rights

4. If your parent company is a subsidiary of another company, list the principal shareholders of that company.

Not applicable.

5. Provide a diagram showing all associated or affiliated companies and your company's place within that corporate structure.

See Attachment 1 – ABB VN Corporate Structure [CONFIDENTIAL].

6. Are any management fees/corporate allocations charged to your company by your parent or related company?

[CONFIDENTIAL INFORMATION DELETED – details of intragroup dealings]

7. Describe the nature of your company's business. Explain whether you are a producer or manufacturer, distributor, trading company, etc.

ABB VN is a manufacturing and engineering company providing engineered solutions for energy-efficient transmission and distribution

of electricity, and for increasing productivity in industrial, commercial and utility operations.
ABB VN's operations are organized into five divisions. They are as follows:
 Power Products ("PP Division") – ABB VN is a manufacturer of medium voltage ("MV") and high voltage ("HV") switchgear; capacitors; and power transformers. When selling these products ABB VN provides accompanying design, engineering, installation and commissioning services.
 Power Systems ("PS Division") - ABB VN provides full engineering and product supply for substations, power generation systems and grid systems. This can include the provision of power transformer/s as a component part of the power system.
 Discrete Automation and Motion ("DM Division") - ABB VN is involved in the engineering and trading of low voltage ("LV") and MV drives; LV motors; robotics; solar inverters; voltage regulators; etc, including the installation and commissioning services related to these products.
 Low Voltage Products ("LP Division") - ABB VN is a manufacturer of LV switchgear, and engages in the engineering and trading of LV products such as breakers, switches, control products and enclosures, and DIN¹ rail.
 Process Automation ("PA Division") - ABB VN performs engineering and consulting services to optimize the productivity of industrial processes.
The next level of organisational structure below that of Divisions is that of Business Units ("BU"). The relevant BU for the goods under consideration is PPTR, or Power Products – Transformers.
For more information about ABB VN, please see the ABB VN company profile in Attachment 2.
If your business does not perform all of the following functions in relation

- 8. If your business does not perform all of the following functions in relation to the goods under consideration, then please provide names and addresses of the companies which perform each function:
 - produce or manufacture
 - sell in the domestic market
 - export to Australia, and
 - export to countries other than Australia.

ABB VN performs all of these functions in relation to the goods under consideration.

¹ "DIN" is acronym for "Deutsches Institut fur Normung", which developed the original specification for this product.

These functions are carried out by the PP Division, which operates from ABB VN's Hanoi factory. Its product markets include the Vietnamese domestic market, the Australian market and certain other country markets.

9. Provide your company's internal organisation chart. Describe the functions performed by each group within the organisation.

Please see organisation charts for ABB VN and for the ABB VN transformer business ("PPTR") in Attachment 3 [CONFIDENTIAL].

10. Provide a copy of your most recent annual report together with any relevant brochures or pamphlets on your business activities.

Not applicable. ABB VN does not publish such annual reports.

Please refer to Attachment 4 which is the ABB Zurich annual report.

A-4 General accounting/administration information

1. Indicate your accounting period.

ABB VN's accounting period is the calendar year from 1 January to 31 December.

2. Indicate the address where the company's financial records are held.

ABB VN's financial records held at the head office in Hanoi. The address is indicated in A-1 above.

- 3. Please provide the following financial documents for the two most recently completed financial years plus all subsequent monthly, quarterly or half yearly statements:
 - chart of accounts;

See Attachment 5 [CONFIDENTIAL] for ABB VN's chart of accounts as used.

See Attachment 3 [CONFIDENTIAL] for the business structure of PPTR as related to the goods under consideration.

 audited consolidated and unconsolidated financial statements (including all footnotes and the auditor's opinion);

See Attachment 6 [CONFIDENTIAL] and 7 [CONFIDENTIAL], respectively, for the 2011 and 2012 audited financial statements of ABB VN.

 internal financial statements, income statements (profit and loss reports), or management accounts, that are prepared and maintained in the normal course of business for the goods under consideration.

See Attachments 8 [CONFIDENTIAL], 9 [CONFIDENTIAL], 10 [CONFIDENTIAL] and 11 [CONFIDENTIAL] for the internal income

statements of the product group "SPT" (small power transformers) from July 2010 to June 2013.

These documents should relate to:

- the division or section/s of your business responsible for the production and sale of the goods under consideration, and
- the company.
- 4. If you are not required to have the accounts audited, provide the unaudited financial statements for the two most recently completed financial years, together with your taxation returns. Any subsequent monthly, quarterly or half yearly statements should also be provided.

ABB VN is required to have its accounts audited.

5. Do your accounting practices differ in any way from the generally accepted accounting principles in your country? If so, provide details.

ABB VN's corporate consolidated statements are kept in accordance with US GAAP.

ABB VN's accounts themselves are kept in accordance with the Vietnam Standard. These accounts are audited.

6. Describe:

The significant accounting policies that govern your system of accounting, in particular:

 the method of valuation for raw material, work-in-process, and finished goods inventories (eg last in first out –LIFO, first in first out- FIFO, weighted average);

Inventories are valued at the lower of cost (weighted average method) and net realisable value. Costs of finished goods and work in process comprise of raw materials, labour and overheads.

 costing methods, including the method (eg by tonnes, units, revenue, direct costs etc) of allocating costs shared with other goods or processes (such as front office cost, infrastructure cost etc);

Costing methods are based on actual cost and accrued cost.

Allocation of Corporate Functions cost to the Divisions/BUs is based on the following standards:

[CONFIDENTIAL TEXT DELETED – internal allocation methods]

 valuation methods for damaged or sub-standard goods generated at the various stages of production;

Not applicable.

• valuation methods for scrap, by products, or joint products;

Scrap is sold to the market and recorded as other operating income. Scrap value is determined on the basis of market prices.

valuation and revaluation methods for fixed assets;

Land use rights are treated as intangible fixed assets and amortised. Building and equipment are stated at cost less accumulated depreciation and allowance for diminution in value (if any).

 average useful life for each class of production equipment and depreciation method and rate used for each;

Depreciation and amortisation of tangible fixed assets and intangible assets are calculated on a straight line basis over the estimated useful list of each asset as follows:

•	Land use rights	48 years
•	Buildings and structures	10-30 years
•	Machinery and equipment	5-12 years

- Means of transportation 6-10 years
- Office equipment 3-8 years
- Computer software 5 years
- treatment of foreign exchange gains and losses arising from transactions;

Transactions in foreign currencies are translated into VND (Vietnam Dong) at the exchange rate applicable to the date of the transaction. Gains and losses on exchange are included in income.

 treatment of foreign exchange gains/losses arising from the translation of balance sheet items;

Monetary assets and liabilities denominated in foreign currencies are translated into VND at the exchange rate ruling at the end of the reporting period. Gains and losses on exchange are included in determining income.

inclusion of general expenses and/or interest;

General expenses including costs of the following function:

- Local Management;
- Planning and Controlling;
- Accounting;
- Communication;
- Legal Affairs and Compliance;
- Finance and Treasury;
- Sarbanes-Oxley; and
- HR.
- provisions for bad or doubtful debts;

[CONFIDENTIAL INFORMATION DELETED – internal accounting

methodology]

expenses for idle equipment and/or plant shut-downs;

Not applicable, in that ABB VN did not experience idle equipment and/or shut-down during the POI.

costs of plant closure;

Not applicable, in that ABB VN did not experience plant closure during the POI.

restructuring costs;

Not applicable, in that ABB VN did not experience restructuring costs during the POI.

 by-products and scrap materials resulting from your company's production process; and

Scrap is sold to the market and recorded as other operating income. Scrap value is determined on the basis of market prices.

effects of inflation on financial statement information.

Not applicable, in that ABB VN did not have to account for effects of inflation during the POI.

7. In the event that any of the accounting methods used by your company have changed over the last two years provide an explanation of the changes, the date of change, and the reasons for it.

ABB VN has not changed its accounting methods during the last two years.

A-5 Income statement

Please fill in the following table. It requires information concerning all products produced and for the goods under consideration. You should explain how costs have been allocated.

	Most recent completed financial year (specify)		Investigation period	
	All products	Goods Under Consideration	All products	Goods Under Consideration
Gross Sales (1)				
Sales returns, rebates and discounts (2)				
Net Sales (3=1-2)				
Raw materials (4)				

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Direct Labour (5)		
Depreciation (6)		
Manufacturing overheads (7)		
Other operating expenses (8)		
Total cost to make (9=4+5+6+7+8)		
OPERATING INCOME (10=3-9)		
Selling expenses (11)		
Administrative & general expenses (12)		
Financial expenses (13)		
SG&A expenses (14)=(11+12=13)		
INCOME FROM NORMAL ACTIVITIES (15)=(10-14)		
Interest income (16)		
Interest expense (enter as negative) (17)		
Extraordinary gains and Losses – enter losses as negative (18)		
Abnormal gains and losses – enter losses as negative (19)		
PROFIT BEFORE TAX (20)=(15+16+17+18+ 19)		
Tax (21)		
NET PROFIT (22)=(20-21)		

Note: if your financial information does not permit you to present information in accordance with this table please present the information in a form that closely matches the table.

Prepare this information on a spreadsheet named "Income statement".

This information will be used to verify the completeness of cost data that you provide in Section G. If, because of your company's structure, the allocations would not be helpful in this process, please explain why this is the case.

See Attachment 12 – Income Statement [CONFIDENTIAL].

For the better understanding of the Commission, please note that the "All products" information reflects the total ABB VN results. Subject to the following, it is this data that can be reconciled to ABB VN's audited accounts. To reconcile the total ABB VN data to the audited accounts, adjustments need to be made to account for the fact that the information in the Income Statement uses US GAAP, whereas the information in the audited accounts uses Vietnamese GAAP. The major difference between these two methodologies is when revenue will be recognised.

The "Goods under Consideration" information is drawn from ABB VN's SPT management level accounts. The information is presented on a fully-absorbed cost basis. Please note that this is not *precisely* coterminous with the universe of the "Goods under Consideration" as defined in this EQ.

A-6 Sales

State your company's net turnover (after returns and all discounts), and free of duties and taxes. Use the currency in which your accounts are kept, in the following format:

	Most recent completed financial year (specify)		Investigat	ion period
	Volume	Value	Volume	Value
Total company turnover (all products)				
Domestic market				
Exports to Australia				
Exports to Other Countries				
Turnover of the nearest business unit, for which financial statements are prepared, which includes the goods under consideration				
Domestic market				
Exports to Australia				
Exports to Other Countries				

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Turnover of the goods under consideration		
Domestic market		
Exports to Australia		
Exports to Other Countries		

Prepare this information in a spreadsheet named "Turnover".

This information will be used to verify the cost allocations to the goods under consideration in Section G.

Also, you should be prepared to demonstrate that sales data shown for the goods is a complete record by linking total sales of these goods to relevant financial statements.

See Attachment 13 – Turnover [CONFIDENTIAL].

As well as units, total MVA has also been reported.

SECTION B SALES TO AUSTRALIA (EXPORT PRICE)

This section requests information concerning your export practices and prices to Australia. You should include costs incurred beyond ex-factory. Export prices are usually assessed at FOB point, but the Commission may also compare prices at the ex factory level.

You should provide details of **all** goods under consideration (the goods):

- invoiced during the investigation period; and
- subject to tenders that were won during the investigation period, even in circumstances where the goods were not invoiced or **shipped** to Australia during the investigation period. In this circumstance, please provide details of any expenses already incurred with respect to the goods shipped outside of the investigation period,

For tender sales, the Commission considers the contract date will normally be taken to be the date of sale. To ensure that the Commission can make a proper assessment of date of sale, we request the contract date, invoice date and delivery date. If you consider that a date other than the contract date is the appropriate date of sale, please provide a response outlining your reasons for this.

- **B-1** For each customer in Australia to whom you shipped goods in the investigation period list:
 - name;
 - address;
 - contact name and phone/fax number where known; and
 - trade level (for example: distributor, wholesaler, retailer, end user, original equipment).

Name	ABB Australia Pty Limited ("ABB AU")
Address	Bapaume Road Moorebank New South Wales 2170 Australia
Contact name and phone/fax	Julian Guild
Trade level	Importer

Name	ABB Limited of Hong Kong ("ABB HK")
Address	No.3 Dai Hei Street Tai Po Industrial Estate Tai Po

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	New Town Hong Kong	
Contact name and phone/fax	XiaoYan Sun	
Trade level	Trader	
[CONFIDENTIAL INFORMATION DELETED – dealings with customer].		

- **B-2** For each customer identified in B1 please provide the following information.
 - (a) Describe how the goods are sent to each customer in Australia, including a diagram if required.

The process of selling power transformers to Australia will be initiated by contact from ABB AU in response to a tender opportunity identified by ABB AU in the Australian market.

[CONFIDENTIAL INFORMATION DELETED – sales procedures]. Once production is completed the goods are tested at ABB VN and then sent to ABB AU through selected export inland freight and freight forwarding companies and as per the agreed Incoterm.

(b) Identify each party in the distribution chain and describe the functions performed by them. Where commissions are paid indicate whether it is a pre or post exportation expense having regard to the date of sale.

ABB VN project managers execute each project with internal cooperation across functional teams. ABB VN regularly communicates with ABB AU to keep it informed of adherence to schedule.

Once the goods have been finally manufactured and tested, they are drained of oil, disassembled, made ready for transportation in other ways, and then placed in a packing area of the factory. Note that all goods are tested and disassembled in this way, whether for domestic or export sales.

[CONFIDENTIAL INFORMATION DELETED – details of sales procedure]

(c) Explain who retains ownership of the goods at each stage of the distribution chain. In the case of DDP sales, explain who retains ownership when the goods enter Australia.

During the period of investigation the delivery terms for the sale of ABB VN power transformers to Australia were normally [CONFIDENTIAL INFORMATION DELETED – sales terms] Australian port.

[CONFIDENTIAL INFORMATION DELETED - number] units were delivered with [CONFIDENTIAL INFORMATION DELETED – sales terms] delivery terms during the POI, and there are [CONFIDENTIAL INFORMATION DELETED - number] units with delivery pending that will also be made under such terms.

[CONFIDENTIAL INFORMATION DELETED – number] pending deliveries, based on purchase orders received in 2013, are to be made on a [CONFIDENTIAL INFORMATION DELETED – sales terms] basis, respectively. [CONFIDENTIAL INFORMATION DELETED – sales terms].

Transport and freight forwarding takes place under arms-length contracts with independent service providers in accordance with ABB Group policies for transport and logistical services. These policies ensure best practice, will minimise any losses due to transportation damage, and are expected to keep ABB deliveries to customers complete and on-time.

(d) Describe any agency or distributor agreements or other contracts entered into in relation to the Australian market (supply copy of the agreement if possible).

[CONFIDENTIAL INFORMATION DELETED – information about other commercial agreements].

(e) Explain in detail the process by which you negotiate price, receive orders, deliver, invoice and receive payment. If export prices are determined through a tender process, supply copies of winning tender bids.

ABB VN will first be contacted by ABB AU in relation to an Australian tender requirement. ABB AU will undertake initial tender design work in relation to the requirement. [CONFIDENTIAL INFORMATION DELETED – details of pricing process].

In response to ABB VN's price quotation, ABB AU may decide to accept the quotation for the purposes of proceeding with its tender bid, or alternatively may seek to further negotiate the price with ABB VN. [CONFIDENTIAL INFORMATION DELETED – details of pricing process]

ABB VN will then review the requirement and its initial pricing, in order to determine whether it can re-quote and at what level.

Please refer to Attachment – 14 Price negotiation example [CONFIDENTIAL], for an example of this process.

If ABB AU's tender offer is successful, it will issue a PO to ABB VN for the contractual requirement in accordance with ABB VN's quotation. . [CONFIDENTIAL INFORMATION DELETED – details of transformer production].

When the transformer is ready for shipment, ABB VN prepares the relevant shipment documents and sends them to ABB AU to allow delivery of the transformer concerned.

[CONFIDENTIAL INFORMATION DELETED – details of payment system].

(f) State whether your firm is related to any of its Australian customers. Give details of any financial or other arrangements (eg free goods, rebates, or promotional subsidies) with the customers in Australia (including parties representing either your firm or the customers).

ABB VN is related to ABB AU (and to ABB HK).

All sales take place pursuant to formal, independent processes to ensure that all ABB Group transactions take place on a commercial, arms-length basis.

Apart from the price, there are no financial or other arrangements between ABB VN and ABB AU in relation to ABB VN's sales of power transformers to the Australian market.

(g) Details of the forward orders of the goods under consideration (include quantities, values and scheduled shipping dates).

ABB VN's forward orders of the goods under consideration for export to Australia are as follows:

[CONFIDENTIAL INFORMATION DELETED – sales information]

B-3 Do your export selling prices vary according to the distribution channel identified? If so, provide details. Real differences in trade levels are characterised by consistent and distinct differences in functions and prices.

No.

B-4 Prepare a spread sheet named "Australian sales" listing all shipments (i.e. transaction by transaction) to Australia of the goods under consideration in the investigation period.

Where a contract has been won during the investigation period but the goods are not yet shipped, provide details of these goods with any expenses incurred to date and the scheduled delivery date specified in the contract.

You must provide this list in electronic format. Include the following export
related information:

Column heading	Explanation	
Customer name	Names of your customers	
Level of trade	The level of trade of your customers in Australia	
Model/product code	Code used in your records for the model/grade/type identified. Explain the product codes in your submission.	
Power rating (MVA)	Where more than one unit of the goods is shipped and the power rating differs between units, please list these units separately.	
Voltage ratio (kV)	Where more than one unit of the goods is shipped and the voltage ratio differs between units, please list these units separately.	
Contract number	Show order confirmation, contract or purchase order number	
Contract date	Date contract was agreed with Australian customer – ensure all contracts entered in to during the investigation period are included, regardless of whether the goods were invoiced or delivered to your Australian customers outside of the investigation period	
Invoice number	Invoice number	
Invoice date	Invoice date - ensure details of all invoiced goods during the investigation period are included, regardless of whether the contract was agreed or the goods were shipped outside of the	

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	investigation period	
	investigation period.	
Delivery date	If the delivery date differs from the invoice date please specify. If delivery has not occurred, include the scheduled delivery date set out in the contract for sale.	
Shipping terms	Delivery terms eg. CIF, C&F, FOB, DDP (in accordance with Incoterms)	
Payment terms	Agreed payment terms eg. 60 days = 60 etc	
Quantity	Quantity in units shown on the invoice.	
Gross invoice value	Gross invoice value shown on invoice <i>in the currency of sale</i> , <i>excluding taxes.</i>	
Discounts on the invoice	If applicable, the amount of any discount deducted on the invoice on each transaction. If a % discount applies show that % discount applying in another column.	
Other charges	Any other charges, or price reductions, that affect the net invoice value. Insert additional columns and provide a description.	
Invoice currency	The currency used on the invoice	
Exchange rate	Indicate the exchange rate used to convert the currency of the sale to the currency used in your accounting system	
Net invoice value in the currency of the exporting country	The net invoice value expressed in your domestic currency as it is entered in your accounting system	
Rebates or other allowances	The amount of any deferred rebates or allowances paid to the importer in the currency of sale	
Other discounts	The actual amount of any other discount not deducted from the invoice. Show a separate column for each type of discount.	
Ocean freight**	The actual amount of ocean freight incurred on each export shipment listed. If the goods are not yet shipped, provide an estimate of ocean freight.	
Marine insurance	Amount of marine insurance. If the goods are not yet shipped, provide an estimate of marine insurance.	
FOB export price**	The free on board price at the port of shipment.	
Packing*	Packing expenses	
Inland transportation costs*	Inland transportation costs included in the selling price. For export sales this is the inland freight from factory to port in the country of export. If the goods are not yet shipped, provide an estimate of inland freight.	
Handling, loading & ancillary	Handling, loading & ancillary expenses. For example, terminal handling, export inspection, wharfage & other port charges, container tax, document fees & customs brokers fees, clearance	

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expenses*	fees, bank charges, letter of credit fees, & other ancillary charges incurred in the exporting country.	
Warranty & guarantee expenses*	Warranty & guarantee expenses	
Installation expenses	Any expense associated with the installation of the goods if included in the contract	
Technical assistance & other services*	Expenses for after sale services, such as technical assistance or installation costs.	
Commissions*	Commissions paid. If more than one type is paid insert additional columns of data. Indicate in your response to question B2 whether the commission is a pre or post exportation expense having regard to the date of sale.	
Other factors*	any other costs, charges or expenses incurred in relation to the exports to Australia (include additional columns as required). See question B5.	

** FOB export price and Ocean Freight:

<u>FOB export price</u>: An FOB export price must be calculated for each shipment - regardless of the shipping terms. FOB price includes inland transportation to the port of exportation, inland insurance, handling, and loading charges. It excludes post exportation expenses such as ocean freight and insurance. Use a formula to show the method of the calculation on each line of the export sales spreadsheet.

<u>Ocean freight:</u> as ocean freight is a significant cost it is important that the <u>actual</u> amount of ocean freight incurred on each exportation be reported. If estimates must be made you must explain the reasons and set out the basis - estimates must reflect changes in freight rates over the investigation period.

Freight allocations must be checked for consistency.

* All of these costs are further explained in section E-1.

See Attachment 15 – Australian sales [CONFIDENTIAL].

B-5 If there are any other costs, charges or expenses incurred in respect of the exports listed above which have not been identified in the table above, add a column (see "other factors" in question B-4) for each item, and provide a description of each item. For example, other selling expenses (direct or indirect) incurred in relation to the export sales to Australia.

ABB VN's SAP accounting system allows for identification of expenses on a detailed basis. Some selling expenses are related only to export sales; some are related to domestic sales; and some are not differentiated (or not able to be differentiated) as between export and domestic sales.

The need for adjustment for any such factors will depend on the normal value methodology used, and how it is applied. ABB VN will explain its cost accounting and how its CTMS information has been provided in this EQ at the verification and in further submissions, as may be necessary.

- **B-6** For each type of discount, rebate, allowance offered on export sales to Australia:
 - provide a description; and
 - explain the terms and conditions that must be met by the importer to obtain the discount.

Where the amounts of these discounts, rebates etc are not identified on the sales invoice, explain how you calculated the amount shown in your response to question B4. If they vary by customer or level provide an explanation.

[CONFIDENTIAL INFORMATION DELETED – information about price discounts]

B-7 If you have issued credit notes (directly or indirectly) to the customers in Australia, in relation to the invoices listed in the detailed transaction by transaction listing in response to question B4, provide details of each credit note if the credited amount has **not** been reported as a discount or rebate.

Not applicable, in that ABB VN did not issue any credit notes during the POI.

B-8 If the delivery terms make you responsible for arrival of the goods at an agreed point within Australia (eg. delivered duty paid), insert additional columns in the spreadsheet for all other costs incurred. For example:

Import duties	Amount of import duty paid in Australia
Inland transport	Amount of inland transportation expenses within Australia included in the selling price
Other costs	Customs brokers, port and other costs incurred (itemise)

As previously indicated, [CONFIDENTIAL INFORMATION DELETED number] recent POs have been on [CONFIDENTIAL INFORMATION DELETED – details of sales terms] terms, respectively. The two projects as shown in Attachment 15 are [CONFIDENTIAL INFORMATION DELETED].

The import duties, inland transportation and other costs have not been invoiced since the transformers have not arrived at place.

- **B-9** For two contracts where the goods were also shipped to Australia during the investigation period, please provide a complete set of all documentation related to the export sale. For example:
 - the contract between your company and your Australian customer;
 - the commercial invoice;
 - bill of lading, export permit;

- freight invoices in relation to movement of the goods from factory to Australia, including inland freight contract;
- marine insurance expenses; and
- letter of credit, and bank documentation, proving payment.

The Commission will select additional shipments for payment verification at the time of the visit.

Please see Attachments 16 [CONFIDENTIAL] and 17 [CONFIDENTIAL] for sales route documentation for two Australian sales.

SECTION C EXPORTED GOODS & LIKE GOODS

C-1 Fully describe all of the goods you have exported to Australia during the investigation period. Include specification details and any technical and illustrative material that may be helpful in identifying, or classifying, the exported goods.

Each unit is unique. Each unit is individually designed and engineered to meet the customer's specifications and the constraints and adequacies that ABB VN/ABB AU consider are relevant to the requirement in performance and pricing terms.

ABB VN considers that there are no relevant "like goods" for margin calculation purposes.

C-2 List each unique unit of goods exported to Australia (these types should cover all types listed in spreadsheet "**Australian sales**" – see section B of this questionnaire).

EXPORT TYPE	Mega volt amperes (MVA)	Kilo volts (kV)
Product code of each unique unit of the goods exported to Australia		

Power and voltage ratings for each individual transformer sold to Australia are set out in Attachment 15 [CONFIDENTIAL].

Individual specifications for each unit could only be identified by providing full specifications for all exported units. If further details are required ABB VN suggests that the Commission select a sample of one or two export units to observe individual specifications.

C-3 List each unique unit of power transformer sold on the domestic market during the investigation period.

DOMESTIC TYPE	Mega volt amperes (MVA)	Kilo volts (kV)
Product code of each unique unit of the goods sold domestically		

Power and voltage ratings for each individual transformer sold within Vietnam during the period of investigation are set out in Attachment 19 [CONFIDENTIAL].

Individual specifications for each unit could only be identified by providing full specifications for all domestically sold units. If further details are required ABB VN suggests that the Commission select a sample of one or two export units to observe individual specifications. **C-4** Please provide any technical and illustrative material that may be helpful in identifying or classifying the goods that your company sells on the domestic market.

Please refer to Attachment 18 – SPT Brochure.

ABB VN's submits that there are no "like goods" for dumping comparison purposes and agrees with the Commission's position to calculate normal value on a constructed value basis.

SECTION D DOMESTIC SALES

This section seeks information about the sales arrangements and prices in the domestic market of the country of export.

The Commission's preliminary view of normal value:

The Commission considers that it may not be appropriate to determine normal values in accordance with section 269TAC(1) of the Act, using your domestic sales as adjusted for proper comparison with export sales, as the goods under consideration are capital goods that are manufactured to order.

The Commission seeks information on your domestic sales for the purpose of determining profit so that a normal value can be properly constructed pursuant to section 269TAC (2)(c), using your cost to make and sell plus amounts for selling, general and administrative expenses and profit. If you consider that this is appropriate, **you do not need to complete Section E (fair comparison) of this questionnaire**.

If you consider that it is appropriate for the Commission to determine normal values pursuant to section 269TAC (1) of the Act, **please ensure you complete Section D**, **Section E and Section F of this questionnaire**.

Information requested in relation to domestic sales:

In Section B, the Commission requests information in relation to your export sales to Australia. The Commission requested the following:

- details of all invoiced sales made during the investigation period; and
- details of all tenders won during the investigation, regardless of whether the goods were invoiced and delivered outside of the investigation period. In these circumstances, the Commission requested that you provide an estimate of when the goods will be delivered to your Australian customers.

In relation to domestic sales, the Commission requests that you provide details of ALL of your invoiced sales during the investigation period. You **do not need** to provide details of tenders that were won during the investigation period but invoiced outside of the investigation period.

If there is an extraordinarily large volume of sales data and you are unable to provide the complete listing electronically you **must** contact the case officer **before** completing the questionnaire. If the case officer agrees that it is not possible to obtain a complete listing he or she will consider a method for sampling that meets the Commission requirements. If agreement cannot be reached as to the appropriate method the Commission may not visit your company.

If you do not have any domestic sales of like goods you must contact the case officer who will explain the information the Commission requires for determining a normal value using alternative methods.

ABB VN agrees with the Commission that there are no like goods sold by ABB VN in the domestic market of Vietnam for normal value comparison purposes. Accordingly the normal value should be determined in accordance with Section 269TAC(2)(c).

D-1 Provide:

• a detailed description of your distribution channels to domestic customers, including a diagram if appropriate;

[CONFIDENTIAL INFORMATION DELETED – details of domestic customers]The general process for each of these sales is similar to that described above with regard to ABB VN's Australian sales, except that it is ABB VN that deals with the final customer, rather than ABB AU. To summarise:

[CONFIDENTIAL INFORMATION DELETED – sales process]

Some of ABB VN's transformers are sold as part of a power system – such as a power plant – by ABB VN's Power System ("PS") division. Power systems are usually purchased by utilities. In such a sale, the transformer only forms one component of the overall power system.

Sometimes an [CONFIDENTIAL INFORMATION DELETED – customer details] In this scenario, ABB VN deals only with the [CONFIDENTIAL INFORMATION DELETED – customer details], and therefore considers the [CONFIDENTIAL INFORMATION DELETED – customer details] to be the final customer.

 information concerning the functions/activities performed by each party in the distribution chain; and

ABB VN sells the product directly to the domestic customer.

• a copy of any agency or distributor agreements, or contracts entered into.

[CONFIDENTIAL INFORMATION DELETED – information about other commercial agreements]

If any of the customers listed are associated with your business, provide details of that association. Describe the effect, if any, that association has upon the price.

Not applicable, in that none of ABB VN's customers are associated with ABB VN.

D-2 Do your domestic selling prices vary according to the distribution channel identified? If so, provide details. Real differences in trade levels are characterised by consistent and distinct differences in functions and prices.

[CONFIDENTIAL INFORMATION DELETED – domestic market price information]

- **D-3** Explain in detail the sales process, including:
 - the way in which you set the price, receive orders, make delivery, invoice and finally receive payment; and the terms of the sales; and
 - whether price includes the cost of delivery to customer.

If sales are in accordance with price lists, provide copies of the price lists.

[CONFIDENTIAL INFORMATION DELETED – pricing procedure]

The final quoted price is settled based on the twin considerations of competitiveness and profit, based upon the tender design costing.

As the products vary greatly according to the specifications requested by different customers, price lists cannot be issued and are not issued.

D-4 Prepare a spread sheet named "**domestic sales**" listing **all** sales of like goods made during the investigation period. The listing must be provided on a CD-ROM. Include all of the following information.

ABB VN does not consider the individual transformers it produces to be "like" to one another. As indicated above, each transformer is tailormade to the unique specifications of the customer.

However, ABB VN refers you to Attachment 19 – Domestic Sales [CONFIDENTIAL], which provides the requested details for all transformers produced for sale within Vietnam which fall within the broad description of the goods the subject to the investigation.

Column heading	Explanation		
Customer name	Names of your customers. If an English version of the name is not easily produced from your automated systems show a customer code number and in a separate table list each code and name.		
Level of trade	The level of trade of your domestic customer		
Product code	Code used in your records for the model of the goods identified. Explain the product codes in your submission.		
Power rating (MVA)	Where more than one unit of the goods is shipped and the power rating differs between units, please list these units separately.		
Voltage ratio (kV)	Where more than one unit of the goods is shipped and the voltage ratio differs between units, please list these units separately.		
Contract number	Show order confirmation, contract or purchase order number		
Contract date	Date contract was agreed with your domestic customer. Do not include information relating to contracts where the goods were invoiced outside of the investigation period.		
Invoice number	Invoice number		
Invoice date	Invoice date		
Delivery date	If the delivery date is different to the invoice date please specify		

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Delivery terms	Eg ex-factory, free on truck, delivered into store	
Payment terms	Payment terms agreed with the customer eg. 60 days=60 etc	
Quantity	Quantity in units shown on the invoice eg kg.	
Gross Invoice value	Gross value shown on invoice <i>in the currency of sale</i> , net of taxes.	
Discounts on the Invoice	The amount of any discount deducted on the invoice on each transaction. If a % discount applies show that % discount applying in another column.	
Other charges	Any other charges, or price reductions, that affect the net invoice value. Insert additional columns and provide description.	
Net invoice value in the currency of the exporting country	The net invoice value expressed in your domestic currency as recorded in your accounting system	
Rebates or other allowances	The actual amount of any deferred rebates or allowances i the currency of sale	
Quantity discounts	The actual amount of quantity discounts not deducted from the invoice. Show a separate column for each type of quantity discount.	
Packing*	Packing expenses	
Inland transportation costs*	Amount of inland transportation costs included in the selling price.	
Handling, loading and ancillary expenses*	Handling, loading & ancillary expenses.	
Warranty & guarantee expenses*	Warranty & guarantee expenses	
Installation expenses	Any expense associated with the installation of the goods if included in the contract	
Technical assistance & other services*	Efor after sale services such as technical assistance or installation costs.	
Commissions*	Commissions paid. If more than one type is paid insert additional columns of data.	
Other factors*	Any other costs, charges or expenses incurred in relation to the domestic sales (include additional columns as required). See question D5.	

Costs marked with * are explained in section E-2.

D-5 If there are any other costs, charges or expenses incurred in respect of the sales listed which have not been identified in the table in question D-4 above add a column for each item (see "other factors"). For example, certain other

selling expenses incurred.

Please refer to Section E for any other costs, charges or expenses identified.

- **D-6** For each type of commission, discount, rebate, allowance offered on domestic sales of like goods:
 - provide a description; and
 - explain the terms and conditions that must be met by the customer to qualify for payment.

Where the amounts of these discounts, rebates etc are not identified on the sales invoice, explain how you calculated the amounts shown in your response to question D4.

If you have issued credit notes, directly or indirectly to the customers, provide details if the credited amount has **not** been reported as a discount or rebate.

[CONFIDENTIAL INFORMATION DELETED – information about commercial arrangements]

D-7 Select two domestic sales that are at the same level of trade as the export sales. Provide a <u>complete</u> set of documentation for those two sales. (Include, for example, the tender bid, the contract of sale, commercial invoice, discounts or rebates applicable, credit/debit notes, inland freight contract, bank documentation showing proof of payment.)

The Commission will select additional sales for verification at the time of our visit.

Please refer to Attachments 20 [CONFIDENTIAL] and 21 [CONFIDENTIAL].

SECTION E FAIR COMPARISON

As outlined in Section D, please complete Section E only if you would submit that the Commission should determine normal values pursuant to section 269TAC (1).

Section B sought information about the export prices to Australia and Section D sought information about prices on your domestic market for like goods (ie. the normal value).

Where the normal value and the export price are not comparable adjustments may be made. This section informs you of the fair comparison principle and asks you to quantify the amount of any adjustment.

As prices are being compared, the purpose of the adjustments is to eliminate factors that have unequally modified the prices to be compared.

To be able to quantify the level of any adjustment it will usually be necessary to examine cost differences between sales in different markets. The Commission must be satisfied that those costs are likely to have influenced price. In practice, this means that the expense item for which an adjustment is claimed should have a close nexus to the sale. For example, the cost is incurred because of the sale, or because the cost is related to the sale terms and conditions.

Conversely, where there is not a direct relationship between the expense item and the sale a greater burden is placed upon the claimant to demonstrate that prices have been affected, or are likely to have been affected, by the expense item. In the absence of such evidence the Commission may disallow the adjustment.

Where possible, the adjustment should be based upon actual costs incurred when making the relevant sales. However, if such specific expense information is unavailable cost allocations may be considered. In this case, the party making the adjustment claim must demonstrate that the allocation method reasonably estimates costs incurred.

A party seeking an adjustment has the obligation to substantiate the claim by relevant evidence that would allow a full analysis of the circumstances, and the accounting data, relating to the claim.

The investigation must be completed within strict time limits therefore you must supply information concerning claims for adjustments in a timely manner. Where an exporter has knowledge of the material substantiating an adjustment claim that material is to be available at the time of the verification visit. The Commission will not consider new claims made after the verification visit.

ABB VN does not submit that the Commission should determine normal values pursuant to section 269TAC (1).

[CONFIDENTIAL INFORMATION DELETED – ABB VN cost information]

E-1 Costs associated with export sales

(These cost adjustments will relate to your responses made at question B-4, **"Australian sales"**)

1. Transportation

Explain how you have quantified the amount of inland transportation associated with the export sale (**"Inland transportation costs**"). Identify the general ledger account where the expense is located. If the amount has been determined from contractual arrangements, not from an account item, provide details and evidence of payment.

2. Handling, loading and ancillary expenses

List all charges that are included in the export price and explain how they have been quantified (**"Handling, loading & ancillary expenses"**). Identify the general ledger account where the expenses are located. If the amounts have been determined using actual observations, not from a relevant account item, provide details.

The various export related ancillary costs are identified in the table at question B4, for example:

- terminal handling;
- wharfage and other port charges;
- container taxes;
- document fees and customs brokers fees;
- clearance fees;
- bank charges, letter of credit fees
- other ancillary charges.

3. Credit

The cost of extending credit on export sales is not included in the amounts quantified at question B4. However, the Commission will examine whether a credit adjustment is warranted and determine the amount. Provide applicable interest rates over each month of the investigation period. Explain the nature of the interest rates most applicable to these export sales eg, short term borrowing in the currency concerned.

If your accounts receivable shows that the average number of collection days differs from the payment terms shown in the sales listing, *and if* export prices are influenced by this longer or shorter period, calculate the average number of collection days. See also item 4 in section E-2 below.

4. Packing costs

List material and labour costs associated with packing the export product. Describe how the packing method differs from sales on the domestic market, for each model. Report the amount in the listing in the column headed "**Packing**".

5. Commissions

For any commissions paid in relation to the export sales to Australia:

- provide a description; and
- explain the terms and conditions that must be met.

Report the amount in the sales listing in question B-4 under the column headed **"Commissions".** Identify the general ledger account where the expense is located.

6. Warranties, guarantees, installation and after sales services

List the costs incurred. Show relevant sales contracts. Show how you calculated the expenses ("Warranty & guarantee expenses", "Installation expenses" and "Technical assistance & other services"), including the basis of any allocations. Include a record of expenses incurred. Technical services include costs for the service, repair, or consultation. Where these expenses are included in the contract for sale or closely related to the sales in question, an adjustment will be considered. Identify the ledger account where the expense is located.

7. Other factors

There may be other factors for which an adjustment is required if the costs affect price comparability – these are identified in the column headed "**Other factors**". For example, other variable or fixed selling expenses, including salesmen's salaries, salesmen's travel expenses, advertising and promotion, samples and entertainment expenses. Your consideration of questions asked at Section G, concerning domestic and export costs, would have alerted you to such other factors.

8. Currency conversions

In comparing export and domestic prices a currency conversion is required. Fluctuations in exchange rates can only be taken into account when there has been a 'sustained' movement during the period of investigation (see article 2.4.1 of the WTO Agreement). The purpose is to allow exporters 60 days to adjust export prices to reflect 'sustained' movements. Such a claim requires detailed information on exchange movements in your country over a long period that includes the investigation period.

E-2 Costs associated with domestic sales

(These cost adjustments will relate to your responses made at question D-4, "domestic sales")

The following items are not separately identified in the amounts quantified at question D-4. However you should consider whether any are applicable.

1. Physical characteristics

This adjustment recognises that differences, such as structure or design, mean that the goods are not identical. The Commission considers that the goods are unlikely to have identical models sold on the domestic market as they are large capital goods that are produced to order.

To support your claim that the Commission should determine normal values pursuant to section 269TAC (1), you will need to identify and quantify the physical or specification differences in order to ensure fair comparison.

The amount of the adjustment shall be based upon the market value of the difference, but where this is not possible the adjustment shall be based upon the difference in cost plus the gross profit mark-up (i.e. an amount for selling general and administrative costs (S G & A) plus profit).

The adjustment is based upon actual physical differences in the goods being compared and upon the manufacturing cost data.

Using the table below, provide a list of the claimed comparable product sold on the domestic market. Describe in detail the specification differences between the comparable products. Also provide your claimed adjustment on the basis of this

specification difference, stating the source of your data.

The Commission will seek to verify your claimed specification adjustments during the verification visit.

EXPORTED TYPE	DOMESTIC TYPE	DIFFERENCES	CLAIMED ADJUSTMENT
Product code, power rating and voltage ratio of each model of the goods exported to Australia	Product code, power rating and voltage ratio of comparable model sold on the domestic market of the country of export	Describe the specification differences in detail. If it is impractical to detail specification differences in this table refer to documents which outline differences	The claimed adjustment must be quantifiable and supported by evidence that is available for verification by the Commission

Power transformers are engineered for specific customer requirements. Given the unique nature of most power transformers, ABB VN agrees that the number of differences and their degree renders them as nonlike goods for margin calculation purposes and does not allow for specification difference adjustments between domestic and export sales.

2. Import charges and indirect taxes

If exports to Australia:

- are partially or fully exempt from internal taxes and duties that are borne by the like goods in domestic sales (or on the materials and components physically incorporated in the goods), or
- if such internal taxes and duties have been paid and are later remitted upon exportation to Australia,

the price of like goods must be adjusted downwards by the amount of the taxes and duties.

The taxes and duties include sales, excise, turnover, value added, franchise, stamp, transfer, border, and excise taxes. Direct taxes such as corporate income tax are not included as such taxes do not apply to the transactions.

Adjustment for drawback is not made in every situation where drawback has been received. Where an adjustment for drawback is appropriate you must provide information showing the import duty borne by the domestic sales. (That is, it is not sufficient to show the drawback amount and the export sales quantity to Australia. For example, you may calculate the duty borne on domestic sales by quantifying the total amount of import duty paid and subtracting the duty refunded on exports to all countries. The difference, when divided by the domestic sales volume, is the amount of the adjustment).

In substantiating the drawback claim the following information is required:

 a copy of the relevant statutes/regulations authorising duty exemption or remission, translated into English;

- the amount of the duties and taxes refunded upon *exportation* and an explanation how the amounts were calculated and apportioned to the exported goods;
- an explanation as to how you calculated the amount of duty payable on imported materials is borne by the goods sold *domestically* but is not borne by the exports to Australia.

Substitution drawback systems

Annex 3 of the WTO Agreement on Subsidies provides: "Drawback systems can allow for the refund or drawback of import duties on inputs which are consumed in the production process of another product and where the export of this latter product contains domestic inputs having the same quality and characteristics as those substituted for the imported inputs"

If such a scheme operates in the country of export adjustments can also be made for the drawback payable on the substituted domestic materials, provided the total amount of the drawback does not exceed the total duty paid.

3. Level of trade

Question D-4 asks you to indicate the level of trade to the domestic customer. To claim an adjustment for level of trade differences you will need to quantify the amount by which level of trade influences price.

Trade level is the level a company occupies in the distribution chain. The trade level to which that company in turn sells the goods and the functions carried out distinguish a level of trade. Examples are producer, national distributor, regional distributor, wholesaler, retailer, end user, and original equipment.

It may not be possible to compare export prices and domestic prices at the same level of trade. Where relevant sales of like goods at the next level of trade must be used to determine normal values an adjustment for the difference in level of trade may be required where it is shown that the difference affects price comparability.

The information needs to establish that there are real trade level differences, not merely nominal differences. Real trade level differences are characterised by a consistent pattern of price differences between the levels and by a difference in functions performed. If there is no real trade level differences all sales are treated as being at the same level of trade.

A real difference in level of trade (may be adjusted for using either of the following methods:

(a) costs arising from different functions: the amount of the costs, expenses etc incurred by the seller in domestic sales of the like goods resulting from activities that would not be performed were the domestic sales made at the same level as that of the importer.

This requires the following information:

 a detailed description of each sales activity performed in selling to your domestic customers (for example sales personnel, travel, advertising, entertainment etc);

- the cost of carrying out these activities in respect of like goods;
- for each activity, whether your firm carries out the same activity when selling to importers in Australia;
- an explanation as to why you consider that you are entitled to a level of trade adjustment.

or

(b) level discount: the amount of the discount granted to purchasers who are at the same level of trade as the importer in Australia. This is determined by an examination of price differences between the two levels of trade in the exporter's domestic market, for example sales of like goods by other vendors or sales of the same general category of goods by the exporter. For this method to be used it is important that <u>a clear pattern</u> of pricing be established for the differing trade levels. Such pattern is demonstrated by a general availability of the discounts to the level - isolated instances would not establish a pattern of availability.

4. Credit

The cost of extending credit on domestic sales is not included in the amounts quantified at question D-4. However, the Commission will examine whether a credit adjustment is warranted and determine the amount. An adjustment for credit is to be made even if funds are not borrowed to finance the accounts receivable.

The interest rate on domestic sales in order of preference is:

- the rate, or average of rates, applying on actual short term borrowing's by the company; or
- the prime interest rate prevailing for commercial loans in the country for credit terms that most closely approximate the credit terms on which the sales were made; or
- such other rate considered appropriate in the circumstances.

Provide the applicable interest rate over each month of the investigation period.

If your accounts receivable shows that the average number of collection days differs from the payment terms shown in the sales listing, and if domestic prices are influenced by this longer or shorter period, calculate the average number of collection days.

Where there is no fixed credit period agreed at the time of sale the period of credit is determined on the facts available. For example, where payment is made using an open account system², the average credit period may be determined as follows:

1. Calculate an accounts receivable turnover ratio

This ratio equals the total credit sales divided by average accounts receivable.

(It is a measure of how many times the average receivables balance is

² Under an open account system, following payment the balance of the amount owing is carried into the next period. Payment amounts may vary from one period to the next, with the result that the amount owing varies.

converted into cash during the year).

In calculating the accounts receivable turnover ratio, credit sales should be used in the numerator whenever the amount is available from the financial statements. Otherwise net sales revenue may be used in the numerator.

An average accounts receivable over the year is used in the denominator. This may be calculated by:

- using opening accounts receivable at beginning of period plus closing accounts receivable at end of period divided by 2, or
- total monthly receivables divided by 12.

2. Calculate the average credit period

The average credit period equals 365 divided by the accounts receivable turnover ratio determined above at 1.

The resulting average credit period should be tested against randomly selected transactions to support the approximation.

The following items are identified in the amounts quantified at question D-4:

5. Transportation

Explain how you have quantified the amount of inland transportation associated with the domestic sales ("**Inland transportation costs**"). Identify the general ledger account where the expense is located. If the amount has been determined from contractual arrangements, not from an account item, provide details and evidence of payment.

6. Handling, loading and ancillary expenses

List all charges that are included in the domestic price and explain how they have been quantified ("**Handling, loading and ancillary expenses**"). Identify the general ledger account where the expense is located. If the amounts have been determined using actual observations, not from a relevant account item, provide details.

7. Packing

List material and labour costs associated with packing the domestically sold product. Describe how the packing method differs from sales on the domestic market, for each model. Report the amount in the listing in the column headed **"Packing"**.

8. Commissions

For any commissions paid in relation to the domestic sales:

- provide a description;
- explain the terms and conditions that must be met.

Report the amount in the sales listing under the column headed "**Commissions**". Identify the general ledger account where the expense is located.

9. Warranties, guarantees, installation expenses and after sales services

List the costs incurred. Show relevant sales contracts. Show how you calculated the expenses ("Warranty & guarantee expenses", "Installation expenses" and "Technical assistance & other services"), including the basis of any allocations.

Include a record of expenses incurred. Technical services include costs for the service, repair, or consultation. Where these expenses are included in the contract for sale or closely related to the sales in question, an adjustment will be considered. Identify the ledger account where the expense is located.

10. Other factors

There may be other factors for which an adjustment is required if the costs affect price comparability – these are identified in the column headed "**Other factors**". List the factors and show how each has been quantified in per unit terms. For example:

- *inventory carrying cost*: describe how the products are stored prior to sale and show data relating to the average length of time in inventory. Indicate the interest rate used;
- warehousing expense: an expense incurred at the distribution point;
- *royalty and patent fees*: describe each payment as a result of production or sale, including the key terms of the agreement;
- advertising; and
- bad debt.

E-3 Duplication

In calculating the amount of the adjustments you must ensure that there is no duplication.

For example:

- adjustments for level of trade, quantity or other discounts may overlap, or
- calculation of the amount of the difference for level of trade may be based upon selling expenses such as salesperson's salaries, promotion expenses, commissions, and travel expenses.

Separate adjustment items must avoid duplication.

An adjustment for quantities may not be granted unless the effect on prices for quantity differences is identified and separated from the effect on prices for level of trade differences.

SECTION F EXPORT SALES TO COUNTRIES OTHER THAN AUSTRALIA (THIRD COUNTRY SALES)

As outlined in Section D, the Commission considers that, given the nature of the goods under consideration, it may not be appropriate to determine normal values on the basis of domestic sales (pursuant to section 269TAC(1)), or sales to third countries (pursuant to section 269TAC(2)(d)).

Please complete Section F only if you would submit that it is appropriate for the Commission to determine normal values pursuant to section 269TAC(2)(d).

Your response to this part of the questionnaire may be used by the Commission to select sales to a third country that may be suitable for comparison with exports to Australia.

Sales to third countries may be used as the basis for normal value in certain circumstances. The Commission may seek more detailed information on particular third country sales where such sales are likely to be used as the basis for determining normal value.

ABB VN does not submit that it is appropriate for the Commission to determine normal values pursuant to section 269TAC(2)(d)

F-1 Using the column names and column descriptions below provide a summary of your export sales to countries other than Australia.

Column heading	Explanation
Country	Name of the country that you exported like goods to over the investigation period.
Number of customers	The number of different customers that your company has sold like goods to in the third country over the investigation period.
Level of trade	The level of trade that you export like goods to in the third country.
Quantity	Indicate the number of units sold
Value of sales	Show net sales value to all customers in third country over the investigation period
Currency	Currency in which you have expressed data in column SALES
Payment terms	Typical payment terms with customer(s) in the country eg. 60 days = 60 etc
Shipment terms	Typical shipment terms to customers in the third country eg CIF, FOB, ex-factory, DDP etc.

Supply this information in spread sheet file named "Third country"

F-2 Please identify any differences in sales to third countries which may affect their comparison to export sales to Australia.

SECTION G COSTING INFORMATION AND CONSTRUCTED VALUE

The information that you supply in response to this section of the questionnaire will be used for various purposes including:

- testing the profitability of sales of like goods on the domestic market;
- determining a constructed normal value of the goods under consideration (the goods) ie of the goods exported to Australia; and
- making certain adjustments to the normal value.

You will need to provide the cost of production of both the exported goods (the goods) and for the like goods sold on the domestic market. You will also need to provide the selling, general, and administration costs relating to goods sold on the domestic market; the finance expenses; and any other expenses (eg. non-operating expenses not included elsewhere) associated with the goods.

In your response please include a worksheet showing how the selling, general, and administration expenses; the finance expenses; and any other expenses have been calculated.

Please provide costs associated to each of the export sales detailed at question B4 and domestic sales details in question D4.

For export sales, this will include costs associated with tenders that may be invoiced or delivered outside of the investigation period. Where these costs have not yet been incurred, please provide an estimate of these costs such as, for example, the cost you estimated at the time of bidding for the tender.

For domestic sales, you only need to include **actual** costs incurred in relation to goods invoiced during the investigation period.

At any verification meeting you must be prepared to reconcile the costs shown to the accounting records used to prepare the financial statements.

G-1 Production process and capacity

1. Describe the production process for the goods. Provide a flowchart of the process. Include details of all products manufactured using the same production facilities as those used for the goods. Also specify all scrap or by-products that result from producing the goods.

See Attachment 24 – Production Process [CONFIDENTIAL].

G-2 Provide information about your company's total production in the following table:

	PREVIOUS FINANCIAL YEAR	MOST RECENT FINANCIAL YEAR	INVESTIGATION PERIOD
A. Production capacity (eg capacity of units sold)*			
B. Actual production volume			

(eg capacity of units sold)		
C. Capacity utilisation (%) (B/A x 100)		

* Rather than showing a 'name-plate' optimal capacity it is more meaningful to show the maximum level of production that may reasonably be attained under normal operating conditions. For example assuming: normal levels of maintenance and repair; a number of shifts and hours of operation that is not abnormally high; and a typical production mix.

Provide this information on a spread sheet named "Production".

See Attachment 25 – Production [CONFIDENTIAL].

G-3 Cost accounting practices

ABB VN's answers to G-3 relate to ABB VN's PP Division.

1. Outline the management accounting system that you maintain and explain how that cost accounting information is reconciled to your audited financial statements.

ABB VN's audited financial reports are prepared on the basis of the information derived directly from its ERP system under US GAAP. To meet local requirements, some accounts are reclassified/adjusted to meet local GAAP.

ABB VN's PP Division maintains its accounting system by profit centre. The PP Division financial statements are then consolidated within ABB VN. Internal transactions between product groups, business units ("BU") and Divisions are eliminated.

See Attachment 26 which illustrates how the cost accounting information is reconciled to the audited financial statements.

2 Is your company's cost accounting system based on standard (budgeted) costs? State whether standard costs were used in your responses to this questionnaire. If they were state whether all variances (ie differences between standard and actual production costs) have been allocated to the goods - and describe how those variances have been allocated.

PP Division's accounts are based on actual cost and accrued cost.

3 Provide details of any significant or unusual cost variances that occurred during the investigation period.

Not applicable, in that there have been no such variances.

4 Describe the profit/cost centres in your company's cost accounting system.

There are [CONFIDENTIAL INFORMATION DELETED – number] profit centres in PP Division: [CONFIDENTIAL INFORMATION DELETED – internal business organisation]. [CONFIDENTIAL INFORMATION DELETED - number] cost centres in PP Division, differentiated based on job function.

A chart describing ABB VN's cost and profit centres is provided in

Attachment 27 [CONFIDENTIAL].

5 For each profit/cost centre describe in detail the methods that your company normally uses to allocate costs to the goods under consideration. In particular specify how, and over what period, expenses are amortised or depreciated, and how allowances are made for capital expenditures and other development costs.

ABB VN's cost allocation methods are set out in Attachment 28 [CONFIDENTIAL].

Please refer to ABB VN's response to question A4 for a discussion of the amortisation and depreciation periods applicable to expenses.

6 Describe the level of product specificity (models, grades etc) that your company's cost accounting system records production costs.

Transformers produced by ABB VN are classified into two groups -SPTs (small power transformers) and DTR (distribution transformers).

In accordance with the directions in this EQ, ABB VN understands that DTRs fall outside the scope of the investigation. ABB VN would also note that some SPTs do not fall within the goods description.

7 List and explain all production costs incurred by your company which are valued differently for cost accounting purposes than for financial accounting purposes.

Not applicable, in that no production costs incurred by ABB VN are valued differently for cost accounting purposes than for financial accounting purposes.

8 State whether your company engaged in any start-up operations in relation to the goods under consideration. Describe in detail the start-up operation giving dates (actual or projected) of each stage of the start-up operation.

Not applicable, in that ABB VN did not engage in any start-up operations in relation to the goods under consideration.

9 State the total cost of the start-up operation and the way that your company has treated the costs of the start-up operation it its accounting records.

Not applicable, in that ABB VN did not engage in any start-up operations in relation to the goods under consideration.

G-4 Cost to make and sell on domestic market

This information is relevant to testing whether domestic sales are in the ordinary course of trade.³

1. Please provide (in the format shown in the table below) the actual unit cost to

³ The Commission applies the tests set out in s.269TAAD of the Customs Act 1901 to determine whether goods are in ordinary course of trade. These provisions reflect the WTO Anti-Dumping Agreement – see Article 2.2.1.

make and sell each model/type* (identified in section C) of the like goods sold on the domestic market. Provide this cost data for each unique unit of the goods invoiced during the investigation period.

Please refer to Attachment 29 – Domestic CTMS [CONFIDENTIAL].

2. Indicate the source of cost information (account numbers etc) and/or methods used to allocate cost to the goods. Provide documentation and worksheets supporting your calculations.

CUSTOMER	
Contract number	
Item number	
Quantity	
Contract date	
Delivery date	
Power rating (MVA)	
Voltage Ratio (kV)	
Variable manufacturing costs	
Raw material - core steel	
Raw material - conductor	
Raw material - insulation	
Raw material - mild steel	
Raw material - tapchanger	
Raw material - CT & CT terminal box	
Raw material - radiators or heat ex., fittings	
Raw material - fibre optics probes	
Raw material - fans	
Raw material - pumps	
Raw material - valves	
Raw material - control panel	
Raw material - oil	
Raw material - bushings (HV, MV, LV)	

Raw material - other	
Direct labour – Engineering (design)	
Direct labour – manufacturing (production)	
Other costs	
Fixed manufacturing costs	
Overheads	
Depreciation	
Finance charges	
Other costs	
Total cost to make	
Selling costs	
Administration costs	
Financial costs	
Delivery expenses	
Other costs	
Total cost to sell	
Total cost to make and sell	
Unit cost to make and sell	

Prepare this information in a spreadsheet named "Domestic CTMS".

Provide this information for each unique unit of the goods invoiced during the period of the investigation. For example, if one contract specifies production of two different types of the goods, provide this information for each type of the goods.

Provide the information broken down into fixed and variable costs, and indicate the % total cost represented by fixed costs.

If you are unable to supply this information in this format, please contact the case officer for this investigation at the address shown on the cover of this questionnaire.

Please specify unit of currency.

G-5 Cost to make and sell goods under consideration (goods exported to Australia)

The information is relevant to calculating the normal values based on costs. It is also relevant to calculating certain adjustments to the normal value.

CUSTOMER		
----------	--	--

Contract number	
Item number	
Quantity	
Contract date	
Delivery date	
Power rating (MVA)	
Voltage Ratio (kV)	
Variable manufacturing costs	
Raw material - core steel	
Raw material - conductor	
Raw material - insulation	
Raw material - mild steel	
Raw material - tapchanger	
Raw material - CT & CT terminal box	
Raw material - radiators or heat ex., fittings	
Raw material - fibre optics probes	
Raw material - fans	
Raw material - pumps	
Raw material - valves	
Raw material - control panel	
Raw material - oil	
Raw material - bushings (HV, MV, LV)	
Raw material - other	
Direct labour – Engineering (design)	
Direct labour – Manufacturing (production)	
Other costs	
Fixed manufacturing costs	
Overheads	
Depreciation	

Finance charges	
Other costs	
Total cost to make	
Selling costs	
Administration costs	
Financial costs	
Delivery expenses	
Other costs	
Total cost to sell	
Total cost to make and sell	
Unit cost to make and sell	

Prepare this information in a spreadsheet named "Australian CTMS".

Provide this information for all goods invoiced during the investigation period and for all goods the subject of a contract that was entered into during the investigation period, but invoiced or delivered outside of the investigation period. Where actual costs are not yet incurred, provide an estimate of these costs, such as for example, the estimate of the costs that formed the basis of your winning tender bid.

Provide this information for each unique unit of the goods contracted for sale or invoiced during the period of the investigation. For example, if one contract specifies production of two different types of the goods, provide this information for each type of the goods.

Provide the information broken down into fixed and variable costs, and indicate the % total cost represented by fixed costs.

If you are unable to supply this information in this format, please contact the case officer for this investigation at the address shown on the cover of this questionnaire.

Please specify unit of currency.

See Attachment 30 – Australian CTMS [CONFIDENTIAL].

1 Where there are cost differences between goods sold to the domestic market and those sold for export, give reasons and supporting evidence for these differences.

Different CTMs apply to individual power transformers due to differences in design, engineering, material and labour etc.

The CTM for the goods sold on domestic market and those exported to Australia were calculated on the same basis.

Packing, export inland freight, domestic inland freight and ocean freight are not included in the costs in either G-4 or G-5.

2 Give details and an explanation of any significant differences between the costs shown, and the costs as normally determined in accordance with your general accounting system. Reference should be made to any differences arising from movements in inventory levels and variances arising under standard costing methods.

Not applicable, in that there are no differences between the costs shown and the costs normally determined in accordance with the general accounting system.

3 In calculating the unit cost to make and sell, provide an explanation if the allocation method used (eg number, or weight etc) to determine the unit cost differs from the prior practice of your company.

There are no cost differences between the allocation method used in the table and the prior practice of the company.

G-6 Major raw material costs

List major raw material costs, which individually account for <u>10% or more</u> of the total production cost.

For these major inputs:

- identify materials sourced in-house and from associated entities;
- identify the supplier; and
- show the basis of valuing the major raw materials in the costs of production you have shown for the goods (eg market prices, transfer prices, or actual cost of production).

Where the major input is produced by an associate of your company the Commission will compare your purchase price to a normal market price. If the associate provides information on the cost of production for that input such cost data may also be considered.

Normal market price is taken to be the price normally available in the market (having regard to market size, whether the input is normally purchased at 'spot prices' or under long term contracts etc).

The term associate is defined in section 269TAA of the *Customs Act*. Included in that definition are companies controlled by the same parent company (a company that controls 5% or more of the shares of another is taken to be an associated company); companies controlled by the other company; and companies having the same person in the board of directors.

Important note: If the major input is sourced as part of an integrated production process you should provide detailed information on the full costs of production of that input.

There are [CONFIDENTIAL INFORMATION DELETED – number] raw materials constituting more than 10% of the finished cost of power

transformers. They are [CONFIDENTIAL INFORMATION DELETED – major inputs].

Detail of the purchase of these materials, including the suppliers and how prices are determined are provided in Attachment 31 [CONFIDENTIAL].

The major inputs are not produced by associates of ABB VN.

The major inputs are not sourced by ABB VN as part of an integrated production process.

I hereby declare that **ABB Limited** did, during the period of investigation export the goods under consideration and have completed the attached questionnaire and, having made due inquiry, certify that the information contained in this submission is complete and correct to the best of my knowledge and belief.

Name

 $\mathbf{\nabla}$

Signature

Position in Company

Date



SECTION I CHECKLIST

This section is an aid to ensure that you have completed all sections of this questionnaire.

Section	Please tick if you have responded to all questions
Section A – general information	
Section B – export price	
Section C – like goods	
Section D – domestic price	V
Section E – fair comparison	V
Section F – exports to third countries	
Section G – costing information	
Section H – declaration	

Electronic Data	Please tick if you have provided spread sheet
INCOME STATEMENT	
TURNOVER – sales summary	
AUSTRALIAN SALES – list of sales to Australia	
DOMESTIC SALES – list of all domestic sales of like goods	$\mathbf{\overline{A}}$
THIRD COUNTRY – third country sales	NA
PRODUCTION – production figures	
DOMESTIC COSTS – costs of goods sold domestically	
AUSTRALIAN COSTS – costs of goods sold to Australia	$\mathbf{\nabla}$

Attachment 4 - ABB Group annual report 2012

Accessible at:

http://www.abb.com/cawp/abbzh259/52660b65466a49a7c1257928002d44ab.aspx



Power transformers

Liquid-filled small power transformers From 5 to 63 MVA up to 170 kV



One global partner

ABB is a global leader in power and automation technologies that enable utility and industrial customers to improve performance while lowering environmental impact. We offer a complete range of power and distribution transformers, components and services. We are committed to being a flexible expert partner worldwide. Working alongside the costumer, we identify individual needs to ensure we provide optimal solutions, whether the costumer's main focus is on advanced solutions, guaranteed delivery, service, reduction of total cost of ownership or global supply.

Key factors, including return on investments, reduced operating and maintenance cost, and management of aging assets, are addressed and resolved.

That is ABB's idea of true partnership.

Our global manufacturing capabilities and our factory back-up strategy mean that we can offer the most suitable solutions in terms of production capability, on time delivery and product quality. Our focused factory concept allows us to source our product from highly specialized factories, thereby increasing operating efficiency and achieving worldwide excellence.

We are an experienced partner across the globe, offering a local customer interface talking the customer's language and providing local service.



ABB - a global leader

With over 1.3 million MVA in power transformers delivered over the past 10 years from its worldwide production facilities, ABB is the outstanding market leader both for technology and quality.

Our global network can rely on substantial, on-going capital investments and ensures a level of specialization unique in the industry. The ABB transformer team has direct access to the group's combined technical experience and expertise while research and development (R&D) supports customers in meeting their present and future challenges. As a leader in power and automation technologies, we deliver continuous innovation as well as product and process improvement to meet the challenges set by changing cost constraints thus enabling public utilities and industry customers to improve their performance, cut costs and reduce environmental impact over the long term. ABB means unbeatable total quality, worldwide.



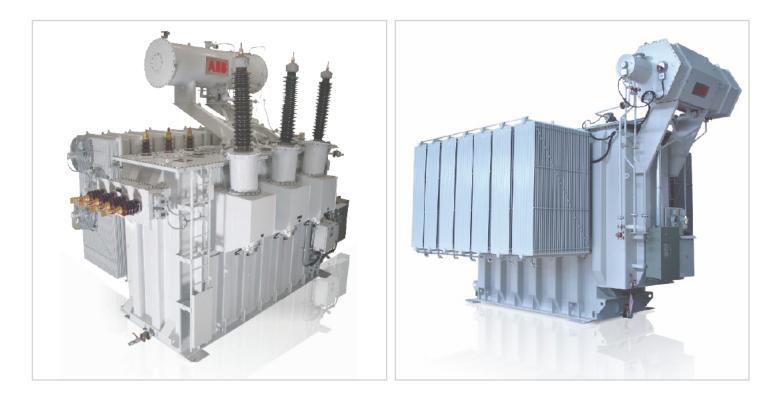
Small power transformers Scope and applications

In response to changing market needs, ABB has redefined its transformer product families and implemented a new business model around small power transformers, from 5 to 63 MVA and up to 170 KV.

The sole player in the industry to change its organization in line with market demands, ABB has set up an organization completely

focused on small power transformers, with its own management team, a dedicated technical staff and production experts sharing their know-how on a global scale.

Our small power transformer factories are strategically located and have fully dedicated production lines, which from a virtual global plant view, have twice the capacity of our nearest competitor.



The range

ABB's range of small power transformers, from 5 to 63 MVA and up to 170 KV, offers ideal solutions for all applications - standard or complex - from the typical substations to railways, furnaces, marine and offshore, including rectifiers, variable speed drive transformers, and reactors. The group has the skills and resources to deal with customer needs, however complex these may be in terms of engineering or assembly requirements, special accessories and special materials or components.

Standard small power transformers

- 5 MVA to 63 MVA
- Up to 170 KV
- 3 phase with/without OLTC
- 2 windings with/without OLTC and with/without (not loaded) stabilizing winding.
- ONAN/ONAF cooling.

Complex small power transformers

- Multi-windings
- Single phase transformers
- Autotransformers
- Special layouts (truck or railway mobiles)
- Special cooling
- Abnormal Impedance
- Low sound pressure level
- Ex-certified transformers



A new generation of transformers

ABB small power transformers are based on two key concepts: product excellence and process excellence.

Usually, down-scaling power transformer technology to distribution generates heavier designs and more complex concepts whereas upgrading distribution transformer technology to power can put reliability and testing at risk. That is why ABB decided to invest in developing a technology specifically for this product family.

Fully exploiting the best ABB practices, we started by modularizing proven transformer designs. This crucial first step led to standardization and simplification of the production process. This combined with the production capacity we have around the world, has permitted substantial investments in automation.

Application range of the global product platform

Rating	5-63/75 MVA
Maximum HV system voltage	170 kV
Maximum LV system voltage	36 kV
Vector groups	Y/d, Y/y, D/y, D/d
Impedance value	Between 6 and 22%
Maximum insulation level	BIL 650
Tap-changer	On HV and/or LV side
Standards	EC, ANSI

The global product platform is the result of these developments and we are now manufacturing higher quality products in a much shorter time.

The ABB small power transformer has all the classical attributes of a power transformer:

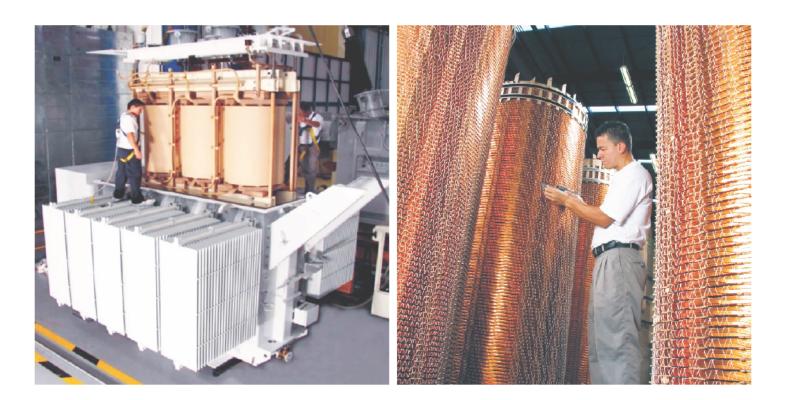
- Reliability
- Designs are based on well-proven technology
- Short-circuit strength has been demonstrated several times

That is what we call product excellence.

The ABB small power transformers production is based on:

- Modularization and scalability of design
- Standardization of design tools
- Manufacturing high-throughput lines
- Using the most advanced technology

That is what we call process excellence.



Product excellence

Reliability

No manufacturer in the industry can boast more experience than ABB in design and production of transformers of all types and sizes. We have the experience to balance your life cycle cost needs. Reliability is intrinsic in the small power transformers – right from the design stage. Key transformer components, such as bushings, tap changers and insulation material, are "made in ABB." We have the world's best laboratory facilities for testing transformers and all our products are individually tested according to International Standards. No other manufacturer has performed as many independent short-circuit tests as ABB.

Modularization customization

The concepts of modularization and customization are distinctive elements of the global product platform which translate into predefined configurations for tank and accessories covering the entire small power transformer range.

All the plane dimensions (length and width) are preset, whereas the third dimension (height) is left open-ended for optimization.

The design process starts with the pre-defined modules which are then customized to meet any customer specification and requests. As a result, the global product platform offers maximum design flexibility:

- -LV windings: foil, disk, helical and layer
- -HV windings: multilayer, disk and shielded disk
- -Conductors: Al, Cu and CTC
- Tap changer: OLTC on HV an LV side, an DETC
- -Conservator: with or without rubber bag and double flange





Folio 168

Product excellence

Reusability

Each modular design consists of a limited number of parts: design, bills of materials and drawings are reused as a whole or in part – they are not generated each time from scratch. Since these elements have been through the complete production process at least once up to testing, reusability reinforces the reliability of our products. Only an organization of ABB's size and vision can create a global product platform which ensures full worldwide reusability of proven design and main parts.

Common IT design tool

The global product platform is supported by a common IT design tool including:

- Test proven electrical design rules
- Mechanical rules
- Built-in design optimization application
- Built-in verification tool allowing test values to be checked against calculated parameters (with feedback to further optimize the calculation rules).

This tool reduces the design cycle time, allowing early detection of errors, and produces complete engineering documentation (standard drawings and automatic bills of materials). The costs to replace a transformer can be up to six times the original costs. You want it designed right the first time and built to last. Engineering excellence is one of the pillars on which ABB's world leadership in power and automation technologies is founded.



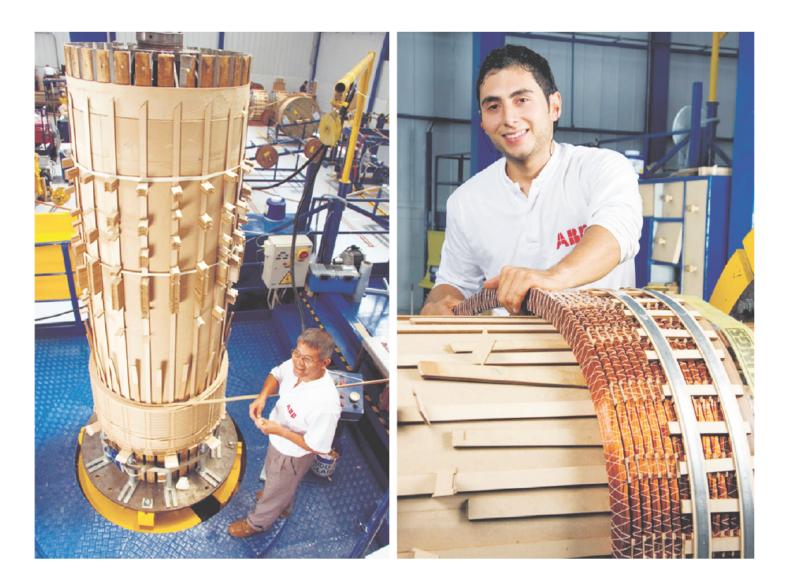
Quality

Quality can never be achieved by checks and controls alone. Builtin quality procedures are implemented in transformer production even before design work begins, ensuring correct interpretation of customer requirements. A globally accepted quality system- ISO 9000 and supplier qualification program - is integrated with specific factory quality programs including operational excellence, cost of poor quality and on-time delivery, all supported by the ABB customer complaint resolution process.

Product development

Requirements are continuously changing all over the world and the global product platform – the core of ABB technology for transformers for today and of tomorrow – is conceived to integrate each present or future development, such as:

- Midel BIOTEMP®
- Aluminum winding
- Nomex
- Low noise / low loss solution
- TEC on-line monitoring system
- Dry-type bushings
- Hermetically sealed tank



Process excellence

Automation

Poor manufacturing processes are the leading cause of transformer failure. At ABB we know that standardization of the manufacturing process, based on the most advanced technologies and equipment, increases productivity and improves quality. Modularization of designs ensures simpler procurement and shortens production times without sacrificing optimization. Process excellence as a whole allows reduction of the total cycle time thanks to high throughput production lines.

Standardization, modular design and high production volumes of a well-defined range of transformers allow us to introduce progressively in our factories a level of automation uncommon in transformer manufacturing, particularly in three key phases of the process: core cutting, winding and drying.

Automatic core cutting and stacking

Laminations are automatically cut and stacked to form the complete core. Thanks to this technology, the process is faster and quality is

1 Focused factories | 2 India | 3 Italy | 4 USA | 5 Finland | 6 China | 7 Vietnam | 8 Colombia

constant and not dependent on human factors. Automatically produced cores have lower losses, lower noise level and lower magnetizing current.

Semi automatic winding

Disk and helical windings are manufactured on vertical winding machines with automatic bending an braking of the conductors. The machines have computer-assisted controls which receive the manufacturing characteristics electronically from the design department and required limited manual operations. Thanks to this new technology, the process is faster and the winding dimensions are more precise – one of the most important factors in providing short-circuits strength.

Vapor phase drying

This process technology is mainly used for manufacturing power transformers and has now been introduced on a large scale in production of small power transformers to give the same quality as that required for larger units.









Focused factories

ABB's global manufacturing network is based on the focused factories concept: highly specialized manufacturing units dedicated to specific ranges of products, in competition for speed and efficiency, which develop and share the most advanced technologies. This approach has allowed us to slim down our organization and make better use our resources and competencies. The following are common to all ABB focused factories:

- Technical standards
- Standard drawings
- Material specifications
- Design rules
- Design tools /software
- Design process
- Method of procurement
- Manufacturing processes
- Quality processes
- Test standards
- Global support from ABB experts



Standard features on our transformers Folio 164

ABB transformers are generally of the conventional, free breathing tank type, fitted with oil conservator. Sealed units with air-cushion are also available.

They are manufactured and tested in accordance with the major international standards. Cooling methods are ONAN, ONAF, OFAF,OFWF and ODAF.

The transformers can be provided with off-load or on-load tap changers.

Core

Core design is a three-limb type of circular cross-section without bolts through the core. The joints are mitted or step-lap mitted, providing low losses, low on-load current and minimum noise.

Windings

The conductor material is copper and/or aluminum. Conductor shapes can be foil, strip or CTC (continuously transposed conductor). Winding technologies are foil, layers, continuous disk and interleaved disk.

Insulating oil

The mineral oil used in ABB transformers complies with the most important international standards. When requested, transformers can be filled with silicon oil or other fluid.

Tanks

The tank, cover and conservator are made of steel plates. Double welding is used where oil leaks are a concern. Rubber or cork rubber compound is used for the gasket on flanged connections. Non-magnetic steel is used around the high current carrying bushings. The transformer tank is usually of the rigid type with removable radiators connected by shut-off valves. All tanks are leakage tested.





Painting and surface treatment

ABB has a range of proven surface treatments depending on the transformer application environment and manufacturing location. Typically, tank external surfaces are painted with a two-component epoxy primer followed by a two-component acrylic or polyurethane finishing coat. Many other coating systems are available to suit customer's specifications and individual requirements. Separate radiators are generally hot-dip galvanized.

Accessories

–Bushings

- -Oil conservator with level indicator
- -Rubber-bag in the conservator to prevent oil coming into direct contact with air (optional)
- -Filling and drain valves
- -Oil sampling device
- -Earthing terminals
- -Lifting lugs
- -Jacking pads (radiator tanks)
- Radiator plate
- -Silica-gel breather
- -Buchholz relay
- -Top oil thermometer

Additional accessories can be fitted according to customer's specifications.

Vacuum treatment

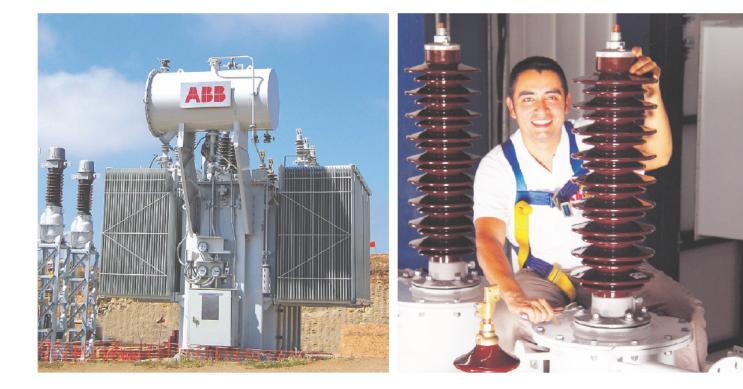
Drying and vacuum treatment is performed using proven technology such as vapor phase drying and LFH (low frequency heating). Before filling, the oil is always degassed and purified.

Bushings

Bushings of the solid porcelain type comply with international standards and are generally located on the cover. For voltages above 52 KV, condenser type bushings are used. Enclosure can be provided in the primary and/or on the secondary side and can be constructed for cable or bus duct connection. Transformers can also be provided with plug-in bushings.

Testing

All ABB transformers are individually tested according to the major international standards.



Perfect transformer care

Our service - always at your side

Just offering the best product in not enough: To bring true value to the customers, they must be supported day by day throughout the world. In addition to the small power trouble free concept, ABB can offers engineered solutions, monitoring and diagnostic contracts, fleet assessment, factory and on-site repair. ABB transformers can be fitted with TEC, a state-of-the-art on-line monitoring system. TEC receives all the control information from just a few multi-purposed sensors. Parameters measured during service are compared with simulated values. The model detects discrepancies and indicates potential malfunctions and/or normal wear. Other features include gas measurement for early indication of potential problems in a winding, and temperature control with consumed lifetime calculation.

Looking forward - components and materials

ABB small power transformers are the perfect products for introducing the latest developments in components. Dry-type bushings are safer, maintenance-free, easy to install and offer higher reliability. The combination of an up-to-date transformer and component technology provides the end user with unique advantages.

Furthermore, new materials like nomex insulation and alternative insulation fluids, like Midel – BIOTEMP, which is safer (less flammable) and environmentally friendly (biodegradable) are now available to the transformer industry. Insulation materials resistant to higher temperatures have reduced the footprint and led to higher overload capability. New materials open the door to new applications, such as transformers with increased safety for urban substations or for installation on off-shore platforms.



Your reliable partner

Folio 161

We deliver much more than a transformer to our customers - we delivery to you requirements a fully tested product, optimized for the lowest life cycle costs by the most advanced design tools and manufactured using the most efficient processes in the shortest time.

With our transformer you also have access to:

- -Proven design and cumulative experience
- State-of-the-art transformer technology, open to future developments.
- -Products and processes designed for quality
- -Global knowledge and production, local sales and services.
- -Rapid and precise documentation
- -Low CO₂ emission during the transport due to focused factory market allocation.

Small power transformers global manufacturing with local service



Contact us

ABB Inc. Transformers Affolternstrasse 44 8050 Zurich Switzerland Phone: + 41 0 43 317 71 11 Fax: + 41 0 43 317 45 20

www.abb.com/transformers

Note:

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THE MINISTRY OF FINANCE

SOCIALIST REPUBLIC OF VIET NAM Independence - Freedom – Happiness

No. 194/2010/TT-BTC

Hanoi, December 06, 2010

Circular No. 194/2010/TT-BTC of December 6, 2010, guiding customs procedures; customs inspection and supervision; import duty, export duty and tax administration applicable to imports and exports

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

Pursuant to Law No. 45/2005/QH11 of June 14, 2005, on Import Duty and Export Duty;

Pursuant to Law No. 78/2006/QH10, of November 29, 2006, on Tax Administration;

Pursuant to Law No. 01/2002/QH11 of December 16, 2002, on the State Budget;

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

Pursuant to the Government's Decree No. 87/2010/ND-CP of August 13, 2010, detailing the implementation of the Law on Import Duty and Export Duty;

Pursuant to the Government's Decree No. 66/2002/ND-CP of July 1, 2002, providing for duty-free quotas of luggage of passengers on entry and exit and imported donations and gifts;

Pursuant to the Government's Decree No. 12/2006/ND-CP of January 23, 2006, detailing the implementation of the Commercial Law regarding international goods trading and goods trading, processing and transit agency with foreign parties;

Pursuant to the Government's Decree No. 85/2007/ND-CP of May 25, 2007, detailing the implementation of the Law on Tax Administration; and Decree No. 106/2010/ND-CP of October 28, 2010, amending and supplementing a number of articles of Decree No. 85/2007/ND-CP of May 25, 2007, detailing the implementation of the Law on Tax Administration, and Decree No. 100/2008/ND-CP of September 8, 2008, detailing a number of articles of the Law on Personal Income Tax;

Pursuant to the Government's Decree No. 29/2008/ND-CP of March 14, 2008, providing for industrial parks, export-processing zones and economic zones;

Pursuant to the Prime Minister's Decision No. 33/2009/QD-TTg of March 2, 2009, promulgating financial mechanisms and policies applicable to border-gate economic zones;

Pursuant to the Government's Decree No. 118/2008/ND-CP of November 27, 2008, defining the functions, tasks, powers and organizational structure of the Ministry of Finance;

In furtherance of the Government's Resolution No. 25/NQ-CP of June 2, 2010, simplifying 258 administrative procedures under the management of ministries and sectors;

The Ministry of Finance guides customs procedures, customs inspection and supervision applicable to imports, exports and goods in transit; means of transport on entry or exit or in transit; import duty, export duty and tax administration applicable to imports and exports as follows:

Part I

GENERAL GUIDANCE

Article 1. Scope of regulation

This Circular guides customs procedures; customs inspection and supervision applicable to imports, exports and goods in transit; means of transport on entry or exit or in transit; and provides for import duty, export duty and tax administration applicable to imports and exports.

Article 2. Objects not liable to import duty and export duty

Goods specified in Article 2 of the Government's Decree No. 87/2010/NDCP of August 13, 2010, detailing the implementation of the Law on Import Duty and Export Duty, are not liable to import duty and export duty.

Article 3. Principles for carrying out customs procedures, customs inspection and supervision and tax administration

1. Customs procedures, customs inspection and supervision and tax administration shall be carried out on the principles prescribed in Article 3 of the Government's Decree No. 154/2005/ND-CP of December 15, 2005, providing for customs procedures, inspection and supervision; and Article 4 of the Law on Tax Administration.

2. Customs offices shall apply risk management to the customs inspection of imports, exports, goods in transit and means of transport on entry and exit and in transit on the basis of results of information analysis and assessment of the law observance by customs declarants and taxpayers, giving priority to and favoring goods owners who have a good record of observance of the customs law as prescribed in Clause 2, Article 6, of Decree No. 154/2005/ND-CP.

3. Forms of physical inspection of goods:

a/ Exemption from physical inspection is applicable to objects defined in Clauses 1 and 2, Article 30 of the Customs Law, except cases specified at Points b.2 and b.3 of this Clause;

b/ Physical inspection is applicable to the following objects:

b.1/ Goods specified in Clauses 3 and 4, Article 30 of the Customs Law;

b.2/ Goods subject to high risk levels based on results of risk assessment by customs offices;

b.3/ Goods randomly selected for assessing the law observance by goods owners.

The application of the risk management complies with the Finance Minister's Decision No. 48/2008/QD-BTC of July 4, 2008, providing for the application of risk management methods in customs operations.

4. Goods owners with a good record of observance of the customs law are those who satisfy the following conditions:

a/ Being involved in import or export activities for at least 365 days by the date of registration of the customs declaration for the imports or exports lot and being certified by the customs office for this period as:

a.1/ Not having been handled for acts of smuggling or illegally transporting goods across the border;

a.2/ Not having been handled for acts of tax evasion or fraud;

a.3/ Having been handled twice at most for other customs-related violations (including acts of making false declarations leading to a decrease in payable tax amounts or an increase in exempted, reducible or refundable tax amounts) each subject to a fine level falling beyond the competence of district-level Customs Department directors prescribed in the Ordinance on Handling of Administrative Violations:

b/ At the time of customs declaration registration, having no tax arrears which are overdue for more than 90 days counting from the tax payment deadline;

c/ Paying value-added tax by the credit method.

5. Taxpayers satisfying the conditions specified at Point a, Clause 4, Article 42, of the Law on Tax Administration are those who:

a/ Properly observe the customs law as prescribed in Clause 4 of this Article;

b/ Owe no overdue tax and fine arrears at the time of customs declaration registration.

6. Imports and exports of goods owners who have repeatedly violated the customs law are subject to the inspection level specified at Point b, Clause 2, Article 11 of Decree No. 154/2005/ND-CP.

Goods owners who have repeatedly violated the customs law are those who are involved in import or export activities for 365 days by the date of registration of the customs declaration for the import or export lot and have been handled thrice for customs-related administrative violations (including acts of making false declarations leading to a decrease in payable tax amounts or an increase in exempted, reducible or refundable tax amounts) each subject to a fine level falling beyond the sanctioning competence of district-level Customs Department directors prescribed in the Ordinance on Handling of Administrative Violations or have been handled once for a customs-related administrative violation subject to a fine level falling beyond the sanctioning competence of provincial-level Customs Department directors.

Article 4. Post-customs clearance inspection

Imports and exports which have been cleared from customs procedures are subject to post-customs clearance inspection under Chapter VI of Decree No. 154/2005/ND-CP and Part VI of this Circular.

Article 5. Rights and obligations of customs declarants and taxpayers; responsibilities and powers of customs offices and officers

1. Customs declarants and taxpayers shall exercise the rights and perform the obligations specified in Article 23 of the Customs Law; Articles 6, 7 and 30 of the Law on Tax Administration; Article 56 of Decree No. 154/2005/ND-CP; and Article 4 of the Government's Decree No. 85/2007/ND-CP of May 25, 2007, detailing the implementation of the Law on Tax Administration, which were supplemented under Clause 2, Article 1 of Decree No. 106/2010/ND-CP of October 28, 2010, amending and supplementing a number of articles of Decree No. 85/2007/ND-CP of May 25, 2007, detailing the implementation of the Law on Tax Administration, and Decree No. 100/2008/ND-CP of September 8, 2008, detailing a number of articles of the Law on Personal Income Tax.

2. The inheritance of rights and fulfillment of tax obligations of reorganized enterprises by their successors comply with Article 55 of the Law on Tax Administration and are specifically guided as follows:

a/ Transforming enterprises shall inherit tax obligations, benefits and responsibilities; preferences in customs procedures and procedures for duty payment for imports of old enterprises;

b/ Enterprises formed through consolidation or merger of enterprises having properly observed the customs law will be regarded as having properly observed the customs law. Those formed through consolidation or merger of enterprises having improperly observed the customs law will be regarded as having improperly observed the customs law. An enterprise formed through consolidation or merger of an enterprise having properly observed the customs law and another having improperly observed the customs law will be subject to a decision of the provincial-level Customs Department director appraising its observance of the customs law after considering the practical situation and the provincial-level Customs Department director shall take responsibility before law for his/her appraisal.

The application of the tax payment time limit shall be based on results of the appraisal of observance of the customs law as prescribed above;

c/ For enterprises newly formed from a divided enterprise, the provincial-level Customs Department director shall consider the practical situation before deciding whether or not these enterprises will be allowed to enjoy tax-related rights and lawful interests and preferences in tax payment procedures like the divided enterprise;

d/ Enterprises newly formed from a split up enterprise may enjoy tax-related rights and lawful interests and preferences in customs procedures and procedures for duty payment for imports like the split up enterprise, provided that the decision on enterprise split-up clearly states the transfer of these rights from the split up enterprise to new enterprises. The split up enterprise may inherit rights, obligations, responsibilities, and preferences in customs procedures and tax administration.

3. Customs declarants and taxpayers shall give certification, sign and append a seal on documents compiled by themselves in customs dossiers, additional declaration dossiers, liquidation dossiers, dossiers for registration of lists of duty-free goods, duty-free goods finalization dossiers, dossiers of request for duty exemption, reduction, refund and non-collection, dossiers of request for handling of overpaid duty amounts, dossiers of request for duty payment delay and dossiers of request for clearance of duty and fine arrears, and papers being copies (photocopied from originals), translations, other dossiers and documents issued by foreigners in the electronic form, by fax or telex and submitted to customs offices under this Circular, and take responsibility before law for the accuracy, truthfulness and lawfulness of these documents and papers. For a multiple-page copy, the customs declarant or taxpayer shall give certification, sign and append a seal on the first page and on every two adjoining pages of the copy.

4. Customs offices and officers shall perform the responsibilities and exercise the powers specified in Article 27 of the Customs Law; Articles 8 and 9 of the Law on Tax Administration; and Article 57 of Decree No. 154/2005/ND-CP.

5. Customs offices may consider and agree to conduct physical inspection of goods and carry out customs clearance out of working hours on the basis of prior written registrations (including also faxed registrations) of customs declarants and their practical conditions. The physical inspection of a goods lot which commences in working houses shall be conducted till completion even after working hours without a written request of the customs declarant.

6. Coordination between customs offices and customs declarants and taxpayers

a/ Customs offices shall guide customs procedures, provide information and documents and publicize customs and tax procedures for customs declarants and taxpayers to strictly abide by the customs and tax laws, excise their rights and perform their obligations in accordance with law;

b/ Customs declarants and taxpayers shall promptly provide to customs offices information on imports, exports, goods in transit, means of transport on entry and exit and in transit and violations of the customs law in order to contribute to ensuring a fair competition environment for commercial activities;

c/ The coordination and exchange of information between customs offices and customs declarants and taxpayers may be effected under memoranda of understanding to ensure fulfillment of obligations and responsibilities by signatories.

Part II

CUSTOMS PROCEDURES; CUSTOMS INSPECTION AND SUPERVISION; AND TAX ADMINISTRATION OF COMMERCIAL IMPORTS AND EXPORTS

Chapter I

GENERAL GUIDANCE ON CUSTOMS PROCEDURES AND TAX ADMINISTRATION

Article 6. Commercial imports and exports

Commercial imports and exports defined in Section 1, Chapter II of Decree No. 154/2005/ND-CP include:

- 1. Goods imported or exported under trading contracts.
- 2. Goods temporarily imported for re-export.
- 3. Goods transported from or to border gate.
- 4. Goods imported or exported by mode of importing raw materials for export production.
- 5. Goods imported or exported for the performance of processing contracts signed with foreign traders.
- 6. Goods imported or exported for the implementation of investment projects.

7. Goods imported or exported across the borders under the Prime Minister's regulations on management of border trading activities with the bordering countries.

8. Goods imported or exported for commercial purposes by organizations or individuals that are not traders.

9. Goods imported or exported 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 temporarily imported for re-export or temporarily exported for re-import which are machinery, equipment and means of transport hired or leased for work construction or investment projects.

Article 7. Prior classification of imports and exports

The procedures for, order of, and competence to conduct prior classification of imports and exports comply with the Finance Ministry's Circular No. 49/2010/TT-BTC of April 12, 2010, guiding the classification of, and application of duty rates to, imports and exports.

Article 8. Prior certification of origin of imports

1. Procedures for prior certification of origin of imports specified in Article 14 of the Government's Decree No. 19/2006/ND-CP of February 20, 2006, detailing the implementation of the Commercial Law regarding origin of goods, are guided as follows:

a/ A dossier of application for prior certification of origin comprises:

a.1/ An application for prior certification of origin (made according to form No. 01-DXX/2010 provided in Appendix III to this Circular), indicating goods' appellations and HS codes, the producing, processing or assembling country and establishment, the exporting country, the FOB price, the expected time of arrival to Vietnam and the route of transportation in Vietnam;

a.2/ A list of raw materials and supplies used for goods production, covering goods' appellations and HS codes, origin of raw materials and supplies constituting products and CIF prices of raw materials and supplies;

a.3/ Invoices on the sale and purchase of raw materials and supplies used for goods production;

a.4/ Other documents: the brief description of the goods production process, the survey certificate, the processing and assembly certificate, the certificate of composition analysis, catalog, goods samples and photographs to be produced upon request if the above papers contain insufficient information for prior certification of origin.

b/ The General Department of Customs shall consider and issue the paper of prior certification of origin as soon as possible within 150 working days after the receipt of a complete and valid dossier.

2. A paper of prior certification of origin is valid for one year from the date of issuance and may also apply to goods of the same category of the same producer or exporter for which import procedures are carried out by the applicant for prior certification of origin.

3. Within the validity duration of a paper of prior certification of origin of imports, the customs office may re-consider or annul the validity of this paper and notify such to the applicant in one of the following cases: a/ Relevant legal documents are amended or supplemented; b/ Elements for assessment of goods origin change;

c/ There is a disparity between the results of prior certification of origin and the actual origin of goods;

d/ The applicant provides distorted or false information; e/ There are different results of prior certification of origin of goods with regard to origin of goods of the same category of the same producer. 4. The applicant shall promptly notify the customs office which has made prior certification of origin of goods of any change of elements used for assessment of goods origin.

5. The dossier and documents of prior certification of origin shall be kept for 3 yeas after the date of issuance of the paper of prior certification of origin of imports.

6. The prior certification of origin of goods eligible for special preferential duty rates under free trade agreements concluded by Vietnam shall be carried out on the rules of identification of origin laid down for the implementation of these agreements.

7. The collection and payment of charges for prior certification of origin of goods comply with the Finance Ministry's regulations.

8. In case applicants for prior certification of origin fail to provide necessary sufficient information, customs offices shall refuse to make prior certification of origin and notify in writing their refusal.

9. Information on prior certification of origin of goods shall be archived and kept confidential by customs offices under Article 16 of Decree No. 19/2006/ND-CP.

10. Papers of prior certification of goods origin are only valid for carrying out customs clearance procedures but not valid for enjoying particularly preferential duty rates.

Article 9. Prior look at goods before customs declaration

Prior look at goods before customs declaration specified at Point b, Clause 1, Article 23 of the Customs Law proceeds as follows:

1. The goods owner sends to the current keeper of goods a written request for prior look before carrying out customs procedures and, at the same time, notify thereof to the district-level Customs Department for supervision as prescribed.

2. The taking of a prior look at goods is subject to approval of the current keeper of goods and customs supervision.

3. Upon the prior look at goods, the goods keeper shall make a written record of the prior look at goods and have it certified by himself/herself, the goods owner and the supervising customs officer. Each party will keep a copy of this record.

4. Custom offices shall seal up goods after goods owners take a look at goods. In case goods cannot be sealed up, the written record mentioned in Clause 3 of this Article must show the state of the goods and clearly indicate that the goods keeper shall keep this state intact. Article 10. Customs declaration

Article 10: Customs declaration

1. Customs declaration (including tax declaration upon carrying out customs procedures) shall be made on the customs declaration form.

2. Customs declaration for goods imported or exported by different modes or by the same mode but subject to different tax payment time limits shall be made on different imports or exports declaration forms corresponding to their importation or exportation modes or tax payment time limits (except the case in which an import item subject to different import duty, valueadded tax and excise tax payment time limits may be declared in the same customs declaration form).

3. For imports, customs declaration shall be made before or within 30 days after the date of goods arrival to a border gate. The date of goods arrival to a border gate is the date indicated on the customs office's stamp appended on the goods declaration (manifest) included in the dossier of means of transport on entry (by sea, air or train) or the date written on the declaration of means of transport running through the border gate or the means of transport-monitoring book.

4. Customs declaration for goods imported or exported under many contracts or orders:

a/ An import item imported under many contracts or orders, having one or more than one invoice of the seller, subject to the same delivery conditions and lump-sum delivery and having only one bill of lading shall be declared in a customs declaration;

b/ An export item exported under many contracts or orders, subject to the same delivery conditions and lump-sum delivery, and sold to the same customer shall be declared in a customs declaration;

c/ Upon making customs declaration, a customs declarant shall fully fill in the number(s) and date of contract(s) or order(s) in the customs declaration. In case it is impossible to declare contracts or orders in a customs declaration, the customs declarant shall make a detailed list enclosed with the custom declaration. Only total goods quantity under such contracts or orders is required to be declared in the imports or exports declaration. 5. For goods imported by different modes, sharing the same bill of lading and commercial invoice, and declared in different declarations corresponding to their importation modes, original documents shall be kept together with a customs declaration while other customs declarations shall be enclosed with copies of these documents which clearly indicate that "the original is enclosed with customs declaration."

6. For imports or exports eligible for tax rate reduction, when their tax rates are declared, it is required to indicate the tax rate before reduction and the reduction percentage.

7. Responsibilities of customs declarants and taxpayers in making customs declaration and using goods for declared purposes:

a/ To make by themselves sufficient, accurate and truthful declaration of elements used as grounds for tax calculation, tax exemption, consideration for tax exemption, reduction or refund or non-collection of import duty, export duty, excise tax and value-added tax;

b/ To determine by themselves and take responsibility before law for the declaration of payable tax amounts, exempted tax amounts, tax amounts considered for exemption, reduction or refund and non-collection of import duty, export duty, excise tax and value-added tax in accordance with law; to declare payable tax amounts in a money payment paper for the total tax amount of the custom declaration.

8. Goods already identified as being not liable to tax or being exempted or considered for exemption from import duty, excise tax or value-added tax of which the use purpose is changed or is permitted for change (for cases requiring a competent authority's permission for use purpose change) shall be handled as follows:

a/ Unless the use purpose is changed to the mode of re-export or transfer to subjects not liable to tax or eligible for tax exemption, within 10 days after the use purpose of goods is actually changed, taxpayers shall declare payable tax amounts and fine amounts for late payment (if any) according to Form No. 01 provided in Appendix VI to this Circular to customs offices;

b/ Taxpayers shall fully pay taxes and fines for late payment and fines for administrative violations (if any) for goods of which the use purpose has been changed within the time limit guided at Point h, Clause 3, Article 18 of this Circular. In case of suspicion, customs offices shall decide to inspect the change of the use purpose and the declaration for tax and fine payment by taxpayers under law;

c/ In case taxpayers change the use purpose of goods but fail to voluntarily make tax payment declarations to customs offices, and their violation is detected by customs offices or other functional agencies through inspection, taxpayers will be subject to assessment of payable tax and fine amounts

and, depending on the severity of their violations, be handled under current regulations. Taxpayers shall fully pay deficit tax and fine amounts (if any) under decisions of customs offices.

9. In case goods which are supplies or materials imported for export production or temporarily imported for re-export are domestically sold, their owners shall:

a/ Declare and pay value-added tax to customs offices; b/ Re-determine dutiable values;

c/ Re-determine time limits for payment of import duty, value-added tax and excise tax (if any) as guided in Article 18 of this Circular.

Article 11. Customs dossiers

1. When carrying out customs procedures for exports, customs declarants shall submit or produce to customs offices a customs dossier comprising the following documents

a/ The customs declaration: to submit 2 originals;

b/ The goods trading contract (established in writing or other forms of equivalent legal validity, including telegraph, telex, fax and data message) for exports liable to export duty or subject to liquidation requirement or goods subject to regulations on export contract-related points of time: to submit 1 original or 1 copy.

The goods trading contract must be in Vietnamese or English; if it is made in another language, customs declarants shall also submit its Vietnamese translation and take responsibility before law for this translation.

c/ In each of the following specific cases, customs declarants shall additionally submit or produce the following documents:

c.1/ The detailed list of goods, for goods of different categories or goods packaged differently: to submit 1 original;

c.2/ The export permit, for goods requiring such permit under law: to submit 1 original in case of single exportation or to submit 1 copy and produce the original for comparison or making of a reconciliation-monitoring slip, in case of multiple exportation;

c.3/ Other documents as specified in legal documents of relevant ministries and sectors;

c.4/ For goods exempt from export duty, in addition to the above documents, the following documents are also required:

c.4.1/ The written notification of the winning bid or contractor designation, enclosed with the goods supply contract, clearly stipulating that the winning price or goods-supplying price is exclusive of export duty (for organizations and individuals with winning bids for export); or the export entrustment contract, clearly stating that the price for goods supply under the entrustment contract is exclusive of export duty (for cases of entrusted export): to submit 1 copy and produce the original for comparison for the first exportation to the district-level Customs Department carrying out export procedures;

c.4.2/ Other papers evidencing exports' eligibility for duty exemption; c.4.3/ The list of documents included in the dossier of request for duty exemption.

2. When carrying out customs procedures for imports, customs declarants shall submit and produce to customs offices a customs dossier comprising the following documents:

a/ The customs declaration: to submit 2 originals;

b/ The goods trading contract (established in writing or other forms of equivalent legal validity, including telegraph, telex, fax and data message): to submit 1 copy (except goods specified at Clauses 5, 7, 8 and 11, Article 6 of this Circular); the import entrustment contract (for cases of entrusted import): to submit 1 copy.

The goods trading contract must be in Vietnamese or English, if it is made in another language, customs declarants shall also submit its Vietnamese translation and take responsibility before law for the translation.

c/ Commercial invoice: to submit 1 original;

d/ Bill of lading or other transportation documents of equivalent validity as specified by law (except goods specified in Clause 7, Article 6 of this Circular, goods traded between non-tariff zones and the inland): to submit 1 copy.

For goods imported by international post, if no bill of lading is available, customs declarants shall write codes of postal parcels or items on customs declarations or submit the list of postal parcels or items made by the post office.

For goods imported for oil and gas exploration and exploitation and transported on service ships (other than commercial ships), the cargo manifest shall be submitted in replacement of the bill of lading;

e/ In each of the following specific cases, customs declarants shall additionally submit or produce the following documents:

e.1/ The detailed list of goods, for goods of different categories or goods packaged differently: to submit 1 original or 1 copy of equivalent validity such as telegraph, fax, telex, data message or other formats as specified by law;

e.2/ The written inspection registration, notice of inspection exemption or notification of inspection results issued by a technical organization designated to carry out quality inspection, the agency in charge of food safety inspection or the quarantine agency (below referred to as inspection agency), for imports on the list of products and goods subject to quality and food safety inspection, animal quarantine or plant quarantine: to submit 1 original;

e.3/ The certificate of survey, for goods cleared from customs procedures on the basis of survey results: to submit 1 original;

e.4/ The declaration of imports' value, for goods subject to value declaration under the Finance Minister's Decision No. 30/2008/QD-BTC of May 21, 2008, promulgating declaration forms of dutiable value of imports and exports and providing declaration guidance, and Circular No.163/2009/TT-BTC of August 13, 2009, amending and supplementing a number of provisions of Decision No. 30/2008/QD-BTC: to submit 2 originals;

e.5/ The import permit, for goods requiring such permit under law: to submit 1 original, for single importation, or submit 1 copy and produce the original for comparison and making of a reconciliation-monitoring slip, for multiple importation;

e.6/ The certificate of origin (C/O): to submit 1 original in the following cases:

e.6.1/ Goods originating from countries or groups of countries which have concluded agreements on the application of particularly preferential tax rates with Vietnam (except imports with an FOB value not exceeding USD 200) as prescribed by Vietnamese laws and treaties which Vietnam has signed or acceded to, if the importer wishes to enjoy these preferences;

e.6.2/ Imports which Vietnam and international organizations announce to be presently likely to harm social safety, public health or environmental sanitation and need to be controlled;

e.6.3/ Goods imported from countries against which Vietnam announces to apply anti-dumping tax, countervailing duty, anti-discrimination tax, safeguard measures or tariff quotas;

e.6.4/ Imports subject to import management prescribed by Vietnamese laws or bilateral or multilateral treaties to which Vietnam is a contracting party;

The C/O already submitted to a customs office may neither be modified nor replaced, except modification or replacement made by the agency or organization competent to issue such C/O within a law-prescribed time limit.

e.7/ For goods exempt from import duty specified in Article 101 of this Circular, the following documents are required:

e.7.1/ The list of goods exempt from import duty, enclosed with the reconciliation-monitoring slip already registered with the custom office, for cases subject to registration of such list as guided in Clause 1, Article 102 of this Circular: to submit 1 copy and produce the original for comparison and reconciliation;

e.7.2/ The written notification of the winning bid or contractor designation (clearly indicating jobs winning the bidding or subject to contractor designation), enclosed with the contract on sale of goods to enterprises according to bidding results or the contract on goods supply, clearly stipulating that the winning price or goods-supplying price is exclusive of import duty (for organizations and individuals with winning bid for import); or the import entrustment contract or service provision contract, clearly stipulating that the price for goods supply under the entrustment contract or service contract is exclusive of import duty (for cases of entrusted import or service provision): to submit 1 copy and produce the original for comparison for the first importation to the district-level Customs Department carrying out import procedures;

e.7.3/ The paper on transfer of goods eligible for duty exemption, for goods transferred between dutyexempt subjects: to submit 1 copy; e.7.4/ The certificate of eligibility for business operation of duty-free shop, for goods imported for sale at duty-free shops: to submit 1 copy; e.7.5/ Other papers evidencing imports' eligibility for duty exemption; e.7.6/ The list of papers and documents included in the dossier of request for duty exemption.

e.8/ The declaration for certification of non-refundable aid, made by a finance agency according to the Finance Ministry's Circular No. 82/2007/TT-BTC of July 12, 2007, guiding the state financial management applicable to foreign non-refundable aid as state budget revenues and nonrefundable aid goods which are not liable to import duty, excise tax or value-added tax: to submit 1 original;

In case the owner or principal contractor of a non-refundable ODA-funded project is not liable to import duty, export duty, value-added tax or excise tax as prescribed by tax laws, the written notification of the winning bid or contractor designation, enclosed with the goods supply contract clearly stipulating that the winning price or goods-supplying price is exclusive of import duty (for organizations and individuals with winning bid for import); the import entrustment contract, clearly stipulating that the goodssupplying price under the entrustment contract is exclusive of import duty (for cases of entrusted import): to submit 1 copy and produce the original for comparison.

e.9/ The certificate of registration for trading in animal breeds or plant varieties, granted by a state management agency, for animal breeds or plant varieties not liable to value-added tax: to submit 1 copy and produce the original for comparison;

e.10/ For goods not liable to value-added tax being domestically unavailable machinery, equipment and supplies which need to be imported for use in scientific research and technological development activities; domestically unavailable machinery, equipment, spare parts, special-use vehicles and supplies which need to be imported to conduct oil and gas survey, exploration and mine development activities; domestically unavailable aircraft, drilling platforms and ships which need to be imported to create fixed assets of enterprises or hired from foreign countries for use in production and business activities and for lease, the following papers are required:

e.10.1/ The written notification of the winning bid or contractor designation (clearly indicating jobs winning the bidding or subject to contractor designation) and the contract on the sale of goods to enterprises according to bidding results or the contract on goods supply or service provision (clearly stating that the payment price is exclusive of value-added tax), for goods not liable to value-added tax and imported by the bid-winning or designated contractor or the service provider: to submit 1 copy and produce the original for comparison for the first importation to the district-level Customs Department carrying out import procedures; e.10.2/ The import entrustment contract, clearly stating that the goodssupplying price under the entrustment contract is exclusive of value-added tax (for cases of entrusted import): to submit 1 copy and produce the original for comparison;

e.10.3/ The document made by a competent agency assigning the tasks of implementing scientific research and technological development programs, projects or schemes to organizations or the contract between the party ordering the performance of scientific and technological tasks and the party performing these tasks, enclosed with the written certification of the enterprise's representative or the head of the scientific research agency and written commitments on the use of imports for scientific research and technological development, for cases of importing goods for scientific research and technological development: to submit 1 original;

e.10.4/ The written certification and commitment of the enterprise's representative on the use of domestically unavailable machinery, equipment, spare parts, special-use vehicles and supplies which need to be imported to conduct oil and gas survey, exploration and mine development: to submit 1 original;

e.10.5/ The written certification and commitment of the enterprise's representative on the use of domestically unavailable aircraft, drilling platforms and ships which need to be imported to create fixed assets of the enterprise or hired from foreign countries for use for production and business and for lease: to submit 1 original;

e.10.6/ The lease contract signed with a foreign party, for cases of hiring domestically unavailable aircraft, drilling platforms and ships which need to be hired from foreign countries for production and business activities or for lease: to submit 1 original;

e.11/ The certification of the use of imports for national defense purposes, made by the Ministry of National Defense, or for security purposes, made by the Ministry of Public Security, for weapons and special-use ammunitions imported in direct service of national defense or security which are not liable to value-added tax: to submit 1 original;

e.12/ The written registration of supplies and materials imported for export production (to be submitted upon registration of materials and supplies used for export production under Article 32 of this Circular.

When carrying out customs procedures, enterprises are not required to submit this registration; customs offices shall use its copy they keep);

e.13/ The written registration of supplies and materials imported for producing goods for domestic consumption, for the case of importing goods on the Ministry of Industry and Trade's list of consumer goods but using these goods as supplies and materials for directly producing goods for domestic consumption (if enterprises wish to apply the tax payment time limit of 30 days for these goods, before importing these goods, they shall make registration with customs offices as for materials and supplies used for export production under Article 32 of this Circular. When carrying out customs procedures, enterprises are not required to submit this registration; customs offices shall use its copy they keep).

e.14/ Other relevant documents as specified by law for each specific item: to submit 1 original.

3. The dossier used for identification of non-dutiable commercial imports or exports is the customs dossier specified in this Article.

Article 12. Modification of customs declarations and making of additional declarations in customs dossiers

1. The modification of customs declarations and making of additional declarations in customs dossiers may be carried out in the following cases: a/ Modifying the customs declaration or making additional declarations in the customs dossier before the physical inspection of goods is conducted or a decision on physical inspection exemption is issued under Clause 3, Article 9 of Decree No. 154/2005/ND-CP;

b/ Making additional declarations in the customs dossier within 60 days from the date of customs declaration registration with respect to errors which affect payable tax amounts, provided that the following conditions are fully met:

b.1/ Errors are detected and declared by the taxpayer or customs declarant himself/herself to the customs office;

b.2/ Errors are declared within 60 days after the date of customs declaration registration but before the customs office carries out tax examination or inspection at the taxpayer's office;

b.3/ There are errors in the calculation of payable tax amounts; errors in the value, origin, code, tax rate and payable tax amounts declared in the customs dossier already submitted to the customs office; b.4/ The customs declarant or taxpayer has sufficient grounds to prove and the customs office has adequate grounds and conditions to examine and verify the truthfulness, accuracy and lawfulness of additional declarations. 2. Contents of modification and additional declaration include:

a/ Additional declaration of information used as grounds for determining tax calculation elements and bases or identifying objects not liable to tax or objects eligible for tax exemption, consideration for tax exemption, reduction, refund or non-collection;

b/ Additional declaration of payable tax amounts, paid tax amounts, deficit tax amounts or overpaid tax amounts (if any), fines for late payment of tax amounts to be paid under additional declaration (if the taxpayer has failed to pay tax under the additional declaration within the prescribed time limit) for each goods item and the whole customs declaration; commitments on the accuracy and lawfulness of documents and the additional declaration dossier;

c/ Modifying and additionally declaring other information in the customs declaration form.

3. A dossier of modification or additional declaration comprises:

a/ A document on modification or additional declaration (made according to Form No. 02 provided in Appendix VI to this Circular): to submit 2 originals;

b/ Enclosed papers to prove the modification or additional declaration. 4. Processing of modification or additional declaration dossiers: a/ Responsibilities of customs declarants:

a.1/ To accurately, truthfully and adequately declare additional elements and grounds in the additional declaration document;

a.2/ To calculate tax amounts and fines for late payment (if any) to be paid as a result of additional declaration;

a.3/ To submit a complete dossier to the customs office within the time limit for modification or additional declaration prescribed in Article 34 of the Law on Tax Administration and Clause 2, Article 22 of the Customs Law;

a.4/ To abide by the customs office's request written in the modification or additional declaration document;

a.5/ In case the additional declaration leads to an increase in payable tax amounts, taxpayers shall fully pay taxes and fines for late payment (if any) within the prescribed time limit;

a.6/ In case the additional declaration leads to a decrease in payable tax amounts, taxpayers may request customs offices to which additional declarations are made to handle the overpaid tax amount under Article 24 of this Circular.

b/ Responsibilities of customs offices:

b.1/ To clearly write the hour and date of receipt of modification or additional declaration dossiers, for cases of modification or additional declaration under Point a, Clause 2, Article 34 of the Law on Tax Administration and Clause 2, Article 22 of the Customs Law. To clearly write the date of receipt of additional declaration dossiers, for cases of additional declaration under Point b, Clause 2, Article 34 of the Law on Tax Administration;

b.2/ To check the completeness and accuracy of modification or additional declaration dossiers and write the results in the modification or the additional declaration document and return 1 copy thereof to the customs declarant and keep 1 copy;

b.3/ To notify the results of examination of modification or additional declaration dossiers within:

b.3.1/ Eight working hours after the receipt of a complete dossier of modification or additional declaration, for cases of modification or additional declaration before the customs office conducts a physical inspection of goods or makes a decision on physical inspection exemption;

b.3.2/ Five working days after the receipt of a complete dossier of additional declaration, for cases of making additional declaration within 60 days after the date of customs declaration registration, but before the custom office conducts tax examination or inspection at the taxpayer's head office.

5. In case customs declarants or taxpayers detect by themselves errors in the submitted tax declaration dossier (errors in the calculation of the payable tax amount and errors in the value, origin, code, tax rate or payable tax amount); make declaration before customs offices conduct tax examination or inspection at their head offices but beyond the time limit of 60 days from the date of custom declaration registration;

or customs declarants or taxpayers have sufficient grounds to evidence and customs offices obtain adequate grounds and conditions to examine and certify the accuracy and lawfulness of the declaration:

a/ Customs declarants or taxpayers shall make declaration as in the case of additional declaration guided in Clauses 2 and 3, and Point a, Clause 4, of this Article; fully pay the deficit tax amount within the time limit as for tax amounts declared and calculated by themselves when carrying out customs procedures and fines for late payment (if any) and comply with the customs office's administrative sanctioning decision;

b/ Customs offices shall receive and examine declaration dossiers of customs declarants or taxpayers as in the case of additional declaration guided at Point b, Clause 4 of this Article; handle administrative violations under regulations and take notes of the sanctioning in the additional declaration document. In case the paid tax amount is larger than the payable tax amount, the customs office shall re-settle the overpaid tax amount under the Law on Tax Administration and its guiding documents.

Article 13. Replacement of customs declarations

Customs declarations may only be replaced upon change of the importation or exportation mode and before the time of conducting physical inspection of goods or making a decision on exemption from the physical inspection of goods. Customs procedures shall be carried out as follows:

1. The customs declarant shall send a written explanation on the reason for replacement of the registered declaration to the district-level Customs Department with which the customs declaration was registered;

2. The head of the district-level Customs Department with which the customs declaration was registered shall consider the explanations given by the customs declarant; if considering them reasonable and detecting no signs of trade fraud, he/she shall approve the request of the customs declarant and assign a customs officer to:

a/ Withdraw the registered declaration;

b/ Cancel the registered declaration: crossing out the declaration in red ink, signing and appending his/her seal to both copies of the cancelled declaration;

c/ Register a new customs declaration. The new custom dossier comprises the new customs declaration, documents accompanying the goods lot and the cancelled customs declaration (the copy kept by the customs declarant);

d/ Take notes in the system: This declaration is replaced with declaration No. .. dated...;

e/ File the cancelled customs declaration (the copy filed by the customs office), and the customs declarant's written request for replacement of the customs declaration by registration number of the customs declaration.

Article 14. Customs inspection in the process of customs clearance

1. Inspection in the process of customs clearance includes: examination of customs dossiers, tax examination and physical inspection of goods.

2. Contents of inspection in the process of customs clearance

a/ Checking goods appellations and codes as prescribed in the Finance Ministry's circular guiding the classification of imports and exports;

b/ Inspecting goods quantity. For goods items of which the quantity cannot be determined by manual methods or equipment of customs offices (such as goods in liquid form, bulk goods or goods lots of large quantity), customs offices shall base themselves on survey results of traders providing survey services (below referred to as survey traders) to identity their quantity;

c/ Inspecting goods quality (including examination of food hygiene and safety), specifically:

c.1/ For goods subject to quality inspection

c.1.1/ For imports: Custom offices shall carry out customs procedures on the basis of the written registration for quality inspection, the notice of inspection exemption for the goods lot or the written conclusion on the goods lot's conformity with import quality standards made by an inspection agency;

c.1.2/ For exports: customs offices shall carry out customs procedures on the basis of the written conclusion on the goods lot's conformity with export quality standards made by an inspection agency.

c.2/ For goods not subject to quality inspection

c.2.1/ If customs offices, with their devices and equipment, cannot determine goods quality for the management of imports and exports, they shall, together with goods owners, take samples of goods or request goods owners to supply technical documents (catalogs) and reach agreement with goods owners on the selection of a survey trader to conduct a survey. The survey trader's conclusions are binding on involved parties;

c.2.2/ If customs declarants and custom offices fail to reach agreement on the selection of a survey trader, customs offices shall select a designated technical organization to conduct inspection in service of state management or a survey trader (in case the technical organization designated to conduct the inspection issues a written refusal). Conclusions of such technical organization or survey trader are binding on involved parties. If customs declarants disagree with such conclusions, they may lodge complaints under law.

 d/ Inspection of origin of goods on the basis of the actual state of goods, customs dossiers and information on goods under Article 15 of the Government's Decree No. 19/2006/ND-CP of February 20, 2006, and other relevant guiding documents. Inspection results shall be processed as follows:

d.1/ If the actual origin of imports differs from that declared by customs declarants but still belongs to the group of countries or territories granting the most favored nation treatment to Vietnam, customs offices shall still apply preferential duty rates as prescribed and, depending on the nature and severity of violations, handle violators in accordance with law; d.2/ If doubting the origin of goods, customs offices may request customs declarants to supply more documents to evidence the origin of goods or request a competent agency of the exporting country to give certification. The examination and verification of the origin of goods must be completed within 150 days after customs declarants submit a complete and valid dossier. Pending the availability of examination results, goods ineligible for tariff incentives but allowed for customs clearance under ordinary customs procedures;

The time limit for consideration and settlement of problems related to the origin of goods or for consideration and acceptance of a C/O is 365 days after the date of submission of the C/O to customs offices or the date customs offices have doubts about violations related to the origin of goods. If customs declarants submit a C/O granted for the whole goods lot but import only part of the goods lot, customs offices shall accept this C/O for the volume of actually imported goods.

e/ Tax inspection, covering:

e.1/ Inspecting conditions for application of coercive measures and tax payment time limit as prescribed;

e.2/ Inspecting grounds used to determine that goods are not liable to tax in case customs declarants declare that goods are not liable to import duty, export duty, value-added tax or excise tax;

e.3/ Inspecting grounds used to determine that goods are eligible for tax exemption, consideration for tax exemption or reduction in case customs declarants declare that goods are eligible for tax exemption or consideration for tax exemption or reduction;

e.4/ Inspecting tax bases used for determining payable tax amounts and calculating payable tax amounts in case imports or exports are liable to tax on the basis of examination results specified at Points a, b, c and d of this Clause or the results of inspection and determination of dutiable values under the Finance Ministry's Circular No. 40/2008/TT-BTC of May 21, 2008, guiding the Government's Decree No. 40/2007/ND-CP of March 16, 2007, providing for customs valuation of imports and exports, and other relevant grounds.

3. The competence to determine the form and level of examination shall be decided by directors of provincial- or district-level Customs Departments which receive and process customs dossiers.

4. In the process of customs clearance for an import or export lot, based on the actual state of the goods lot and newly collected information, directors of provincial- or district-level Customs Departments shall decide to change the form and level of inspection already decided and take responsibility for the change.

5. After the physical inspection of goods, customs officers shall record inspection results under the guidance of the General Department of Customs.

Article 15. Sampling, sample storage and archival of photographs of imports

1. Samples of imports shall be taken in the following cases: a/ Customs declarants request the sampling for customs declaration; b/ Goods must be sampled to meet customs management requirements, including raw materials and supplies imported for export processing or production; raw materials and supplies exported for overseas processing; processed products for export; exports which are returned for re-processing (except goods which cannot be sampled, fresh and live goods, precious metals and gems);

c/ Imports of which samples must be taken for analysis, assessment or classification at the request of customs offices.

2. The sampling shall be decided by leaderships of district-level Customs Departments on a case-by-case basis.

3. Sampling procedures

a/ The taking of samples at the request of the customs declarant or the customs office shall be made according to the form of import or export sampling card (form No. 02-PLM/2010 provided in Appendix III to this Circular;

b/ The taking of samples to meet requirements of analysis or classification of imports or exports must comply with Article 20 of the Ministry of Finance's Circular No. 49/2010/TT-BTC of April 12, 2010, guiding the classification of, and application of tax rates to, imports and exports; c/ Samples shall be taken in the presence of representatives of the goods owner and customs office, and be signed and sealed up by the two parties.

4. Sampling techniques shall be guided by the General Department of Customs.

5. Places of sample storage

a/ Samples analyzed by the Imports and Exports Analysis and Classification Center shall be stored at this Center;

b/ Samples taken by district-level Customs Departments to serve related professional operations shall be stored at these Customs Departments. c/ Samples of raw materials imported for export processing or production and samples of re-processed goods shall be stored at enterprises under regulations.

6. Duration of sample storage

a/ Samples shall be stored at the Imports and Exports Analysis and Classification Center or district-level Customs Departments for 90 days after the date of customs clearance. If any dispute or complaint arises, samples shall be stored until this dispute or complaint is completely settled;

b/ Samples of raw materials for export processing or production shall be stored at enterprises until customs offices complete the liquidation of processing contracts and import declarations for raw materials.

7. The archival of photos of imports shall be decided on a case-by-case basis by leaderships of districtlevel Customs Departments in order to meet customs management requirements. Archived photos must have the numbers of customs declarations, be signed by customs officers and appended with their ID numbers and signed by goods owners on the back and filed together with customs dossiers.

Article 16. Supervision of imports, exports and goods in transit; and means of transport on entry, exit or in transit

1. Customs supervision of imports, exports and goods in transit; and means of transport on entry and exit or in transit shall be carried out under Article 26 of the Customs Law and Articles 13 and 14 of Decree No. 154/2005/ND-CP.

2. The General Director of Customs shall provide specific guidance on measures and duration of supervision applicable to each type of border gates and each type of imports, exports and goods in transit; and means of transport on entry and exit or in transit.

Article 17. Tax payment currencies

Taxes on imports and exports shall be paid in Vietnam dong. In case of paying taxes in a foreign currency, taxpayers shall pay taxes in a freely convertible foreign currency as prescribed. Foreign currencies shall be converted into Vietnam dong at the average exchange rate on the inter-bank foreign currency market announced by the State Bank of Vietnam at the time of tax calculation.

Article 18. Tax payment time limits

1. For goods exported under trading contracts, the time limit for tax payment is 30 days from the date of customs declaration registration (except for exported crude oil for which the time limit for tax payment complies with the Finance Ministry's Circular No. 32/2009/TT-BTC of February 19, 2009, guiding taxes applicable to organizations and individuals conducting oil and gas survey, exploration and exploitation under the Petroleum Law).

2. For imports

a/ For imports on the list of consumer goods promulgated by the Ministry of Industry and Trade, taxes must be fully paid before receiving goods, except the following cases:

a.1/ If taxpayers have obtained a guarantee for payable tax amounts, the time limit for tax payment coincides with the guarantee term but must not exceed 30 days from the date of customs declaration registration; The provision of guarantee complies with Article 19 of this Circular.

a.2/ For goods on the list of consumer goods which are imported by enterprises satisfying the conditions specified in Clause 5, Article 3 of this Circular for use as materials and supplies for production of goods for domestic consumption or export, the tax payment time limit complies with Point b, Clause 2 of this Article.

For goods on the list of consumer goods which are imported for security, defense, scientific research, education or training purposes, the tax payment time limit complies with Point c.3, Clause 2 of this Article.

b/ In case taxpayers satisfy the conditions specified in Clause 5, Article 3 of this Circular

b.1/ For supplies and materials imported for export production (including goods on the Ministry of Industry and Trade-issued list of consumer goods which are used as supplies and materials for export production), the tax payment time limit is 275 days, counting from the date of customs declaration registration.

In special cases in which the production circle or the reserve duration of supplies and materials must last for more than 275 days such as shipbuilding, manufacture of mechanical products, rearing of aquatic animals or pearl oysters; and processing of seasonally harvested agricultural products, the tax payment time limit may be extended to more than 275 days. The extension duration must not exceed the deadline for goods delivery indicated in the contract on export of products produced from imported materials or supplies for which the tax payment time limit is proposed for extension, or the production circle.

b.1.1/ To enjoy a tax payment time limit exceeding 275 days, apart from the customs dossier guided in Clause 2, Article 11 of this Circular (the dossier set kept by customs offices), taxpayers shall submit to customs offices with which they have registered customs declarations the following papers:

- The original written request for application of a tax payment time limit exceeding 275 days in each specific case suitable to the practical reserve of materials and supplies, clearly stating the reason, the proposed tax amount, the proposed extension duration, description of the production process and time;

- A copy of the paper evidencing the extension of the time limit for goods delivery stated in the product export contract, if the extension of the tax payment time limit is attributed to the fact that the time limit for goods delivery stated in the product export contract must be prolonged. b.1.2/ District-level Customs Departments which have registered customs declarations of imports shall receive, preliminarily examine and process dossiers as follows:

- If the dossier is incomplete or invalid, they shall issue a written notification of such incompleteness or invalidity to the taxpayer. In this case, the time limit for processing a dossier is 5 working days after receiving it.

- If the dossier is complete and valid, they shall report the case to the provincial-level Customs Department for the latter to consider and approve the extension of the tax payment time limit to more than 275 days. In this case, the time limit for processing a dossier is 10 working days after receiving it.

- When necessary to carry out examination to identify the production cycle or the reserve duration of supplies and raw materials, provincial-level Customs Departments shall conduct such examination. The time limit for examination and processing of the dossier for extension of the tax payment time limit is 30

working days after receiving a complete dossier. Examination results must be presented in a written record, clearly stating the cycle for producing products from materials and supplies for which the tax payment time limit is proposed for extension. Examination results shall be processed as follows:

+ In case of ineligibility for application of a tax payment time limit exceeding 275 days, the provincial-level Customs Department shall issue a written notification to the taxpayer within 5 working days after making a record of examination results;

+ In case of eligibility for application of a tax payment time limit exceeding 275 days, the provincial-level Customs Department shall issue a written approval of the prolongation of the tax payment time limit to more than 275 days suitable to the taxpayer's production cycle or reserve duration of supplies and materials.

b.2/ For goods imported by mode of temporary import for re-export, the tax payment time limit is 15 days from the deadline for temporary import for re-export (applicable also to case of extension).

b.3/ In case taxpayers import materials and supplies for export production but re-export or use them for domestic consumption or fail to export products; or they import goods by mode of temporary import for re-export but later use them for domestic consumption, they shall pay tax within the time limit required for consumer goods (if such goods are consumer goods) or within 30 days and pay fines for late payment (if any). In case taxpayers import materials and supplies for export production but fail to export products within the tax payment time limit or import goods by mode of temporary import for re-export but fail to re-export these goods within the tax payment time limit, fines for late payment shall be imposed for the period from the tax payment deadline to the date of actual export/reexport or to the date of actual tax payment (if the date of actual tax payment precedes the date of actual export/re-export).

b.4/ For other cases (including goods on the Ministry of Industry and Trade-issued list of consumer goods which are imported for use as production supplies and materials), the tax payment time limit is 30 days from the date of customs declaration registration.

Conditions for imports to be identified as being on the Ministry of Industry and Trade-issued list of consumer goods but imported for use as production supplies or materials:

b.4.1/ Being imported directly by or under entrustment by production enterprises;

b.4.2/ Being conformable with enterprises' production lines and demands in terms of product quantity and categories. For example, confectionery enterprises import sugar and milk; garment enterprises import fabrics.

c/ In case taxpayers fail to satisfy the conditions specified in Clause 5, Article 3, of this Circular

c.1/ If obtaining a guarantee for the payable tax amount, the tax payment time limit will coincide with the guarantee term but must not exceed the time limit prescribed for each case guided at Point b of this Clause. The provision of guarantee complies with Article 19 of this Circular.

c.2/ If obtaining no guarantee for the payable tax amount, taxpayers shall fully pay tax before receiving goods.

c.3/ For goods imported for security, defense, scientific research and education and training purposes which are eligible for duty exemption consideration, pending the completion of procedures for duty exemption consideration, the tax payment time limit is 30 days from the date of customs declaration registration or the date of goods receipt (for goods on the list of consumer goods), provided that there is a document issued by leaders of the Ministry of Public Security, the Ministry of National Defense or a line

management ministry certifying that the imported goods lot is imported for security, defense, scientific research or education and training purposes which are eligible for duty exemption consideration. In case goods are identified through examination as being ineligible for duty exemption consideration, the tax payment time limit shall be counted from the date of customs declaration registration or the date of goods receipt (for consumer goods) and taxpayers shall calculate and pay fines for late payment according to regulations.

3. For imports or exports in other cases

a/ For goods imported or exported not under trading contracts and goods imported or exported by border inhabitants, taxes must be fully paid before goods are exported abroad or imported into Vietnam;

b/ For imports or exports still under customs supervision but seized by a competent state agency for investigation and handling, the tax payment time limit in each specific case will comply with relevant guidance in this Article and be counted from the date the competent state agency issues a written permission for the release of temporarily seized goods;

c/ For imports and exports for which customs declarations are registered once for several importations or exportations, the tax payment time limit in each specific case will comply with relevant guidance in this Article and be counted from the date goods are actually imported or exported;

d/ In case it is required to survey technical standards, goods quality, quantity and category (identifying goods' appellations and tariff codes, goods quality and quantity, technical standards and the current state of imports) to ensure accurate tax calculation, the time limit for payment of tax amounts under declaration complies with relevant guidance in this Article;

e/ For tax amounts assessed by customs offices

e.1/ In case goods have been cleared from customs procedures, the time limit for payment of the difference between the tax amount assessed by customs offices and the tax amount calculated and declared by taxpayers when carrying out customs procedures is 10 days after customs offices sign a document on assessment of the payable tax amount.

e.2/ In case goods have not yet been cleared from customs procedures, the time limit for payment of the assessed tax amount (including the difference between the tax amount assessed by customs offices and the tax amount calculated and declared by taxpayers when carrying out customs procedures) complies with relevant guidance in this Article.

f/ In case of making additional declarations to tax declaration dossiers and declaration and payment of deficit tax amounts under the guidance in Article 12 of this Circular, the tax payment time limit complies with relevant guidance in this Article as for the tax amount declared when carrying out customs procedures.

g/ For non-dutiable imports and exports (except goods imported from abroad into non-tariff zones and then imported into the domestic market which are subject to the tax payment time limit guided in Clause 2 of this Article) or imports or exports exempted from duty or already allowed for duty exemption but later used or permitted for use (in case permission of competent agencies is required) for purposes other than those determined as non-dutiable or eligible for duty exemption or duty exemption consideration, the time limit for payment of tax amounts not yet collected, already exempted or allowed for exemption and fines (if any) is 10 days after the deadline for declaration of tax amounts payable due to change of use purposes under the guidance in Clause 8, Article 10, of this Circular.

If having no grounds to identify the time when the use purposes of goods are changed, the time limit for tax payment and determination of fines for late payment shall be counted from the date of first-time registration of customs declarations.

Past the tax payment time limit, if taxpayers still fail to fully pay taxes into the state budget, they shall be fined for late payment. Past 90 days from the tax payment deadline, if taxpayers still fail to fully pay taxes, they will, apart from being fined for late payment, be subject to coercive measures according to regulations.

Article 19. Guarantee for payable tax amounts

1. Guarantee for payable tax amounts may be provided in either of the following forms: single guarantee or multiple guarantee.

a/ Single guarantee means that a credit institution or another institution operating under the Law on Credit Institutions commits to make full tax payment for a single import declaration. Past the tax payment deadline, if the taxpayer still fails pay taxes, the guarantor shall pay tax for the taxpayer under Clause 2, Article 114 of the Law on Tax Administration.

b/ Multiple guarantee means the commitment to make full tax payment for 2 or more import declarations registered at a district-level Customs Department. Past the tax payment deadline, if the taxpayer still fails to pay taxes, the guarantor shall pay tax for the taxpayer under Clause 2, Article 114 of the Law on Tax Administration.

2. Customs offices shall accept guarantee if the following conditions are fully met:

a/ The guarantor is a credit institution set up and operating under the Law on Credit Institutions which shall take responsibility for its eligibility for guarantee provision as prescribed by law;

b/ Having a letter of guarantee issued by the guarantor clearly stating the guaranteed tax amount and commitment to the concerned customs office to affirm its capability and liability to pay tax and fine for late payment for the taxpayer if, past the tax payment deadline, the taxpayer still fails to fully pay tax;

3. Procedures for provision of single guarantee

a/ When carrying out procedures for an import lot, the taxpayer shall submit the letter of guarantee issued by the guarantor; b/ The letter of guarantee must have the following principal details:

b.1/ Names, tax identification numbers, addresses, telephone numbers and fax numbers of the guaranteed taxpayer, the guarantor and the guarantee accepting customs office.

b.2/ Purpose of guarantee.

b.3/ The scope of guarantee: the guaranteed customs declaration or the number of the contract, invoice, bill of lading of the goods lot under guarantee, in case guarantee is provided before customs procedures are carried out.

b.4/ The date of guarantee provision and the guaranteed amount.

b.5/ Commitments of the guarantor, clearly stating that the guarantor shall pay tax and fine for late payment for the taxpayer as guided at Point b, Clause 2 of this Article.

b.6/ The time limit for payment of the guaranteed tax amount.

c/ Customs offices shall examine guarantee conditions under the guidance in Clause 2 above and deal with the guarantee as follows:

c.1/ To determine the tax payment time limit for goods under guarantee according to regulations which must not exceed the tax payment time limit guided at Point a or b, Clause 2, Article 18 of this Circular;

c.2/ In case the guaranteed tax amount is smaller than the payable tax amount, the customs office shall effect customs clearance for the goods volume corresponding to the guaranteed tax amount. If the taxpayer wishes to have the whole goods lot cleared from customs procedures, he/she shall pay the difference between the guaranteed tax amount and the payable tax amount before receiving goods;

In case imports under guarantee are bulk goods or liquefied gas for which the guaranteed tax amount is smaller than the payable tax amount, the director of the district-level Customs Department shall decide on the volume of goods to be cleared from customs procedures which must not exceed the goods volume corresponding to the guaranteed tax amount. c.3/ In case the guarantee conditions are not fully met, the customs office shall notify in writing the taxpayer of the refusal of the guarantee. If having doubts about the truthfulness of the letter of guarantee, the customs office may consult in writing the guarantee-providing credit institution for verification.

d/ Monitoring and handling the guarantee

d.1/ Past the tax payment deadline, if the taxpayer still fails to fully pay the guaranteed tax amount, the guarantor shall pay tax and fine for late payment (if any) for the taxpayer.

d.2/ Past the tax payment deadline, if the taxpayer fails to pay tax or the guarantor fails to pay tax and fine (if any) for the taxpayer, the customs office shall send a document to the guarantor to request the latter to perform guarantee obligations (made according to form No. 04, Appendix VI to this Circular) and, at the same time, reject guarantee provided by that guarantor for subsequent import lots of all organizations and individuals nationwide; the guarantor shall be handled according to law. The customs office which detects violations committed by the guarantor shall notify these violations in writing or through the electronic data system (if such a system exists) to other customs units nationwide for compliance with regulations and compare these violations with the guarantor's commitments for handling according to law.

d.3/ If both the taxpayer and guarantor pay tax and fine, the overpaid tax amount shall be refunded to the guarantor.

4. Procedures applicable to multiple guarantee

a/ Before carrying out customs procedures for imports, the taxpayer shall send to the district-level Customs Department a written request for acceptance of multiple guarantee for imports, made according to form No. 3, Appendix VI to this Circular.

b/ The letter of guarantee must have the following principal details: b.1/ Names, tax identification numbers, addresses, telephone numbers and fax numbers of the guaranteed taxpayer, the guarantor and the guarantee accepting custom office;

b.2/ Purpose of guarantee;

b.3/ The guaranteed tax amount;

b.4/ The scope of guarantee: clearly stating that guarantee is provided for the taxpayer's import lots with customs declarations registered from... to...;

b.5/ The date of guarantee provision;

b.6/ The district-level Customs Department accepting the guarantee; b.7/ Commitments of the guarantor as guided at Point b, Clause 2 of this Article.

c/ The customs office shall examine the guarantee conditions guided in Clause 2 of this Article. If guarantee conditions are fully met, it shall accept multiple guarantee for import declarations registered by the taxpayer within the guarantee term stated in the letter of guarantee as proposed by the taxpayer and, at the same time, determine the tax payment time limit for each goods lot as prescribed.

In case guarantee conditions are not fully met, the customs office shall notify in writing the taxpayer of the refusal of the guarantee. If having doubts about the truthfulness of the letter of guarantee, the customs office may consult in writing the guarantee-providing credit institution for verification and handling according to regulations.

d/ The monitoring and handling of guarantee shall be carried out under Point d, Clause 3 of this Article and reconciliation must be made to ensure the balance between the guaranteed tax amount and the total payable tax amount. If the remaining guaranteed amount is smaller than the payable tax amount, the custom office shall only effect customs clearance for the goods volume corresponding to the guaranteed tax amount and, at the same time, suspend the multiple guarantee and notify the taxpayer and the guarantor thereof. If the taxpayer wishes to have the whole goods lot cleared from customs procedures, he/she shall pay the deficit tax amount not yet guaranteed before receiving goods.

Article 20. Places and modes of tax payment

1. Taxpayers shall pay taxes for imports and exports directly to the State Treasury or via commercial banks, credit institutions or other service organizations according to Clause 13, Article 1 of the Government's Decree No. 106/2010/ND-CP.

2. In case taxpayers pay taxes in cash but there is no tax collection counter of the State Treasury at places of carrying out customs procedures, customs offices with which customs declarations are registered shall collect taxes from taxpayers and transfer the whole collected tax amounts to the State Treasury according to regulations.

3. In case taxpayers still owe tax or fine arrears to other customs offices at the time of customs declaration registration and wish to pay these arrears at the customs office which is carrying out customs procedures, taxpayers shall make declaration by themselves and remit money to the tax collection counter of the State Treasury or to the customs office which is carrying out customs procedures (if there is no tax collection counter of the State Treasury).

4. The State Treasury, commercial banks, credit institutions and other service organizations shall issue papers on remittance into the state budget to taxpayers according to a form prescribed by the Ministry of Finance. Customs offices shall issue receipts to taxpayers, made according to a form prescribed by the Ministry of Finance, in case of collecting taxes in cash. In case a district-level Customs Department collects taxes for others, it shall fax tax receipts to district-level Customs Departments to which enterprises owe tax arrears for the latter to make a document to designate the collection and handle tax arrears according to regulations.

5. Within 8 working hours after collecting tax from taxpayers, the State Treasury, commercial banks, credit institutions, other service organizations or customs offices shall transfer collected tax amounts into

customs offices' deposit accounts opened at the State Treasury, with regard to tax amounts collected for raw materials imported for export production, goods temporarily imported for re-export and goods temporarily exported for re-import, or remit these tax amounts to the State Treasury as for other cases.

For taxes collected in cash in deep-lying and remote areas, islands and areas difficult to access, the above time limit is 5 working days after taxes are collected from taxpayers.

For tax amounts already remitted into customs offices' deposit accounts opened at the State Treasury, past 135 days from the date of actual tax collection, if taxpayers still fail to submit liquidation dossiers, customs offices shall carry out procedures to transfer these amounts into the state budget according to regulations.

Article 21. Tax payment for goods subject to survey, analysis or classification

When necessary to survey, analyze or classify goods in terms of technical standards or goods quality, quantity and category (identifying goods appellations and tariff codes, quality, quantity, technical standards, and the current state of imports) to ensure accurate tax calculation, taxpayers shall still pay tax according to their declarations at the time of customs declaration registration within the tax payment time limit guided at Point d, Clause 3, Article 18 of this Circular. If goods survey, analysis or classification results are different from taxpayers' declarations, leading to a change in the payable tax amount, taxpayers shall pay tax according to survey, analysis or classification results and the time limit for payment of the difference between the payable tax amount under survey, analysis or classification results and the declared tax amount complies with Point e, Clause 3, Article 18 of this Circular.

Article 22. Order of tax payment

1. The order of tax and fine payment applies to due tax and fine amounts and must comply with Article 45 of the Law on Tax Administration. 2. The State Treasury and customs offices shall share information on tax and fine collection in order to determine the order of collection and collect taxes in the prescribed order, specifically as follows:

a/ Customs offices shall monitor tax arrears of taxpayers, guide taxpayers to pay taxes in the prescribed order and develop a data system for reference by taxpayers to pay taxes in the prescribed order;

b/ Based on taxpayers' tax payment vouchers, the State Treasury shall account tax amounts as state budget revenues and transfer vouchers and supply detailed information on paid amounts to customs offices for monitoring and management;

c/ In case taxpayers pay taxes in contravention of the prescribed order, customs offices shall make and send an order on adjustment of the collected tax amounts to the State Treasury for adjustment and, at the same time, notify taxpayers of adjusted tax and fine amounts;

d/ If taxpayers do not clearly write on tax payment vouchers the amount of each tax, customs offices shall account collected tax amounts in the prescribed order and, at the same time, notify the State Treasury thereof for the latter to account them as state budget revenues and inform such to taxpayers.

Article 23. Tax assessment

1. Tax assessment under this Circular means that customs offices exercise their powers to identify tax calculation factors and tax bases, calculate tax and notify and request taxpayers to pay tax amounts determined by customs offices in the cases specified in Clause 2 of this Article.

2. Customs offices shall conduct tax assessment in the cases specified in Clause 16, Article 1 of the Government's Decree No. 106/2010/ND-CP. 3. Tax assessment shall be conducted on the principles prescribed in Article 36 of the Law on Tax Administration.

4. Bases for customs offices to conduct tax assessment are the quantity, taxed value and origin of, import duty, export duty, excise tax and valueadded tax rates applicable to, goods actually imported or exported; the exchange rate used for tax calculation; prescribed tax calculation methods and other information and databases prescribed in Clause 2, Article 39 of the Law on Tax Administration, Article 27 of Decree No. 85/2007/ND-CP which was amended and supplemented in Clause 17, Article 1 of Decree No. 106/2010/ND-CP and the guidance in Section 1, Part V of this Circular.

5. The General Director of Customs; directors of the Customs Departments of provinces, inter-provinces or centrally run cities and directors of districtlevel Customs Departments are competent to conduct tax assessment. 6. Procedures for and sequence of tax assessment

a/ Assessment of taxes on imports and exports shall be made in the process of carrying out customs procedures or after goods are cleared from customs procedures.

b/ When conducting tax assessment, customs offices shall assess the payable tax amount or each relevant factor (goods quantity, taxed value, code, tax rate, origin, exchange rate and norm) which are used as grounds for the determination of the total payable tax amount and tax amounts to be exempted, reduced or refunded for each goods item or customs declaration according to Clause 16, Article 1 of Decree No. 106/2010/ND-CP and Article 26 of Decree No. 85/2007/ND-CP.

In case of assessing each factor related to the determination of the payable tax amount, customs offices shall calculate the payable tax amount based on the assessed factors and notify taxpayers thereof together with the results of assessment of the factors related to the determination of the payable tax amount.

c/ Specific procedures and sequence:

- Identifying goods subject to tax assessment under the guidance in Clause 2 of this Article;

- Determining the method of tax assessment according to Clause 16, Article 1 of Decree No. 106/2010/ND-CP and Article 26 of Decree No. 85/2007/ND-CP, for taking the following steps:

c.1/ In case of assessment of the total payable tax amount:

c.1.1/ Examining and determining tax bases (goods quantity, value, exchange rate, origin, code and tax rates) according to tax and relevant laws;

c.1.2/ Calculating the total payable tax amount; the difference between the payable tax amount and the tax amount declared, calculated and paid by the taxpayer (if tax has been paid);

c.1.3/ Issuing a decision on tax assessment and a decision on sanctioning administrative violations (if any);

c.2/ In case of assessment of each relevant factor used as a ground for the determination of the total payable tax amount:

c.2.1/ Examining and determining relevant factors in an accurate and lawful manner;

c.2.2/ Determining the time of tax calculation and/or tax bases (goods quantity, value, tax rates) on the basis of relevant factors assessed by themselves and prescribed by tax and other relevant laws. If it is impossible to determine the time of tax calculation and/or tax bases for goods of similar categories under different customs declarations of which the use purposes have been changed, the assessed tax amount will be the average tax amount calculated according to legal documents which are effective at the time of customs declaration registration and the time of tax assessment;

c.2.3/ Calculating the payable tax amount and the difference between the payable tax amount and the tax amount declared, calculated and paid by the taxpayer (if tax has been paid);

c.2.4/ Issuing a decision on tax assessment and a decision on sanctioning of administrative violations (if any).

7. Responsibilities of customs offices:

a/ When conducting tax assessment, customs offices shall issue a tax assessment decision (made according to form No. 5, Appendix VI to this Circular) and send this decision to taxpayers within 8 working hours after signing it;

b/ In case the tax amount assessed by customs offices is larger than the actual payable tax amount as prescribed, customs offices shall return the overpaid amount and pay compensation to taxpayers according to regulations, competent state agencies' decisions on settlement of complaints or court judgments or rulings.

c/ In case customs offices obtain grounds to determine that a tax assessment decision is incorrect, they shall issue a decision, made according to form No. 6, Appendix II to this Circular, to cancel the assessment decision. 8. Responsibilities of taxpayers:

a/ Taxpayers shall fully pay deficit, evaded or cheated tax amounts as assessed by customs offices, regardless of the statutes of limitations prescribed in Articles 107, 108 and 110 of the Law on Tax Administration; Taxpayers who commit violations of tax laws shall be sanctioned according to regulations. The statute of limitations for sanctioning violations of tax laws is defined in Article 110 of the Law on Tax Administration and Decree No. 97/2007/ND-CP of June 7, 2007, on handling of administrative violations and coercive application of administrative decisions in the customs domain.

b/ If taxpayers disagree with tax assessment decisions of customs offices, they shall still pay the assessed tax amount and, at the same time, may request explanations from customs offices, make a complaint or initiate a lawsuit against tax assessment in accordance with the laws on complaints and initiation of lawsuits.

Article 24. Handling of overpaid tax or fine amounts

1. Tax or fine amounts for imports and exports are considered overpaid in the following cases:

a/ Taxpayers have a paid tax or fine amount larger than the payable tax or fine amount, except for cases ineligible for fine exemption because decisions on sanctioning violations of tax laws issued by tax administration agencies or competent state agencies specified in Clause 2, Article 111 of the Law on Tax Administration have been implemented.

b/ Taxpayers have tax amounts refundable under the laws on value-added tax, excise tax, import duty or export duty.

2. The dossier of and procedures for the handling of overpaid tax and fine amounts specified at Point b, Clause 1 of this Article are guided in Section 6, Part V of this Circular.

3. The overpaid tax or fine amounts specified at Point a, Clause 1 of this Article shall be handled under the following guidance:

a/ A dossier comprises:

a.1/ The written request for the handling of the overpaid tax or fine amount, clearly stating the overpaid tax or fine amount, the payable tax or fine amount, actually paid tax or fine amount, reason for overpaid payment and proposed handling method: 1 original;

a.2/ The customs dossier and other papers and documents related to the overpaid tax or fine amount: 1 copy each;

a.3/ Tax and fine payment vouchers: to submit 1 copy and produce the original for comparison.

b/ The customs office to which the taxpayer has overpaid taxes or fines shall receive and check the dossier submitted by the taxpayer and compare it with the original customs dossier kept at its office in order to determine its consistency, validity, accuracy and lawfulness, and proceed with the following:

b.1/ If determining that the actually paid tax or fine amount is larger than the payable tax or fine amount and the taxpayer's declarations are correct, the customs office shall issue a decision, made according to form No. 1, Appendix II to this Circular, to refund the overpaid tax or fine amount; b.2/ If determining that the actually paid tax or fine amount is larger than the payable tax or fine amount but the taxpayer's declarations of the overpaid tax or fine amount are incorrect, the customs office shall notify such in writing to the taxpayer and issue a decision to refund the overpaid tax or fine amount according to regulations;

b.3/ If determining that there is no overpaid tax or fine amount, the customs office shall notify such in writing to the taxpayer, clearly stating the grounds for determining that no tax or fine amount has been overpaid.

c/ The time limit for the customs office to process a dossier of request for refund of an overpaid tax or fine amount specified at Point b of this Clause is 5 working days after the receipt of a complete dossier.

d/ On the basis of the decision to refund the overpaid tax or fine amount, the customs office to which taxpayers have overpaid taxes or fines shall liquidate the overpaid tax or fine amount and write on the original customs declaration submitted by the taxpayer: "Refund of the overpaid tax or fine amount of VND... under Decision No.... dated... of..." (according to form No. 2, Appendix II to this Circular), make a copy of this liquidated declaration for filing in the tax refund dossier, return the original declaration to the taxpayer and follow the sequence guided in Article 131 of this Circular.

4. Competence to decide on the refund of overpaid tax and fine amounts Customs offices to which taxes or fines are overpaid shall decide on the refund of overpaid tax or fine amounts to taxpayers according to regulations.

5. Overpaid value-added tax amounts shall be handled under the guidance at Point c, Clause 2, Article 131 of this Circular.

Article 25. Customs clearance

1. In case goods are cleared from customs procedures under Clause 1, Article 25 of the Customs Law, Points a, b, d, e and f, Clause 1, Article 12 of Decree No. 154/2005/ND-CP, competent customs officers

(prescribed by the General Director of Customs) shall decide on customs clearance after taxes are fully paid (for goods for which taxes must be fully paid before customs clearance) and customs procedures are completed.

2. Customs clearance for imports subject to quality inspection under Point c, Clause 1, Article 12 of Decree No. 154/2005/ND-CP

a/ For goods lots which are exempted from inspection, customs clearance shall be effected based on quality inspection exemption notices issued by competent state agencies;

b/ For goods lots subject to quality inspection before customs clearance, customs clearance shall be effected based on inspection results issued by competent state agencies;

c/ For goods lots eligible for customs clearance by mode of registration before inspection prescribed in the Prime Minister's Decision No.36/2010/QD-TTg of April 15, 2010, promulgating the Regulation on coordinated inspection of product and goods quality, customs clearance shall be effected under the guidance in a joint circular of the Ministry of Finance and the Ministry of Science and Technology.

3. Conditional customs clearance 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 Decree No. 154/2005/ND-CP, are guided as follows:

a/ For imports awaiting survey results to determine whether they can be imported, if goods owners request to receive them back for preservation, directors of district-level Customs Departments may accept customs clearance only when they satisfy customs supervision conditions;

b/ For goods permitted for import or export but valuation, survey, analysis and classification need to be conducted to accurately determine payable tax amounts, customs clearance may only be accepted if goods owners pay taxes on the basis of tax self-declaration, calculation and payment or obtain guarantee for the payable tax amount from a credit institution or another institution licensed to conduct some banking activities, except for imports and exports subject to the tax payment time limit guided in Clause 1 and Point b, Clause 2, Article 18 of this Circular.

4. In case goods are cleared from customs procedures on the basis of survey results, these survey results will also apply to goods lots of the same category for which import procedures are carried out by enterprises at the same district-level Customs Department. This guidance does not apply to results of survey conducted to determine goods quantity.

5. For imports and exports subject to animal, plant or aquatic quarantine, customs clearance shall be effected under separate guidance of the Ministry of Finance.

6. For goods subject to food safety inspection

Imported food will be cleared from customs procedures after obtaining food safety inspection registration certificates prescribed in Clause 3, Article 9 of the Government's Decree No. 163/2004/ND-CP of September 7, 2004, detailing a number of articles of the Ordinance on Food Safety and Hygiene.

In case goods are subject to food safety inspection before customs clearance, customs clearance shall be effected based on inspection notices issued by specialized inspection agencies specified in Clause 5, Article 15 of the Health Minister's Decision No. 23/2007/QD-BYT of March 29, 2007, promulgating the Regulation on state inspection of imported food quality, safety and hygiene.

7. For exported food subject to food quality and safety inspection or quarantine as required by importing countries, customs clearance shall be effected under the guidance of line management agencies of Vietnam. 8. For goods imported for security or national defense purposes which are eligible for duty exemption consideration, if, at the time of import declaration registration, enterprises are subject to the coercive measure of suspending customs procedures, customs clearance may only be accepted on the conditions that leaders of the Minister of Public Security or the

Ministry of National Defense issue a document to certify that these goods are imported for security or national defense purposes which are eligible for duty exemption consideration. The Ministry of Public Security and the Ministry of National Defense shall take responsibility before law for their certification.

If goods are identified through inspection as being ineligible for duty exemption consideration, customs offices shall not effect customs clearance for enterprises' subsequent volumes of goods which have been certified by leaders of the Ministry of Public Security or the Ministry of National Defense as being goods imported for security or defense purposes which are eligible for duty exemption consideration, and sanction enterprises according to regulations.

Article 26. Bases for certification of actual exportation

1. For goods exported through border gates by seaway (including goods via CFS) or inland waterway, bases for certification of actual exportation are export declarations for which customs procedures have been completed and bills of lading certifying that goods were loaded on vehicles on exit.

2. For goods exported through border gates by air or railway, bases for certification of actual exportation are export declarations for which customs procedures have been completed and transport documents certifying that goods were loaded on vehicles on exit.

3. For goods exported through border gates by road or riverway, transshipment ports, transshipment areas or exports which are transported together with passengers on exit through border gates by air (without bills of lading), bases for certification of actual exportation are export declarations for which customs procedures have been completed, bearing the "GOODS ALREADY EXPORTED" certification of customs offices of border gates of exportation.

4. For exports put into bonded warehouses, bases for certification of actual exportation are export declarations for which customs procedures have been completed, bearing the "GOODS ALREADY PUT INTO BONDED WAREHOUSES" certification of the bonded warehouse customs offices.

5. For exports sold from the inland into non-tariff zones, bases for certification of actual exportation are export declarations for which customs procedures have been completed, bearing the "GOODS BROUGHT INTO NON-TARIFF ZONES" certification of the non-tariff zone customs offices.

6. For goods sold by export-processing enterprises to inland enterprises and goods sold by inland enterprises to export-processing enterprises, bases for certification of actual exportation are on-spot import/export declarations for which customs procedures have been completed.

7. For on-spot imports and exports, bases for certification of actual exportation are on-spot import/export declarations for which customs procedures have been completed.

Article 27. Cancellation of customs declarations

1. Cases of cancellation of customs declarations:

a/ Past the time limit of 15 days from the date of registration of the import/export declaration specified in Clause 1 or 2, Article 18 of the Customs Law, customs procedures have not yet been completed, except for cases in which imports are awaiting inspection/survey results of specialized management agencies;

b/ The import/export declaration has been registered but the customs declarant requests in writing cancellation of the declaration because he/she has no goods for import or export.

2. The order of and procedures for cancellation of a customs declaration are prescribed as follows:

a/ Canceling the custom declaration: The customs officer shall cross out the to-be-cancelled customs declaration in red ink, sign and seal the cancelled declaration;

b/ Taking notes on the system: This declaration is cancelled; c/ Filing the cancelled declaration by its registration number. Article 28. Review of customs dossiers

The review of customs dossiers shall be conducted after goods lots have been cleared from customs procedures, and completed within 60 days from the date of signing the decision on customs clearance for these goods lots.

Article 29. Post-customs clearance inspection

Post-customs clearance inspection complies with the guidance in Part VI of this Circular.

Chapter II

OTHER GUIDANCE ON CUSTOMS PROCEDURES FOR IMPORTS AND EXPORTS

Section 1

CUSTOMS PROCEDURES FOR GOODS IMPORTED AND EXPORTED BY MODE OF IMPORTING

MATERIALS AND SUPPLIES FOR EXPORT PRODUCTION

Article 30. Materials and supplies imported for export production

Materials and supplies imported for export production include:

1. Materials, semi-finished products, parts and assemblies to be directly used in the production process, constituting products for export;

2. Materials and supplies to be directly used in the process of export production but neither being transformed into nor constituting products;

3. Finished products imported by enterprises for attachment to or packaging together with exports produced from imported materials and supplies or packaging together with exports produced from materials and supplies bought in the domestic market into complete goods for export abroad;

4. Supplies for use as packaging materials or exports packages;

5. Materials and supplies imported for the maintenance, repair or reprocessing of exports;

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6. Samples imported for export production which must be re-exported to foreign customers after completion of contracts.

Article 31. Products exported by mode of export production

1.Exports managed under the mode of export production include:

a/ Products which are wholly produced from materials and supplies imported for export production;

b/ Products which are produced from materials and supplies of two sources:

b.1/ Materials and supplies imported for export production and materials and supplies of domestic origin; or

b.2/ Materials and supplies imported for export production and materials and supplies imported for domestic business.

c/ Products which are wholly produced from materials and supplies imported for domestic business.

2. Materials and supplies which are imported for domestic business may be used as materials and supplies imported by mode of export production, provided that the duration from the date of registration of the customs declaration for the import of such materials and supplies to the date of registration of the last export declaration for products produced with materials and supplies imported under the import declaration does not exceed 2 years.

3. Products produced from materials imported by mode of export production may be exported directly by importing enterprises or sold to other enterprises for export.

Article 32. Customs procedures for import of materials and supplies

1. Enterprises shall register materials and supplies to be imported for export production and carry out customs procedures for their importation according to the list already registered at a district-level Customs Department (which is most convenient for enterprises).

2. Procedures for registration of to-be-imported materials and supplies

a/ Enterprises shall base on their export production plans to register with customs offices materials and supplies to be imported for export production according to a set form (form No. 6/DMNVL-SXXK, Appendix VI to this Circular).

b/ Registration shall be made when carrying out import procedures for the first lot of materials and supplies listed in the registration document.

c/ Enterprises shall fully fill in the registration of imported materials and supplies, in which:

c.1/ Appellations are the appellations of all materials and supplies used for export production. These materials and supplies may be imported under one or several contracts;

c.2/ HS codes are codes of materials and supplies according to the current Import Tariff.

c.3/ Codes of materials and supplies shall be identified by enterprises under the guidance of the districtlevel Customs Department which carries out import procedures. These codes may only apply when enterprises carry out procedures for the import of materials and supplies at district-level Customs Departments applying information technology to monitoring and liquidating goods imported by mode of export production;

c.4/ Units of calculation comply with Vietnam's list of imports and exports.

c.5/ Major materials are those constituting the main composition of products.

Enterprises shall fill the uniform appellations of materials and supplies, HS codes and major materials in the registration of imported materials and supplies and customs dossiers from the stage of importing materials and supplies to the liquidation, tax refund and non-collection of import duty. 3. Customs procedures comply with regulations applicable to commercial imports guided in Chapter I, Part II of this Circular.

Article 33. Procedures for notification and adjustment of norms of materials and supplies and registration of exported products

1. The notification and adjustment of norms and registration of exported products shall be carried out at the district-level Customs Department which has carried out procedures for the import of materials and supplies.

2. Notification of norms of raw materials and supplies

a/ Enterprises shall notify norms of products exported by mode of export production in strict accordance with actual norms;

b/ Norms must be notified for each product code according to form No. 7/DKDM-SXXK, Appendix VI to this Circular;

c/ Norms must be notified to customs offices before carrying out customs procedures for the export of the first goods lot of product codes listed in the norm registration document;

d/ Norms of materials and supplies are those actually used in export production, including the proportion of scraps and discarded products within consumption norms collected in the process of producing exports from imported materials and supplies. Enterprise directors shall declare and take responsibility before law for the import and use of materials and supplies imported for export production and the accuracy of notified norms. If making inaccurate declarations, taxpayers shall, apart from having to fully pay deficit tax amounts, be sanctioned according to regulations. Methods for calculation of norms:

d.1/ For materials constituting or transformed into products: Material use norm is the amount of materials constituting or transformed into a product unit; wastage rate is the percentage (%) of the wasted amount of materials (including the amount of materials constituting scraps and discarded products) to materials constituting or transformed into products;

d.2/ For materials and supplies used directly in production but neither constituting nor transformed into products: Material and supplies norm is the amount of materials and supplies consumed in the process of producing a product unit; wastage rate is the percentage (%) of the wasted amount of material and supplies to the total amount of materials and supplies consumed in the process of production.

3. Adjustment of norms

a/ During production, if there is any change in actual norms, enterprises may adjust norms applicable to goods codes already notified to customs offices to suit new actual norms but shall give written explanations for each adjustment.

b/ The adjustment of norms must be carried out before carrying out procedures for the export of the lot of products with adjusted norms. In case due to change in models or categories of exports, other raw materials and supplies imported for export production with consumption norms different from notified ones are used in the process of production, enterprises shall adjust norms and declare them to the customs office at least 15 days before carrying out procedures for the export of products.

4. In case of carrying out procedures for import of materials and supplies at district-level Customs Departments applying information technology to liquidation work, enterprises shall register exported products according to form No. 8/DMSP-SXXK, Appendix VI to this Circular. The place and time of registration are similar to those for registration of norms.

5. Tasks of customs offices:

a/ To receive enterprises' notification of norms and registration of exported products;

b/ To examine norms notified by enterprises under the Finance Ministry's guidance on examination of norms applicable to exported processed products.

6. In case materials and supplies are imported for the production of goods for domestic consumption but enterprises later find out export outlets and use these materials and supplies for export production and goods have been actually exported abroad, the notification and adjustment of norms will comply with this Circular.

Article 34. Customs procedures for export of products

1. Customs procedures for the export of products shall be carried out at the district-level Customs Department which has carried out procedures for the import of materials, or at other district-level Customs Departments provided that before carrying out export procedures, enterprises shall send a written notification (made according to form No. 9/HQXKSP-SXXK, Appendix VI to this Circular) to the district-level Customs Department which has carried out procedures for the import of materials and supplies, for monitoring and liquidation.

Particularly for exported products produced from two sources of materials, namely materials imported for commercial purposes and materials imported for export production, if enterprises register the export declaration with the district-level Customs Department with which they have registered the declaration for import of materials for export production, they are not required to send a written notification to the district-level Customs Department with declaration of import of materials for commercial purposes.

For exported products produced from two sources of materials, namely materials imported for commercial purposes and materials imported for export production, if enterprises register the export declaration with a district-level Customs Department other than the district-level Customs Department which has carried out procedures for the import of materials for commercial purposes and materials for export production, they shall send a written notification to the district-level Customs Department with which they have registered the declaration for import of materials for export production.

2. Customs procedures are the same as those applicable to commercial exports guided in Chapter I, Part II of this Circular.

When conducting physical inspection of goods, enterprises shall produce samples of materials taken upon importation and the table of norms registered with customs offices to customs officers for inspection and comparison with exported products.

Article 35. Liquidation of import declarations

1. The procedures for liquidation of import declarations shall be carried out at the district-level Customs Department which has carried out procedures for the import of materials and supplies.

2. Liquidation principles:

a/ In case customs offices apply information technology to liquidation work, import declarations and export declarations which are registered first must be liquidated first; in case an import declaration is registered first but cannot be liquidated as materials and supplies imported under this declaration have not yet been used for production, when carrying out liquidation procedures, enterprises shall give written explanations to customs offices.

b/ Import declarations for materials and supplies must be registered before export declarations for products.

c/ A declaration for the import of materials and supplies may be liquidated several times.

d/ An export declaration shall be liquidated only once.

Particularly in some cases in which a single goods lot is liquidated several times or goods exported by mode of export production are produced with raw materials imported for commercial purposes for which import procedures have been carried out at other district-level Customs Departments, one export declaration may be liquidated in part. The customs office shall, when carrying out liquidation, append the stamp "already liquidated" to the export declaration; for imported materials and supplies eligible for the duty rate of 0%, the customs office shall append the stamp "already liquidated" to the original import declaration kept at its office and the customs declaration kept by the customs declarant. In case of partial liquidation, it is necessary to make an annex clearly stating the liquidated contents (import declaration, materials and tax amount) for use as a basis for the liquidation of subsequent parts.

3. Liquidation dossiers and time limit for submission of liquidation dossiers are guided in Article 118 and Clause 2, Article 131 of this Circular.

4. District-level Customs Departments carrying out liquidation procedures shall receive and process liquidation dossiers and handle violations (if any) in accordance with law.

5. In case materials imported for export production are not used for production and not wholly exported and enterprises wish to use them for domestic consumption, they shall send a document to the district-level Customs Department which has carried out import procedures, for changing the use purpose to domestic consumption and conduct liquidation on the basis of the import declaration for these materials. Enterprises are not required to register new declarations but shall declare and pay import duty, excise tax and value-added tax (if any) according to regulations. The time limit for payment of taxes and fines for late payment comply with Clause 2, Article 18 of this Circular.

Article 36. Procedures applicable to cases in which products are sold to other enterprises for direct export

1. Enterprises importing materials and supplies for export production shall carry out procedures for import, notification of norms and liquidation under this Circular.

2. Enterprises directly exporting products shall carry out export procedures under this Circular. Export declarations shall be registered for the mode of export production, showing the phrase "Products produced from materials and supplies imported for export production" and the name of the selling enterprise.

Section 2

CUSTOMS PROCEDURES FOR GOODS TEMPORARILY IMPORTED FOR RE-EXPORT AND IN TRANSSHIPMENT THROUGH BORDER GATE

Article 37. Customs procedures for goods temporarily imported for re-export

Customs procedures for goods temporarily imported for re-export comply with regulations applicable to commercial imports and exports. In addition, due to particular characteristics of this mode, some contents are further guided as follows:

1. Places of customs clearance

a/ Customs procedures for goods temporarily imported for re-export may only be carried out at border gates;

b/ Customs procedures for re-exported goods shall be carried out at border gates of importation or border gates of re-exportation;

c/ Goods temporarily imported for re-export which are on the list of goods banned from import shall be stored in the area of the border gate of importation and re-export procedures shall be carried out at the districtlevel Customs Department of the border gate of their temporary importation. Goods which are permitted for re-export through a border gate other than that of their temporary importation shall be transported to the border gate of exportation under the supervision applicable to goods in transshipment through border gate.

2. Management of goods temporarily imported for re-export

a/ When carrying out re-export procedures, in addition to the documents required for commercial exports, a customs declarant shall submit a copy and produce the original declaration of temporarily imported goods;

b/ Temporarily imported goods may be divided into several lots for reexport. An enterprise shall re-export once the whole volume of goods declared on a single re-export declaration;

c/ Temporarily imported goods subject to customs supervision c.1/ Customs supervision applicable to temporarily imported goods for re-export which are on the list of goods banned from import complies with Point c, Clause 1 of this Article.

c.2/ Customs supervision applicable to temporarily imported goods for re-export outside the list of goods banned from import:

c.2.1/ Traders shall assure the original state and seal of goods during their stay in Vietnam and transportation to the border gate of exportation;

c.2.2/ When a customs declarant carries out re-export procedures at the border gate of importation while re-exporting goods at another border gate, the district-level Customs Department of the border gate of temporary importation shall make a record of delivery of goods temporarily imported for re-export

according to Form No. 03/BBBG-TNTX/2010, Appendix III to this Circular. Goods shall be supervised through customs sealing;

c.2.3/ For a customs declarant that carries out re-export procedures at a border gate other than that of temporary importation, after re-export procedures are completed, the district-level Customs Department of the border gate of re-exportation shall fax the re-export declaration (filed at the customs office) to the district-level Customs Department of the border gate of temporary importation for monitoring and liquidation of declarations under regulations.

d/ Re-exported goods already cleared from customs procedures must be exported through border gates within 8 working hours after the goods arrive at the border gate of exportation. For goods which have not been exported for plausible reasons and for which the time limit for storage in Vietnam has not expired under Article 12 of the Government's Decree No. 12/2006/ND-CP of January 23, 2006, detailing the Commercial Law concerning goods international trading and goods trading agency, processing and transit with foreign parties, the director of a border-gate district-level Customs Department shall consider and extend their exportation in the following days;

e/ The time limit for temporary import for re-export of goods under Clause 2, Article 12 of the Government's Decree No. 12/2006/ND-CP of January 23, 2006, shall be extended as follows:

e.1/ The time limit stated in the Ministry of Industry and Trade's permit for temporary import for re-export is the time for a trader to carry out customs procedures for a lot of goods temporarily imported into Vietnam.

e.2/ Goods temporarily imported into Vietnam for re-export for which temporary import procedures are completed may be stored in Vietnam within the prescribed time limit. A trader that wishes to extend such storage in Vietnam shall send a written request to the district-level Customs Department of the border gate of temporary importation. The director of that Customs Department shall consider and approve such extension under regulations, sign and append a stamp on the trader's written request and return it to the trader for carrying out re-export procedures and file a copy of this request in the customs dossier without requesting the trader to apply for an additional permit of the Ministry of Industry and Trade.

3. Liquidation of temporary import declarations

a/ District-level Customs Departments which carry out temporary import procedures shall liquidate temporary import declarations; b/ Liquidation dossiers comply with Article 119 of this Circular; c/ The time limit for submitting liquidation dossiers comply with Clause 2, Article 132 of this Circular;

d/ An enterprise wishing to domestically sell temporarily imported goods which are not wholly re-exported shall send a written request to a customs office. The district-level Customs Department which has carried out temporary import procedures shall clear import procedures and liquidate the temporary import declaration. The enterprise is not required to register a new declaration but shall declare and pay import duty, excise tax and value-added tax (if any) under regulations. The time limits for tax payment and fines for delayed tax payment comply with Clause 2, Article 18 of this Circular.

Temporarily imported goods for domestic sale must comply with the tax policy and import management policy applicable to commercial imports.

Article 38. Customs procedures for goods in transshipment through border gate

1. Customs procedures are not required for goods in transshipment through border gate which are transported directly from the exporting country to the importing country without going through a Vietnamese border gate.

2. Customs offices shall supervise goods which are transported from the exporting country to the importing country through a Vietnamese border gate but are not consigned in a bonded warehouse or transshipment area of a Vietnamese port until they are exported out of Vietnam.

3. Customs procedures shall be carried out for goods which are transported from the exporting country to the importing country through a Vietnamese border gate and consigned in a bonded warehouse or transshipment area of a Vietnamese port under regulations applicable to goods brought into and out of bonded warehouses and cargo transshipment areas of Vietnamese ports.

4. Goods in transshipment through border gate shall be brought out of the Vietnamese territory through the border gate of importation.

5. Goods in transshipment through border gate are exempt from inspection. They will be subject to customs inspection under Article 14 of this Circular if signs of violation are detected.

Section 3

CUSTOMS PROCEDURES FOR OTHER CASE

Article 39. Customs procedures for imports and exports for the performance of processing contracts with foreign traders

Customs procedures for imports and exports for the performance of processing contracts with foreign traders comply with the Finance Ministry's guidance.

Article 40. Customs procedures for imports and exports subject to single registration of customs declarations

1. Single registration of declarations is applicable to imports and exports of all types which meet the following conditions:

a/ Names of goods on customs declarations are unchanged within the validity duration of singleregistered declarations;

b/ Goods on declarations are under the same contract; the goods trading contract has a term on multiple delivery of goods;

c/ Goods owners have a good record of customs law observance.

2. Validity of a registered declaration

a/ A declaration is valid within the effective term of a contract. For processed goods indicated in a contract annex, the declaration is valid within the annex's effective term;

b/ A declaration terminates its validity ahead of time in the following cases:

b.1/ There is a change in the duty policy or import and export management policy applicable to the goods items indicated on the declaration;

b.2/ The validity of the import or export permit or the contract terminates;

b.3/ The enterprise has fully imported or exported the volume of goods indicated on the declaration;

b.4/ The enterprise notifies to discontinue procedures for the import or export of the whole volume of goods indicated on the declaration;

b.5/ The enterprise imports or exports each time goods with names or codes which are different from those indicated on the single-registered customs declaration;

b.6/ The enterprise is subject to a coercive measure within the validity duration of the single-registered declaration;

b.7/ Within the validity duration of a single-registered declaration, the enterprise violates law, failing to satisfy the condition specified at Point c, Clause 1 of this Article.

3. Single registration of declarations of exported or imported goods shall be carried out at a single districtlevel Customs Department.

4. Procedures for single registration of declarations

a/ A customs declarant shall fill in the customs declaration and the imports or exports monitoring book, except some items on the declaration for each importation or exportation (transportation documents, means of transport).

b/ A customs dossier comprises:

b.1/ The customs declaration of imports or exports: to submit 2 originals;

b.2/ The goods trading contract made in writing or another form of equivalent validity, including telegraph, telex, fax and data message: to submit 1 copy;

b.3/ The import or export permit issued by a competent state management agency (for goods required by law to have an import or export permit): to submit 1 copy and produce the original for comparison and issuance of a slip for monitoring and reconciliation, or to submit 1 original (if goods indicated on the single-registered declaration are all permitted for import or export under the permit);

b.4/ The imports or exports monitoring book and slip: 2 books (made according to Book Form No. 04-STD/2010 or Slip Form No. 04APTD/2010, Appendix III to this Circular).

c/ The district-level Customs Department shall receive the dossier, register the declaration and return one declaration and one imports or exports monitoring book to the enterprise.

5. Procedures for each importation or exportation

a/ A customs declarant shall submit papers in the customs dossier prescribed for each mode of importation or exportation (except those already submitted upon declaration registration); and produce the registered customs declaration and the imports or exports monitoring book;

b/ Based on the form and extent of inspection notified through the risk management system upon customs declaration registration and on the practical situation at the time of each importation or exportation, the director of a district-level Customs Department shall decide on the appropriate form and extent of customs inspection for each importation or exportation.

6. Procedures for liquidation of declarations

a/ Responsibilities of an enterprise:

a.1/ Within 15 working days after a customs declaration expires, to carry out procedures for liquidation of the declaration at a district-level Customs Department;

a.2/ To submit the liquidation dossier, comprising the customs declaration and the imports or exports monitoring book.

b/ The district-level Customs Department shall check, compare and certify the total volume of actually imported or exported goods in the customs declaration.

Article 41. Customs procedures for on-spot imports and exports

1. Interpretation of terms:

a/ On-spot imports or exports means goods exported by Vietnamese traders (including also foreigninvested traders and export-processing enterprises) to foreign traders that designate other Vietnamese traders to deliver and receive those goods in Vietnam;

b/ On-spot exporter (below referred to as exporter) means an entity designated by a foreign trader to deliver goods in Vietnam;

c/ On-spot importer (below referred to as importer) means an entity that purchases from a foreign trader goods which are designated by that foreign trader to be received in Vietnam from an exporter.

2. Bases for determining on-spot imports and exports

a/ For processed products; hired or borrowed machinery and equipment; redundant materials, auxiliary materials and supplies; and scraps and discarded products under processing contracts: Clause 3, Article 33 of the Government's Decree No. 12/2006/ND-CP of January 23, 2006;

b/ For goods of foreign-invested enterprises: the Ministry of Industry and Trade's guidance;

c/ For other goods: Clause 2, Article 15 of Decree No. 154/2005/ND-CP.

3. Customs procedures for on-spot imports or exports shall, depending on the mode of importation or exportation, be carried out at the district-level Customs Department most convenient to enterprises.

4. A customs dossier comprises:

a/ The on-spot import or export declaration (made according to Appendix IV with use instructions provided in Appendix V to this Circular): to submit 4 originals;

b/ The goods trading contract or processing contract designating the delivery of goods in Vietnam (for an exporter); the goods trading contract or processing contract designating the receipt of goods in Vietnam (for an importer); and the hiring or borrowing contract: to submit 1 copy;

c/ The added-value invoice issued by the exporter (the original to be handed to the customer): to submit 1 copy;

d/ Other papers required for each mode of importation or exportation (except the bill of lading).

5. Within 30 days after an exporter signs 4 customs declarations for certification of goods delivery to an importer, the importer and exporter shall carry out customs procedures.

Past this time limit, if the importer has completed customs procedures while the exporter has not yet carried out customs procedures, the customs office clearing on-spot export procedures shall make a record and administratively sanction the exporter and carry out customs procedures without canceling the customs declaration.

6. Customs procedures for on-spot imports a/ Responsibilities of an exporter:

a.1/ To fully fill in the items in 4 declarations reserved for the exporter, sign and append its stamp;

a.2/ To hand 4 customs declarations, goods and the added-value invoice (the original to be handed to the purchaser, indicating the foreign trader's name, the importer's name) to the importer.

b/ Responsibilities of an importer:

b.1/ After receiving 4 customs declarations, to completely fill in the items in these declarations as required;

b.2/ To receive and preserve goods delivered by the exporter pending the decision of the district-level Customs Department carrying out on-spot import procedures on the form and extent of customs inspection; Goods exempt from physical inspection may be immediately put into production; goods subject to physical inspection may only be put into production after inspection.

b.3/ To submit the customs dossier and samples of on-spot imports (for those used as materials for export processing and production) to the district-level Customs Department at which the enterprise carries out import procedures for clearance of on-spot import procedures under regulations, depending on each mode of importation;

b.4/ After completing on-spot import procedures, to keep one declaration and hand the other two to the exporter.

c/ Responsibilities of a district-level Customs Department clearing on-spot import procedures:

c.1/ To receive and register declarations, decide on the appropriate form and extent of inspection under regulations, depending on each mode of importation, and inspect duty calculation (for dutiable goods) for imports under current regulations. To stamp and hand samples (if any) to the enterprise for preservation and production to the customs office upon request;

c.2/ To inspect goods subject to inspection;

c.3/ To certify the completion of customs procedures, sign and append an officer stamp to all 4 declarations;

c.4/ To keep one declaration and documents submitted by an importer and return to the importer 3 declarations and documents produced by the importer;

c.5/ To send a written notice (made according to Form No. 05TBXNKTC/2010, Appendix III to this Circular) to the tax agency directly managing the importer for monitoring or an electronic notice if the districtlevel Customs Department and the local tax agency are connected through a computer network.

7. Customs procedures for on-spot exports

a/ After receiving 2 on-spot import-export declarations certified by the customs office clearing import procedures, an exporter shall submit the customs dossier to the district-level Customs Department at which the exporter carries out export procedures for clearance of on-spot export procedures.

b/ Responsibilities of a district-level Customs Department clearing on-spot export procedures:

b.1/ To receive customs dossiers of on-spot exports;

b.2/ To register declarations according to prescribed steps, suitable to each mode of importation or exportation; and inspect duty calculation (if any). To certify the completion of customs procedures, sign and append an officer stamp to customs declarations;

b.3/ To keep one declaration and documents submitted by the exporter and return to the exporter one declaration and documents produced by this exporter.

8. When the exporter and importer carry out procedures at the same district-level Customs Department, this Customs Department shall sign for certification in both sections for the customs offices clearing export procedures and import procedures.

9. For on-spot processed imports for domestic sale, customs procedures shall be carried out under the Ministry of Finance's guidance rather than this Article.

10. The liquidation and duty refund (non-collection) comply with Section 6, Part V of this Circular.

Article 42. Customs procedures for imports or exports for investment projects

1. Customs procedures for imports or exports for enterprises' activities comply with regulations applicable to each mode of importation or exportation guided in this Circular.

2. Customs procedures for imports for the formation of fixed assets; and materials, supplies, parts or semi-finished products to serve production under projects eligible for investment incentives

a/ To register lists of duty-free imports with the customs office in case of importation of goods for the formation of fixed assets; duty-free materials, supplies, parts or semi-finished products to serve production under investment projects eligible for import duty exemption; Registration procedures comply with Article 102 of this Circular;

b/ Import procedures

b.1/ An enterprise shall carry out customs procedures for importation at the district-level Customs Department of the locality where the goods are imported or the locality where an investment project is formulated;

b.2/ Customs procedures comply with Chapter I, Part II of this Circular guiding commercial imports and exports. In addition, some other jobs shall be done under Articles 102, 103 and 104 of this Circular.

3. Liquidation of imports

a/ Forms of liquidation, goods subject to liquidation, liquidation conditions and dossiers of liquidation of duty-free imports comply with the Trade Ministry's Circular No. 04/2007/TT-BTM of April 4, 2007, guiding import, export, processing and liquidation of imports and sale of products of foreign-invested enterprises.

The liquidation of duty-free imports of domestic investment enterprises complies with Circular No. 04/2007/TT-BTM.

b/ Liquidation procedures shall be carried out at the customs office with which the list of duty-free imports is registered.

c/ Liquidation procedures

c.1/ The enterprise or liquidation board shall send a document stating the liquidation reason, names, codes and volumes of to-be-liquidated goods under import declaration No. ..., dated ..., to the customs office with which the list of duty-free imports is registered.

c.2/ For liquidation through export, the enterprise shall make an export declaration. For liquidation through sale in the Vietnamese market to an enterprise ineligible for import duty exemption, or through donation, giving as a gift or present, or destruction, a new declaration is not required but duty declaration and calculation shall be made under Clause 8, Article 10 of this Circular. For liquidation through sale in the Vietnamese market to an enterprise eligible for import duty exemption, customs procedures shall be carried out under regulations, using on-spot import or export declarations. In case of destruction, the enterprise shall comply with regulations of the environment management agency.

Article 43. Customs procedures for goods brought out of and into ports of transshipment

1. Customs procedures for goods brought out of and into ports of transshipment for transportation abroad

a/ Goods brought out of and into ports of transshipment: Transshipment service providers shall make declarations of transshipped containerized goods according to Form No. 06/BKTrC/2010, Appendix III to this Circular.

b/ A customs dossier comprises 2 original declarations of transshipped containerized goods.

c/ For inspection-exempt goods brought into and out of ports of transshipment, a customs office shall only check the quantity of containers and compare numbers and codes of containers with the declared ones. If detecting violations, it shall conduct inspection under regulations.

2. Liquidation of declarations of transshipped containerized goods

a/Within 10 days after all goods are brought out of a port of transshipment, a transshipment service provider shall liquidate declarations of transshipped containerized goods;

b/ Quarterly, within 15 days after the reporting period, a transshipment service provider shall report on and compare the quantity of goods brought into and out of and kept in the transshipment area to the customs office of this area.

3. Goods left at ports of transshipment shall be handled like imports left at seaports under the Finance Ministry's Circular guiding the handling of goods left at Vietnamese seaports.

4. The General Director of Customs shall guide the process of customs procedures for goods brought into and out of ports of transshipment.

Article 44. Customs procedures for goods brought into and out of nontariff zones in economic zones or border-gate economic zones; means of transport on entry or exit or in transit via non-tariff zones

1. Principles for carrying out customs procedures, inspection and supervision for goods brought into and out of non-tariff zones

a/ Goods brought into or out of non-tariff zones are subject to customs clearance, inspection and supervision. Goods of a certain type are subject to the process of customs procedures currently applicable to that type;

b/ The following goods may opt for clearance or non-clearance of customs procedures under Clause 2, Article 6 of the Regulation promulgated together with the Prime Minister's Decision No.100/2009/QD-TTg of July 30, 2009, promulgating the Operation Regulation of non-tariff zones in economic zones and border-gate economic zones: stationery, food, foodstuffs and consumer goods bought from the inland by non-tariff zone enterprises to serve the operation of their administrative apparatus and dayto-day activities of their employees;

c/ The following goods are exempt from customs procedures:

c.1/ Goods brought by residents from the inland into Lao Bao special trade and economic zone and Cau Treo international border-gate economic zone which are not liable to the value-added tax rate of 0% under Point 1.3, Section II, Part B of the Finance Ministry's Circular No. 129/2008/TT-BTC of December 26, 2008, guiding a number of articles of the Value-Added Tax Law and guiding the Government's Decree No. 123/2008/ND-CP of December 8, 2008;

c.2/ Unprocessed or preliminarily processed products made from cultivation, animal breeding or fisheries by residents, which are brought from Lao Bao special trade and economic zone and Cau Treo international border-gate economic zone into the inland and are other than those subject to value-added tax under Point 1, Section II, Part A of the Finance Ministry's Circular No. 129/2008/TT-BTC of December 26, 2008;

d/ Goods brought from the inland or other functional sections of a bordergate economic zone into the nontariff zone of that border-gate economic zone may not have customs declarations of exports made under the Finance Ministry's Circular No. 116/2010/TT-BTC of August 4, 2010, amending and supplementing the Finance Ministry's Circular No. 137/2009/TT-BTC of July 3, 2009, guiding a number of articles of the Prime Minister's Decision No. 33/2009/QD-TTg of March 2, 2009, promulgating the financial mechanism and policy for border-gate economic zones.

2. When bringing goods from abroad into a non-tariff zone, a customs declarant shall properly fill in the customs declaration under regulations applicable to each mode of importation and submit it to the district-level Customs Department managing this non-tariff zone, stating that the goods are duty-free (except goods items ineligible for duty incentives for imports).

A non-tariff zone enterprise importing materials or supplies for production and business shall register with the customs office names of products to be made, names of imported materials or supplies and norms of materials and supplies imported for production. Norms of materials and supplies imported to produce goods for sale in a non-tariff zone shall be registered before reporting on liquidation. The registration of norms of materials and supplies imported for export production complies with relevant regulations.

When a non-tariff zone enterprise imports materials, supplies or parts to produce goods for domestic sale, the customs declarant shall, upon import declaration registration, register and declare names and volumes of goods, kinds and value of each imported material, supply or part; names of products produced in the non-tariff zone from imported materials, supplies or parts for domestic sale.

3. Customs procedures for goods brought from the inland into non-tariff zones

a/ An inland enterprise shall carry out customs procedures required for each mode of exportation at the district-level Customs Department in the inland or the district-level Customs Department managing the non-tariff zone. If customs procedures are carried out at the district-level Customs Department in the inland, the transportation of goods into the non-tariff zone complies with regulations applicable to exports in transshipment through border gate.

A non-tariff zone enterprise shall carry out customs procedures required for each mode of importation at the district-level Customs Department managing the non-tariff zone.

b/ Physical inspection of goods complies with regulations applicable to goods exported abroad. When a district-level Customs Department other than that managing the non-tariff zone clear customs procedures for goods brought into a non-tariff zone, the district-level Customs Department managing the non-tariff zone may inspect goods under regulations if detecting signs of violation.

4. Customs procedures for goods exported abroad from non-tariff zones

a/ Customs procedures for goods exported abroad from non-tariff zones shall be carried out under regulations applicable to each mode of exportation;

b/ For goods imported from abroad or the inland by a non-tariff zone enterprise for subsequent export abroad in their original state, when carrying out export procedures, the enterprise shall fill in the export declaration "export of goods imported from abroad in their original state in declaration No. …" or "export of goods imported from the inland in their original state in declaration No. …", enclosed with the initial import declaration and manifest of goods (if any).

5. Customs procedures for goods brought from non-tariff zones into the inland

a/ A non-tariff zone enterprise shall carry out export procedures under regulations applicable to each mode of exportation. An inland enterprise shall carry out import procedures under regulations applicable to each mode of importation. Import and export procedures shall be carried out at the head office of the district-level Customs Department managing the nontariff zone;

b/ To provide bases for an inland enterprise to calculate payable duty amounts upon carrying out import procedures, a non-tariff zone enterprise shall:

b.1/ Before carrying out export procedures, register with the customs office norms of imported materials, supplies or parts constituting the product, if exports are produced in the non-tariff zone.

When carrying out export procedures, fill in the export declaration the names and types of imported materials, supplies or parts constituting that product.

b.2/ In case goods are imported from abroad or the inland by a non-tariff zone enterprise for export in their original state into the inland, when carrying out export procedures, fill in the export declaration "export of goods imported from abroad in their original state in declaration No. …" or "export of goods imported from the inland in their original state in declaration No. …", enclosed with the initial import declaration and manifest of goods (if any).

b.3/ Supply adequate dossiers and data for the inland enterprise to calculate payable duty amounts.

6. Goods processing between non-tariff zone enterprises and inland enterprises

a/ In case an inland enterprise undertakes to process goods for a non-tariff zone enterprise: The inland enterprise shall register the processing contract and carry out customs procedures for that contract at the district-level Customs Department managing the non-tariff zone. Customs procedures are similar to those for processing for foreign traders;

b/ In case an inland enterprise orders a non-tariff zone enterprise to process goods: The inland enterprise shall register the processing contract and carry out customs procedures for that contract at the district-level Customs Department managing the non-tariff zone or the district-level Customs Department in the inland. Customs procedures are similar to those applicable to inland enterprises placing overseas processing orders.

7. Customs procedures for goods purchased at shops or department stores in non-tariff zones and brought into the inland

a/ A buyer of goods from shops or department stores in a non-tariff zone which are brought into the inland shall pay import duty under regulations before bringing the goods out of the non-tariff zone.

Those entitled to buy duty-free goods to be brought into the inland within quotas in the non-tariff zone of a border-gate economic zone under the Prime Minister-issued Regulation on operation of non-tariff zones shall pay duty for the volumes of goods in excess of the duty-free quotas;

b/ A buyer of goods from shops or department stores in a non-tariff zone shall produce his/her identity card or passport (for a foreigner) to the seller and to the gate-control customs office when bringing goods out of the nontariff zone;

c/ When selling goods to customers, a seller shall issue sale invoices and record every sale in the sale monitoring book indicating names, addresses and numbers of identity cards or passports of buyers; quantity, unit price and value of goods sold to each buyer;

d/ Depending on specific conditions in each non-tariff zone, duty on goods purchased in a non-tariff zone and brought into the inland shall be collected in either of the following ways:

d.1/ Buyers declare and pay duty at the non-tariff zone's control-gate custom office:

d.1.1/ Before bringing goods out of the non-tariff zone, buyers shall declare duty-liable goods in non-trade declarations; submit declarations, produce identity cards, goods and sale invoices (originals to be handed to buyers) to the non-tariff zone's gate customs office;

d.1.2/ The non-tariff zone's gate customs office shall check identity cards against their holders who bring the goods and the goods against their customs declarations and sale invoices, and, if all details match, issue duty receipts, collect duty amounts and remit them into the state budget under law.

d.2/ The district-level Customs Department managing the non-tariff zone authorizes goods sellers to collect duty:

d.2.1/ Authorization of goods sellers to collect duty complies with Clause 1, Article 1 of Decree No. 106/2010/ND-CP. Responsibilities of authorized duty collectors and tax administration agencies comply with Clauses 3 and 4, Article 3 of Decree No. 85/2007/ND-CP;

d.2.2/ When bringing goods out of the non-tariff zone, a buyer shall produce his/her identity card, goods, sale invoices and duty receipts to the non-tariff zone's gate-control customs office;

d.2.3/ The non-tariff zone's gate customs office shall check identity cards against their holders who bring the goods and the goods with their sale invoices and duty receipts. If detecting any disparity between goods bringers and photos in the identity cards, between identity card numbers indicated on sale invoices or duty receipts and those of the identity cards produced by goods bringers, or between goods brought out of the non-tariff zone and those indicated on sale invoices or duty receipts, the customs office shall make records thereof and handle the violations under law.

8. Customs supervision of goods brought out of, into or via non-tariff zones

a/ A non-tariff zone must have fences separating it from the outside and customs control gates for supervising goods brought out of and into the zone;

b/ Goods brought out of or into a non-tariff zone and goods transported via a non-tariff zone for import into the inland or export abroad must go through customs control gates and are subject to customs supervision at these gates;

c/ Goods imported from abroad into the inland or goods exported abroad from the inland via a non-tariff zone must follow the routes jointly prescribed by the customs office managing the non-tariff zone and the nontariff zone management board.

9. Customs procedures and supervision of means of transport on entry or exit or in transit via non-tariff zones (for non-tariff zones with road border gates) comply with regulations applicable to means of transport on entry and exit and in transit via Vietnam.

10. Liquidation reporting procedures

a/ Biannually, production and business enterprises in a non-tariff zone shall, within 15 days after the reporting period, report to the customs office on their imports and exports in the period and exwarehoused, warehoused and in-stock goods according to a form provided by the General Department of Customs.

A reporting dossier comprises:

a.1/ Documents to be submitted:

a.1.1/ General list of materials and supplies imported in the reporting period: 2 originals (made according to Form No. 07/HSTK-PTQ, Appendix III to this Circular);

a.1.2/ General list of invoices of materials and supplies purchased in the non-tariff zone in the reporting period (if any): 2 originals (made according to Form No. 08/HSTK-PTQ, Appendix III to this Circular);

a.1.3/ General list of products exported in the reporting period: 2 originals (made according to Form No. 09/HSTK-PTQ, Appendix III to this Circular);

a.1.4/ General list of products sold in the non-tariff zone in the reporting period (if any): 2 originals (made according to Form No. 10/HSTK-PTQ, Appendix III to this Circular);

a.1.5/ General list of materials and supplies used for export production and sale in the non-tariff zone in the reporting period: 2 originals (made according Form No. 11/HSTK-PTQ, Appendix III to this Circular);

a.1.6/ Report on materials and supplies ex-warehoused, warehoused and left in stock in the reporting period: 2 originals (made according to Form No. 12/HSTK-PTQ, Appendix III to this Circular);

a.1.7/ Copies of invoices of materials and supplies purchased in the nontariff zone in the reporting period (if any);

a.1.8./ Copies of invoices of products sold in the non-tariff zone in the reporting period (if any).

a.2/ Documents to be produced:

a.2.1/ Declarations of materials or supplies imported in the reporting period;

a.2.2/ Declarations of products exported in the reporting period;

a.2.3/ Originals of invoices of materials or supplies purchased in the nontariff zone in the reporting period (if any);

a.2.4/ Originals of invoices of products sold in the non-tariff zone in the reporting period (if any).

b/ Monthly, commercial businesses in a non-tariff zone shall, not later than the 15th of the subsequent month, report on their imports and exports in the period and ex-warehoused, warehoused and in-stock goods to the customs office managing the non-tariff zone.

A reporting dossier comprises:

b.1/ Documents to be submitted:

b.1.1/ General list of goods imported from abroad in the liquidation reporting period: 2 originals (made according to Form No. 13/HSTK-PTQ, Appendix III to this Circular);

b.1.2/ General list of goods imported from the inland in the liquidation reporting period (if any): 2 originals (made according to Form No. 14/HSTK-PTQ, Appendix III to this Circular);

b.1.3/ General list of goods purchased in the non-tariff zone in the liquidation reporting period (if any): 2 originals (made according to Form No. 15/HSTK-PTQ, Appendix III to this Circular);

b.1.4/ General list of goods sold in the non-tariff zone in the liquidation reporting period: 2 originals (made according to Form No. 16/HSTK-PTQ, Appendix III to this Circular);

b.1.5/ General list of goods exported in the liquidation reporting period (if any): 2 originals (made according to Form No. 17/HSTK-PTQ, Appendix III to this Circular);

b.1.6/ Report on goods ex-warehoused, warehoused and left in stock in the liquidation reporting period: 2 originals (made according to Form No. 18/HSTK-PTQ, Appendix III to this Circular);

b.1.7/ Copies of invoices of goods purchased and sold in the non-tariff zone in the reporting period (if any).

b.2/ Documents to be produced:

b.2.1/ Declarations of goods imported or exported in the liquidation reporting period;

b.2.2/ Originals of invoices of goods sold or purchased in the non-tariff zone in the reporting period (if any);

c/ For processed goods, liquidation procedures comply with regulations on liquidation of processing contracts;

d/ For enterprises conducting production and business, commercial business and goods processing simultaneously, liquidation shall be conducted according to the form of production, business or processing;

e/ The customs office managing the non-tariff zone shall examine and compare enterprises' reports, and inspect goods left in stock when necessary; and handle under law violations of illegally taking imports in the non-tariff zone into the inland.

If detecting goods brought from the inland into a non-tariff zone are brought back into the inland, the customs office managing the non-tariff zone shall notify the provincial-level Tax Department of the locality in which the inland enterprises bringing goods into the non-tariff zone is headquartered, for coordinated handling.

Article 45. Customs procedures for imports and exports of export processing enterprises

1. General principles

a/ Customs procedures for imports and exports of export-processing enterprises are applicable to exportprocessing enterprises inside and outside export-processing zones;

b/ An export-processing enterprise's imports and exports must go through customs procedures applicable to each mode of importation or exportation. Particularly, for the purchase of stationery, food, foodstuffs and consumer goods (including also labor safety wear: trousers, coats, caps, shoes, boots, gloves) from the inland for the operation of the enterprise's administrative apparatus and day-to-day activities of its employees, the enterprise may opt to carry out or not to carry out customs procedures for these goods;

c/ Goods transferred within an export-processing enterprise are not subject to customs procedures;

d/ An export-processing enterprise's imports shall be transported from the border gate of importation to the enterprise and its exports, from the enterprise to the border gate of exportation;

e/ The customs office managing an export-processing zone and its enterprises may conduct direct supervision at the entrance of the export processing zone and at export-processing enterprises only when necessary under the decision of the director of a provincial-level Customs Department.

2. Places for customs clearance

a/ For imports and exports: Customs procedures shall be carried out at district-level Customs Departments managing export-processing enterprises;

b/ For goods processed between export-processing enterprises and inland enterprises: Inland enterprises shall carry out customs procedures at district-level Customs Departments managing them or district-level Customs Departments of localities in which they are headquartered;

c/ For goods processed between two export-processing enterprises: Processing enterprises shall register processing contracts and carry out customs procedures at their managing district-level Customs Department.

3. Customs procedures for imports and exports of export-processing enterprises

a/ For imports from abroad

a.1/ Based on an export-processing enterprise director's written request to import goods for the formation of fixed assets enclosed with a goods list (detailing names, quantity and types of goods), a customs office shall clear import procedures applicable to commercial imports;

a.2/ For materials and supplies imported for export production, an export processing enterprise shall carry out import procedures applicable to commercial imports, except duty declaration and calculation; a.3/ Goods processed for foreign traders comply with the Ministry of Finance's guidance.

b/ An export-processing enterprise shall carry out export procedures applicable to commercial exports for its goods exported abroad, except duty declaration and calculation;

c/ For export-processing enterprises' goods sold into the inland c.1/ For products produced and sold into the inland by export-processing enterprises, export-processing enterprises and inland enterprises shall carry out on-spot import or export customs procedures using the on-spot import or export declaration form;

c.2/ Scraps and discarded products permitted for domestic sale, inland enterprises shall carry out import procedures applicable to commercial imports;

d/ For goods sold by inland enterprises to export-processing enterprises, inland enterprises and exportprocessing enterprises shall carry out on-spot import or export customs procedures using the on-spot import or export declaration form;

e/ For processed goods (except those processed for foreign parties)

e.1/ For goods processed by inland enterprises for export-processing enterprises, inland enterprises shall carry out customs procedures under regulations on goods processing for foreign traders;

e.2/ For goods processed by export-processing enterprises for inland enterprises, inland enterprises shall carry out customs procedures under regulations on overseas processing ordering;

e.3/ For goods processed between export-processing enterprises, processing enterprises shall carry out customs procedures under regulations on goods processed for foreign traders.

f/ For goods traded between export-processing enterprises

f.1/ For goods traded between export-processing enterprises in different export-processing zones, customs procedures shall be carried out under the guidance on customs procedures for on-spot imports and exports under Clauses 6 and 7, Article 41 of this Circular (except provisions on on-spot import and export conditions);

f.2/ Customs procedures are not required for goods traded between exportprocessing enterprises in the same export-processing zone.

g/ For goods of an export-processing enterprise brought into the inland for repair, the enterprise shall issue a notice of names and quantity of goods, reason and time for repair without having to register a customs declaration.

The customs office shall monitor and certify those goods when they are brought back to the enterprise. Past the time limit of repair registration, goods which are not brought back shall be handled under the guidance on goods with converted use purposes;

h/ The destruction of scraps and discarded products complies with law and is subject to customs supervision.

4. Procedures for liquidation of materials and supplies of export-processing enterprises

a/ Export-processing enterprises' materials and supplies shall be liquidated only in terms of quantity according to each type of imports or exports.

b/ Time limit and place for liquidation

b.1/ For processing, liquidation shall be made within the time limit for liquidation of processing contracts at district-level Customs Departments with which processing contracts are registered;

b.2/ For export production, liquidation shall be made quarterly and not later than the 15th of the first month of the subsequent quarter at district-level Customs Departments managing export-processing enterprises. Enterprises may make liquidation monthly before the 15th of the subsequent month at their request.

c/ Liquidation dossiers

c.1/ For processing, liquidation dossiers comply with regulations on liquidation of goods processed for foreign traders;

c.2/ For export production, a liquidation dossier comprises:

c.2.1/ List of norms (made according to Form No. 07/DKDM-SXXK, Appendix IV to this Circular) of each goods code: to produce 1 original;

c.2.2/ Report on imported materials and supplies warehoused, exwarehoused and left in stock (made according Form No. 10/HSTK-CX, Appendix IV to this Circular): to submit 2 originals (one to be returned to the enterprise upon completion of inspection).

d/ When export-processing enterprises are transformed into ordinary ones or vice versa, their imported assets and goods shall be handled as follows:

d.1/ For export-processing enterprises transformed into enterprises ineligible for export-processing incentives:

d.1.1/ To liquidate imported assets and goods;

d.1.2/ To identify imported assets and goods left in stock;

d.1.3/ To pay duty under regulations;

d.1.4/ To liquidate and identify imported assets and goods before enterprise transformation.

d.2/ For enterprises ineligible for export-processing incentives transformed into export-processing enterprises:

d.2.1/ Enterprises shall report on the quantity of materials and supplies left in stock; customs offices shall inspect these materials and supplies and settle tax-related matters under regulations;

d.2.2/ Before their transformation, enterprises shall fully pay outstanding duty and fine amounts to customs offices. Customs offices shall apply duty and customs policies to export-processing enterprises only after they have fulfilled tax and customs obligations towards customs offices.

5. Liquidation of machinery, equipment and means of transport for the formation of fixed assets

a/ Forms of liquidation, goods to be liquidated, liquidation conditions, and dossiers of liquidation of dutyfree imports comply with Circular No. 04/2007/TT-BTM;

b/ Liquidation procedures shall be carried out at district-level Customs Departments managing exportprocessing enterprises;

c/ Liquidation procedures

c.1/ An enterprise or its liquidation board shall prepare a document stating liquidation reasons, names, codes and volumes of goods to be liquidated under import declaration No. ..., dated ..., and send it to the district-level Customs Department managing the export-processing enterprise;

c.2/ For liquidation through export, the enterprise shall make an export declaration. For liquidation through sale in the Vietnamese market, or donation or giving as gift or present, it shall make a declaration according to the respective form of liquidation and pay duty under regulations;

c.3/ For destruction, the enterprise shall comply with regulations of the environmental management agency and such destruction is subject to customs supervision.

6. When completing work construction, an export-processing enterprise shall submit a settlement report on goods imported for work construction to the customs office.

The customs office shall inspect and handle under regulations redundant imports or those used for improper purposes.

7. For goods of export-processing enterprises exported or imported under the Government's Decree No. 23/2007/ND-CP of February 12, 2007, detailing the Commercial Law concerning goods trading activities and activities directly related to goods trading by foreign-invested enterprises in Vietnam; the Trade Ministry's (now the Ministry of Industry and Trade) Circular No. 09/2007/TT-BTM of July 17, 2007, guiding Decree No. 23/2007/ND-CP of February 12, 2007; the Industry and Trade Ministry's Circular No. 05/2008/TT-BCT of April 14, 2008, amending and supplementing Circular No. 09/2007/TT-BTM, to comply with the guidance on goods traded under trading contracts, not to comply with Clauses 1 thru 6 of this Article.

Article 46. Customs procedures for goods brought into and out of tax suspension warehouses

1. Goods brought into and out of a tax-suspension warehouse are imported materials, for which duty payment is not yet required, for export production by the enterprise having such warehouse.

Enterprises shall compile separate customs dossiers for imported materials put into tax-suspension warehouses and register volumes of exports in a planning year.

2. Customs procedures for imported materials put into tax-suspension warehouses comply with regulations applicable to materials imported for export production. Goods stored in tax-suspension warehouses which are damaged or deteriorated in quality, failing to meet production requirements, shall be handled under Article 29 of Decree No. 154/2005/ND-CP.

3. Liquidation procedures:

a/ Closing a year (December 31 every year), not later than January 31 of the subsequent year, an enterprise shall make a general list of import customs declarations and total volumes of imported materials put into taxsuspension warehouses, a general list of export customs declarations and total volumes of materials constituting exported, re-exported and destroyed products, and send them to a customs office.

b/ Procedures for liquidation and duty payment and refund for imports put into tax-suspension warehouses

b.1/ Procedures for liquidation of materials and supplies stored in taxsuspension warehouses are as for liquidation of materials and supplies of export-processing enterprises specified in Clause 4, Article 45 of this Circular;

b.2/ If the quantity of materials constituting exported and re-exported products is smaller than that of imported materials put into tax-suspension warehouses, enterprises shall pay duty on the quantity of notyet-exported materials under import customs declarations after 365 days counting from the date of registration with customs offices to the date of liquidation. The quantity of materials for which duty payment has not been due may be transferred to the subsequent fiscal year for liquidation;

b.3/ The quantity of materials on which duty has been paid but which is then put into production and exported is eligible for duty refund applicable to materials imported for export production under Article 118 of this Circular.

Article 47. Customs procedures for goods brought into and out of container freight stations (CFS)

1. Imports brought into CFS are goods not yet cleared from customs procedures and currently under customs supervision and management.

2. Exports brought into CFS are goods which have been cleared from customs procedures or for which customs declarations have been registered at outside-border gate customs offices but which will be physically inspected at CFS.

3. Services provided in CFS

a/ For exports: to pack, re-pack, arrange and re-arrange goods.

For goods in transit or transshipment brought into CFS of ports for division, separation or packing in export containers or packing with Vietnamese exports;

b/ For imports: to be permitted for division and separation for clearance of import procedures or packing in containers of other exports lots for export to a third country.

4. Customs supervision of the transportation of goods brought into and out of CFS and supervision of the provision of services in CFS comply with Articles 13 and 14 of Decree No. 154/2005/ND-CP, Article 16 of this Circular and the General Department of Customs' guidance.

Article 48. Customs procedures for machinery and equipment temporarily imported for re-export or temporarily exported for re-import for work construction or investment projects, and hired and leased assets

1. Customs procedures for machinery and equipment temporarily imported for re-export or temporarily exported for re-import for work construction or investment projects, and hired and leased assets comply with regulations applicable to commercial imports and exports.

For goods temporarily imported for re-export and temporarily exported for re-import eligible for duty exemption, annually (365 days after the date of temporary import/export), a customs declarant shall notify the district-level Customs Department which clears temporary import/export procedures of the remaining use time of temporarily imported/exported machinery and equipment for the latter to monitor and liquidate dossiers.

2. Upon termination of the time limit for temporary import/export, a customs declarant shall re-export/reimport goods and liquidate dossiers with the district-level Customs Department which clears temporary import/export procedures. Past this time limit, a customs declarant that fails to re-export/re-import goods shall be handled under law.

For an enterprise which requests in writing to donate machinery and equipment temporarily imported for re-export or temporarily exported for re-import for work construction or investment projects, or leased or hired assets to the hiring or borrowing party, after donation procedures are completed under regulations, the customs office which clears temporary import or export procedures shall make liquidation in the temporary import or export declaration.

Article 49. Customs procedures in other cases of temporary import for reexport or temporary export for re-import

1. For parts or spare parts temporarily imported without contract for repair of foreign seagoing ships or aircraft

a/ Customs declarants

a.1/ For temporarily imported parts or spare parts carried by aircraft or seagoing ships on entry, customs declarants are aircraft or ship operators; a.2/ For parts or spare parts pre- or post-consigned to addresses of shipping agents, customs declarants are those agents.

b/ Customs procedures

b.1/ Customs procedures and tax policies comply with Articles 73 and 101 of this Circular;

b.2/ Temporarily imported parts or spare parts which have not been used up must be re-exported out of Vietnam. If sold in Vietnam, their sale must comply with regulations on import and export management and tax policies like imports from abroad. Shipping agents or purchasers shall carry out import procedures at customs offices;

b.3/ Parts or spare parts disassembled upon repair or replacement must be re-exported out of Vietnam or destroyed under law.

2. For parts or spare parts temporarily imported for repair of seagoing ships or aircraft under contracts signed between foreign ship owners and Vietnam-based ship repair factories, customs procedures shall be carried out under regulations applicable to the form of processing guided by the Ministry of Finance.

3. Customs procedures for goods temporarily imported for re-export or temporarily exported for re-import for display at trade fairs or exhibitions comply with regulations applicable to commercial imports or exports. In addition, due to the characteristics of this form, the following specific regulations must be complied with: a/ Customs dossiers: In addition to papers as required for commercial imports or exports, a certified copy of a competent agency's decision on the fair or exhibition organization must be submitted;

b/ Customs procedures for goods temporarily imported for re-export or temporarily exported for re-import for display at fairs or exhibitions shall be carried out at district-level Customs Departments of localities in which fairs or exhibitions are organized or at border-gate customs offices;

c/ Time limit for re-export or re-import

c.1/ Goods temporarily imported for display at a trade fair or exhibition in Vietnam must be re-exported within 30 days from the end of the fair or exhibition;

c.2/ The time limit for temporary export of goods for display at an overseas trade fair or exhibition is one year after the goods are temporarily exported. Past this time limit, goods which are not re-imported will be liable to duty and other financial obligations under Vietnamese law.

d/ The sale and donation of goods at fairs or exhibitions comply with Articles 136 and 137 of the Commercial Law.

4. Goods temporarily exported for re-import for overseas warranty or repair

a/ In case the contract has a warranty or repair term, their customs procedures comply with Article 14 of the Government's Decree No. 12/2006/ND-CP of January 23, 2006, and the guidance of the Ministry of Industry and Trade;

b/ In case there is no contract or the contract has no warranty or repair term, their customs procedures are as the same as those applicable to noncommercial imports and exports specified in Part III of this Circular;

c/ In case temporary export and re-import are not carried out at the same border gate, procedures may be carried out to transport these goods to the border gate where export procedures were carried out.

5. Liquidation of declarations of temporary import for re-export or temporary export for re-import

a/ District-level Customs Departments carrying out temporary import or temporary export procedures shall monitor, manage and liquidate declarations of temporarily imported or temporarily exported goods;

b/ The time limit for liquidation complies with Clause 1, Article 132 of this Circular;

c/ A liquidation dossier comprises:

c.1/ A written request for liquidation of the temporary import or temporary export declaration, specifying the temporary import declaration-re-export declaration, the quantity of temporarily imported or re-exported goods, which are similar to the case of temporary export for re-import;

c.2/ A temporary import declaration and re-export declaration or temporary export declaration and reimport declaration;

c.3/ Other relevant papers.

Article 50. Customs procedures in case of temporary import or temporary export of goods containers by rotation mode

- 1. These containers include:
- a/ Empty containers with or without suspension hooks;
- b/ Flex tanks.
- 2. Customs procedures
- a/ For transporters' containers

a.1/ Upon importation, the transportation agent shall submit a manifest of transported cargo, listing imported containers;

a.2/ Upon exportation, the transportation agent shall submit a list of empty containers temporarily imported or temporarily exported before loading them on means of transport (form No. 19/BKC/2010, Appendix III to this Circular); while the transporter or transportation agent shall submit a manifest of transported cargoes;

b/ If the above containers do not belong to transporters, customs declarants (having goods already or to be contained in these containers hired from overseas) shall give written explanations for permission to apply procedures for this rotation mode;

c/ District-level Customs Departments which have carried out temporary import/temporary export procedures shall monitor, compare and certify the number of temporarily exported and imported containers; and conduct physical inspection when having any doubt.

3. For other rotated containing articles (shelves, barrels, bottles, etc.) other than containers and flex tanks, upon temporary export or import, customs declarants shall declare them in the non-commercial declaration form. Particularly, the duty payment time limit corresponds to the temporary import or export duration registered by enterprises with customs offices. Past this duration, if the goods are not re-exported or re-imported, enterprises shall pay duty thereon.

Article 51. Customs procedures for returned exported goods

1. Forms of re-importing returned exported goods (below referred to as reimport of returned goods) include:

a/ Re-import of returned goods for repair or re-processing (collectively referred to as re-processing) then re-export;

b/ Re-import of returned goods for sale in the inland (not applicable to goods processed for foreign traders);

c/ Re-import of returned goods for destruction in Vietnam (not applicable to goods processed for foreign traders);

d/ Export of goods to other foreign partners.

2. Places for carrying out procedures for re-importing returned goods:

a/ District-level Customs Departments which have carried out procedures for exporting those goods. In case goods are returned to Vietnam through a different border gate, procedures may be carried out to transport these goods to the border gate where export procedures were carried out;

b/ In case a returned goods lot consists of goods of different export lots, reimport procedures shall be carried out at any of district-level Customs Departments which have carried out procedures for exporting those goods.

3. Re-processed goods may go through re-export procedures at districtlevel Customs Departments which have carried out procedures for their reimport. In case outside-border gate customs offices (other than border-gate customs offices) carry out procedures for temporary import and temporary export of goods, procedures for these goods are similar to those for imports or exports transported from or to border gate.

4. Procedures for re-import of returned goods

a/ A customs dossier comprises:

a.1/ A written request for goods re-import, indicating which export declaration the goods belong to, whether or not tax refund or non-collection has been permitted by the customs office, and whether or not input valueadded tax credit has been declared to the tax office (stating the serial number of the tax refund or non-collection decision), and the reason for reimport (for re-processing, sale in the inland or destruction; if goods are imported for re-processing, the re-processing place, time and method and wastage after re-processing must be indicated): to submit 1 original;

a.2/ The customs declaration of imports, manifest of goods and bill of lading, which are similar to those for commercial imports;

a.3/ The previously submitted customs declaration of exports: to submit 1 copy;

a.4/ The foreign party's written notice of the return of goods (including telegraph, telex, fax or data message): to submit 1 original or copy.

b/ Customs offices shall carry out customs procedures like for commercial imports (excluding import permit, line management permit, tax calculation declaration, etc.). Re-imported goods are subject to physical inspection. Goods-inspecting customs officers shall compare imports with kept samples of raw materials (if exported products are processed or produced for export and their samples have been taken; and raw materials have not been transformed in the course of production) and goods described in export declarations so as to ascertain whether goods re-imported back to Vietnam and previously exported goods are the same; and take samples or photos (if samples cannot be taken) of re-imported goods for comparison upon re-export;

c/ For goods re-imported for re-processing, the re-processing time limit must be registered by enterprises with customs officers but not exceed 275 days from the date of re-import. Past this time limit, if goods are not yet reexported, duty thereon shall be paid under regulations.

5. Procedures for re-exporting re-processed goods

a/ A customs dossier comprises:

a.1/ The exports declaration: to submit 2 originals;

a.2/ The declaration of imports (for re-processing): to submit 1 copy.

b/ Customs offices shall carry out procedures like for commercial exports. For goods lots subject to physical inspection, inspecting customs officers shall compare actually re-exported goods with samples of goods taken upon re-import (or photos of goods when re-import procedures are carried out);

c/ If re-processed goods cannot be re-exported, enterprises shall explain in writing the failure to re-export to district-level Customs Departments carrying out re-import procedures and request them to consider and accept the following ways of handling:

c.1/ For re-processed products being processed goods

c.1.1/ To carry out customs procedures as in the case of on-spot import or export for inland sale if the conditions for on-spot import or export of processed products are fully met under Decree No. 12/2006/ND-CP; or,

c.1.2/ To destroy them if the processee requests their destruction in Vietnam and such destruction is permitted by the provincial-level Natural Resources and Environment Department.

c.2/ Re-processed products other than processed goods shall be sold in the inland like goods re-imported for inland sale.

6. In case re-imported goods are exported products produced from imported raw materials or supplies; or procured goods eligible for import duty refund, customs offices carrying out re-import procedures shall notify customs offices carrying out import-duty refund procedures (if these customs offices are not the same) of the cases specified at Points b and c, Clause 1, and Point c, Clause 5, of this Article, or the case beyond the time limit specified at Point c, Clause 4 of this Article, for handling their duty under Point c, Clause 7, Article 113 of this Circular.

Article 52. Customs procedures for imported goods which must be returned to foreign customers or reexported to third countries or into nontariff zones

1.Forms of returning goods include:

a/ Returning to foreign sellers;

b/ Exporting to other foreign partners.

2. Places for carrying out returning procedures: district-level Customs Departments that have carried out import procedures for those goods lots. In case goods are returned to foreign customers through a different border gate, procedures may be carried out for transporting the goods to the border gate of exportation.

3. A customs dossier comprises:

a/ The enterprise's written explanation on the return of goods;

b/ The export declaration: to submit 2 originals;

c/ The previous import declaration: to submit 1 copy and produce the original;

d/ The foreign goods owner's written acceptance (including telegraph, telex, fax and data message) to receive back the goods (if goods are returned to their sellers): to submit 1 original or a copy; and the

contract on sale of goods to a third country or re-export of goods into a non-tariff zone (if goods are reexported to third countries or into non-tariff zones): to submit 1 copy.

4. Customs procedures shall be carried out like those for goods lots exported under commercial contracts. Returned goods are subject to physical inspection. Inspecting customs officers shall compare goods samples taken upon import (if any); compare goods described in import declarations with actually re-exported goods; and indicate the quantity, quality and types of exports and the matching between actually exported goods and previously imported goods.

Article 53. Customs procedures for goods sold at duty-free shops

Customs management of goods sold at duty-free shops complies with the Finance Ministry's separate guidance.

Article 54. Customs procedures for mails, postal parcels, imports and exports consigned by post and imported and exported articles and goods consigned by express delivery service

Customs procedures for mails, postal parcels, imports and exports consigned by post and imported and exported articles and goods consigned by express delivery service comply with this Circular and the Finance Ministry's Circular No. 99/2010/TT-BTC of July 9, 2010, stipulating customs procedures for mails, postal parcels and imports and exports consigned by post; Circular No. 100/2010/TT-BTC of July 9, 2010, stipulating customs procedures for imports and exports consigned by international airway express delivery service; and Decision No. 93/2008/QD-BTC of October 29, 2008, stipulating customs procedures for imported, exported and transited goods and articles consigned by road express delivery service.

Article 55. Customs procedures for goods brought into and out of bonded warehouses

1. Customs procedures for goods brought from abroad into bonded warehouses:

a/ For goods stored in bonder warehouses

Goods specified in Article 25 of Decree No. 154/2005/ND-CP may be stored in bonded warehouses;

b/ A dossier submitted to the bonded warehouse customs office comprises:

b.1/ The declaration of warehousing/ex-warehousing: 2 originals;

b.2/ The bonded warehouse rent contract already registered with the customs office: 1 copy certified and stamped by the warehouse owner; In case the goods owner is concurrently the bonded warehouse owner, a bonded warehouse rent contract is not required. The time limit for goods to be stored in bonded warehouses is the same as the case of having a bonded warehouse rent contract, counting from the date of registration of the declaration of warehousing to the date of expiration written in box 2 of the declaration of warehousing/ex-warehousing (form HQ/2002-KNQ).

b.3/ The written authorization for goods receipt (if authorization is not yet indicated in the bonded warehouse rent contract): 1 original; if the authorization is sent by fax, it must be signed and stamped by the warehouse owner;

b.4/ The bill of lading or other transportation documents of equivalent validity: 1 copy;

b.5/ The manifest of goods (particularly for cars and motorcycles, their frame and engine numbers must be indicated): 2 originals (one kept by the customs office and the other by the bonded warehouse owner).

c/ Customs procedures

c.1/ To register the warehousing declaration.

c.2/ The bonded warehouse customs office shall compare the numbers of containers and seals, for goods in container, or numbers and codes of bales, for baled goods, with those indicated in accompanying documents. If they all match and the seals and bales are unbroken, the customs office shall carry out warehousing procedures. If detecting the goods owner's violation of the customs law, the customs office shall conduct physical inspection of goods.

c.3/ Customs officers supervising warehoused goods shall sign warehousing/ex-warehousing customs declarations for certification that goods have been warehoused, and enter data in the computer for monitoring warehoused/ex-warehoused goods.

2. Customs procedures for goods from the inland to be put into bonded warehouses

a/ Goods stored in bonded warehouses:

a.1/ Types of goods specified in Clause 3, Article 25 of Decree No. 154/2005/ND-CP;

a.2/ Goods in bonded warehouses have been brought into the inland for processing or re-processing, then brought back into the warehouses as designated by foreign customers.

b/ Customs dossier:

b.1/ The warehousing/ex-warehousing declaration: 2 originals;

b.2/ The bonded warehouse rent contract already registered with the customs office: 1 copy certified and stamped by the bonded warehouse owner;

In case the goods owner is concurrently the bonded warehouse owner, a bonded warehouse rent contract is not required. The time limit for goods to be stored in bonded warehouses is the same as the case of having a bonded warehouse rent contract, counting from the date of registration of the declaration of warehousing to the date of expiration written in box 2 of the declaration of warehousing/ex-warehousing (form No. HQ/2002-KNQ).

b.3/ The written authorization for goods receipt (if authorization is not yet indicated in the bonded warehouse rent contract): 1 original; if the authorization document is sent by fax, it must be signed and stamped by the warehouse owner;

b.4/ The export declaration corresponding to the type of export, enclosed with a detailed list (if any): To submit 1 copy and produce the original (the one kept by the customs declarant);

b.5/ A competent agency's decision on forced re-export (in case of forced re-export): 1 copy.

c/ Customs procedures:

c.1/ Checking the validity of dossier documents; registering the declaration and carrying out warehousing procedures as applicable to goods brought from abroad into bonded warehouses mentioned at Point c, Clause 1 of this Article.

c.2/ Certifying that "goods have been put into bonded warehouse" on box 27 of the export declaration (the one kept by the customs declarant) as stipulated in Clause 4, Article 26 of this Circular.

3. Customs procedures for goods in bonded warehouses to be brought abroad

a/ A customs dossier comprises:

a.1/ The warehousing/ex-warehousing declaration: to submit 1 original;

a.2/ The customs declaration of exports (except goods put into bonded warehouses from abroad): to submit 1 copy;

a.3/ The authorization document for ex-warehousing (if the authorization is not indicated in the warehouse rent contract): to submit 1 original;

a.4/ The ex-warehousing bill, made according to a form provided by the Ministry of Finance: 1 original.

b/ Customs procedures:

b.1/ The bonded warehouse customs office shall compare declaration documents submitted upon exwarehousing with those used for carrying out warehousing procedures and actual goods lots. If they all match, it shall carry out ex-warehousing procedures;

b.2/ Goods indicated in the warehousing/ex-warehousing declaration per warehousing may be exwarehoused once or many times. In case goods are ex-warehoused and brought abroad many times through different border gates at a time, copies of the warehousing/ex-warehousing declaration bearing a certification stamp of the customs office may be used for carrying out procedures for transporting the goods from warehouse to the border gate of exportation. Upon completion of the ex-warehousing, the bonded warehouse customs office shall keep these copies, which bear the certification of the customs office of the border gate of exportation, together with the original warehousing/ex-warehousing declaration.

4. Customs procedures for goods in bonded warehouses to be brought into the inland

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

a.1/ Imports are sold in the Vietnamese market under Point b, Clause 2, Article 26 of Decree No. 154/2005/ND-CP;

a.2/ Goods are brought into the inland for processing or re-processing;

a.3/ Goods being machinery or equipment hired from overseas contractors which, upon contract completion, have been re-exported and are stored in bonded warehouses, are brought into the inland for the performance of subsequent rent contracts.

b/ Goods in bonded warehouses disallowed to be brought into the inland:

b.1/ Goods specified at Point c, Clause 2, Article 26 of Decree No. 154/2005/ND-CP;

b.2/ Goods on the Industry and Trade Ministry-announced list of consumer goods subject to duty payment prior to receipt.

c/ Customs procedures:

Customs declarants shall carry out import procedures corresponding to each relevant type, then warehouse owners shall carry out ex-warehousing procedures.

In case of carrying out procedures for importing into the inland goods stored in bonded warehouses for many times, for each importation, a set of customs dossier copies (including bill of lading, detailed list of goods and certificate of origin) may be accepted, which must bear the certification stamp of the bonded warehouse customs office, while their originals shall be kept by such customs office.

d/ The bonded warehouse customs office shall supervise the exwarehousing of goods and give certification in warehousing/exwarehousing declarations.

5. Procedures for transportation of goods from a bonded warehouse to another within the Vietnamese territory

a/ The goods owner or his/her/its lawful representative shall file a written request with the provincial-level Customs Department (of the locality with the goods-storing bonded warehouse) for settlement.

b/ Customs procedures for transportation of goods from a bonded warehouse to another are as the same as those applicable to goods transported from or to border gate.

c/ The term of the bonded warehouse rent contract starts on the date goods are put into the first warehouse.

6. Customs management of goods changing hands while in bonded warehouses

a/ Goods owners shall transfer ownership of their goods stored in bonded warehouses when they sell such goods under Clause 8, Article 3 of the Commercial Law;

b/ After transferring ownership of their goods, (old) goods owners or bonded warehouse owners (if authorized) shall submit to district-level Customs Departments managing bonded warehouses the following documents:

b.1/ A written notice of the transfer of ownership of goods stored in the warehouse from the old owner to the new owner (indicating such principal details as names and addresses of the transferor and transferee; names and volumes of goods changing hands; serial numbers and dates of warehousing and exwarehousing declarations; and date of transfer);

b.2/ The goods trading contract between the new and old owners of the goods lot stored in the warehouse;

b.3/ The new owner's warehouse rent contract.

District-level Customs Departments managing bonded warehouses shall keep the above documents together with the goods lots' warehousing dossiers for monitoring and liquidation of warehoused and exwarehoused goods.

c/ The period of storage of goods in a bonded warehouse shall be counted from the date on which the goods are put into the bonded warehouse under the warehouse rent contract signed between the bonded warehouse owner and old owner of the goods.

7. Procedures for the liquidation of goods left overdue in bonded warehouses comply with the Finance Ministry's separate guidance.

8. Customs management of goods stored in bonded warehouses

a/ Goods transported from border gates of importation to bonded warehouses, from bonded warehouses to border gates of exportation, or from a bonded warehouse to another, goods stored in bonded warehouses and services provided in bonded warehouses are subject to inspection and supervision by bonded warehouse customs offices;

b/ Bonded warehouse customs offices and owners must have software for monitoring and managing warehoused and ex-warehoused goods.

c/ Biannually, within 15 days after the end of a reporting period, bonded warehouse owners shall send written reports (made according to form No. 20-BC-KNQ/2010, Appendix III to this Circular) on the actual state of goods in and the operation of their warehouses to the directors of provincial-level Customs Departments of localities in which their bonded warehouses are located;

d/ Upon completion of a bonded warehouse rent contract, the bonded warehouse owner and goods owner shall liquidate this contract. The bonded warehouse owner shall carry out procedures for liquidating warehoused and ex-warehoused goods under this contract with the bonded warehouse customs office.

Within 15 days after ex-warehousing the whole volume of goods under the declaration of warehoused goods, the bonded warehouse owner shall carry out procedures for liquidating warehoused and exwarehoused goods under the declaration of warehoused and ex-warehoused goods with the bonded warehouse customs office. In case goods which have been ex-warehoused for more than 15 days cannot be exported for an objective reason, the customs declarant shall make a written request and, if having it certified by the leadership of the customs office of the border gate of exportation, the time limit for carrying out liquidation procedures may be extended for another 15 days.

e/ Annually, provincial-level Customs Departments shall inspect the operation of bonded warehouses and the observance of the customs law by their owners, then report inspection results to the General Department of Customs. If detecting any violations of law, provincial-level Customs Departments may conduct extraordinary inspections of bonded warehouses.

Article 56. Customs procedures for cross-border imports and exports

Customs procedures for cross-border imports and exports comply with joint guidance of the Ministry of Industry and Trade, the Ministry of Finance, the Ministry of Transport, the Ministry of Agriculture and Rural Development, the Ministry of Health and the State Bank, on the implementation of the Prime Minister's Decision on management of border trading activities.

Article 57. Customs procedures for imports or exports transported from or to border gate

Customs procedures for imports or exports transported from or to border gate comply with Articles 16 and 18 of Decree No. 154/2005/ND-CP and are guided as follows:

1. Dossiers of goods transported from or to border gate: a/ For exports:

a.1/ The customs declaration for which customs procedures have been completed (the one kept by the customs declarant);

a.2/ The record of the delivery and receipt of the goods transported from or to border gate: 2 copies (made by the outside-border gate customs office according to form No. 21/BBBG-CCK/2010, Appendix III to this Circular).

b/ For imports:

b.1/ For imports exempt from physical inspection:

b.1.1/ An application for transportation from the border gate of importation (made according to form No. 22-DCCK/2010, Appendix III to this Circular);

b.1.2/ The customs declaration: the one kept by the customs declarant.

b.2/ For imports subject to physical inspection:

b.2.1/ An application for transportation from the border gate of importation (made according to form No. 22-DCCK/2010, Appendix III to this Circular);

b.2.2/ The customs declaration: the one kept by the customs declarant;

b.2.3/ The record of the delivery and receipt of the goods transported from or to border gate: 2 copies (made by the outside-border gate customs office according to form No. 21/BBBG-CCK/2010 provided in Appendix III to this Circular).

2. Time limit for border-gate customs offices to settle procedures for transportation from border gate:

a/ For exports: within one hour after receiving customs dossiers and goods transferred by customs declarants, border-gate customs officers shall complete the receipt of dossiers and goods and sign for certification delivery and receipt records;

b/ For imports: within 4 hours after receiving customs dossiers, border-gate customs officers shall complete the receipt of dossiers and goods and sign for certification delivery and receipt records.

3. For imports eligible for transportation from border gate and exports eligible for transportation to border gate which belong to enterprises located in geographical areas under management by provincial-level Customs Departments of localities without outside-border gate customs offices or with outside-border gate customs offices located far from border gates/ports inconvenient for enterprises having such goods, directors of provincial-level Customs Departments to carry out procedures for transportation from or to border gate.

4. For enterprises' office equipment (desks, chairs, cabinets and stationery, etc.) which serve their own operations and are put into the same containers of imported raw materials for export processing and production, enterprises may register customs declarations at outside-border gate customs offices in order to carry out procedures for transportation from border gate.

5. Imports which have bills of lading indicate ports of destination being inland clearance depots (ICDs):

a/ Imports which have bills of lading indicate ports of destination being ICDs must not be transported from border gate to outside-border gate places for customs clearance or physical inspection, unless otherwise stipulated by the Prime Minister;

b/ For imports of export processing enterprises; raw materials, supplies, machinery and equipment imported for export production or performance of processing contracts which have bills of lading indicating ports of destination being ICDs, enterprises may carry out procedures for transporting them from ICDs to customs offices managing export processing enterprises, customs offices with which import declarations for export production have been registered or to which enterprises have notified their processing contracts for further carrying out customs procedures. For imports subject to physical inspection, if enterprises request such inspection right at ICDs, ICD customs officers shall conduct physical inspection of these goods at the request of customs offices managing export processing enterprises or customs offices with which import declarations for export processing on the processing enterprises or customs offices with which import declarations for export processing on the processing of the processing enterprises are processing enterprises or customs offices with which import declarations for export processing enterprises have notified their processing enterprises have notified their processing contracts.

6. Transportation from or to border gate of goods stored in bonded warehouses

a/ Goods for which export procedures have been completed and which are stored in bonded warehouses may be transported from bonded warehouses to border gates of exportation; goods brought from abroad into bonded warehouses may be transported from border gates of importation to bonded warehouses under Point e, Clause 3, Article 18 of Decree No. 154/2005/ND-CP, excluding those for which customs procedures are required by law to be carried out at border gates of importation;

b/ For goods transported from places of carrying out customs procedures to bonded warehouses, customs seals and records of delivery and receipt of goods transported from or to border gate may be used for customs supervision and management among related customs offices.

7. Customs procedures for imports transported from border gates of importation to non-tariff zones and exports from non-tariff zones from or to border gates of exportation and goods traded between non-tariff zones are similar to those for goods transported from or to border gate subject to customs sealing.

8. Declaration registration procedures for imports or exports shall be carried out at outside-border gate customs offices. If detecting violations, border-gate customs offices shall conduct physical inspection of goods at border gates.

9. Supervision of imports and exports transported from or to border gate shall be effected by customs sealing or other technical means specified by the General Department of Customs.

a/ Cases of imports and exports transported from or to border gate subject to customs sealing:

a.1/ Imports and exports transported from or to border gate subject to physical inspection are kept in containers or means of transport meeting customs sealing requirements under Article 14 of Decree No. 154/2005/ND-CP;

a.2/ For small goods lots not kept in containers or means of transport meeting customs sealing requirements, each shall be sealed up;

a.3/ For small goods lots under different import declarations transported together to an outside-border gate place for which enterprises make a written request for transporting them all in a container or means of transport, the leaders of border-gate customs offices may accept such request, seal up such container or means of transport and writing such in the delivery and receipt record.

b/ Cases not subject to customs sealing: imports and exports exempted from physical inspection when carrying out customs procedures.

c/ Cases in which customs sealing is impossible shall be handled as follows:

c.1/ Carrying out customs procedures at the border-gate customs office;

c.2/ The border-gate customs office conducts physical inspection of goods at the request of the outsideborder gate customs office.

Chapter III

PROCEDURES FOR ESTABLISHMENT OF OUTSIDE-BORDER GATE CUSTOMS CLEARANCE PLACES AND INLAND PLACES FOR INSPECTION OF IMPORTS AND EXPORTS;

AND PROCEDURES FOR ESTABLISHMENT, RELOCATION, EXPANSION OR NARROWING OF BONDED WAREHOUSES

Section 1

PROCEDURES FOR ESTABLISHMENT OF INLAND CLEARANCE DEPOTS AND OUTSIDE-BORDER GATE CUSTOMS CLEARANCE PLACES

Article 58. Establishment conditions

1. Areas where inland clearance depots will be established must satisfy the following conditions:

a/ They have been included in the inland clearance depot planning publicized by the Ministry of Transport under Clause 2, Article 4 of Decree No. 154/2005/ND-CP, for dealing with congestions of imports and exports at international seaports;

b/ They are at least 10 ha large each;

c/ They assure working conditions for customs offices, such as working offices, places for goods inspection, places for installing equipment (electronic scales, screeners, etc.), and warehouses to store exhibits used in violations;

d/ Warehouses and storing yards have fences separating them and surrounding areas and are furnished with cameras, electronic scales and other equipment for fast customs clearance. Goods brought out of and into warehouses and storing yards must be managed with the aid of computers connected to the customs supervision system.

2. Areas where outside-border gate clearance places will be established must satisfy the following conditions:

a/ They have been included in the Finance Ministry's planning on outsideborder gate clearance places;

b/ They are in geographical areas with industrial parks, export-processing zones, non-tariff zones or other special economic zones or with many industrial production factories with regular and stable import and export activities;

c/ They are convenient and suitable for transportation of goods in containers;

d/ They are at least 1 ha large each;

e/ They satisfy other conditions specified at Points c and d, Clause 1 of this Article.

Article 59. Establishment dossiers

1. A dossier of request for the establishment of an inland clearance depot:

a/ A written request for such establishment: 1 original;

b/ The Transport Ministry's written approval of such establishment (except clearance depots under planning publicized by the Ministry of Transport): 1 original;

c/ The business registration certificate showing the business line of forwarding and transporting imports and exports and/or dealing in warehouses and storing yards: 1 copy;

d/ The construction econo-technical study report: 1 copy;

e/ The operation regulation: 1 original.

2. A dossier of request for the establishment of an outside-border gate clearance place:

a/ A written request for such establishment: 1 original;

b/ The written approval of such establishment issued by the provinciallevel People's Committee of the locality where such outside-border gate customs clearance place is located: 1 original;

c/ The business registration certificate showing the business line of forwarding and transporting imports and exports and/or dealing in warehouses and storing yards: 1 copy;

d/ The construction econo-technical study report: 1 copy;

e/ The operation regulation: 1 original.

Article 60. Dossier processing order and establishment decision

1. Enterprises shall submit dossiers of request for establishment of inland clearance depots or outsideborder gate customs clearance places (below collectively referred to as customs clearance places) to provincial-level Customs Departments of localities where such customs clearance places are planned to be located.

2. Within 10 working days after receiving a complete and valid dossier, the provincial-level Customs Department shall:

a/ Examine the dossier;

b/ Make survey visits to warehouses and storing yards;

c/ Assess the satisfaction of conditions specified in Clause 2, Article 4 of Decree No. 154/2005/ND-CP and guided in Article 58 of this Circular; and send proposals and a report enclosed with the dossier to the General Department of Customs.

3. Within 30 working days after receiving the report enclosed with the dossier, the General Department of Customs shall complete the evaluation, report on evaluation results and submit them to the Minister of Finance in order to decide on the establishment of a customs clearance place under Clause 2, Article 4 of

Decree No. 154/2005/ND-CP. In case establishment conditions are not fully met, the Ministry of Finance shall issue a written reply to the enterprise.

Article 61. Customs management of customs clearance places

1. The General Department of Customs shall inspect the observance of the customs law by enterprises licensed to establish and deal in customs clearance places. Any violations shall be handled under law or reported to the Minister of Finance in order to revoke decisions establishing customs clearance places.

2. The Minister of Finance shall decide to revoke the decision establishing a customs clearance place in the following cases:

a/ The enterprise requests in writing termination of operation;

b/ Past 6 months after the issuance of the decision, the enterprise fails to put the place into operation without plausible reasons;

c/ The licensed enterprise fails to maintain the conditions specified in Clause 2, Article 4 of Decree No. 154/2005/ND-CP or guided at Points c and d, Clause 1, Article 58 of this Circular;

3. The expansion or narrowing of customs clearance places shall be considered and decided by directors of provincial-level Customs Departments at the proposal of enterprises provided that all establishment conditions specified in Article 58 of this Circular are satisfied.

Section 2

PROCEDURES FOR ESTABLISHMENT OF INLAND PLACES FOR PHYSICAL INSPECTION OF IMPORTS AND EXPORTS

Article 62. Establishment conditions

1. For concentrated goods inspection places established by customs offices or warehousing enterprises and recognized by the General Department of Customs:

a/ Location: connected to the head office of a district-level Customs Department (for a goods inspection place of one district-level Customs Department) or in the locality in which regular import and export activities are carried out, transport is convenient and suitable to the transport of goods in container; and not more than 20 km from the managing districtlevel Customs Department (for a goods inspection place of more than one district-level Customs Department);

b/ Area: A goods inspection place of one district-level Customs Department must be at least 5,000 m2 in area; a goods inspection place of more than one district-level Customs Department must be at least 10,000 m2 in area;

c/ Physical foundations and equipment:

c.1/ Working conditions for the customs office must be ensured, such as working office, place for goods inspection, place for installing equipment (electronic scales, screeners, etc.), and warehouses of material evidence involved in violations);

c.2/ A warehouse or storing yard must have fences separating it from the surrounding area and a surveillance camera system;

c.3/ Goods brought into or out of a warehouse or storing yard must be managed by computers connected to the customs office.

d/ For a place established by an enterprise, such enterprise shall register the business line of forwarding goods and warehousing.

2. For border places for gathering and inspecting imports and exports within border-gate economic zones established by warehousing enterprises and recognized by the General Department of Customs:

a/ The enterprise shall register the business line of forwarding and warehousing;

b/ Such a place must be located in the border-gate economic zone;

c/ Working conditions for the customs office are ensured, such as working office, place for goods inspection, place for installing equipment (electronic scales, screeners, etc.), and warehouses of material evidence involved in violations);

d/ A warehouse or storing yard must have fences separating it from the surrounding area and a surveillance camera system;

e/ Goods brought into or out of a warehouse or storing yard must be managed by computers connected to the customs office.

3. For goods inspection places at construction sites or construction sites' warehouses and production places proposed by enterprises and recognized by provincial-level Customs Departments:

a/ The construction site or construction site's warehouse is a place for gathering equipment, machines and supplies imported for the construction of a plant or work;

b/ The enterprise's production plant or factory is the place for gathering imports and exports subject to specific preservation, packing, sanitation, technology and safety requirements, and goods which cannot be physically inspected at border gates or concentrated inspection places;

c/ The enterprise shall arrange the ground and means for goods inspection at construction sites or production places.

4. For container freight stations (CFS) established by warehousing enterprises and recognized by the General Department of Customs:

a/ The enterprise registers the business line of forwarding and warehousing;

b/ Such CFS is in the locality in which regular import and export activities are carried out, transport is convenient and suitable to the transport of goods in container; and not more than 20 km from the managing districtlevel Customs Department;

c/ Working conditions for the customs office are ensured, such as working office, place for goods inspection, place for installing customs inspection equipment, and warehouses of material evidence involved in violations);

d/ A warehouse or storing yard must have fences separating it from the surrounding area and a surveillance camera system;

e/ Goods brought into or out of a warehouse and storing yard must be managed by computers connected to the customs office's supervision system.

Article 63. Establishment dossiers

1. A dossier for the establishment of a concentrated goods inspection place comprises:

a/ For a concentrated goods inspection place established by the customs office:

- a.1/ The provincial-level Customs Department's written request for such establishment: 1 original;
- a.2/ A plan of the traffic network and relevant industrial parks and economic zones in the locality: 1 copy;
- a.3/ The construction econo-technical study report: 1 copy;
- a.4/ The working regulation: 1 original;
- a.5/ The land use right certificate.
- b/ For a concentrated goods inspection place established by the enterprise:
- b.1/ The enterprise's written request for such establishment: 1 original;
- b.2/ The construction econo-technical study report: 1 copy;
- b.3/ The working regulation: 1 original;
- b.4/ The land use right certificate: 1 copy;

b.5/ The business registration certificate, indicating the business line of forwarding and (or) warehousing: 1 copy;

- b.6/ The provincial-level Customs Department's report on inspection results and proposal.
- 2. A dossier for the establishment of a CFS comprises:
- a/ The enterprise's written request for such establishment: 1 original;
- b/ The construction econo-technical study report: 1 copy
- c/ The working regulation: 1 original;
- d/ The land use right certificate: 1 copy;
- e/ The business registration certificate, indicating the business line of forwarding and (or) warehousing: 1 copy;
- f/ The provincial-level Customs Department's report on inspection results and proposal.

3. A dossier for the establishment of a border place for exports inspection within a border-gate economic zone comprises:

a/ The enterprise's written request for such establishment: 1 original;

b/ The construction econo-technical study report: 1 copy;

c/ The working regulation: 1 original;

d/ The land use right certificate: 1 copy;

e/ The business registration certificate, indicating the business line of forwarding and (or) warehousing: 1 copy;

f/ The provincial-level Customs Department's report on inspection results and proposal.

4. For goods inspection places at construction sites or construction sites' warehouses and production places, the enterprise shall send 1 original of the written request for recognition to the provincial-level Customs Department.

Article 64. Order of establishment

1. For concentrated goods inspection places, CFSs, and border places for gathering and inspecting exports within border-gate economic zones (below collectively referred to as places)

a/ Request for approval of the establishment of a place

a.1/ An enterprise wishing to establish a place shall send a written request to the General Department of Customs (through a provincial-level Customs Department), indicating the necessity of such establishment, conformity with the general traffic and economic master plan in the locality (enclosed with the approved plan), the location in which the place will be established, the area of the place, etc.;

a.2/ Within 5 working days after receiving the enterprise's written request, the provincial-level Customs Department shall consider the request and report its proposal to the General Department of Customs;

a.3/ Within 5 working days after receiving the provincial-level Customs Department's report, the General Department of Customs shall issue a written reply. In case of refusal, it shall clearly state the reason.

b/ After obtaining approval of the General Department of Customs, the enterprise building the warehouse or storing yard that fully satisfies the conditions specified in Article 62 of this Circular shall make a dossier under Article 63 of this Circular and send it to the General Department of Customs (through the provincial-level Customs Department of the locality in which the place will be established).

Within 10 working days after receiving the enterprise's complete dossier, the provincial-level Customs Department shall examine the dossier; make survey visits to the warehouse and storing yard; assess the satisfaction of the establishment conditions, and send a report with its proposal to the General Department of Customs (if the establishment conditions are satisfied).

Within 10 working days after receiving the provincial-level Customs Department's report enclosed with the establishment dossier, the General Director of Customs shall issue a decision on the establishment of the place or issue a written reply if the enterprise fails to fully satisfy the prescribed establishment conditions;

c/ The General Director of Customs shall revoke the above decision when the place's operation is no longer necessary or the place fails to meet customs management requirements;

d/ Directors of provincial-level Customs Departments shall consider and decide to expand or narrow the above places at the request of enterprises.

2. For goods inspection places being construction sites or construction sites' warehouses or production places:

An enterprise shall send a written request for recognition of a place to a provincial-level Customs Department. Within 5 working days after receiving the enterprise's complete dossier, the provincial-level Customs Department shall examine the dossier; make survey visits to the warehouse and storing yard and issue a decision recognizing the place. In case of refusal, it shall issue a written reply to the enterprise clearly stating the reason.

Section 3

PROCEDURES FOR ESTABLISHMENT, RELOCATION, EXPANSION AND NARROWING OF BONDED WAREHOUSES

Article 65. Procedures for establishment of bonded warehouses

1. Conditions for the establishment of bonded warehouses Conditions for the establishment of bonded warehouses are specified in Clause 3, Article 22 of Decree No. 154/2005/ND-CP, and the following requirements must also be met:

a/ Location of a bonded warehouse

a.1/ A bonded warehouse must be established within an area specified in Clause 2, Article 22 of Decree No. 154/2005/ND-CP;

a.2/ For a previously established bonded warehouse outside the area specified in Clause 2, Article 22 of Decree No. 154/2005/ND-CP, the General Department of Customs shall make consideration and decision suitable to practical conditions.

b/ Area

b.1/ The area of a bonded warehouse must be at least 1,000 m2 (excluding the storing yard and other auxiliary works such as internal roads, working office, etc.);

b.2/ The area of a special-use warehouse (such as gold, silver and gem warehouses; and warehouses of goods subject to cold preservation, etc.) may be smaller than 1,000 m2;

b.3/ Special-use bonded storing yards (such as material timber, iron and steel storing yards, etc.) are not subject to any area requirement.

c/ Fences separating a bonded warehouse from the surrounding area

c.1/ Fences are not required for a bonded warehouse within a border gate or port area with fences separating it from the surrounding area and under the customs office's control, inspection and supervision;

c.2/ For a bonded warehouse outside the above area, fences are required to separate it from the surrounding area to meet customs control, inspection and supervision requirements.

d/ Management software and surveillance cameras

d.1/ The owner of a bonded warehouse must have accounting books and computers installed with software for monitoring and managing goods warehoused, ex-warehoused, kept and left in stock, and connected to the network of the bonded warehouse-managing customs office;

d.2/ At a bonded warehouse, cameras must be installed for supervising goods ex-warehoused, warehoused and kept in stock that meet the customs office's monitoring, supervision and data search requirements when necessary.

2. An establishment dossier comprises:

a/ An application for the establishment of a bonded warehouse (made according to form No. 23-DXTL/KNQ/2010, Appendix III to this Circular);

b/ The business registration certificate, indicating the warehousing function: 1 copy;

c/ The design plan of the warehouse and storing yard zone, showing its boundary with the outside, locations of warehouses, internal roads, fire and explosion prevention and fighting systems, security system, the warehouse office and working place of the customs office (when requested by the customs office);

d/ Lawful documents proving the right to use warehouses, storing yards, technical infrastructure, management software, surveillance cameras, etc., enclosed with the design plan of the bonded warehouse and storing yard zone within the border gate and industrial park area.

3. Order of establishment

a/ Request for approval of the establishment of a bonded warehouse

a.1/ An enterprise wishing to establish a bonded warehouse or storing yard shall send a written request to the provincial-level Customs Department and the General Department of Customs (through the provincial-level Customs Department), indicating the location, area and conditions on physical foundations;

a.2/ Within 5 working days after receiving the enterprise's request, the provincial-level Customs Department shall examine the dossier and, based on the operation of bonded warehouses already established in the locality or area in which the bonded warehouse will be established, report and propose the request to the General Department of Customs for approval;

a.3/ Within 10 working days after receiving the provincial-level Customs Department's report and proposal and the dossier of request for approval of the establishment of a bonded warehouse, if the dossier is valid, the General Department of Customs shall issue a written reply and provide the enterprise with guidance on necessary matters; if the dossier is invalid, it shall issue a written reply clearly stating the reason to the enterprise.

b/ After obtaining the General Department of Customs' approval, the enterprise building the warehouse or storing yard that fully meets the above establishment conditions and requirements shall make a dossier and send it to the General Department of Customs (through the provincial-level Customs Department of the locality in which the bonded warehouse will be established);

c/ Within 10 working days after receiving the enterprise's complete and valid dossier, the provincial-level Customs Department shall:

c.1/ Examine the dossier;

c.2/ Make survey visits to the warehouse and storing yard;

c.3/ Report on results and make proposals to the General Department of Customs.

d/ Within 7 working days after receiving the provincial-level Customs Department's report and proposal and the dossier of application for the establishment of a bonded warehouse, the General Director of Customs shall establish the bonded warehouse if it fully meets the conditions specified in Clause 3, Article 22 of Decree No. 154/2005/ND-CP, and Clause 1 of this Article.

Article 66. Termination of operation of bonded warehouses

The General Director of Customs may terminate the operation of a bonded warehouse in the following cases:

1. The enterprise requests in writing such termination;

2. Within a year, the warehouse owner has thrice committed customsrelated administrative violations and paid fines at a level beyond the sanctioning competence of the head of a district-level Customs Department under the Ordinance on Handling of Administrative Violations, or is examined for penal liability.

3. After 6 months, the enterprise fails to put its bonded warehouse into operation or has no goods consigned in its warehouse without a plausible reason.

Article 67. Procedures for relocation, expansion or narrowing of bonded warehouses

1. An enterprise that wishes to expand the area of warehouses or storing yards at the place for building a bonded warehouse the establishment of which has been decided by the General Department of Customs, or wishes to relocate a bonded warehouse from the place already decided by the General Department of Customs to a new place in the same area specified in Clause 2, Article 22 of Decree No. 154/2005/ND-CP, shall make and send a dossier to the provincial-level Customs Department managing the bonded warehouse. The dossier comprises:

a/ An application for relocation, expansion or narrowing of the bonded warehouse;

b/ The plan of warehouses and storing yards to be relocated, expanded or narrowed;

c/ Lawful documents proving the right to use warehouses and storing yards to be relocated or expanded.

2. After receiving the enterprise's complete and valid dossier, the provincial-level Customs Department shall:

a/ Examine the dossier;

b/ Make survey visits to warehouses and storing yards;

c/ Within 15 days after receiving a complete and valid dossier, the director of the provincial-level Customs Department shall decide to relocate, expand or narrow the bonded warehouse or issue a written reply to the enterprise in case the conditions for relocating, expanding or narrowing the warehouse are not fully satisfied.

3. In case an established bonded warehouse is relocated to another place outside its present area, the enterprise shall request in writing termination of the operation of the old warehouse and carry out procedures for the establishment of a new one, then send the request to the provincial-level Customs Department for consideration and reporting to the General Department of Customs in order to terminate the operation of the old warehouse and establish a new one.

Article 68. Change of bonded warehouse owners

Procedures for the change of a bonded warehouse owner shall be carried out as follows:

1. The warehouse's old owner shall make an application for the change of the warehouse owner;

2. The warehouse's new owner shall carry out procedures for changing the warehouse owner. Change dossiers comply with Clause 2, Article 65 of this Circular, except the document specified at Point c, Clause 2 of Article 65 if there is no change in the current state of the warehouse;

3. The provincial-level Customs Department shall receive the warehouse owner's dossier of application for the change of warehouse owner and report and propose such to the General Department of Customs for decision without having to make survey visits to warehouses and storing yards again if there is no change in the actual state of warehouses.

Part III

CUSTOMS PROCEDURES FOR NON-COMMERCIAL IMPORTS AND EXPORTS

Article 69. Non-commercial imports and exports

Non-commercial imports and exports (below referred to as non-commercial goods) include:

1. Overseas organizations' and individuals' donations and gifts to Vietnamese organizations and individuals; or those consigned by Vietnambased organizations and individuals to overseas organizations and individuals;

2. Goods of Vietnam-based diplomatic representative missions and international organizations and their staff;

3. Goods as humanitarian aid;

4. Temporarily imported and exported goods of individuals entitled to tax exemption by the Vietnamese State;

5. Free sample goods;

6. Temporarily imported and exported working tools and means of agencies, organizations or people on entry or exit for a specified period; 7. Movable assets of organizations and individuals;

8. Personal luggage of people on entry consigned under bills of lading, and hand luggage of people on entry which is in excess of duty-free quota;

9. Other non-commercial goods.

Article 70. Customs declarants

For non-commercial goods, customs declarants may be: 1. Goods owners;

2. Customs clearance agents, if goods owners sign contracts with agents; or,

3. Persons authorized in writing by goods owners.

In case of authorization, authorized persons may, in their names, declare, sign and append stamps in customs declarations.

Article 71. Customs dossiers for imports

1. Papers to be submitted include:

a/ The declaration of non-commercial goods: 2 originals;

b/ The bill of lading (except hand luggage in excess of duty-free quota specified at Point 8, Article 69 of this Circular): 1 copy;

c/ The written authorization specified in Clause 3, Article 70 of this Circular: 1 original;

d/ A competent agency's certification of humanitarian aid, in case of import of goods as humanitarian aid: 1 original;

e/ The police office's decision or notice allowing overseas Vietnamese to return to settle in Vietnam; or Vietnamese passport or its substitute paper which remains valid for these people to permanently reside in the country, with the entry certification stamp of the border-gate immigration management agency: 1 certified copy enclosed with the original for comparison (under the Finance Ministry's Circular No. 16/2008/TT-BTC of February 13, 2008, guiding import and temporary import of motorbikes for non-commercial purposes);

f/ A competent state agency's written permission for the transfer of the organization's assets from abroad into Vietnam: 1 copy:

g/ The import permit (in case of import of banned goods or goods subject to conditional import): 1 original;

h/ The certificate of origin, for the cases specified at Point e.6, Clause 2, Article 11 of this Circular: 1 original;

i/ The notice or decision or the agreement to give or donate goods: 1 copy;

j/ Other papers required by law on a case-by-case basis.

2. Papers to be produced include:

a/ The carrier's notice of goods receipt (except hand luggage in excess of duty-free quota specified in Clause 8, Article 69 of this Circular);

b/ The contract signed with the customs agent (applicable to the case specified in Clause 2, Article 70 of this Circular);

c/ The duty-free goods quota book, for diplomatic missions, international organizations and their foreign staff.

3. Dossiers for identifying non-commercial imports not liable to duty are customs dossiers specified in this Article.

Article 72. Customs dossiers for exports

1. Papers to be submitted include:

a/ The declaration of non-commercial goods: 2 originals;

b/ The written authorization prescribed in Clause 3, Article 70 of this Circular: 1 original;

c/ A competent agency's written permission for export of goods as humanitarian aid and the certification of humanitarian aid, in case of export of goods as humanitarian aid: 1 original;

d/ A competent state agency's written permission for overseas settlement (in case of export of movable assets of individuals and families): 1 certified copy;

e/ A competent state agency's written permission for the transfer of the organization's assets abroad: 1 certified copy;

f/ The export permit (in case of export of banned goods or goods subject to conditional export): 1 original;

g/ Other papers required by law on a case-by-case basis. 2. Papers to be produced are contracts signed with customs agents (in the case specified in Clause 2, Article 70 of this Circular).

3. Dossiers for identifying non-commercial exports not liable to duty are customs dossiers specified in this Article.

Article 73. Customs procedures

1. Customs declarants shall declare and submit customs dossiers. Customs offices shall receive, register and carefully examine the dossiers.

2. The forms and extent of physical inspection of non-commercial goods comply with inspection principles specified in the Customs Law and Decree No. 154/2005/ND-CP, as decided by directors of district-level Customs Departments.

Particularly, goods eligible for privileges and immunities comply with Article 38 of Decree No. 154/2005/ND-CP.

3. Duties, fees and other charges comply with current law.

4. Customs clearance for non-commercial goods

The customs officer shall sign and append a stamp "Cleared from customs procedures" in the customs declaration at the final stage.

5. Monitoring and liquidation of working tools and means of agencies, organizations and people on entry or exit for non-commercial purposes which are temporarily imported or re-exported for a specified period

a/ Upon the time for re-export, the customs declarant shall carry out procedures for re-export of working tools and means and liquidate dossiers at the district-level Customs Department at which such tools and

means are temporarily imported. When they are re-exported at a district-level Customs Department other than that at which they are temporarily imported, after carrying out re-export procedures, the district-level Customs Department shall send the original customs declaration (kept at the customs office) to the district-level Customs Department at which such tools and means are temporarily imported for dossier liquidation under regulations and keep the copy of this declaration together with the customs dossier;

b/ Upon the time for re-import, the customs declarant shall carry out procedures for re-import of working tools and means and liquidate dossiers at the district-level Customs Department at which such tools and means are temporarily exported. When they are re-imported at a district-level Customs Department other than that at which they are temporarily exported, after carrying out re-import procedures, the customs declarant shall directly contact the district-level Customs Department at which such tools and means are temporarily exported for dossier liquidation under regulations;

c/ Past the prescribed time limit, the customs declarant who fails to reexport or re-import working tools and means shall be handled under current regulations.

Part IV

CUSTOMS PROCEDURES FOR MOTOR VEHICLES ON ENTRY, EXIT, IN TRANSIT OR MOVING FROM PORT TO PORT

Section 1

FOR CARS ON ENTRY, EXIT OR IN TRANSIT VIA BORDER GATES FOR COMMERCIAL PURPOSES

Article 74. Customs procedures for foreign cars on entry (temporary import)

1.Customs declarants shall submit and/or produce the following papers:

a/ For foreign cars on entry under a bilateral agreement between Vietnam and a bordering country:

a.1/ A competent agency's permit: to produce the original;

a.2/ The motor vehicle registration paper: to produce the original;

a.3/ The declaration of imported or transited goods: to produce the original;

a.4/ The list of passengers (for passenger cars): to submit 1 original;

a.5/ The entry/exit declaration (if any) of the vehicle operator and attendants on the vehicle: to produce the original;

a.6/ Other papers under the land transport treaty between Vietnam and a bordering country: to produce the original;

a.7/ The declaration of road motor vehicles temporarily imported for reexport (made according to form No. 24 PTVTDB/TN-TX/2010, Appendix III to this Circular), printed by the customs office.

b/ Motor vehicles temporarily imported under the Greater Mekong Subregion Cross-Border Transport Agreement (GMS Agreement) comply with the Transport Ministry's Circular No. 29/2009/TT-BGTVT of November 17, 2009. A dossier comprises: b.1/ The GMS road transport permit: to produce the original;

b.2/ The motor vehicle temporary admission document: to produce the original;

b.3/ The container temporary admission document: to produce the original;

b.4/ The transit and inland customs clearance document: to produce the original.

c/ For foreign right-hand-drive cars, the papers specified in the Government's Decree No. 80/2009/ND-CP of October 1, 2009, are required, specifically:

c.1/ The Transport Ministry's written approval: to produce the original;

c.2/ The certificate of technical inspection and environmental protection for motor vehicles, which is granted by the registering country and remains valid: to produce the original;

c.3/ The motor vehicle registration paper: to produce the original;

c.4/ The entry/exit declaration (if any) of the vehicle operator: to produce the original;

c.5/ The declaration of road motor vehicles temporarily imported for reexport (made according to form No. 24 PTVTDB/TN-TX/2010, Appendix III to this Circular), printed by the customs office.

2. Customs offices shall receive and examine dossiers and carry out customs procedures according to the process prescribed by the General Department of Customs.

Article 75. Customs procedures for foreign cars on exit (re-export)

1.Customs declarants shall submit and/or produce the following papers:

a/ For foreign cars on entry under a bilateral agreement between Vietnam and a bordering country:

a.1/ A document on extension of the operation period of the motor vehicle (if any): to submit the original;

a.2/ A competent agency's permit: to produce the original;

a.3/ Other papers under a land transport treaty between Vietnam and a bordering country: to produce the original;

a.4/ The list of passengers (for passenger cars moving on routes): to submit the original;

a.5/ The declaration of exported or transited goods (when procedures are carried out simultaneously for motor vehicles and exported or transited goods): to produce the original;

a.6/ The entry/exit declaration (if any) of the vehicle operator and attendants working on the vehicle: to produce the original.

b/ Motor vehicles re-exported under the GMS Agreement comply with the Transport Ministry's Circular No. 29/2009/TT-BGTVT of November 17, 2009. A dossier comprises:

b.1/ The GMS road transport permit: to produce the original;

b.2/ The motor vehicle temporary admission document: to produce the original;

b.3/ The container temporary admission document: to produce the original;

b.4/ The transit and inland customs clearance document: to produce the original.

c/ For foreign right-hand-drive cars, originals of the papers specified in the Government's Decree No. 80/2009/ND-CP of October 1, 2009, are required, specifically:

c.1/ The motor vehicle registration paper;

c.2/ The entry/exit declaration (if any) of the vehicle operator;

c.3/ The declaration of road motor vehicles temporarily imported for reexport (made according to form No. 24-PTVTDB/TN-TX/2010, Appendix III to this Circular).

2. Customs offices shall receive and examine dossiers and carry out customs procedures according to the process prescribed by the General Department of Customs.

Article 76. Customs procedures for Vietnamese cars on exit (temporary export) and entry (re-import)

Customs procedures for Vietnamese cars on exit (temporary export) and entry (re-import) comply with Articles 74 and 75 of this Circular. Particularly, the vehicle declaration shall be made according to form No. 25-PTVTDB/TX-TN/2010 provided in Appendix III to this Circular. Cars with international transport permits shall be managed by computer, no vehicle declaration is required to be printed out.

Section 2

FOR MEANS OF TRANSPORT SPECIFIED IN ARTICLE 46 OF DECREENo. 154/2005/ND-CP

Article 77. Mechanism for managing rudimentary means of transport

1. Rudimentary means of transport is that moved by human power or drawn by animals (e.g., rickshaw, pedicab, cart drawn by horse or ox).

2. Upon entry or exit of rudimentary means of transport, their owners or operators are not required to apply for permits or fill in declarations of means of transport.

Article 78. Customs procedures

Upon entry or exit of rudimentary means of transport, their owners or operators shall fill in the following declarations for submission to customs offices:

1. The declaration of imports and exports (if any);

2. The declaration of luggage of operators and passengers (if any).

Section 3

FOR MOTOR VEHICLES OF INDIVIDUALS, AGENCIES AND ORGANIZATIONS WHICH ARE TEMPORARILY IMPORTED FOR RE-EXPORT OR TEMPORARILY EXPORTED

FOR RE-IMPORT FOR NON-COMMERCIAL PURPOSES UNDER ARTICLE 47 OF DECREE No. 154/2005/ND-CP

Article 79. Customs procedures for cars on entry or exit for noncommercial purposes

1. For foreign cars on entry (temporary import), customs declarants shall submit and produce the following papers:

a/ For foreign cars on entry under a bilateral treaty between Vietnam and a bordering country:

a.1/ A competent agency's written permission (except temporary admission of cars for sale at border gates): to produce the original;

a.2/ The motor vehicle registration paper: to produce the original;

a.3/ Other papers under a land transport treaty between Vietnam and a bordering country: to produce the original;

a.4/ The declaration of the road motor vehicle temporarily imported for re-export (made according to form No. 24 PTVTDB/TN-TX/2010, Appendix III to this Circular), printed by the customs office;

a.5/ The entry/exit declaration (if any) of the vehicle operator and attendants working on the vehicle: to produce the original;

b/ For foreign right-hand-drive cars, originals of the papers specified in the Government's Decree No. 80/2009/ND-CP of October 1, 2009, are required, specifically:

b.1/ The Transport Ministry's written approval;

b.2/ The certificate of technical inspection and environmental protection for motor vehicles;

b.3/ The motor vehicle registration paper;

b.4/ The entry/exit declaration (if any) of the vehicle operator;

b.5/ The declaration of the road motor vehicle temporarily imported for re-export (made according to form No. 24-PTVTDB/TN-TX/2010, Appendix III to this Circular).

2. For foreign cars on exit (re-export), customs declarants shall submit or produce the following papers:

a/ The declaration of the road motor vehicle temporarily imported for reexport, containing the temporary admission certification of the border-gate customs office carrying out temporary admission procedures: to submit the original;

b/ A competent agency's written permission: to submit the original;

c/ The document on temporary admission extension (if any): to submit the original.

3. For Vietnamese cars on exit (temporary export) or entry (re-import), customs dossiers are similar to those specified in Clauses 1 and 2 above. Particularly, vehicle declarations shall be made according to form No. 25PTGTVT-TX-TN/2010, Appendix III to this Circular. Cars with international transport permits shall be managed by computer, no vehicle declaration is required to be printed out.

4. Customs offices shall receive and examine dossiers and carry out customs procedures according to the process prescribed by the General Department of Customs.

Article 80. Customs procedures for motor or non-motor boats, speed boats, etc., on entry or exit

1. Customs procedures for ships, boats, lighters, motor or non-motor boats, speed boats, etc., subject to operation registration under regulations applicable to waterway craft on entry or exit

a/ Craft owners or operators shall submit or produce to customs offices the following papers:

a.1/ A competent agency's written permission (except temporary admission of craft for operation at border gates): to produce the original;

a.2/ The craft registration paper (if any): to produce the original;

a.3/ The declaration of imports or exports (if any): to produce the original;

a.4/ The entry/exit declaration (if any) of the craft operator and attendants working on the craft: to produce the original;

a.5/ The declaration of the riverway craft temporarily imported for reexport (made according to form No. 26-PTVTDS/TX-TN/2010 provided in Appendix III to this Circular) or the declaration of the riverway craft temporarily exported for re-import (made according to form No. 27PTVTDS/TX-TN/2010, Appendix III to this Circular): to produce the original.

b/ Customs offices shall receive and examine dossiers and carry out customs procedures according to the process prescribed by the General Department of Customs.

2. Customs procedures applicable to motorbikes and mopeds on entry or exit for non-commercial purposes

a/ For foreign motorbikes and mopeds on entry (temporary import), customs declarants shall submit or produce the following papers:

a.1/ A competent agency's written permission (except temporary admission of motorbikes and mopeds for sale at border gates): to submit a copy;

a.2/ The motor vehicle registration paper: to produce the original;

a.3/ The declaration of road motor vehicles temporarily imported for reexport (made according to form No. 24-PTVTDB/TX-TN/2010, Appendix III to this Circular), printed by the customs office.

b/ For foreign motorbikes and mopeds on exit (re-export), customs declarants shall submit and produce the following papers:

b.1/ The declaration of road motor vehicles temporarily imported for reexport, with temporary admission certified by the border-gate customs office carrying out temporary admission procedures: to submit the original;

b.2/ The document on temporary admission extension (if any): to submit a copy and produce the original.

c/ For Vietnamese motorbikes and motorcycles on exit (temporary export) or entry (re-import), customs dossiers are similar to those specified at Points a and b of Clause 2. Particularly, the vehicle declaration shall be made according to form No. 25-PTVTDB/TX-TN/2010, Appendix III to this Circular;

d/ Customs offices shall receive and examine dossiers and carry out customs procedures according to the process prescribed by the General Department of Customs.

Article 81. Specific regulations applicable to motor vehicles of individuals and organizations in border areas that regularly travel across the border

1. These motor vehicles include:

a/ Foreign trucks which enter Vietnamese border-gate areas within a day (1 day) for delivering imports or receiving exports;

b/ Vietnamese trucks which go across the border within a day (1 day) for delivering exports or receiving imports then return to Vietnam;

c/ Motor vehicles of individuals, agencies and organizations in border areas that regularly travel across the border in their daily-life activities.

2. For the cases specified at Points a and b, Clause 1 of this Article, if wishing to extend the time of stay in border-gate areas for a plausible reason, the vehicle operator or goods owner shall send a written request to the director of a district-level Customs Department for consideration and extension. An extension must not exceed 2 days.

3. These motor vehicles may be temporarily imported for re-export or temporarily exported for re-import via the same border gate.

4. Neither permits nor declarations are required for these vehicles. Bordergate customs offices shall manage and monitor these vehicles with the aid of books or computers.

Section 4

FOR VIETNAMESE AND FOREIGN SEAGOING SHIPS ON ENTRY, EXIT, IN TRANSIT OR MOVING FROM PORT TO PORT

Article 82. Customs declarants

Captains or carriers' lawful representatives (below collectively referred to as captains) shall declare and carry out customs procedures for seagoing ships on entry, exit, in transit or moving from port to port.

Article 83. Customs clearance places

Customs procedures for Vietnamese and foreign seagoing ships on entry, exit or in transit shall be carried out at head offices or representative offices of port authorities, except the cases specified at Point b, Clause 2, Article 27 of the Government's Decree No. 71/2006/ND-CP of July 25, 2006, on management of seaports and marine navigable channels.

Article 84. Time limits for customs clearance

Customs declarants shall declare and submit customs dossiers within the following time limit:

1. Within 2 hours, for seagoing ships on entry, after the ships have safely anchored at places designated by directors of port authorities;

2. At least 2 hours before the ships leave ports, for seagoing ships on exit. Particularly for passenger ships and liners, right before the time the ships leave ports;

3. For plausible reasons, the above time limit may be changed provided that captains shall notify such in writing at least 30 minutes in advance to port customs offices.

Article 85. Customs declaration

Customs declarants shall make customs declarations under Article 86 of this Circular, taking into account the following contents:

1. Cargo declarations must be fully, specifically and clearly filled in terms of description of goods; general terms such as groceries, office equipment, electronic products, electric articles for family use, children's toys, etc., are not accepted. If general terms are given for certain commodities, attached lists of these commodities must be additionally submitted.

2. For luggage of crewmembers

a/ To declare luggage of the whole crew in the crewmember luggage declaration;

b/ Each crewmember shall declare his/her goods on the declaration of noncommercial goods.

3. Luggage in excess of allowable limits and goods of passengers on entry or exit comply the Government's Decree No. 66/2002/ND-CP of July 1, 2002, prescribing allowable luggage limits of people on entry and exit and duty-free imported donations and gifts.

Article 86. Customs dossiers

1. For seagoing ships on entry, captains shall submit to port customs offices a dossier comprising:

- a/ The general declaration: 1 original;
- b/ The cargo declaration: 1 original;
- c/ The declaration of dangerous goods (if any): 1 original;
- d/ The ship's provisions declaration: 1 original;
- e/ The list of crewmembers: 1 original;
- f/ The list of passengers (if any): 1 copy;
- g/ The declaration of crewmembers' goods and luggage: 1 original;

h/ The declaration of goods transferred from or to port, transited or transshipped (if any): 1 original.

2. For foreign seagoing ships on exit, if there is no change in the declared contents upon entry, captains are not required to submit the papers specified in Clause 1 of this Article, except the general declaration, cargo declaration and list of passengers (if any). In case of any change, captains shall submit the papers

specified in Clause 1 of this Article, except the declaration of goods transferred from or to port, transited or transshipped, and produce the following papers:

a/ The purchase invoice of seagoing ship goods;

b/ The duty-free goods purchase invoice (under goods orders).

3. For Vietnamese seagoing ships on exit, captains shall submit to port customs offices a dossier comprising:

a/ The general declaration: 1 original;

b/ The cargo declaration: 1 original;

c/ The ship's provisions declaration: 1 original;

d/ The list of crewmembers: 1 original;

e/ The declaration of crewmembers' goods and luggage: 1 original;

f/ The list of passengers (if any): 1 copy.

4. For seagoing ships in transit

a/When carrying out entry procedures, captains shall submit the dossiers specified in Clause 1 of this Article to customs offices of ports where ships enter.

Customs offices of ports where ships enter shall seal up dossiers (comprising one cargo declaration and one ship dossier transfer slip) and hand them to captains for transfer to customs offices of ports where ships exit.

b/ When carrying out exit procedures, captains shall submit to customs offices of ports where ships exit the general declaration (1 original) and dossiers transferred by customs offices of ports where ships enter.

5. For seagoing ships moving from port to port

a/ At ports of departure:

a.1/ Captains shall submit to port customs offices the general declaration, declaration of imports transferred from or to port, declaration of exports already loaded onboard ships, declaration of transited and transshipped goods (if any): 1 copy each.

a.2/ Port customs offices shall seal up port-to-port dossiers and hand them to captains for submission to customs offices of ports of arrival.

b/ At ports of arrival, captains shall submit the general declaration (1 original) and sealed port-to-port dossiers transferred by customs offices of ports of departure.

CUSTOMS PROCEDURES FOR AIRCRAFT ON ENTRY, EXIT, IN TRANSIT OR FLYING FROM AIRPORT TO AIRPORT

Article 87. Responsibilities of airport authorities, air carriers and pilots

1. At least 24 hours (or one hour, for irregular flights) before the entry of an aircraft or before aviation authorities complete aviation procedures for passengers on exit and exports, the airport authority shall provide the customs office with the following information:

a/ The flight's number;

b/ The aircraft's nationality;

c/ The type of aircraft;

d/ The flight's itinerary;

e/ The time of the aircraft's arrival and departure;

f/ The aircraft's parking place;

g/ The arrival gate for passengers;

h/ The time of loading and unloading goods onto and from the aircraft. The airport authority shall notify one hour in advance (upon entry or exit of an aircraft) to the customs office of any change in the above information.

2. At least 3 hours before the entry of an aircraft or before aviation authorities complete aviation procedures for passengers on exit and exports, the air carrier shall provide the customs office with the following information:

a/ Goods imported, exported, transited or transferred from airport to airport;

b/ Checked luggage;

c/ The list of passengers;

d/ The list of crewmembers and attendants working aboard the aircraft.

3. Right after aviation authorities complete aviation procedures for exported goods and luggage and passengers on exit and right after an aircraft on entry parks at the designated place, the pilot or his/her lawful representative shall submit to the customs office a customs dossier comprising:

a/ The aircraft's general declaration: 1 original;

b/ The manifest of goods: 2 originals;

c/ The manifest of checked luggage: 2 originals;

d/ The list of passengers: 1 original;

e/ The list of crewmembers and attendants working aboard the aircraft: 1 original.

Article 88. Responsibilities of customs offices

Customs offices shall receive and process information and data mentioned in Clauses 1 and 2, Article 87 of this Circular provided by airport authorities and air carriers; and receive customs dossiers mentioned in Clause 3, Article 87 of this Circular from pilots or their lawful representatives in order to carry out customs procedures for aircraft under law.

Article 89. Customs procedures for aircraft on international entry and exit in combination with domestic transport and aircraft for domestic transport in combination with transport of imports and exports

1. Customs procedures for aircraft on international entry and exit in combination with domestic transport are similar to those for aircraft flying from airport to airport. Imports or exports in a flight must undergo customs procedures applicable to their kinds.

2. For aircraft for domestic transport in combination with transport of imports and exports, carriers shall arrange imported or exported goods and luggage in separate places in cargo holds for customs sealing.

Section 6

CUSTOMS PROCEDURES FOR INTERNATIONAL TRAINS ON ENTRY OR EXIT

Article 90. Customs procedures for trains on entry

1. At border stations

a/ Right after a train enters a border station, the guard or his/her representative (below collectively referred to as the guard) shall submit to the border station's border-gate customs office the following papers:

a.1/ The list or manifest of goods (for cargo trains): 1 original;

a.2/ The bill of lading: 1 second copy;

a.3/ The carriage handover and receipt paper: 1 original;

a.4/ The manifest of goods to be unloaded at each inland station: 2 originals (made according to form No. 28-BLK/DS/2010 provided in Appendix III to this Circular).

a.5/ The list of passengers and slips of their checked luggage (for passenger trains and passengers carrying out procedures at border stations): 1 original;

a.6/ The list and declaration of luggage of the crew and attendants working on the train (for passenger trains and passengers carrying out procedures at border stations): 1 original.

b/ The border station's border-gate customs office shall:

b.1/ Receive and examine papers submitted by the guard;

b.2/ Compare and conduct physical inspection of locomotives, quantity and codes of all consigned goods or luggage carriages;

b.3/ Check the carrier's seal of each consigned goods or luggage carriage;

b.4/ Seal up each goods carriage or each goods lot to be unloaded at the inland station. For goods which cannot be sealed up, such as extra-long or extra-heavy goods or bulk goods, the guard shall preserve them in their original state;

b.5/ Supervise during the time the train stops at the station: the unloading of consigned goods and luggage to warehouses and storing yards for carrying out import procedures at the station;

b.6/ Make a record of handover of imports to be transported to another station to the inland station's border-gate customs office: 2 copies;

b.7/ Append the operational seal to papers submitted by the guard and seal up the customs dossier comprising 1 original of the manifest of goods unloaded to the inland station; 1 second copy of the bill of lading of goods unloading at the inland station, and 1 copy of the handover record.

2. At inland stations

a/ Right after a train arrives at an inland station, the guard shall submit to the inland station's border-gate customs office the following:

a.1/ Papers already sealed up by the border station's border-gate customs office;

a.2/ The list of passengers and slips of their checked luggage (for passenger trains and passengers carrying out procedures at inland stations): 1 original;

a.3/ The list and declaration of luggage of the crew and attendants working on the train (for passenger trains and passengers carrying out procedures at inland stations): 1 original.

b/ The inland station's border-gate customs office shall:

b.1/ Receive and examine papers submitted by the guard;

b.2/ Compare and physically inspect the quantity of consigned goods and luggage carriages and the code of each carriage;

b.3/ Examine the carrier's seal and seal of the border station's border-gate customs office (if any) of each goods and consigned luggage carriage;

b.4/ Conduct supervision during the time the train stops at the station;

b.5/ Append the operational seal to and return papers submitted by the border station's border-gate customs office.

Article 91. Customs procedures for trains on exit

1. At inland stations

a/ Before a train leaves an inland station, the guard shall submit to the inland station's border-gate customs office the following papers:

a.1/ The train composition form (for passenger trains carrying out customs procedures at inland stations): 1 original;

a.2/ The bill of lading: 1 second copy (for trains with exports carriages);

a.3/ The list and declaration of luggage of the crew and attendants working on the train (for passenger trains and passengers carrying out procedures at inland stations): 1 original;

a.4/ The list of passengers and slips of their checked luggage (for passenger trains and passengers carrying out procedures at inland stations): 1 original.

b/ The inland station's border-gate customs office shall:

b.1/ Receive and examine papers submitted by the guard;

b.2/ Seal up every exports carriage or exports lot. For goods which cannot be sealed up, such as extralong or extra-heavy goods or bulk goods, the guard shall preserve them in their original state;

b.3/ Make a record of handover of exports to the border station's border gate customs office: 2 copies;

b.4/ Append the operational seal to papers submitted by the guard;

b.5/ Seal up the customs dossier comprising 1 copy of the handover record; 1 copy of the manifest of exports; and 1 second copy of the bill of lading, and hand them to the guard for submission to the border station's border gate customs office.

2. At border stations

a/When a train arrives at a border station, the guard shall submit to the border station's border-gate customs office the following:

a.1/ Papers already sealed up by the inland station's border-gate customs office;

a.2/ The train composition form: 1 original appended with the border station's stamp (for cargo trains);

a.3/ The carriage handover and receipt paper, and goods handover and receipt paper (for cargo trains): 1 original;

a.4/ The list of passengers and slips of their checked luggage (for passenger trains and passengers carrying out procedures at border stations): 1 original;

a.5/ The list and declaration of luggage of the crew and attendants working on the train (for passenger trains and passengers carrying out procedures at border stations): 1 original.

b/ The border station's border-gate customs office shall:

b.1/ Receive and examine papers submitted by the guard;

b.2/ Compare and physically inspect locomotives and the quantity of consigned goods and luggage carriages and code of each carriage;

b.3/ Supervise the loading of goods and luggage already cleared from customs procedures onto each carriage;

b.4/ Seal up each consigned goods and luggage carriage or each goods lot. For goods which cannot be sealed up, such as extra-long or extra-heavy goods or bulk goods, the guard shall preserve them in their original state until the train's exit;

b.5/ Conduct supervision during the time the train stops at the station;

b.6/ Append the operational seal to papers submitted by the guard;

b.7/ Append the seal to and return papers submitted by the inland station's border-gate customs office.

Part V

EXPORT DUTY, IMPORT DUTY AND OTHER REGULATIONS ON TAX ADMINISTRATION OF EXPORTS AND IMPORTS

Section 1

EXPORT DUTY AND IMPORT DUTY BASESAND CALCULATION METHODS

Article 92. Tax bases for goods subject to pro rata duty rates

For goods subject to pro rata duty rates, tax bases are as follows:

1. Quantity of units of each goods item actually exported or imported as indicated in a customs declaration.

2. Dutiable value which complies with the Customs Law, the Tax Administration Law and June 14, 2005 Law No. 45/2005/QH11 on Export Duty and Import Duty; the Government's Decree No. 40/2007/ND-CP of March 16, 2007, prescribing the customs valuation of exports and imports; and the Ministry of Finance's Circular No. 40/2008/TT-BTC of May 21, 2008, guiding Decree No. 40/2007/ND-CP.

3. Duty rate:

a/ Export duty rates for exports are specified for a number of goods items in the Export Tariff promulgated by the Minister of Finance.

b/ Import duty rates for imports are specified for each goods item, including preferential duty rates, particularly preferential duty rates and ordinary duty rates:

b.1/ Preferential duty rates are applicable to imports originating from countries or groups of countries or territories which give most favored nation treatment in trade relations with Vietnam. The list of countries and groups of countries or territories giving most favored nation treatment to Vietnam is announced by the Ministry of Industry and Trade. Preferential duty rates are specified for each goods item in the Preferential Import Tariff promulgated by the Minister of Finance.

Taxpayers shall make declarations by themselves and take responsibility before law for the origin of goods to serve as a basis for determination of preferential import duty rates.

b.2/ Particularly preferential duty rates are specified for each goods item in the Minister of Finance's decisions and guided in the Ministry of Finance's Circular No. 45/2007/TT-BTC of May 7, 2007, guiding the application of particularly preferential import duty rates.

b.3/ Ordinary duty rates are applicable to imports originating from countries or groups of countries or territories which do not give most favored nation treatment or particular import duty incentives to Vietnam. Ordinary duty rates are equal to 150% of preferential duty rates for corresponding goods items specified in the Preferential Import Tariff.

Ordinary duty rate = Preferential duty rate x 150%

The classification of goods for determination of duty rates specified in Clause 3 of this Article must adhere to the goods classification principles set forth in the Government's Decree No. 06/2003/ND-CP of January 22, 2003, on classification of exports and imports, and the Ministry of Finance's Circular No. 49/2010/TT-BTC of April 12, 2010, guiding the classification of, and application of duty rates to, imports and exports. For imported machines and equipment in Chapters 84 and 85 of the Preferential Import Tariff which are combinations and lines complying with notes 3, 4 and 5, Part XVI of the List of Imports and Exports of Vietnam, and in the unassembled or knock-down form, in addition to the above provisions, declaration procedures must be carried out as guided in Articles 97 and 98 of this Circular.

c/ In addition to being duties under Point b.1, b.2 or b.3 of this Clause, goods excessively imported into Vietnam, subsidized or dumped or involving discrimination between them and Vietnamese exports are subject to countervailing tax, anti-discrimination tax or safeguarding tax and regulated by separate guiding legal documents.

Article 93. Tax calculation methods for goods subject to pro rata duty rates

1. Export duty or import duty amounts payable for goods subject to pro rata duty rates shall be determined based on the quantity of units of each goods item actually exported or imported as indicated in a customs declaration, dutiable value and duty rate for each goods item according to the following formula:

Quanlity of

units of each

Payable good item Dutiable Duty

export or actually value rate of

import = exported or x of a x each

duty imported as unit of goods

amount indicated in goods item

a customs

declaration

The determination of payable export duty amounts for crude oil or natural petroleum complies with the Ministry of Finance's Circular No. 32/2009/TT-BTC of February 19, 2009, guiding the implementation of

regulations on taxes on organizations and individuals engaged in petroleum exploration and exploitation under the Petroleum Law.

2. In case the actually exported or imported goods quantity is different from that indicated in the commercial invoice due to the characteristics of the goods but satisfies delivery and payment requirements under the trading contract, the payable export or import duty amount shall be determined based on the value actually paid for the exported or imported goods and duty rate for each goods item.

For example: An enterprise imported under a contract 1,000 tons of tobacco shreds at a unit price of USD 100/ton and a water content of \pm 2%. The commercial invoice indicates 1,000 tons x USD 100 = a payment value of USD 100,000. Upon importation, if the customs scaling inspection shows that the actually imported volume weighs 1,020 or 980 tons, the payment value for duty calculation will still be USD 100,000.

Article 94. Tax bases for goods subject to specific tax

Tax bases for goods subject to specific tax shall be determined as follows:

1. Quantity of units of each actually exported or imported goods item indicated in a customs declaration and specified in the list of goods subject to specific tax.

2. Specific tax amount prescribed for a unit of goods.

Article 95. Tax calculation methods for goods subject to specific tax

Payable export duty or import duty amounts for goods subject to specific tax are determined according to the following formula:

Payable Quanlity of units of Specific

export or each actually exported duty

import = or imported goods x for a

duty item as indicated in unit of

amount a customs declaration goods

Article 96. Application of tax bases in some special cases

1. For goods used for a purpose different from that already determined for which these goods are eligible for non-taxation, tax exemption or consideration for tax exemption, tax bases are dutiable value, duty rate and exchange rate at the time of change of the use purpose, in which:

a/ Value for import duty calculation complies with Circular No. 40/2008/TT-BTC;

b/ Duty rate for import duty calculation, regardless of whether initially imported goods are brand-new or used, is the one applicable to brand-new goods at the time of change of the use purpose.

c/ Bases for determining the time of change of the use purpose

c.1/ In case a competent agency's written permission for use purpose change is required, this time is the date of such written permission;

c.2/ In case a competent agency's written permission for use purpose change is not required: The customs declarant shall produce a tax declaration to the customs office within 10 days after the date of use purpose change as guided in Clause 8, Article 10 of this Circular, and other documents evidencing the time of use purpose change to serve as a basis for determining the time of use purpose change;

c.3/ In case a competent agency's written permission for use purpose change is not required but the customs declarant has insufficient documents for determining the time of use purpose change to serve as a basis for tax calculation, this time will be the date of previous customs declaration registration. In case exports or imports with changed use purposes are of the same category but indicated in different customs declarations, and the customs declarant has insufficient documents evidencing the time of use purpose change while the customs office has insufficient bases for determining this time, the guidance of Point c.2.2, Clause 6, Article 23 of this Circular applies.

2. For goods produced, processed, reprocessed or assembled in non-tariff zones from foreign material and part imports specified in Clause 16, Article 101 of this Circular, tax bases shall be determined as follows:

a/ In case organizations and individuals that import these goods into inland Vietnam have registered with customs offices lists of imports used as materials, parts or semi-finished products for the production of goods for import into inland Vietnam and norms of those materials, parts or semifinished products before importation, payable import duty amounts thereon shall be determined based on volumes, duty rates and dutiable prices of the imported materials, parts or semi-finished products constituting these goods, specifically:

a.1/ Quantity of imports for duty calculation is the quantity of actually imported materials or parts constituting goods produced in a non-tariff zone and imported into inland Vietnam;

a.2/ Applicable import duty rates are those prescribed for each type of materials or parts in the current Preferential Import Tariff at the time of first-time registration of the declaration of goods imported into a non-tariff zone. In case the conditions specified in the Ministry of Finance's circulars guiding the application of particularly preferential duty rates are fully satisfied, particularly preferential duty rates under the Particularly Preferential Import Tariff effective at the time of registration of declarations of goods imported into a non-tariff zone apply;

a.3/ Dutiable values shall be determined according to values of imported materials or parts constituting these goods under Circular No. 40/2008/TTBTC.

b/ If impossible to determine import duty amounts under Point a of this Clause, import duty shall be calculated at duty rates and dutiable values of goods items produced, processed, reprocessed or assembled, and imported into inland Vietnam at the time of registration of customs declarations.

Article 97. Tax declaration, classification and calculation for machines and equipment in Chapters 84 and 85 of the Preferential Import Tariff which are combinations or lines meeting notes 3, 4 and 5, Part XVI of the List of Imports and Exports of Vietnam

1. Complete or finished goods in the unassembled or knock-down form shall be classified in the same heading of assembled goods. Goods in the unassembled or knock-down form often aim to meet packaging, preservation or transportation requirements.

Machines and equipment in Chapters 84 and 85 of the Preferential Import Tariff include imported machines and equipment in complete units or knock-down form due to packaging, preservation or transportation requirements, if satisfying contents stated in notes 3, 4 and 5, Part XVI of the List of Imports and Exports of Vietnam, shall be classified according to main machines, regardless of whether these machines and equipment are imported from one or more than one source, arriving in one or more than one shipment, go through customs procedures at the same border gate or different border gates or imported in complete units or the unassembled or knock-down form due to packaging, preservation or transportation requirements.

2. In order to have bases for monitoring and classifying machines and equipment which are combinations or lines imported from one or more than one source, arriving in one or more than one shipment, go through customs procedures at the same border gate or different border gates or imported in complete units or knock-down form due to packaging, preservation or transportation requirements, procedures shall be carried out as follows:

a/ Responsibilities of customs declarants:

a.1/ In addition to carrying out customs procedures as required, customs declarants shall notify the list of imports in Chapters 84 and 85 which are dutiable combinations and lines according to main machines to the district-level Customs Departments of localities in which their enterprises are based. In case there is no district-level Customs Department in the locality in which it is based, the enterprise may notify such list to the district-level Customs Department most convenient to it.

a.2/ Documents to be submitted upon notification of the list of imports in Chapters 84 and 85 which are combinations and lines:

a.2.1/ List of machines and equipment in Chapters 84 and 85 which are combinations and lines intended to be imported, indicating the names and headings of machines and equipment and types of main machines and equipment: To submit 2 originals enclosed with 1 reconciliation monitoring slip;

a.2.2/ Written explanation and/or installation plan indicating that the goods are combinations or lines: to submit a copy and produce the original for comparison;

a.2.3/ Commitment to take responsibility before law for the accurate and truthful contents of the above two documents, pay fully duty amounts for each machine and be penalized for wrongful declaration. b/ Responsibilities of customs offices

b.1/ When being notified of the lists of imports in Chapters 84 and 85 which are combinations and lines, district-level Customs Departments of localities in which notifying enterprises are based shall receive and check such lists. If seeing that all contents of notes 3, 4 and 5 of Part XVI are satisfied, they shall open monitoring books, append certifications stamps to 2 lists of imports and 1 reconciliation monitoring slip (keep one original list and hand the other together with the original reconciliation monitoring slip to the taxpayer for production to the customs office of the locality in which goods are actually imported for duty calculation according to main machines and make reconciliation when carrying out customs procedures for actually imported goods) according to regulations;

b.2/ When carrying out import procedures, in addition to prescribed customs procedures, customs offices shall compare customs dossiers with current regulations to make reconciliation for machines and equipment actually imported by customs declarants and sign for certification and file in customs dossiers 1 copy of the list and reconciliation monitoring slip on which the appellations of imported goods on which duty has been calculated according to main machines;

After all listed goods have been imported, leaders of district-level Customs Departments which are the last to carry out customs procedures shall give certification on the original reconciliation monitoring slips

of the customs declarants and send its copy to the provincial-level Customs Department with which such list has been registered, for post-customs clearance inspection of the use of machines and equipment on which duty has been calculated according to main machines.

b.3/ Machines and equipment in Chapters 84 and 85 of the Preferential Import Tariff are combinations and lines stated in declarations registered with customs offices from May 27, 2010 (when Circular No. 49/2010/TTBTC took effect), to before the date enterprises notify the lists to customs offices; customs offices shall calculate and collect duty for each machine; if satisfying contents of notes 3, 4 and 5, Part XVI of the List of Imports and Eports of Vietnam, declarants shall send dossiers to district-level Customs Departments notified of the lists for examination and determination of the synchronism of imported combinations and lines, and comparison with the notified lists for classification under the guidance at this Point and reconciliation in the reconciliation slips. If having any problems, districtlevel Customs Departments shall report them to provincial-level Customs Departments for reporting to the General Department of Customs for proposal to the Ministry of Finance for consideration and settlement on a case-by-case basis.

c/ For imported goods which are different from machines and equipment in Chapters 84 and 85 which are combinations and lines as notified, customs declarants shall make self-declaration and pay duty for each machine. In case customs offices or other agencies inspect and detect that such machines and equipment are not installed and used as combinations or lines, customs declarants shall pay not only deficient duty amounts but also fines according to regulations;

d/ For machines and equipment imported in synchronous and complete units before Circular No. 49/2010/TT-BTC took effect, if main machines have been already certified by competent agencies and actually imported machines and equipment have been classified according to main machines while the rest are imported after Circular No. 49/2010/TT-BTC took effect, they may be further classified according to main machines. 3. In case imported machines and equipment in Chapters 84 and 85 which are combinations and lines satisfy notes 3, 4 and 5, Part XVI of the List of Imports and Exports of Vietnam but customs declarants do not want to classify them under the guidance at Point 1 of this Article, classification and duty calculation shall be made for each machine.

Article 98. Procedures for declaration, classification and duty calculation for goods which are in the unassembled or knock-down form according to rule 2a of 6 universal rules explaining the classification of goods according to the List of Imports and Exports of Vietnam

1. According to rule 2a and its notes in Appendix 2 to Circular No. 49/2010/TT-BTC, goods which are in the unassembled or knock-down form shall be classified on the following principles:

a/ Classification by knock-down part and detail, if the following criteria are fully met:

a.1/ Knock-down degree: parts and details must be all separated and left unassembled, such as bicycle tires separated from inner tubes, spokes and rims. Knock-down parts and details are those constituting a product, excluding manuals, catalogs, packings, etc.

a.2/ Total quantity of knock-down parts and details: at least one knockdown part or detail is home made (self-made or purchased from another domestic enterprise for assembly into a complete product unit). Knockdown details and parts are those constituting a product, excluding manuals, catalogs, packing, etc.

b/ Classification by products in complete units, if any or both of the criteria stated at Point a, Clause 1 of this Article is/are not met. Specifically: b.1/ Knock-down degree: details and parts may or may not be separated but at least two of them have been assembled into an assembly or functional assembly;

b.2/ Total quantity of knock-down details and parts: All knock-down details and parts for assembly into complete product units are imports.

c/ In case of importing incomplete knock-down parts as stated at Point a, Clause 1 of this Article, but enterprises do not select the method of classification stated at Point a, Clause 1 of this Article but classify them by headings of products in complete units, classification shall be made according to the customs declarant's selection.

2. Inspection of the use of imported parts under the guidance in notes of rule 21:

a/ Responsibilities of customs declarants

By January 30 every year at the latest, customs declarants shall finalize with the customs office at which they have carried out import procedures (customs declarants may select a district-level Customs Department most convenient to them for carrying out import procedures) the previous year's importation and use of imports according to the following contents:

a.1/ Appelations and quantities of imported parts; appellations and quantities of self-made or home-made parts;

a.2/ Appelations of products to be assembled from knock-down parts and norms of parts used for assembly (type and quantity of each detail needed);

a.3/ Quantity of details actually used in product production and assembly;

a.4/ Quantity of produced or assembled products;

a.5/ Quantity of imported parts not yet used for product production or assembly (clearly indicating the quantity transferred from the previous year or used for other purposes; additional payable tax amount - if any).

b/ Responsibilities of customs offices

Within 45 (forty-five) days after receiving complete dossiers and reports from customs declarants, the customs office carrying out import procedures shall inspect the importation and use of imports and finalize the enterprises' use of imported parts in production; if an enterprise fails to observe finalization regulations and/or use for proper purposes imports on which duty has been levied based on knock-down parts, it shall sanction such violation (if any) according to law.

Section 2

TIME AND EXCHANGE RATES FOR TAX CALCULATION

Article 99. Time and exchange rate for tax calculation for imports or exports

1. Time of import duty or export duty calculation is the date of registration of customs declarations. Import duty or export duty shall be calculated at tax rates, taxed values and exchange rates for tax calculation at the time of tax calculation.

In case taxpayers declare and calculate taxes prior to the date of customs declaration registration and apply an exchange rate different from the exchange rate at the time of customs declaration registration, customs offices shall re-calculate the payable tax amount according to the exchange rate at the time of customs declaration registration.

2. In case taxpayers make e-declarations, the time of tax calculation complies with regulations on ecustoms procedures.

Article 100. Time of tax calculation for imports or exports subject to single registration of customs declarations

For imports or export for which customs declaration is registered once for several importations or exportations, import duty or export duty shall be calculated at the tax rate, taxed value and exchange rate for tax calculation applied at the date of carrying out customs procedures for imports and exports on the basis of the quantity of each goods item actually imported or exported.

Section 3

TAX EXEMPTION CASES AND PROCEDURES

Article 101. Cases of tax exemption

1. Goods temporarily imported for re-export or temporarily exported for reimport for participation in trade fairs, exhibitions or product displays; professional machinery, equipment and tools temporarily imported for reexport or temporarily exported for re-import for conferences, seminars, scientific research, sport tournaments, cultural or art performances, medical examination and treatment; parts and spare parts temporarily imported for re-export which are eligible for tax exemption under Clause 17 of this Article or tax refund consideration as guided in Clause 9, Article 113 of this Circular) are exempt from import duty when being temporarily imported and export duty when being temporarily exported and import duty when being re-imported, for goods temporarily exported for re-imported.

a/ For goods temporarily imported for participation in a trade fair, exhibition or product display in Vietnam, the time limit for re-export is 30 days after the end of the trade fair or exhibition. Past this time limit, if goods are not yet re-exported, duty must be paid;

b/ For goods temporarily exported for participation in a trade fair, exhibition or product display abroad, the duration of temporary export must not exceed 1 year (365 days) from the date when goods are temporarily exported. Past this time limit, if goods are not yet re-imported, duty must be paid;

c/ For professional machinery, equipment and tools temporarily imported for re-export or temporarily exported for re-import for conferences, seminars, scientific research, sport tournaments, cultural or art performances, medical examination and treatment; parts and spare parts temporarily imported for repairing foreign seagoing ships or aircrafts, the duration of temporary import or temporary export must not exceed 90 days from the date of registration of temporary import for re-export or temporary export for re-import declarations.

Upon the expiration of this duration, if goods are not yet re-imported (for goods temporarily exported for re-import) or re-exported (for goods temporarily imported for re-export), duty must be paid.

2. Goods being movable assets of Vietnamese or foreign organizations and individuals brought into or from Vietnam within prescribed limits, including:

a/ Goods being movable assets brought into Vietnam by foreign organizations and individuals permitted to reside and work in the country at the invitation of competent state agencies or brought abroad upon the expiration of their stay or work in Vietnam.

b/ Goods being movable assets allowed to be brought abroad by Vietnamese individuals or organizations for business or working purposes and imported back into Vietnam upon their return home. c/ Goods being movable assets brought into Vietnam by overseas Vietnamese or Vietnamese households permitted to return home for permanent residence or brought abroad by these entities upon their permitted exit for overseas residence; goods being movable assets brought into Vietnam by foreigners upon their permitted exit for overseas residence in the country or brought abroad by these persons upon their permitted exit for overseas residence;

Particularly, automobiles and motorcycles currently in use and brought into Vietnam by households or individuals upon their permitted entry for permanent residence in the country are exempt from import duty within the limit of one unit of a kind for each household.

The identification of goods as movable assets complies with Clause 5, Article 5 of the Law on Import Duty and Export Duty and the Finance Ministry's Circular No. 118/2009/TT-BTC of June 9, 2009, guiding the import of currently used automobiles as movable assets of overseas Vietnamese who have completed procedures for registration of permanent residence in Vietnam.

3. Imports or exports of foreign organizations and individuals enjoying diplomatic privileges and immunities in Vietnam are governed by the Ordinance on Privileges and Immunities for Diplomatic Missions, Consular Offices and Representative Offices of International Organizations, and its detailing and guiding documents.

4. Goods imported or exported for processing are exempt from duty under Clause 4, Article 12 of Decree No. 87/2010/ND-CP (according to notified processing contracts)

a/ Goods eligible for tax exemption under processing contracts include: a.1/ Materials imported or exported for processing;

a.2/ Supplies imported or exported for use in the process of production or processing (paper, chalk, drawing pen, marker pen, clothes pin, printing ink, adhesive brush, lithographic frame, crepe, polish) in case enterprises can elaborate consumption norms and wastage;

a.3/ Goods imported or exported as processing samples;

a.4/ Machinery and equipment imported or exported in direct service of processing under processing contracts. Upon the expiration of processing contracts, these machines and equipment shall be re-exported or re-imported. If they are not re-exported or re-imported, tax declaration and payment shall be made under regulations. In case they are retained for use as gifts or presents, they are exempt from import duty under Clause 4, Article 105 of this Circular;

a.5/ Processed products exported back to processing-ordering party (if they are liable to export duty);

a.6/ Finished products imported for attachment to or packaging together with processed products to form a complete goods item for export; and parts and spare parts imported for warranty for exported processed products, will be exempt from tax like materials and supplies imported for processing if they fully satisfy the following conditions:

a.6.1/ They are indicated in processing contracts or annexes thereof;

a.6.2/ They are managed as materials and supplies imported for processing.

a.7/ Goods imported for processing may be destroyed in Vietnam according to laws after processing contracts are liquidated and customs procedures are completed under the Ministry of Finance's guidance.

b/ For export duty-exempt goods exported abroad for processing for Vietnamese parties, and then imported back into Vietnam, import duty shall be paid for processed products (duty is not imposed on the value of materials and supplies already used in processing under signed processing contracts; import duty rates are applied based on imported processed products; and origin of products are determined under the Ministry of Industry and Trade's rules of origin).

c/ Imported equipment, machinery, materials, supplies and processed products provided by foreign parties as processing remunerations are liable to import duty under regulations.

d/ Processing norms

Directors of processing enterprises shall be responsible for use and consumption norms and wastage (below collectively referred to as consumption norms) of goods which are imported under processing contracts and used for processing. Violations shall be handled under law.

The elaboration and notification of these norms comply with the Ministry of Finance's guidance.

Scraps and discarded products within use and consumption norms and wastage applicable to processing forms satisfying the conditions specified in Article 31 of the Government's Decree No. 12/2006/ND-CP of January 23, 2006, which are agreed upon in processing contracts and notified with customs offices under the Ministry of Finance's guidance, are liable to import duty like those for export production as guided at Point d.3, Clause 5, Article 113 of this Circular.

5. Goods exported or imported within the tax-free luggage quota applicable to persons on exit or entry; goods sent via the express delivery service within the tax-free quota prescribed by the Prime Minister.

a/ Goods exported or imported within the tax-free luggage quota applicable to persons on exit or entry:

a.1/ For persons on exit: Articles included in their luggage other than those on the list of goods banned from export or subject to conditional export are subject to no limit.

a.2/ For persons on entry:

a.2.1/ The duty-free quota is prescribed in the Government's Decree No. 66/2002/ND-CP of July 1, 2002, prescribing tax-free luggage quota for persons on entry or exit and tax-free imported gifts and donations.

a.2.2/ For goods imported in excess of duty-free quota, import duty must be paid for the excessive volume. If the total payable duty amount for the excessive volume is less than VND 50,000, this duty amount is exempted. Persons on entry whose luggage contains different articles may choose articles among their luggage to be taxed.

b/ For goods sent via the express delivery service

Goods sent via the express delivery services of which the declared value is below the duty-exempt quota specified in the Prime Minister's Decision No. 78/2010/QD-TTg of November 30, 2010, on the value of imports sent via the express delivery services which are exempt from tax. In case goods are imported in excess of duty-free quotas, duty must be paid for the whole goods lot. If the total payable duty amount for the whole lot is less than VND 50,000, this duty amount is exempted.

6. Goods purchased, sold or exchanged among border inhabitants are exempt from import duty or export duty within set quotas. Duties shall be paid for any quantity of goods in excess of these quotas. Regulations on border inhabitants and duty-free quotas for goods purchased, sold or exchanged among border inhabitants comply with the Prime Minister's Decision No. 254/2006/QD-TTg of November 7, 2006,

on management of border trade with bordering countries and Decision No. 139/2009/QD-TTg of December 23, 2009, amending and supplementing a number of articles of Decision No. 254/2006/QD-TTg of November 7, 2006.

7. Goods imported to create fixed assets of investment projects on domains eligible for import duty incentives specified in Appendix I to Decree No. 87/2010/ND-CP or geographical areas eligible for import duty incentives specified in the Appendix providing the list of geographical areas eligible for enterprise income tax incentives issued together with the Government's Decree No. 124/2008/ND-CP of December 11, 2008, detailing and guiding a number of articles of the Law on Enterprise Income Tax and Decree No.53/2010/ND-CP of May 19, 2010, specifying geographical areas eligible for investment and enterprise income tax incentives for new administrative units established upon the Government's adjustment of administrative boundaries and investment projects funded with official development assistance (ODA) are exempt from import duty, including:

a/ Equipment and machinery, if they fully satisfy the following conditions:

a.1/ Being suitable to investment projects' domains, objectives and scope;

a.2/ Satisfying the conditions on fixed assets prescribed in the Finance Ministry's Circular No. 203/2009/TT-BTC of October 20, 2009.

b/ Domestically unavailable special-use means of transport in technological lines; vehicles to carry workers to or from working places, including cars of 24 seats or more and waterway means of transport:

b.1/ The list of domestically available means of transport to serve as a basis for duty exemption specified at this Point is promulgated by the Ministry of Planning and Investment.

b.2/ The list of or criteria for determination of special-use means of transport in technological lines to serve as a basis for tax exemption specified at this Point is promulgated or are prescribed by the Ministry of Science and Technology.

c/ Parts, details, knock-down parts, spare parts, fittings, molds, models and accessories for assembly with equipment, machinery and special-use means of transport eligible for tax exemption specified at Points a and b of this Clause in either of the following cases:

c.1/ Being parts or details of equipment, machinery and means of transport which are imported in knockdown form;

c.2/ Being parts, details, knock-down parts, spare parts, fittings, molds, models and accessories which are imported for assembling machinery and equipment so as to ensure their normal operations.

d/ Domestically unavailable materials and supplies which are used for manufacturing equipment and machinery in technological lines or manufacturing parts, details, knock-down parts, spare parts, fittings, molds, models and accompanied accessories specified at Point c of this Clause for assembly with equipment and machinery specified at Point a of this Clause. The list of domestically available materials and supplies to serve as a basis for tax exemption specified at this Point is promulgated by the Ministry of Planning and Investment.

e/ Domestically unavailable construction materials.

The list of domestically available construction materials to serve as a basis for tax exemption specified at this Point is promulgated by the Ministry of Planning and Investment.

8. Plant varieties and livestock breeds permitted to be imported for implementation of investment projects in agriculture, forestry or fisheries. The list of plant varieties and livestock breeds permitted to be imported to serve as a basis for tax exemption specified in this Clause complies with regulations of the Ministry of Agriculture and Rural Development.

9. Import duty exemption for imports specified in Clauses 7 and 8 of this Article also applies to project expansion or technological replacement or renewal.

10. First-time duty exemption is given to goods being equipment and devices on the list specified in Appendix II to Decree No. 87/2010/ND-CP, which are imported to create fixed assets of investment projects eligible for import duty incentives or investment projects funded with ODA capital on hotels, offices, apartments for lease, houses, trade centers, technical services, supermarkets, golf courses, tourist resorts, sport facilities, entertainment centers, medical examination and treatment establishments, training, culture, finance, banking, insurance, audit or consultancy services. Projects which have their imports eligible for first-time duty exemption specified under this Clause are not eligible for tax exemption under other clauses of this Article.

11. Goods imported to serve petroleum activities, including:

a/ Equipment and machinery which satisfy the conditions specified at Point a, Clause 7 of this Article; special-use means of transport necessary for petroleum activities; vehicles to carry workers to and from working places, including cars of 24 seats or more and waterway means of transport, including also parts, details, knock-down parts, spare parts for fitting and replacement, molds, models and accessories for complete assembly with above equipment, machinery, special-use means of transport and vehicles to carry workers, which satisfy the conditions prescribed at Point c, Clause 7 of this Article.

The list of or criteria for determination of special-use means of transport necessary for petroleum activities to serve as a basis for tax exemption specified at this Point is/are promulgated by the Ministry of Science and Technology.

b/ Domestically unavailable supplies which are necessary for petroleum activities;

The list of domestically available supplies necessary for petroleum activities to serve as a basis for tax exemption specified at this Point is promulgated by the Ministry of Planning and Investment;

c/ Medical instruments and equipment and first-aid medicines for use on oil rigs and floating works as certified by the Ministry of Health;

d/ Office equipment for petroleum activities;

e/ Other goods temporarily imported for re-export for petroleum activities. In case goods specified in this Clause are imported by sub-contractors and other organizations or individuals directly or through entrustment, bidding or rent for sub-lease, and subsequently supplied to organizations and individuals conducting petroleum exploration and exploitation under petroleum service contracts or goods supply contracts, these goods are also exempt from import duty.

12. Shipbuilders are exempt from export duty for exported seagoing ships and from import duty for:

a/ Machinery and equipment of all kinds imported to create their fixed assets which satisfy the conditions specified at Point a, Clause 7 of this Article;

b/ Means of transport in technological lines which are imported to create fixed assets.

The list of or criteria for determination of means of transport included in technological lines to serve as a basis for tax exemption specified at this Point is/are promulgated by the Ministry of Science and Technology.

c/ Domestically unavailable materials, supplies and semi-finished products for shipbuilding.

The list of domestically available materials, supplies and semi-finished products for shipbuilding to serve as a basis for tax exemption specified at this Point is promulgated by the Ministry of Planning and Investment.

13. Import duty exemption for domestically unavailable materials and supplies which are imported in direct service of software production. The list of domestically available materials and supplies in direct service of software production to serve as a basis for tax exemption specified at this Point is promulgated by the Ministry of Planning and Investment.

14. Import duty exemption for goods imported for direct use for scientific research and technological development, including domestically unavailable machinery, equipment, spare parts, supplies and means of transport and technologies; scientific documents, books, newspapers and magazines and online information on science and technology.

The list of domestically available machines, equipment, spare parts, supplies, means of transport and technologies directly used in scientific research and technological development activities to serve as a basis for tax exemption specified in this Clause is promulgated by the Ministry of Planning and Investment.

15. Import duty exemption for 5 years from the date of production commencement for domestically unavailable materials, supplies and parts which are imported for production under investment projects in:

a/ Domains eligible for particular investment promotion specified in Appendix I to the Government's Decree No. 87/2010/ND-CP of August 13, 2010 (except for investment projects to produce or assemble cars, motorbikes, air conditioners, heaters, refrigerators, washing machines, electric fans, dish washers, disc players, hi-fi players, electric irons, kettles, hair dryers, hand dryers, liquors, beers, cigarettes and other commodity items under the Prime Minister's decisions which are ineligible for import duty exemption);

b/ Geographical areas with particularly difficult socio-economic conditions specified in the Appendix on geographical areas eligible for enterprise income tax incentives issued together with the Government's Decree No. 124/2008/ND-CP of December 11, 2008, detailing and guiding a number of articles of the Law on Enterprise Income Tax and Decree No. 53/2010/NDCP of May 19, 2010, providing for geographical areas eligible for investment or enterprises income tax incentives for new administrative units established upon the Government's adjustment of administrative boundaries (except for investment projects to produce or assemble cars, motorbikes, air conditioners, heaters, refrigerators, washing machines, electric fans, dish washers, disc players, hi-fi players, electric irons, kettles, hair dryers, hand dryers, liquors, beers, cigarettes and other commodity items under the Prime Minister's decisions which are ineligible for import duty exemption).

The date of production commencement to serve as a basis for import duty exemption for 5 years under the guidance in this Clause is the date when an enterprise actually commences production activities as certified by the management board of the industrial park, export-processing zone, hi-tech park or economic zone where the enterprise is operating or certified by the provincial-level Industry and Trade Department of the locality where the project is implemented in case the enterprise does not operate in the above park or zone. The list of domestically available materials, supplies and parts to serve as a basis for tax exemption specified in this Clause is promulgated by the Ministry of Planning and Investment.

16. Goods produced, processed, reprocessed or assembled in non-tariff zones without using imported materials or parts are exempt from import duty when being imported into the domestic market. In case these goods use imported materials or parts, they are subject to import duty when being imported into the domestic market. Bases and methods for import duty calculation comply with Clause 2, Article 96 of this Circular.

17. Machinery, equipment and means of transport temporarily imported into Vietnam for re-export by foreign contractors for the implementation of ODA-funded projects in Vietnam are exempt from import duty when being temporarily imported and export duty when being re-exported. Upon the expiration of the duration of work construction or project implementation, foreign contractors shall re-export these goods. If foreign contractors do not re-export these goods but liquidate or transfer them in Vietnam, they shall obtain permission of competent state agencies and make import duty declaration and payment under regulations.

Particularly for cars of less than 24 seats and automobiles designed to carry both people and cargo and equivalent to cars of less than 24 seats, the mode of temporary import for re-export will not apply. Foreign contractors wishing to import these automobiles into Vietnam shall pay import duty under regulations. Upon completion of construction of works, foreign contractors shall re-export the imported automobiles and get import duty amounts refunded. The tax refund level complies with Clause 9, Article 113 of this Circular.

18. Domestically unavailable materials, supplies and semi-finished products imported for production under investment projects in border-gate economic zones are exempt from tax under the Prime Minister's Decision No. 33/2009/QD-TTg of March 2, 2009, promulgating financial mechanisms and policies for border-gate economic zones, and guiding documents.

19. Goods imported for sale at duty-free shops under the Prime Minister's decisions comply with the guidance in the Finance Ministry's Circular No. 120/2009/TT-BTC of June 16, 2009.

Sales promotion or trial use goods which are supplied free-of-charge by foreign parties for sale together with goods at duty-free shops are not liable to import duty but subject to customs supervision and management like goods imported for sale at duty-free shops.

20. Tax exemption in special cases specified in Clause 20, Article 12 of the Government's Decree No. 87/2010/ND-CP of August 13, 2010.

21. Other guidance

a/ Cases eligible for import duty exemption for goods imported to create fixed assets specified in this Article, in which goods are not imported from abroad but enterprises are permitted to receive import duty-free goods transferred in Vietnam from other enterprises, receiving enterprises will be exempt from import duty and concurrently import duty will not be retrospectively collected from transferring enterprises, on the condition that transfer prices are exclusive of import duty.

b/ Organizations and individuals that carry out entrusted import or win biddings for import of goods (at import duty-exclusive prices under entrustment contracts or winning bids under bid-winning decisions) for supply to entities eligible for import duty exemption under Clauses 7 thru 18 of this Article will also be exempt from import duty for these goods.

c/ Projects eligible for investment promotion which obtain investment licenses or investment incentive certificates before the effective date of Decree No. 87/2010/ND-CP and are eligible for export duty and import duty incentives higher than those guided in Decree No. 87/2010/ND0-CP, may continue enjoying these incentives if they fully satisfy the following conditions:

- Their investment licenses or investment incentive certificates are still valid and no change is made to provisions on investment incentives;

Incentives stated in investment licenses or investment incentive certificates are compliant with law at the time of grant of these licenses or certificates.

- They have registered a list of tax-exempt goods according to regulations. In case investment licenses or investment incentive certificates provide export duty or import duty incentives lower than those provided in Decree No. 87/2010/ND-CP, these projects may enjoy incentives provided in Decree No. 87/2010/ND-CP for their remaining incentive duration.

Article 102. Registration of lists of tax-exempt imports

1. Cases subject to registration of lists of tax-exempt imports Goods specified in Article 13 of Decision No. 33/2009/QD-TTg and Clauses 7, 8, 9, 10, 11, 12, 13, 14, 15 and 18, Article 101 of this Circular must be registered in lists of tax-exempt imports and exports.

2. Registrants of lists of tax-exempt imports: Organizations and individuals that use goods (project owners, shipyard owners, etc.) shall register lists of tax-exempt imports (made according to form No. 11, Appendix VI to this Circular). Lists must be registered before import procedures are carried out. In case goods owners do not directly import tax-exempt goods, principal contractors or sub-contractors that import goods shall use lists of taxexempt imports already registered by project owners with customs offices.

3. Places for registration of lists:

a/ Provincial-level Customs Departments in localities where investment projects are implemented, for cases in which provincial-level Customs Departments in localities where projects are implemented can be identified, provincial-level Customs Departments in localities where enterprises are based, for cases in which provincial-level Customs Departments in localities where projects are implemented cannot be identified, or the nearest provincial-level Customs Department, for provinces and cities without any customs offices. Directors of provincial-level Customs Departments shall select and assign a capable unit to register lists of taxexempt imports.

In case a provincial-level Customs Department performs customs management in some provinces, apart from the above list-registering unit, the director of the provincial-level Customs Department shall consider and assign the district-level Customs Department which performs customs management in a province to effect the registration of lists of tax-exempted imports for projects implemented in that locality.

b/ Projects which have registered lists of tax-exempt imports before the effective date of this Circular may continue making registration at previous places.

4. Registration dossiers

When registering lists of tax-exempt imports with customs offices, registrants shall submit and produce to customs offices a dossier comprising:

a/ One original of a written request for registration of a list of tax-exempt imports, clearly stating quantities of goods and reasons for tax exemption, made according to forms issued together with this Circular (form No. 12, for fixed assets, or form No. 13, for other cases, provided in Appendix VI to this Circular);

b/ Two originals of a list of tax-exempt imports enclosed with one conciliation-monitoring slip (made according to form No. 14 provided in Appendix VI to this Circular), in which:

- The list of tax-exempt imports must be suitable to the project's investment domains, objectives and scope and conciliation-monitoring slip shall be made once for the whole project, or for each stage of project implementation or each project item (if the investment license granted by a competent agency or the econo-technical study and scientific and technical documents of the project describe the project by each stage or each item) or for each combination or line, for a system, combination or line of equipment and machinery.

- In case the list which has been registered for the whole project or for each project item, work, combination or line are erroneous and need to be adjusted, the customs declarant may adjust the list on the conditions that, before the time of goods importation, he/she submits to customs offices papers or documents to prove that the supplementation or adjustment is suitable to the project's needs.

c/ The investment license or investment incentive certificate (also for domestic investment projects capitalized at less than VND 15 billion): to produce the original and submit 1 copy;

d/ One copy of the investment license or investment incentive certificate, for cases of project expansion or technological replacement or renewal, for the cases specified in Clause 9, Article 101 of this Circular;

e/ For ODA-funded projects: A written certification of competent agencies that no domestic capital is allocated for payment of tax for goods of ODAfunded projects: to produce the original and submit 1 copy;

f/ An econo-technical study and documents on detailed technical designs of the project and the expanded project (at the request of the customs office): to produce the original and submit 1 copy;

g/ One original of each technical document (for cases eligible for tax exemption under Point c, Clause 7, Article 101 of this Circular);

h/ One original of the written explanation and/or diagram on the installation or use of tax-exempt imports or exports on the to-be-registered lists, for cases eligible for tax exemption under Points c and d, Clause 7 and Point a, Clause 11, Article 101 of this Circular.

At the time of list registration, if the customs declarant cannot submit papers defined at Points g and h of this Clause, the customs office which effects the list registration shall take a note on the registered list for the district-level customs office which carries out procedures to examine these papers.

i/ Depending on each of the following specific cases, taxpayers shall submit or produce the following dossiers:

i.1/ A shipbuilding contract, for materials, supplies and semi-finished products imported for shipbuilding: to produce the original and submit 1 copy;

i.2/ A software production project, for goods imported for software production: to produce the original and submit 1 copy

i.3/ A scientific research and technological development project or scheme approved by a competent authority, for goods imported for scientific research and technological development: to produce the original and submit 1 copy.

j/ Certification by an agency competent to issue lists of tax-exempt goods for projects licensed before January 1, 2006, for projects licensed before January 1, 2006, which have not been issued this list: to produce the original and submit 1 copy;

k/ One original of a list of documents included in the dossier for registration of the list of tax-exempt goods.

5. Bases for customs declarants to make declaration and registration and customs offices to inspect the declaration and registration of lists of taxexempt imports include:

a/ Papers and documents guided at Points from c thru j, Clause 4 of this Article;

b/ Domains eligible for import duty incentives specified in Appendix I to Decree No. 87/2010/ND-CP or geographical areas eligible for import duty incentives specified in the Appendix on geographical areas eligible for enterprise income tax attached to the Government's Decree No. 124/2008/ND-CP of December 11, 2008, detailing and guiding a number of articles of the Law on Enterprise Income Tax and Decree No. 53/2010/NDCP of May 19, 2010, providing for geographical areas eligible for investment and enterprise income tax incentives for new administrative units established upon the Government's adjustment of administrative boundaries; equipment and tools imported for the first time to create fixed assets specified in Appendix II and Article 12 of Decree No. 87/2010/NDCP as guided in Article 101 of this Circular;

c/ Lists of goods promulgated by competent agencies, depending on each of the following specific cases:

c.1/ List of domestically available construction materials to serve as a basis for determination of goods being domestically unavailable construction materials; the Ministry of Science and Technology-issued list or criteria for determination of goods being special-use means of transport in technological lines imported to create fixed assets as specified in Clause 7 of Article 101 of this Circular;

c.2/ List of plant varieties and livestock breeds permitted for import promulgated by the Ministry of Agriculture and Rural Development, for goods specified in Clause 8, Article 101 of this Circular;

c.3/ List of groups of equipment and tools exempt from import duty only for the first time of importation as specified in Appendix II to and Article 12 of Decree No. 87/2010/ND-CP, for the cases specified in Clause 10, Article 101 of this Circular;

c.4/ List of domestically available supplies necessary for petroleum exploration and exploitation to serve as a basis for determination of goods being supplies necessary for petroleum exploration and exploitation; the Ministry of Science and Technology-issued list or criteria for determination of special-use means of transport necessary for petroleum exploration and exploitation; the Ministry of Health's certification of medical instruments and equipment and first-aid medicines for use on oil rigs and floating works, for the cases specified in Clause 11, Article 101 of this Circular;

c.5/ List of domestically available materials, supplies and semi-finished products for shipbuilding to serve as a basis for determination of goods to be used for shipbuilding; the Ministry of Science and Technologyissued list or criteria for determination of goods being special-use means of transport in technological lines imported to create fixed assets as specified in Clause 12, Article 101 of this Circular; c.6/ List of domestically available materials and supplies in direct service of software production, for imports specified in Clause 13, Article 101 of this Circular;

c.7/ List of domestically available machinery, equipment, spare parts, supplies, means of transport and technologies directly used in scientific research and technological development to serve as a basis for determination of goods used in scientific research and technological development as specified in Clause 14, Article 101 of this Circular;

c.8/ The Ministry of Planning and Investment-issued list of domestically available materials, supplies and parts to serve as a basis for determination of tax-exempt imports specified in Clause 15, Article 101 of this Circular. 6. Time of registration of lists: before registration of the first import declaration of the project, project item or stage or the expanded project . 7. Responsibilities of taxpayers:

a/ To determine their use needs and draw up by themselves lists of taxexempt imports and exports under provisions on tax-exempt objects of the Law on Import Duty and Export Duty, Decree No. 87/2010/ND-CP, Article 13 of Decision No. 33/2009/QD-TTg, this Circular and other relevant documents;

b/ To be held responsible before law for accurate and truthful declaration of import items declared in taxexempt lists and for the proper use of these tax-exempt goods.

8. Responsibilities of customs offices

a/ Customs offices shall receive, examine and handle dossiers as follows:

a.1/ In case dossiers are incomplete, they shall issue a written reply (clearly stating the reasons) within 3 working days after receiving dossiers;

a.2/ In case dossiers are complete, they shall, within 10 working days after receiving dossiers, examine and compare documents in these dossiers with the provisions of Article 12 of Decree No. 87/2010/ND-CP, Article 13 of Decision No. 33/2009/QD-TTg, and Articles 101 and 102 of this Circular, so as to identify tax-exempt objects, the consistency and accuracy of dossiers for registration of lists of tax-exempt goods and proceed with the following:

a.2.1/ If goods are ineligible for tax exemption according regulations, they shall refrain from registering lists of tax-exempt imports and issue a written reply to enterprises.

For projects in domains or geographical areas eligible for investment incentives but goods registered in the list of tax-exempt imports are not suitable to projects' objectives and scope, they shall notify and guide enterprises to adjust these lists.

a.2.2/ If goods are eligible for tax exemption and all details of dossiers are compatible, they shall record registrations in monitoring books and append seals for certification in 2 original lists of tax-exempt imports and the conciliation-monitoring slip (to be handed over to taxpayers for production to customs offices for effecting the conciliation upon carrying out customs procedures for actually imported goods) under regulations;

a.2.3/ At the time of registration of lists of tax-exempt goods, if customs offices have not yet obtained enough grounds to determine whether goods satisfy the conditions specified at Points a and c, Clause 7, Article 101, they shall take a note in the list and the conciliation-monitoring slip for inspection and comparison when goods are imported or for post-customs clearance inspection.

b/ Reporting regulations

Quarterly, provincial-level Customs Departments which register lists of tax-exempt imports shall make a list of cases of registration of lists of tax exempt imports at their units according to form No. 3, Appendix II to this Circular for reporting to the General Department of Customs no later than the 10th of the first month of the subsequent quarter.

Article 103. Tax exemption dossiers and procedures

1. Tax exemption dossiers are customs dossiers as guided in this Circular. Taxpayers shall also submit to customs offices carrying out import procedures papers which, upon registration of lists of tax-exempt goods, they have not yet produced to customs offices to which they have registered these lists, for cases subject to registration of lists of tax-exempt imports. For taxpayers that meet with difficulties caused by objective reasons and other cases eligible for exemption from export duty and import duty as specified in Clause 20, Article 12 of Decree No. 87/2010/ND-CP, written certifications of objective reasons, for which export duty and import duty exemption is requested, by provincial-level People's Committees, ministries or ministerial-level agencies, are also required.

2. Tax exemption procedures

a/ For cases in which registration of lists of tax-exempt imports is not required:

a.1/ Taxpayers shall calculate by themselves and declare tax amounts to be exempted for each goods item (except goods imported for processing) or customs declaration as for cases liable to tax payment. Customs offices shall compare tax exemption dossiers and tax amounts requested to be exempted with current regulations before carrying out tax exemption procedures for each customs declaration under regulations. In case customs offices inspect and determine that imports or exports are ineligible for tax exemption against taxpayers' declarations, they shall assess tax and sanction violations (if any) under regulations.

a.2/ In case taxpayers meet with difficulties caused by objective reasons and other circumstances and become eligible for import duty and export duty exemption under Clause 20, Article 12 of Decree No. 87/2010/NDCP:

a.2.1/ Taxpayers shall determine by themselves tax amounts they request to be exempted and send written requests (enclosed with relevant dossiers) to the General Department of Customs for reporting to the Ministry of Finance for subsequent submission to the Prime Minister for tax exemption consideration;

a.2.2/ The General Department of Customs shall re-examine all dossiers. If dossiers are incomplete or reasons for tax exemption must be further clarified, it shall request in writing the supplementation of these dossiers. Upon obtaining sufficient objective grounds, the General Department of Customs shall submit draft reports to the Ministry of Finance for subsequent submission to the Prime Minister;

a.2.3/ The Ministry of Finance shall send written notices on the Prime Minister's directing opinions to concerned taxpayers and customs offices for implementation;

a.2.4/ Customs offices carrying out goods import and export procedures shall exempt import duty and export duty for goods quantities, which have been permitted for tax exemption by the Prime Minister or fully collect taxes according to the Prime Minister's directing opinions.

b/ Tax exemption procedures for cases subject to registration of lists of taxexempt imports

b.1/ Apart from customs procedures guided at Point a.1, Clause 2 of this Article, customs offices shall compare tax exemption dossiers with current regulations and update the quantity and value of duty-exempt goods already imported in the taxpayer's original conciliation-monitoring slip and give a signature

for certification under regulations, then file one copy of the list of tax-exempt imports and the conciliationmonitoring slip clearly showing the quantity and value of imports exempt from import duty in the import dossier (including cases in which goods are transfer among entities eligible for tax exemption).

b.2/ When the goods quantity stated in the list is fully imported, the leader of the district-level Customs Department where final procedures are carried out shall give a certification in the original conciliationmonitoring slip of the taxpayer, and, within 3 days, send its copy (affixed with the "true copy" stamp) to the provincial-level Customs Department to which the list has been registered to serve as a basis for financial settlement and post-customs clearance inspection of the use of tax-exempt exports or imports.

b.3/ Customs offices shall exempt taxes for cases in which customs declarations are registered after the registration of lists. Cases in which customs declarations are registered before the registration of lists shall be reported to the Ministry of Finance for consideration and handling on a case-by-case basis.

3. Tax exemption for imports and exports sent via the express delivery service complies with the Finance Ministry's circular providing for customs procedures for imports and exports sent via the express delivery service.

Article 104. Financial settlement of the import and use of tax-exempt goods

1. For cases subject to registration of lists of tax-exempt imports, apart from using tax-exempt goods for proper purposes, taxpayers shall make financial settlement with customs offices to which lists of tax-exempt imports have been registered on the import and use of tax-exempt goods on registered lists for management, monitoring and inspection of use of all taxexempt goods. Settlements shall be made according to form No. 4 or No. 5, Appendix II to this Circular.

2. Time limits for and contents of financial settlement a/ For cases defined at Point d, Clause 7; Point c, Clause 12, Clause 13, Clause 15, Clause 18, Article 101 of this Circular:

a.1/ Time limit for financial settlement: Within 45 days after the termination of shipbuilding contracts, for the cases specified in Clause 12, the completion of software production, for the cases specified in Clause 13, the completion of production and manufacture, for the cases specified at Point d, Clause 7, or the end of a fiscal year, for the cases specified in Clauses 15 and 18, Article 101 of this Circular, taxpayers shall make financial settlement with customs offices to which lists have been registered on the importation and use of tax-exempt imports, under shipbuilding contracts or for software production or in the fiscal year.

a.2/ Settlement contents:

a.2.1/ Quantities of tax-exempt imported materials, supplies, parts and semi-finished products;

a.2.1/ Actual consumption norms of tax-exempt imported materials, supplies, parts and semi-finished products;

a.2.3/ Quantities of tax-exempt imported materials, supplies, parts and semi-finished products which have been used for production;

a.2.4/ Quantities of products;

a.2.5/ Quantities of tax-exempt imported materials, supplies, parts and semi-finished products which have been used for other purposes;

a.2.6/ Quantities of tax-exempt imported materials, supplies, parts and semi-finished products in stock to be carried forward to the next year.

a.3/ Upon the expiration of goods supply contracts or service provision contracts, for cases specified in Clause 11, Article 101 of this Circular, users of goods shall make financial settlements with customs offices to which their lists of tax-exempt goods have been registered and notify organizations and individuals that carry out petroleum exploration and exploitation of quantities and values of import duty-exempt goods. For quantities of duty-exempt imports which are not used for petroleum exploration and exploitation, previously exempted import duty amounts shall be fully paid under regulations.

b/ For other cases:

b.1/ Settlement time limit: Within 45 days after the completion of the import of goods on the list of taxexempt goods already registered with customs offices.

b.2/ Settlement contents:

b.2.1/ Quantities of goods as stated in the registered list of tax-exempt goods;

b.2.2/ Quantities of goods actually imported and used to create fixed assets of enterprises;

b.2.3/ Quantities of goods actually imported but used for other purposes and payment of taxes for these goods;

b.2.4/ Accounting of fixed assets as prescribed in Circular No. 203/2009/TT-BTC (for goods imported to create fixed assets);

3. Responsibilities of taxpayers:

a/ To submit financial settlements on the import and use of tax-exempt goods as guided in Clauses 1 and 2 of this Article and be responsible before law for the contents of settlements submitted to customs offices;

b/ To fully pay taxes and fines for late payment (if any) in the following cases:

b.1/ They use tax-exempt goods for improper purposes;

b.2/ They have declared goods ineligible for tax exemption as those eligible for tax exemption and these goods have been cleared from customs procedures based on their declarations;

c/ The whole quantities of materials and supplies imported in excess of production demands and remaining in stock within 5 years as specified in Clause 15, Article 101 of this Circular.

c/ Taxpayers that fail to submit settlement dossiers within the prescribed time limit shall be administratively sanctioned according to law. Past 30 days after the deadline for the submission of settlement dossiers, if taxpayers still fail to submit these dossiers, customs offices shall update information on the taxpayers' observance of law to the risk management system and conduct post-customs clearance inspection at enterprises' head offices, if they have any doubts.

3. Responsibilities of customs offices

a/ On the basis of enterprises' dossiers specified in Clauses 1 and 2 of this Article, to fully pay taxes and fines for late payment (if any) for cases specified at Point b and c, Clause 3 of this Article;

b/ On the basis of project owners' settlement dossiers, information on the risk management system and collected information, to inspect and propose directors of provincial-level Customs Departments to decide on postcustoms clearance inspection at enterprises' head offices when necessary;

c/ To conduct tax assessment and fully collect taxes and fines for late payment (if any) if detecting that enterprises have failed to declare changes of the use purposes of tax-exempt goods or have declared goods ineligible for tax exemption as eligible ones which have been cleared from customs procedures.

d/ To issue decisions on administrative sanctions, in cases administrative violations have been committed.

5. For projects which have registered lists of tax-exempt imports in the period from January 1, 2006, till the effective date of this Circular but not yet made financial settlements with customs offices, project owners shall, within 45 days from the effective date of this Circular, submit financial settlements on the import and use of tax-exempt goods under this Article.

Section 4

TAX EXEMPTION CASES AND PROCEDURES

Article 105. Cases to be considered for tax exemption

Exports or imports falling into the following cases may be considered for export or import duty exemption:

1. Special-use goods for security and defense imported under a specific plan approved a line ministry and registered with and accepted by the Ministry of Finance right from the beginning of the year (the deadline for annual registration of import plans by line ministries is March 31. Such plans must classify imports in two categories: central budget-funded and local budget-funded).

Local budget-funded imports for security and defense may only be considered for duty exemption if they are domestically unavailable. The Ministry of Planning and Investment's list of domestically available goods serves as a basis for determining domestically unavailable goods for duty exemption.

2. Special-use imports for scientific research (except the cases specified in Clause 13, Article 12 of Decree No. 87/2010/ND-CP) which are on a specific list approved by the line ministry.

3. Special-use imports for education and training which are on a specific list approved by the line ministry.

4. Goods permitted for export or import as gift, donation or sample goods, including the following cases with specific duty-exempt quotas below: a/ For exports:

a.1/ Goods of organizations and individuals in Vietnam permitted for export as gift or donation for overseas organizations and individuals;

a.2/ Goods of overseas organizations and individuals permitted for export, which are gifts and presents from organizations and individuals in Vietnam during the former's working visits, tourist stays or visits to their relatives in Vietnam;

a.3/ Goods of organizations or individuals in Vietnam permitted for export for display in fairs or exhibitions or for advertising, which are later presented as gift to overseas organizations or individuals;

a.4/ Organizations or individuals sent by the State to work or study aboard or Vietnamese tourists on overseas tours may, in addition to personal luggage quotas applicable to persons on exit, be considered for duty exemption for goods they bring along as gift or donation to overseas organizations or individuals according to the quota applicable to exports as gift or donation;

a.5/ Sample goods of organizations or individuals in Vietnam sent to overseas organizations or individuals;

An organization's goods as gift or donation or sample goods valued at up to VND 30 million may be considered for export duty exemption. An individual's goods as gift or donation or sample goods valued at up to VND 1 million or at over VND 1 million with their total payable duty amount of under VND 50,000 are exempt from export duty (without having to go through export duty exemption procedures).

b/ For imports:

b.1/ Gifts or donations valued at up to VND 30 million given by overseas organizations or individuals to Vietnamese organizations may be considered for duty exemption.

Vietnamese organizations include state agencies, political organizations, socio-political organizations, social organizations, socio-professional organizations and people's armed units;

b.2/ Gifts or donations given by overseas organizations or individuals presented to Vietnamese individuals which are valued at up to VND 1 million or at over VND 1 million but with their total payable duty amount of under VND 50,000 are exempt from duty (without having to go through import duty exemption procedures).

Goods which are addressed to an individual but actually donated to an organization (with written certification of that organization) and managed and used by such organization may be considered for duty exemption according to the quotas applicable to gifts and donations given by overseas organizations and individuals to Vietnamese organizations;

b.3/ For overseas organizations' or individuals' goods permitted for temporary import into Vietnam for display in fairs or exhibitions or imported into Vietnam as sample goods or for advertising which are later not re-exported but given as gift, donation or souvenir to Vietnamese organizations or individuals: Duty exemption may be considered for goods given as gift or souvenir to fair or exhibition visitors valued at under VND 50,000/piece and included in an import lot valued at up to VND 10 million;

b.4/ For overseas organizations' or individuals' goods permitted for import into Vietnam as prizes of sport, cultural or art competitions: Duty exemption may be considered for goods valued at up to VND 2 million/prize (for individuals) and up to VND 30 million/prize (for organizations) and included in an import lot with a total value not exceeding the total value of prizes in kind;

b.5/ Persons on entry to Vietnam may, in addition to personal luggage quotas, be exempt from duty on goods they bring along as gift, donation or souvenir which are valued at up to VND 1 million or valued at over VND 1 million but with their total payable duty amount of under VND 50,000 (without having to go through import duty exemption procedures);

b.6/ Duty exemption may be considered for goods falling in the cases specified in Clauses 1, 3, 4 and 17, Article 101 of this Circular subject to re-export which are not re-exported but given by overseas organizations or individuals as present or gift (if they are conditional imports, permission of a competent state agency is required) to Vietnamese organizations or individuals and are valued at up to VND 30 million, for organizations, and up to VND 1 million, for individuals. For gifts or donations for individuals

valued at up to VND 1 million or at over VND 1 million but with the total payable duty amount of under VND 50,000, import duty exemption procedures are not required;

b.7/ Duty exemption may be considered for sample goods sent by overseas organizations or individuals to Vietnamese organizations or individuals valued at up to VND 30 million, for organizations, and valued at up to VND 1 million or at over VND 1 million but with their total payable duty amount of under VND 50,000, for individuals.

c/ Duty shall be paid for the value of gifts or donations exceeding the quota for duty exemption consideration or duty exemption except the following cases which may be considered for duty exemption for the value of the whole goods lot:

c.1/ Recipients of gifts or donations which are state-funded non-business administrative units and permitted by their managing agencies to receive those gifts or donations may be considered for duty exemption on a caseby-case basis. In this case, they shall record an increase in their budget allocated assets, including the duty amount and the value of the lot of gifts or donations, and manage and use them under current regulations on management of budget-allocated assets;

c.2/ Goods are presented or donated for humanitarian, charity and scientific research purposes;

c.3/ Medicines sent by overseas Vietnamese to their relatives in Vietnam who are members of families with meritorious services to the revolution, war invalids, fallen heroes or helpless elderly people as certified by local administrations.

5. Duty-exempt goods under treaties to which Vietnam is a contracting party.

Article 106. Dossiers for tax exemption consideration

A dossier for tax exemption consideration comprises:

1. One copy of a customs dossier made under this Circular;

2. Other papers, depending on the following specific cases:

a/ An original written request for tax exemption consideration made by the user of exports or imports (except the case specified at Point b of this Clause), clearly indicating the type and value of goods, tax amount, reason for tax exemption, and the customs declaration. In case there are different types of goods in different customs declarations, these goods and customs declarations for tax exemption consideration shall be listed with a commitment to making accurate declaration, supplying proper documents and using goods for proper purpose;

b/ An original written request for tax exemption consideration made by the Ministry of National Defense or the Ministry of Public Security or a unit authorized or decentralized by the Ministry of National Defense or the Ministry of Public Security (clearly stating that imports for defense and security are funded by the central or local budget), and a specific list of quantities and types of imports approved by the Ministry of National Defense or the Ministry of Public Security after reaching agreement with the Ministry of Finance right at the beginning of the year (the Ministry of National Defense or the Ministry of Public Security shall register annual import plans with the Ministry of Finance no later than the end of March 31) and enclosed with 2 original conciliation-monitoring slips for goods imported for exclusive use in security and defense;

c/ One copy of an import entrustment contract (for entrusted import) or a bid-winning notice enclosed with the goods supply contract (for import through bidding), clearly indicating the payment price exclusive of import duty.

d/ An original decision approving a scientific research project and 2 copies of a list of goods to be imported for implementation of this project issued by a line ministry, for special-use imports for scientific research, enclosed with the original for comparison (for multiple importation, a conciliationmonitoring slip is required);

e/ Two originals of a decision approving an equipment investment project and a list of equipment to be imported under the project, issued by a line ministry, for special-use imports for education and training (for multiple importation, a conciliation-monitoring slip is required);

f/ One copy of a treaty to which Vietnam is a contracting party, for cases in which tax exemption consideration is requested under this treaty;

g/ For gifts, donations or samples:

g.1/ One copy of a notice or decision or agreement on donation or presentation of goods; or a notice or agreement on sending of sample goods;

g.2/ An original written certification of a commune-level People's Committee in case relatives of an overseas Vietnamese are members of a family with meritorious services to the revolution, war invalids, fallen heroes or helpless elderly people and receive medicines as gift from this overseas Vietnamese;

g.3/ One copy of a letter of authorization to clear customs procedures made by an organization or individual that is given gifts or donations or receives sample goods in case customs procedures for these gifts, donations or sample goods are carried out by an authorized person;

g.4/ One copy of a written permission of a competent state agency for nonexport of temporarily imported goods for use as gifts or donations for Vietnamese organizations or individuals (in case permission is required); an invoice or ex-warehousing bill for those gifts or donations; and a record of delivery and receipt of goods between the donor and donee in case goods are given as gift or donation by a tax-exempt importer by mode of temporary import for re-export;

g.5/ A superior managing agency's certification of the permission to receive duty-exempt goods, for gifts or donations for state-funded non business administrative agencies or mass organizations with a value in excess of the quota for tax exemption consideration.

h/ One copy of other documents related to the determination of tax-exempt amount.

i/ A list of documents in the dossier for tax exemption consideration.

Article 107. Procedures and order for tax exemption consideration

1. Submission and receipt of dossiers for tax exemption consideration

a/ Eligible taxpayers shall determine by themselves exempted tax amounts; and submit dossiers to customs offices competent to consider tax exemption. When the tax exemption authority is the Ministry of Finance, taxpayers shall determine exempted tax amounts and submit dossiers for tax exemption consideration to the General Department of Customs;

b/ When dossiers for tax exemption consideration are submitted directly to customs offices, customs officers shall receive dossiers and append a receipt mark and record the time of receipt and number of documents included in the dossiers;

c/ When dossiers for tax exemption consideration are submitted by post, customs officers shall append a receipt mark showing dates of receipt and record them in their incoming-mail books;

d/ When dossiers for tax exemption consideration are submitted electronically, customs offices shall receive, examine and accept these dossiers through their electronic data processing systems.

2. Customs offices shall examine dossiers for tax exemption consideration submitted by taxpayers and process them as follows:

a/ If these dossiers are incomplete, they shall, within 3 working days after the dossier receipt, notify such to taxpayers for completion;

b/ They shall issue tax exemption decisions under regulations or notify taxpayers of reasons for their ineligibility for tax exemption and of their payable tax amounts within 15 working days after receiving complete dossiers, and handle violations (if any) under current regulations. When physical inspection is required to provide sufficient grounds for handling dossiers, this time limit may be extended to 50 days after receiving complete dossiers.

3. Based on tax exemption decisions, customs offices at which customs declarations have been registered shall liquidate exempted tax amounts and clearly indicate them in original customs declarations filed at their offices and those kept by taxpayers: "Goods are considered for tax exemption under Decision No. dated ... issued by...." (made according to form No. 02, Appendix II to this Circular).

Article 108. Competence to consider tax exemption

1. The Ministry of Finance may consider tax exemption for:

a/ Gifts or donations for non-business administrative agencies or mass social organizations with a value exceeding the tax-exempt quota;

b/ Gifts or donations for humanitarian, charity or scientific research purpose.

2. The General Department of Customs may consider tax exemption for:

a/ Goods imported for security, defense, scientific research or education and training purpose;

b/ Goods exported or imported under treaties.

3. District-level Customs Departments may exempt taxes for goods valued at up to VND 1 million, for individuals, or goods valued at more than VND 1 million with their total payable tax amount of under VND 50,000, as specified at Points b.2, b.5 and b.6, Clause 4, Article 105 of this Circular.

4. Provincial-level Customs Departments may consider tax exemption for other cases.

Section 5

CASES ELIGIBLE AND PROCEDURES FOR TAX REDUCTION CONSIDERATION

Article 109. Cases eligible for tax reduction consideration

Exports and imports currently under customs supervision which are damaged or lost as assessed and certified by competent agencies or organizations may be considered for tax reduction corresponding to the rate of their actual damage.

Article 110. A dossier for tax reduction consideration comprises:

1. One copy of a custom dossier made under this Circular.

2. The taxpayer's original written request for tax reduction consideration, clearly indicating the type, quantity and value of goods, tax amount and reason for tax reduction, and the customs declaration. In case there are different types of goods in different customs declarations, goods and customs declarations eligible for tax reduction shall be listed with a commitment to making accurate declaration and supplying proper documents in the dossier.

3. An assessment service provider's original assessment certificate of the lost quantity or actual damage rate of exports or imports.

4. One copy of an insurance policy.

5. One copy of a contract/written agreement on payment of indemnity by the insurer or the forwarding agency (in case damage is caused by the forwarding agency).

6. A list of documents in the dossier for tax reduction consideration. Article 111. Order and procedures for tax reduction consideration The order and procedures for tax reduction consideration are the same as those for tax exemption consideration.

Article 112. Competence to consider tax reduction

Directors of provincial-level Customs Departments at which customs declarations are registered may consider tax reduction.

Section 6

CASES ELIGIBLE AND PROCEDURES FOR TAX REFUND

Article 113. Cases eligible for tax refund consideration

The following cases may be considered for tax refund:

1. Imports for which import duty has been paid but which are still in warehouses or storing yards under customs supervision and permitted for re-export;

2. Exports or imports for which export or import duty has been paid but actually are not exported or imported;

3. Goods for which export or import duty has been paid but have been actually exported or imported in smaller quantities;

4. Goods imported for delivery or sale to foreign parties by Vietnam-based agents; goods imported for sale to foreign companies' vehicles or vessels on international routes through Vietnamese ports and Vietnamese vehicles or vessels on international routes under the Government's regulations;

5. Goods imported for the production of goods to be exported abroad or into non-tariff zones for which import duty has been paid are entitled to import duty refund in proportion to actually exported products and are free from export duty, for exports which are determined to be processed wholly from imported materials, specifically as follows:

a/ Exports made wholly from imported materials are exempt from export duty. When exports are made from both imported and domestic materials, export duty shall be paid for their constituent domestic materials;

b/ Materials and supplies eligible for import duty refund, including:

b.1/ Imported materials and supplies (including also parts for assembly, semi-finished products and packaging materials) physically constituting exports;

b.2/ Materials and supplies directly used in export production which are not turned into or do not physically constitute these products, such as paper, chalk, drawing pen, marker, clothes pin, printing ink, adhesive brush, lithographic frame, crepe, polish, etc;

b.3/ Finished products imported by enterprises for fitting on export products (contained in the same package with export products made from imported materials and supplies or from domestically purchased materials and supplies) to form complete goods for export;

b.4/ Spare parts imported for use as warranty items for export products; b.5/ Sample goods imported for export production which are re-exported to foreign customers upon completion of contracts.

c/ Cases eligible for tax refund consideration include:

c.1/ Enterprises importing materials and supplies for export production; or organizations hiring processing at home (including hired processing at nontariff zones) or overseas, or enterprises associating with others in export production and receiving products for subsequent export;

c.2/ Enterprises importing materials and supplies for the production of goods for domestic sale but later finding export outlets, using these materials and supplies for export production, and having actually exported products (within 2 years from the date of registration of declarations for imported materials and supplies to the date of registration of export declarations for the last product using materials and supplies indicated in import declarations for which tax refund is requested);

c.3/ Enterprises importing materials and supplies (except finished products) for the performance of processing contracts (not supplied by foreign customers but imported by processing enterprises themselves for the performance of processing contracts signed with foreign customers), when actually exporting products, may be considered for tax refund as for materials and supplies imported for export production;

c.4/ Enterprises importing materials and supplies to make products which are used for the processing of exports under processing contracts with foreign parties;

c.5/ Enterprises importing materials and supplies to make (finished or semifinished) products for sale to other enterprises for direct production or processing of exports may, after the latter's exportation, be refunded import duty amounts in proportion to quantities of imported materials and supplies used by other enterprises for the production of actually exported products, if they fully satisfy the following conditions:

c.5.1/ Selling and purchasing enterprises pay value-added tax by the credit method; enterprises have made business registration and had tax identification numbers; and there are invoices for the sale and purchase of goods between the two enterprises;

c.5.2/ Via-bank payment is made for exports under regulations of the State Bank of Vietnam;

c.5.3/ The date of import of materials and supplies (the date of registration of customs declaration of imports) to the date of actual export of products (the date of registration of customs declaration of exports) is within one year (three hundred and sixty five days).

c.6/ Enterprises importing materials and supplies to make (finished or semifinished) products for sale to other enterprises for direct export in assemblies may be considered for tax refund in proportion to the ratio of exported products (part sets), if the conditions specified at Point c.5 of this Clause and the following conditions are fully satisfied:

c.6.1/ Products made from materials and supplies imported by enterprises constitute a detail or part of an assembly for export;

c.6.2/ Enterprises purchase products for fitting with details or parts produced by themselves to make up export assemblies.

c.7/ Enterprises importing materials and supplies to make (finished or semifinished) products for sale to other enterprises for direct export may, after the latter's actual exportation, be refunded import duty amounts in proportion to quantities of actually exported products if they full satisfy the conditions specified at Point c.5 of this Clause;

c.8/ Enterprises importing materials and supplies to make products for sale to foreign traders but delivering these goods to other enterprises in Vietnam designated by foreign traders may be refunded import duty if the following conditions are fully satisfied:

c.8.1/ On-spot imports are further used for export production or processing under processing contracts with foreign parties;

c.8.2/ An on-spot export or import declaration satisfies the following conditions:

- For exporters: The customs declaration is fully filled in with certifications, signatures and seals of 4 parties, namely the exporter, importer and customs offices carrying out export procedures and import procedures;

- For importers: The customs declaration is fully filled in with certifications, signatures and seals of 3 parties, namely the exporter, importer and customs office carrying out import procedures. The form of the declaration upon registration of on-spot import is that for export production or processing.

When a customs office has collected import duty upon an enterprise's import of goods into Vietnam and further collects import duty upon on-spot importation or exportation, this enterprise may be considered for refund of the import duty it has paid when carrying out import procedures.

c.9/ Materials and supplies imported for export production specified at Points c.1 thru c.7 of this Clause, which have been exported but not yet actually sold to foreign customers and are still stored in overseas warehouses of enterprises or consigned to overseas bonded warehouses or kept at overseas entrepot ports;

c.10/ Materials and supplies imported for export production specified at Points c.1 thru c.7 of this Clause, which are not exported abroad but into non-tariff zones (except export processing enterprises, export-processing zones and bonded warehouses) and are determined by inspecting and supervising customs offices as having been actually exported abroad or used in non-tariff zones, may be refunded import duty amounts in proportion to quantities of goods actually used in non-tariff zones or exported abroad.

d/ Norms of imported materials and supplies eligible for consideration for import duty refund or noncollection are norms of those actually used for the production of actually exported products, including the portion of scraps and discarded products within the consumption norm recovered in the production of exports from imported materials and supplies.

d.1/ Procedures for registration of norms of materials and supplies imported for export production and registration of exports comply with Article 33 of this Circular;

d.2/ In case different kinds of products are turned out from the same imported materials or supplies (for example, from the processing of imported shell peanuts, class-1 and class-2 peanuts are obtained) but only one kind of product is exported, enterprises shall declare and pay taxes (if any) to customs offices for quantities of materials and supplies imported for the production of non-exported products.

To-be-refunded import duty amount shall be determined by the allocation method according to the following formula:

To-be

Refunded value of

Import duty exported total import

Amount product duty amount

(in proportion = _____ x of imported

To actually Total value of materials and

Exported obtained supplies

Products) products

In which:

- Value of exported products is the quantity of actually exported products multiplied (x) by the taxable value of exports;

- Total value of obtained products is the total value of exported products and sales of products (including also recovered scraps and discarded products outside norms and exclusive of output value-added tax) for domestic sale.

In case an enterprise imports a type of materials or supplies for production but obtains two or more different kinds of products (for example, import of wheat for the production of wheat flour, bran and husk), of which a kind is used for export production while the other is for domestic sale (for example, wheat bran and husk obtained from this process are domestically sold while wheat flour is further used for the production of instant noodles for export):

+ Upon calculation of the value of exported products and total value of obtained products, the portion of domestically purchased auxiliary materials (for example, instant noodle for export has other ingredients made from domestic auxiliary materials such as flavors, spices and packaging materials) shall be excluded;

+ To exclude the portion of auxiliary materials in export products, enterprises shall elaborate their own norm of the auxiliary material portion in an export product and register it with customs offices clearing import procedures and take responsibility for the accuracy and reliability of the registered norm. When doubtful of this norm, the agency considering tax refund may invite expert assessment by a specialized management agency or coordinate with the local tax office (which grants the tax identification number to the enterprise) in conducting an inspection at the enterprise to redetermine the norm for use as a basis for consideration of tax refund for the enterprise.

d.3/ Domestically sold scraps and discarded products shall be handled as follows:

- The portion of scraps and discarded products within the consumption norm recovered in the production of exports from imported materials and supplies (for example peanut shells in the processing of shell peanuts into peanuts) is exempt from import duty. Taxpayers that sell scraps and discarded products of commercial value in the market are also exempt from import duty but shall declare and pay other taxes such as value-added tax and enterprise income tax under regulations;

- The portion of materials and supplies not included in the norm guided at Points d.1 and d.2 of this Clause is subject to import duty. The tax declaration and payment comply with Clause 9, Article 10 of this Circular.

e/ Materials and supplies imported for the production of goods which are actually exported within the tax payment time limit are not subject to import duty for the quantity of materials and supplies used for the production of the actually exported products.

6. Goods temporarily imported for re-export; goods temporarily exported for re-import or goods imported under foreign parties' entrustment and subsequently re-exported for which import or export duty has been paid, including also imports re-exported into non-tariff zones (for use in these zones or for export abroad, except re-export into special trade economic zones, trade industrial zones and other economic sectors, which complies with the Ministry of Finance's separate guidance) may be considered for import or export duty refund and exemption from import or export duty upon their re-import or re-export (except the case entitled to tax exemption under Clause 1, Article 101 of this Circular).

Goods temporarily imported for re-export or temporarily exported for reimport which are actually reexported or re-imported within the tax payment time limit are not subject to import or export duty in proportion to quantities of actually re-exported or re-imported goods.

7. Exported goods which have to be subsequently imported back into Vietnam may be considered for refund of paid export duty amounts and non-payment of import duty.

a/ Conditions for being considered for refund of paid export duty amounts and non-payment of import duty:

a.1/ Goods are actually imported back into Vietnam within 365 days after the date of registering export declarations;

a.2/ Goods have not yet gone through production, processing, repair or use abroad;

a.3/ Goods imported back into Vietnam have customs procedures cleared at places where procedures for their export have been carried out.

For exported goods to be imported back into Vietnam with dossiers eligible for tax refund first and inspection later, which however fail to satisfy the conditions specified at Points a.1 and a.3 of this Clause, customs offices shall conduct inspection first and refund export duty later and will not collect import duty under Clause 5, Article 128 of this Circular.

b/ For exports being processed by Vietnamese enterprises for foreign parties for which import duty on materials and supplies has been exempt and which have to be imported back into Vietnam for repair or reprocessing and subsequent export back to foreign parties, customs offices which manage and settle processing contracts shall continue their monitoring and management until reprocessed goods are fully exported and liquidate customs declarations of goods imported for reprocessing. If reprocessed goods are not exported, they shall handle them as follows:

b.1/ If these goods are domestically sold, tax declaration and payment shall be made as for processed products exported or imported on spot;

b.2/ If these goods must be destroyed or are allowed to be destroyed in Vietnam and are destroyed under customs supervision, they are exempt from tax like destroyed scraps and discarded processed products.

c/ Exports produced from imported materials and supplies; goods temporarily imported for re-export (eligible for tax refund upon exportation) which have to be imported back into Vietnam but have not been reprocessed or re-exported shall be handled as follows:

c.1/ Enterprises will not be considered for tax refund (or for tax nonpayment if they have not yet paid tax) for portions of materials imported for export production or re-exported goods which have to be imported back into Vietnam;

c.2/ In case customs offices have refunded tax or issued decisions on tax non-payment for portions of materials imported for export production or reexported goods which have to be imported back into Vietnam, taxpayers shall return those refunded tax amounts or pay tax.

d/ In case the time limit for export duty payment for exports which have to be imported back into Vietnam has not yet expired, export duty payment is not required for quantities of goods actually imported back into Vietnam.

8. Imports which have to be re-exported for return to foreign goods owners or to third countries or into non-tariff zones (for use in these zones or export abroad, except export into special trade economic zones, trade industrial zones and other economic sectors, which complies with the Ministry of Finance's separate guidance) may be considered for refund of import duty amounts already paid in proportion to quantities of actually reexported goods and for which export duty payment is not required.

a/ Conditions for being considered for refund of paid import duty amounts and non-payment of export duty:

a.1/ Goods are re-exported abroad or into non-tariff zones within 365 days from the date of actual importation;

a.2/ Goods have not yet gone through production, processing, repair or use in Vietnam;

a.3/ Goods are cleared from procedures for their export back to countries of origin at district-level Customs Departments which have cleared procedures for their importation;

a.4/ In case imports do not match with those indicated in contracts, there are written notices of goods assessment by competent assessment agencies or institutions. For quantities of goods sent by foreign parties in substitution for those already exported back to countries of origin, enterprises shall make import declaration and payment under regulations;

a.5/ Goods exported into non-tariff zones (except export into exportprocessing zones, export-processing enterprises, bonded warehouses; special trade economic zones, trade industrial zones and other economic sectors, which complies with the Ministry of Finance's separate guidance) which are determined by customs offices conducting goods inspection and supervision as having been actually used in non-tariff zon

For imported goods which have to be re-exported for return to foreign owners or to third countries or into non-tariff zones and whose dossiers are eligible for tax refund first and inspection later but fail to satisfy the conditions specified at Points a.1 and a.3 of this Clause, customs offices shall conduct inspection first and refund import duty later and will not collect export duty under Clause 5, Article 128 of this Circular.

b/ If the import duty payment time limit for imports subject to re-export has not expired, import duty payment is not required for quantities of actually re-exported goods.

9. Machinery, equipment, tools and means of transport (except hired ones) temporarily imported for reexport by licensed organizations and individuals for implementation of investment projects, construction and installation of works or production for which import duty has been paid are entitled to import duty refund when they are re-exported out of Vietnam or into non-tariff zones (for use in these zones or further export abroad).

To-be-refunded import duty amounts shall be determined based on the residual value of these machinery, equipment, tools and means of transport upon their re-exportation calculated according to the duration of their use and storage in Vietnam (from the date of registering temporary import declarations to the date of registering re-export declarations). In case these goods can no longer be used, tax will not be refunded, specifically as follows:

Duration of use and storage in Vietnam To-be-refunded import duty amount	
6 months or less	90% of paid import duty amount
Between over 6 months and 1 year	80% of paid import duty amount
Between over 1 year and 2 years	70% of paid import duty amount
Between over 2 years and 3 years	60% of paid import duty amount
Between over 3 years and 5 years	50% of paid import duty amount
Between over 5 years and 7 years	40% of paid import duty amount
Between over 7 years and 9 years	30% of paid import duty amount
Between over 9 years and 10 years	15% of paid import duty amount
Over 10 years	Non-refundable
b/For used imports:	
Duration of use and storage in Vietnam To-be-refunded import duty amount	
6 months or less	60% of paid import duty amount
Between over 6 months and 1 year	50% of paid import duty amount
Between over 1 year and 2 years	40% of paid import duty amount
Between over 2 years and 3 years	35% of paid import duty amount
Between over 3 years and 5 years	30% of paid import duty amount

a/ For brand-new (unused) imports:

Over 5 years	Non-refundable
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In case the duration of temporary import expires but importers of machinery, equipment, tools and means of transport fail to re-export them and are permitted by the Ministry of Industry and Trade (or another competent state agency) to transfer them to other entities in Vietnam for further management and use, the transferred goods are not regarded as exports and are ineligible for import duty refund. Recipients or buyers of these goods are not obliged to pay import duty. When these goods are actually re-exported out of Vietnam, initial importers will be refunded import duty under this Clause.

10. For exports or imports sent by overseas organizations or individuals to organizations or individuals in Vietnam through postal services or international express delivery services and vice versa, service providers having paid tax therefor but failing to deliver them to designated recipients and obliged to re-export or re-import or having these goods confiscated and destroyed under law may have paid tax amounts refunded under Joint Circular No. 01/2004/TTLT-BBCVT-BTC of May 25, 2004, of the Ministry of Post and Telematics and the Ministry of Finance, guiding responsibilities for and coordination in customs inspection and supervision of mails, postal parcels and items for export or import sent through postal services or mail delivery services.

11. For goods being exhibits in violations of customs regulations committed by organizations and individuals, currently under customs supervision or management and confiscated under decisions of competent state agencies, paid export or import duty amounts will be refunded.

12. Exports and imports for which duty has been paid but are later eligible for tax exemption or refund under decisions of competent state agencies may enjoy tax refund.

13. For exports and imports still under customs supervision or management, if their customs declarations have been registered but they are detected by customs offices through customs clearance inspection to be involved in violations and have been forcibly destroyed, decisions on exemption from export or import duty (if any) shall be issued. The sanctioning of acts of exporting or importing goods in contravention of regulations and forcible destruction of these goods comply with current law. Customs offices at which customs declarations of exports or imports are registered shall keep dossiers of destroyed goods and coordinate with functional agencies in supervising the destruction under current law.

14. For cases eligible for export or import duty refund under this Article in which to be-refunded tax amounts are less than VND 50,000 upon each time of completion of tax refund procedures for each tax refund dossier, customs offices will not refund this tax amount.

Article 114. Tax refund dossiers for imports allowed for re-export for which import duty has been paid but which are still kept in warehouses or storing yards at border gates and currently under customs supervision

1. A written request for refund of the paid tax amount, clearly indicating type of goods, tax amount, reason for tax refund, and the customs declaration. In case there are different types of goods in different customs declarations, customs declarations related to the tax refund request shall be listed: to submit 1 original.

2. The customs declaration of taxed imports: to submit 1 original.

3. The customs declaration of exports cleared from customs procedures with the customs office's certification of actual exportation and certification that exports have been indicated in the import customs declaration and are still kept in warehouses or storing yards at a border gate and under customs supervision: to submit 1 original; papers proving the actual export under Article 26 of this Circular: to submit 1 copy.

4. A tax payment receipt in case tax has been paid: to submit 1 copy and produce the original for comparison.

5. A list of documents included in the tax refund dossier.

Article 115. Tax refund dossiers for exports or imports for which export or import duty has been paid but which are not exported or imported

1. The papers specified in Clauses 1, 4 and 5, Article 114 of this Circular;

2. The customs declaration of exports with the customs office's certification that goods are actually not exported, for cases of nonexportation: to submit 1 original.

3. The customs declaration of imports with the customs office's certification that goods are actually not imported, for cases of nonimportation: to submit 1 original.

Article 116. Tax refund dossiers for goods for which export duty or duty has been paid but which have been actually exported or imported in smaller quantities

1. The papers specified in Clauses 1, 4 and 5, Article 114 of this Circular.

2. The customs declaration of exports cleared from customs procedures with goods customs inspection results clearly indicating actually exported quantities: to submit 1 original; other papers proving the actual exportation under Article 26 of this Circular: to submit 1 copy.

3. The customs declaration of imports cleared from customs procedures with goods customs inspection results clearly indicating actually imported quantities and enclosed with the customs office's certification of actual importation: to submit 1 original.

4. The commercial invoice under the goods trading contract: to submit 1 copy.

5. Other papers proving that goods have been actually imported or exported in smaller quantities.

Article 117. Tax refund dossiers for goods imported for delivery or sale to foreign parties by their agents in Vietnam; goods imported for sale to vehicles of foreign firms operating on international routes through Vietnamese ports and to Vietnamese vehicles operating on international routes under the Government's regulations

1. For general cases:

a/ The papers guided in Clauses 1, 4 and 5, Article 114 of this Circular;

b/ The Ministry of Industry and Trade's written permission for import (for commodities for which the Ministry of Industry and Trade's import permits are required): to produce 1 original for comparison;

c/ The customs declaration of imports already cleared from customs procedures: to submit 1 original;

d/ The sale invoice: to submit 1 copy;

e/ The customs declaration of exports already cleared from customs procedures: to submit 1 original; other papers evidencing that the goods have been actually exported under Article 26 of this Circular: to submit 1 copy each;

f/ The goods delivery or sale agency contract and goods supply contract or agreement: to submit 1 copy each;

g/ The payment document for exports: to submit 1 copy and produce the original for comparison. For goods lots for which installment payment is made, to additionally submit 1 original of the list of payment documents.

2. For imports being drinks catered on international flights:

a/ The papers guided at Points a, b and c, Clause 1 of this Article;

b/ The slip of drink delivery and receipt for an international flight, certified by the airport border-gate customs office: to submit 1 copy.

3. For goods imported by principal enterprises (e.g., petrol and oil) and allowed to be sold to seagoing ship chandlers for subsequent sale to foreign seagoing ships and for which import duty has been paid, import duty will be refunded after these goods are sold to foreign seagoing ships:

a/ The papers guided in Clause 1 of this Article;

b/ The contract and invoice on the sale of goods to a seagoing ship chandler: to submit 1 copy each;

c/ The seagoing ship chandler's certification of the quantity and value of goods purchased from the principal importer and actually supplied for foreign seagoing ships, enclosed with a list of payment documents of foreign shipping firms: to submit 1 original. The chandler shall take responsibility before law for its certification.

Article 118. Liquidation and tax refund dossiers for goods imported for production of goods for export abroad or into non-tariff zones, which have been actually used in these zones or exported abroad and for which import duty has been paid

1. In case enterprises import materials and supplies for export production or hire processing at home (including processing in non-tariff zones) or abroad; or enterprises associate with one another in producing exports and receiving products for export:

a/ A general dossier comprises:

a.1/ A written request for liquidation, import duty refund or exemption for materials and supplies imported for export production, indicating the quantity and value of imported materials and supplies already used for export production; paid import duty amount; quantity of exports; and import duty amount requested for refund or exemption. In case there are different types of goods in different customs declarations, customs declarations related to the duty refund request shall be listed: to submit 1 original;

a.2/ The customs declaration of imported materials and supplies already cleared from customs procedures: to submit 1 original;

a.3/ The tax payment document, if tax has been paid: to submit 1 copy and to produce the original for comparison;

a.4/ The customs declaration of exports already cleared from customs procedures: to submit 1 original; other papers evidencing that the goods have been actually exported under Article 26 of this Circular: to submit 1 copy; and export contract: to submit 1 copy and produce the original for comparison;

a.5/ The import contract; or import or export entrustment contract in case of import or export entrustment (the copy filed at the customs office will be used; the taxpayer is not required to submit any): 1 copy;

a.6/ The payment document for exports: to submit 1 copy and produce the original for comparison. For a goods lot for which installment payment is made, to additionally submit 1 original of a list of via-bank payment documents;

a.7/ The contract on associated export production, in case of associated export production: to submit 1 copy;

a.8/ The notice of norms: The copy filed at the customs office will be used, the taxpayer is not required to submit any;

a.9/ The list of declarations of exports to be liquidated (made according to form No. 15/HSTK-SXXX, Appendix VI to this Circular): to submit 1 original;

a.10/ The report on warehoused, ex-warehoused and in-stock imported materials and supplies (made according to form No. 16/HSTK-SXXX, Appendix VI to this Circular): to submit 1 original;

a.11/ The report on taxation of imported materials and supplies (made according to form No. 17/HSTK-SXXX, Appendix VI to this Circular);

a.12/ The list of documents included in the tax refund dossier.

b/ In addition to the papers specified at Point a of this Clause, a dossier for goods imported for export production which are not used directly in the production but exported into non-tariff zones or exported abroad for processing for subsequent receipt of processed products for further production and/or export must additionally comprise:

b.1/ The customs declaration of exports to be used as materials and supplies for processing, already cleared from customs procedures: to submit 1 original; other papers evidencing that the goods have been actually exported under Article 26 of this Circular: to submit 1 copy each;

b.2/ The customs declaration of imports from a non-tariff zone or a foreign country, already cleared from customs procedures: to submit 1 original;

b.3/ The tax payment document for imported processed products, in case tax has been paid and is requested for refund: to submit 1 copy and produce the original for comparison;

b.4/ The processing contract with a non-tariff zone enterprise or a foreign party: to submit 1 copy.

2. In case an enterprise imports materials and supplies for the production of goods for domestic sale but later finds an export outlet and puts these materials and supplies in export production, then actually exports its products abroad within 2 years from the date of registration of the customs declaration of imported materials and supplies:

A liquidation, tax refund or exemption dossier is similar to that guided in Clause 1 of this Article.

3. For materials and supplies (except finished products) imported for the performance of processing contracts by processing enterprises themselves and not supplied by foreign processees, a dossier comprises:

a/ A written request for liquidation, import duty refund or exemption for materials and supplies imported for export processing, indicating items, quantities and values of imported materials and supplies; paid import duty amount; quantity of exported products; import duty amount requested for refund or exemption. In case there are different types of goods in different customs declarations, customs declarations related to the duty refund request shall be listed: to submit 1 original;

b/ The customs declaration of processed exports already cleared from customs procedures: to submit 1 original; other papers evidencing that the goods have been actually exported under Article 26 of this Circular: to submit 1 copy each;

c/ The processing contract signed with the foreign processee, indicating the list and quantities of materials and supplies supplied by the processing enterprise: to submit 1 copy;

d/ The papers guided at Points a.2, a.3, a.5, a.6, a.8, a.9, a.10, a.11 and a.12, Clause 1 of this Article.

4. In case enterprises import materials and supplies to make products which are used for export processing under processing contracts with foreign parties:

A dossier is the same as that mentioned in Clause 1 of this Article. Particularly:

a/ The export contract is replaced with the processing contract signed with the foreign processee. The contract on purchase of products used for processing and the processing contract with the foreign processee may be consolidated in a sole contract (1 copy);

b/ The table of consumption norms of imported materials and supplies for the production of products to be used in processing and consumption norms of materials for export production under the signed processing contract (the copy filed at the customs office will be used, the taxpayer is not required to submit any);

c/ The declaration of actual quantities of products produced by the enterprise and used for processing: to submit 1 original.

5. In case enterprises import materials and supplies to make products to be sold to other enterprises for direct production or processing of exports which have been actually exported, a dossier comprises:

a/ A written request for liquidation, import duty refund or exemption, indicating quantities and values of imported materials and supplies used in the production of commodities to be sold to other enterprises for direct production or processing of exports; quantities of sold commodities; quantities of exported products; paid import duty amount; and import duty amount requested for refund or exemption. In case there are different types of goods in different customs declarations, customs declarations related to the duty refund request shall be listed: to submit 1 original;

b/ The customs declaration of exports already cleared from customs procedures: to submit 1 original; other papers evidencing that the goods have been actually exported under Article 26 of this Circular: to submit 1 copy each; export contract: to submit 1 copy and produce the original for comparison;

c/ The sale invoice between two enterprises: to submit 1 copy; the list of sale invoices: to submit 1 original;

d/ The economic contract on goods trading between the importer and export producer or processor, indicating goods used for export production or processing; payment document for purchased goods: to submit 1 copy;

e/ The processing contract or export contract between the export producer or processor and the foreign processee: to submit 1 copy;

f/ The exporter's declaration of the actual quantity and norms of products purchased for direct production of an export product unit;

g/ The import contract signed between the on-spot importer and the foreign trader;

h/ The papers guided at Points a.2, a.3, a.5, a.6, a.8, a.9, a.10, a.11 and a.12, Clause 1 of this Article.

6. In case enterprises import materials and supplies to make products to be sold to other enterprises for direct export and the purchasing enterprises have exported these products abroad, a dossier comprises:

a/ A written request for liquidation, import duty refund or exemption, indicating quantities and values of imported materials and supplies; paid import duty amount; quantity of products sold to the exporter; quantity of exported products; and import duty amount requested for refund or exemption. In case there are different types of goods in different customs declarations, customs declarations related to the duty refund request shall be listed: to submit 1 original;

b/ The trading contract; seller's invoice for the sale of products to the exporter: to submit 1 copy;

c/ The papers guided at Points a.2, a.3, a.4, a.5, a.6, a.8, a.9, a.10, a.11 and a.12, Clause 1 of this Article.

7. In case enterprises import materials and supplies to make goods to be sold to foreign traders but these goods are delivered to other Vietnam-based enterprises as designated by foreign traders for use as materials for further production or processing of exports, a dossier comprises: a/ A written request for liquidation, import duty refund or exemption, indicating quantities and values of imported materials and supplies used to make goods to be sold to foreign customers, which match types and quantities of export items indicated in customs declarations of on-spot exports, and containing the following details: number of customs declarations of imports; items, quantities and values of imported materials and supplies; quantity of exported products; paid import duty amount; and import duty amount requested for refund or exemption. In case there are different types of goods in different customs declarations, customs declarations related to the duty refund request shall be listed: to submit 1 original;

b/ The added-value invoice made by the exporter (the original to be handed to the customer): to submit 1 copy;

c/ The declaration of on-spot imports and exports already cleared from customs procedures: to submit 1 original;

This declaration is valid for liquidation, tax refund or exemption consideration only when the on-spot importer registers it in the form of export production or processing for further production or processing for export abroad.

d/ The goods trading contract designating the delivery of goods in Vietnam (for the exporter), or goods trading contract or processing contract designating the receipt of goods in Vietnam (for the importer): to submit 1 copy;

e/ The papers guided at Points a.2, a.3, a.5, a.6, a.8, a.9, a.10, a.11 and a.12, Clause 1 of this Article.

8. In case enterprises import materials and supplies to produce exports which have been exported abroad but are retained in these enterprises' overseas warehouses or consigned to overseas bonded warehouses or entrepot ports, a dossier comprises:

a/ The papers specified in Clause 1 of this Article;

b/ The declaration of goods exported abroad and customs declaration of imports issued by the importing country's customs office, showing the importer's name being the overseas warehouse of the enterprise or the overseas bonded warehouse or entrepot port to which goods are consigned: 1 copy and the original for comparison;

c/ In addition to the above papers, a dossier must additionally comprise:

c.1/ The contract of consignment of goods to an overseas bonded warehouse, for goods being consigned to overseas bonded warehouses: 1 copy and the original for comparison;

c.2/ The goods ex-warehousing bill or document showing the transport mode of transit: 1 copy and the original for comparison; 9. For goods being materials and supplies imported for the production of goods to be exported into non-tariff zones (except export-processing enterprises, export-processing zones and bonded warehouses, which shall submit a dossier guided in Clauses 1 thru 6 of this Article), in addition to the papers guided in Clauses 1 thru 6 of this Article, customs declarants or taxpayers shall additionally submit the following papers: a/ The declaration of products exported abroad by non-tariff zone enterprises which use products made of imported materials and supplies of enterprises requesting tax refund: 1 copy certified by a non-tariff zone enterprise;

b/ The table summing up product quantities actually used in non-tariff zones and quantities of goods actually further exported abroad by non-tariff zone enterprises as certified by the managing customs office, or liquidation results guided in Clause 10, Article 44, and Article 45 of this Circular: 1 copy;

c/ The production norms of products for export and use in non-tariff zones by non-tariff zone enterprises as certified by the customs office managing such enterprise.

Article 119. Liquidation and duty refund dossiers for goods temporarily imported for re-export or goods temporarily exported for re-import and goods imported under entrustment by foreign parties and subsequently reexported (except goods temporarily imported for re-export or temporarily exported for re-import for participation in fairs, exhibitions or for display; professional machinery, equipment and working tools temporarily imported for re-export or temporarily exported for re-export or temporarily exported for re-export or temporarily exported for re-import for conferences, seminars, scientific research, sport tournaments, cultural and art performances, medical examination and treatment, which are eligible for tax exemption)

1. A written request for tax refund or exemption, indicating the type of goods, tax amount, reason for liquidation, tax refund or tax exemption, and number of customs declarations. In case there are different types of goods in different customs declarations, customs declarations related to the duty refund request shall be listed: to submit 1 original;

2. The goods trading contract signed with the seller and purchaser, or the entrusted import entrustment contract signed with the foreign party: to submit 1 copy;

3. The customs declaration of imports already cleared from customs procedures: to submit 1 original;

4. The customs declaration of exports already cleared from customs procedures: to submit 1 original; other papers evidencing that the goods have been actually exported under Article 26 of this Circular: to submit 1 copy each;

5. For goods temporarily imported for re-export and goods imported under entrustment by foreign parties and subsequently re-exported into non-tariff zones (except export-processing enterprises, export-processing zones and bonded warehouses, which shall submit a dossier guided in Clauses 1 thru 4 of this Article), in addition to the above papers, the following are required:

a/ Liquidation results guided in Clause 10, Article 44 of this Circular: to submit 1 copy and produce the original for comparison;

b/ The declaration of products exported abroad by non-tariff zone enterprises: 1 copy certified as true copy by such enterprise;

c/ The table summing up product quantities actually used in non-tariff zones and quantities of goods actually further exported abroad by non-tariff zone enterprises as certified by the managing customs office;

d/ The production norms of products for export and use in non-tariff zones by enterprises in these zones as certified by the customs office managing these enterprises (in case non-tariff zone enterprises further put products purchased from domestic enterprises into export production or use these products in non-tariff zones).

6. Other papers as guided at Point a.3, a.5, a.6 and a.12, Clause 1, Article 118 of this Circular.

Article 120. Tax refund dossiers for exported goods which must be imported back into Vietnam

1. A written request for tax refund and exemption consideration, indicating the tax amount, reason for the request, the customs declaration, and commitment that goods have not yet gone through overseas production, processing, repair or use. In case there are different types of goods in different customs declarations, customs declarations related to the duty refund request shall be listed: to submit 1 original;

2. A notice from or an agreement with the foreign customer on the receipt of goods, clearly stating the reason, quantity and type of returned goods, for goods returned by customers: to submit 1 copy.

In case taxpayers discover by themselves that goods are faulty and import them back into Vietnam, they are not required to make this notice or agreement but shall clearly state the reason for such import.

3. The customs declaration of exports already cleared from customs procedures: to submit 1 copy; other papers evidencing that the goods have been actually exported under Article 26 of this Circular: to submit 1 copy; customs dossiers of exported goods: to produce the original for comparison;

4. The customs declaration of goods imported back into Vietnam, indicating the quantity of goods previously exported with an export dossier and results of customs inspection of goods, certifying that goods imported back into Vietnam are those previously exported by the enterprise: to submit 1 original;

For previously exported goods which have been exempt from physical inspection, the customs office shall compare results of inspection of goods actually imported back into Vietnam with the dossier of the export lot for certifying that goods imported back into Vietnam are exactly those previously exported;

5. The papers guided at Points a.3, a.5, a.6 and a.12, Clause 1, Article 118 of this Circular (in case payment has not yet been made, payment documents for exports are not required).

6. The trading contract and other documents evidencing that imports are of export origin (applicable to cases in which the importer is not the exporter) and other papers evidencing the reason for tax refund or exemption.

Article 121. Tax refund dossiers for imported goods which must be reexported back to their foreign owners or to a third country or into non-tariff zones

1. A written request for tax refund or exemption consideration, indicating the tax amount, reason, and customs declaration form (specifying the quantity, type and value of to-be-re-exported goods). In case there are different types of goods in different customs declarations, these declarations shall be listed: to submit 1 original;

2. A written agreement on the return of goods to the foreign party (for cases of return of goods to foreign parties) or export contract (for cases of export of goods to a third country or re-export of goods into non-tariff zones), indicating the reason, quantity, quality, type and origin of goods: to submit 1 copy;

3. The customs declaration of exports, indicating results of goods inspection, stating the quantity, quality and type of exports and the import dossier set under which these goods are exported: to submit 1 original; other papers evidencing that the goods have been actually exported under Article 26 of this Circular: to submit 1 copy; customs dossiers of the exports lot: to produce the original for comparison.

For previously imported goods which have been exempt from physical inspection, the customs office shall compare results of inspection of actually exported goods with the dossier of the imports lot for identifying whether re-exported goods are exactly those previously imported.

4. The customs declaration of imports and customs dossier of the imports lot: to submit 1 copy and produce the original for comparison.

5. The added-value invoice: to submit 1 copy;

6. The papers guided at Points a.3, a.5, a.6 and a.12, Clause 1, Article 118 of this Circular. If payment has not yet been made, payment documents for exports are not required.

7. For goods already imported into Vietnam which must be re-exported into non-tariff zones (except export-processing enterprises, export-processing zones and bonded warehouses, which shall submit a dossier guided in Clauses 1 thru 5 of this Article), in addition to the above papers, the following are required:

a/ Liquidation results guided in Clause 10, Article 44 of this Circular: to submit 1 copy and produce the original for comparison;

b/ The declaration of products exported abroad by non-tariff zone enterprises: 1 copy certified as true copy by such enterprise;

c/ The table summing up product quantities actually used in non-tariff zones and quantities of goods actually further exported abroad by non-tariff zone enterprises as certified by the managing customs office;

d/ The production norms of products for export and use in non-tariff zones by enterprises in these zones as certified by the customs office managing these enterprises (in case non-tariff zone enterprises further put products purchased from domestic enterprises into export production or use these products in non-tariff zones).

8. The trading contract and other documents evidencing that imports are of export origin (applicable to cases in which the importer is not the exporter) and other papers evidencing the reason for tax refund or exemption.

Article 122. Tax refund dossiers for organizations' and individuals' machinery, equipment, tools and vehicles permitted for temporary import for re-export for implementation of investment projects, construction and installation of works, or production

1. A written request for tax refund or exemption consideration, indicating the type of goods, tax amount and reason for tax refund, and the customs declaration. In case there are different types of goods in different customs declarations, customs declarations related to the tax refund request shall be listed: to submit 1 original;

2. The contract (or written agreement) on the import or borrowing of machinery, equipment, tools and vehicles: to submit 1 copy;

3. The import permit, for imports for which such permit is required: to submit 1 copy;

4. The customs declaration of imports and exports with the customs office's certification of the quantity and type of actually imported and re-exported goods: to submit 1 original; other papers evidencing that the goods have been actually exported under Article 26 of this Circular: to submit 1 copy each; customs dossiers of imports and exports: to produce the original for comparison;

5. The papers guided at Point a.3, a.5 and a.12, Article 118 of this Circular.

6. In case import duty has been paid for organizations' and individuals' machinery, equipment, tools and vehicles permitted for temporary import for re-export for implementation of investment projects, construction and installation of works, or production, upon their re-export into non-tariff zones (except export-processing enterprises, export-processing zones and bonded warehouses, which shall submit a dossier guided in Clauses 1 thru 5 of this Article), in addition to the above papers, the following are required:

a/ Liquidation results guided in Clause 10, Article 44 of this Circular: to submit 1 copy and produce the original for comparison;

b/ The declaration of products exported abroad by non-tariff zone enterprises: 1 copy certified as true copy by such enterprise;

c/ The table summing up product quantities actually used in non-tariff zones and quantities of goods actually further exported abroad by non-tariff zone enterprises as certified by the managing customs office.

Article 123. Tax refund dossiers for temporarily imported machinery, equipment, tools and vehicles which must be re-exported upon the expiration of the temporary import duration but have not yet been reexported and are permitted by competent state agencies to be transferred to other entities in Vietnam for further management and use, then actually exported out of Vietnam by transferees or purchasers

In addition to the papers guided in Article 122 of this Circular, the following are required:

1. A written permission of the Ministry of Industry and Trade (or a competent state agency) for transfer and receipt of temporarily imported machinery, equipment, tools and vehicles (in case such permission is required): to submit 1 original;

2. The trading contract or record of handover of machinery, equipment, tools and vehicles between the two parties: to submit 1 copy; 3. The invoice-cum-ex-warehousing bill or sale invoice handed by the importer to the purchaser or transferee: to submit 1 copy.

Article 124. Tax refund dossiers for imports and exports sent by overseas organizations and individuals to Vietnam-based organizations and individuals through postal or international express delivery services and vice versa; service providers that have paid tax but failed to deliver goods to recipients and have to re-export or re-import or have these goods confiscated and destroyed under law

1. A written request for consideration of refund of the paid tax amount, indicating the type of goods, tax amount, reason for tax refund, and the customs declaration. In case there are different types of goods in different customs declarations, customs declarations related to the duty refund request shall be listed: to submit 1 original;

2. Dossiers and documents related to imports and exports: to submit 1 copy;

3. The customs declaration of imports and exports with the customs office's certification of the quantity, type and value of confiscated and destroyed goods: to submit 1 original;

4. The tax payment document: to submit 1 copy and produce the original for comparison;

5. The list of documents included in the tax refund dossier.

Article 125. Tax refund dossiers for imports and exports currently under customs supervision and management for which import duty or export duty and other taxes (if any) have been paid, and which have been confiscated and remitted into state funds for violations of customs regulations under decisions of competent state agencies

1. A written request for consideration of refund of the paid tax amount, indicating the type of goods, tax amount, reason for the tax refund request, and the customs declaration. In case there are different types of goods in different customs declarations, customs declarations related to the tax refund request shall be listed: to submit 1 original;

2. The customs declaration of imports or exports: to submit 1 original;

3. The goods purchase and sale invoice: to submit 1 copy;

4. The record of the violation: to submit 1 copy;

5. The competent state agency's decision on confiscation of goods into the state fund: to submit 1 copy;

6. The tax payment document: to submit 1 copy and produce one original for comparison;

7. The list of documents included in the tax refund dossier.

Article 126. Tax refund dossiers for imports and exports for which tax has been paid but which are later exempted from tax under decisions of competent state agencies

1. A competent state agency's decision on tax exemption: to submit 1 copy; 2. The papers guided in Clauses 1, 2, 3, 6 and 7, Article 125 of this Circular.

Article 127. Tax exemption dossiers

For goods eligible for tax refund and for which the tax payment time limit has not expired and tax has not been paid, and which have been actually imported or exported, a tax exemption dossier in this case is the same as a tax refund dossier without a tax payment document.

Article 128. Procedures for submission, receipt and processing of dossiers for liquidation, tax refund or tax exemption consideration

1. The submission and receipt of dossiers for liquidation, tax refund or tax exemption consideration comply with Article 59 of the Law on Tax Administration.

2. Dossiers for liquidation, tax refund and tax exemption consideration are classified into two types: dossiers subject to inspection first and tax refund later and dossiers eligible for tax refund first and inspection later.

3. Dossiers subject to inspection first and tax refund later are dossiers of taxpayers in any of the following cases:

a/ Requesting tax refund or exemption under a treaty to which the Socialist Republic of Vietnam is a contracting party;

b/ Requesting tax refund or exemption for the first time. In case taxpayers can prove that it is not the first time they request tax refund and that they do not fall in the other cases subject to inspection first and tax refund later, tax administration agencies shall re-classify tax refund dossiers as those eligible for tax refund first and inspection later.

c/ Requesting tax refund within 2 years after being handled for tax evasion or fraud;

d/ Via-bank payment is not made for goods mentioned in the tax refund dossier under regulations or the taxpayer still owes via-bank payment documents at the time of submission of the dossier of request for tax refund.

Via-bank payment documents are guided in Appendix I to this Circular.

e/ The enterprise is undergoing procedures for merger, consolidation, division, dissolution, bankruptcy, ownership transformation, operation termination; assignment, sale, contracting or lease, for state enterprises.

f/ The time limit notified by the customs office expires but the taxpayer fails to explain information and documents or supplement the tax refund or exemption dossier as requested.

g/ Imports are cars or parts and spare parts thereof; motorcycles (motorbikes) or parts and spare parts thereof; petrol and oil; iron and steel; imports specified in Articles 8 and 10 of Decree No. 12/2006/ND-CP; or other imports managed by the State under law.

h/ Import duty or export duty refund dossiers are submitted for exports which must be re-imported into Vietnam or imports which must be reexported to their foreign owners or exported to a third country or re-exported into non-tariff zones, for which customs procedures are carried out at places other than the initial place at which import or export procedures have been carried out.

i/ Import duty refund dossiers are submitted for materials and supplies imported for the production of goods for export into non-tariff zones; and tax refund dossiers for imports which must be re-exported into non-tariff zones.

4. Dossiers eligible for tax refund first and inspection later are those not subject to inspection first and tax refund later as specified in Clause 3 of this Article.

5. For dossiers subject to liquidation or inspection first and tax refund or exemption later, customs offices shall follow in succession the steps below and stop at the step when inspection results show that goods have been actually exported, and settle tax refund or exemption:

a/ Preliminarily examining dossiers and their consistency and validity; tax amounts requested for refund and tax amounts indicated in relevant declarations in the KT559 system; examining accounting documents and books, warehousing and ex-warehousing bills and goods payment documents;

b/ Examining accounting operations; consumption norms of materials and supplies; actual production and business operations of concerned units. District-level Customs Department directors shall, on a case-by-case basis, decide to examine accounting dossiers and documents at head offices of enterprises.

c/ Inspecting, verifying and comparing business transactions with other concerned organizations and individuals in complicated cases in need of further inspection;

d/ If taxpayers are identified through inspection to be ineligible for tax refund or exemption, customs offices shall notify taxpayers of the reason(s) for their ineligibility;

e/ If taxpayers are identified through inspection to be eligible for tax refund or exemption and their declarations are accurate, customs offices shall issue decisions on tax refund or exemption based on taxpayers' declarations within 60 days after receiving complete tax refund or exemption dossiers.

6. For dossiers subject to tax refund or exemption first and liquidation and inspection later, customs offices shall preliminarily examine dossiers and their consistency and legality, tax amounts requested for refund and tax amounts indicated in relevant declarations in the KT 559 system, and handle them as follows:

a/ If taxpayers are eligible for tax refund or exemption and their declarations are accurate, customs offices shall conduct liquidation and issue tax refund or exemption decisions based on the taxpayers' declarations, made according to form No. 01, Appendix II to this Circular, within 15 days after receiving complete tax refund dossiers;

b/ If identifying that taxpayers are ineligible for tax refund or exemption, customs offices shall, pursuant to relevant legal documents, notify these taxpayers of the reason(s) for their ineligibility within 15 days after receiving tax refund dossiers;

c/ If having grounds to believe that taxpayers' declarations are inaccurate or bases for tax refund are insufficient, customs offices shall notify within 15 days after receiving tax refund dossiers taxpayers that their dossiers are now subject to inspection first and liquidation, tax refund or exemption later;

d/ Cases in which via-bank payment documents are required but taxpayers fail to produce these documents upon submitting liquidation or tax refund dossiers shall be handled as follows:

d.1/ If the payment indicated in the export contract is not due yet, Point c, Clause 2, Article 132 applies.

d.2/ If payment documents are not yet available for the reason that the payment is not due but enterprises request tax refund consideration before providing payment documents or if the payment indicated in the contract is overdue but enterprises fail to produce via-bank payment documents, customs offices shall reclassify tax refund dossiers as those subject to inspection first and tax refund later according to this Article. If inspection results show that goods have been actually exported, customs offices shall refund or exempt tax under regulations.

d.3/ The application of the tax payment time limit and tax payment coercion measures for cases in which liquidation or tax refund dossiers have been submitted but via-bank payment documents still lack complies with Articles 42 and 93 of the Law on Tax Administration, Decree No. 97/2007/ND-CP and Article 18 of this Circular.

e/ After issuing tax refund or exemption decisions, customs offices shall handle overpaid tax and fine amounts under Article 131 of this Circular. When examining in detail tax refund or exemption dossiers, if determining that conditions for tax refund or exemption are not fully satisfied, customs offices shall revoke these decisions and assess tax and sanction violations under regulations.

7. Past the above time limit, if the issuance of tax refund or exemption decisions is still delayed at customs offices' fault, these customs offices shall, in addition to refunding paid tax amounts, pay interests on these amounts counted from the date they are obliged to issue these decisions to the date they actually issue these decisions.

Article 129. Competence to decide on liquidation, tax refund or exemption

Directors of district-level Customs Departments of localities in which customs declarations are registered shall decide on liquidation, tax refund, exemption or deduction for taxpayers under Article 128 of this Circular.

Article 130. Writing of the tax refund or exemption in original customs declarations

1. Based on tax refund decisions, customs offices at which taxpayers have refundable tax amounts shall liquidate refunded tax amounts and append a stamp to original customs declarations submitted by taxpayers, with the phrase "Tax refund (or tax exemption) of VND.... under Decision No.... dated.... issued by....," and keep one copy of each of these liquidated declarations in a tax refund dossier, and return original customs declarations to taxpayers.

2. In case a declaration is subject to multiple liquidation, the customs office shall:

a/ Make a statement for monitoring each time of tax refund (or tax exemption), clearly indicating the sum of money upon each time of tax refund or exemption;

b/ Clearly state in the declaration that the above list has been made; c/ Append the tax refund (or tax exemption) stamp to original customs declarations kept at the enterprise when tax refund (or tax exemption) procedures are last carried out;

d/ Keep 1 copy of the liquidated declaration in the tax refund dossier and return the original customs declaration to the taxpayer as for the above single liquidation.

Article 131. Handling of overpaid tax and fine amounts after the issuance of tax refund decisions, or overpaid fines for the reason that paid tax amounts are larger than payable tax and fine amounts

1. In case the source for refund of overpaid tax and fine amounts is deposit accounts, customs offices at which taxpayers have refundable tax amounts or overpaid tax and fine amounts shall check these amounts in the computer network for monitoring tax arrears and handle them in the following order:

a/ If taxpayers owe no overdue tax and fine amounts, customs offices refund tax and fine amounts to taxpayers under regulations; When clearing taxpayers' overpaid tax and fine amounts against subsequent payable tax amounts, customs offices shall append a stamp to customs declarations (originals kept by customs declarants and at customs offices) eligible for tax clearing, with the phrase "Tax amount of VND ... deducted under Decision No. ... dated ... issued by ..., on refund of overpaid tax and fine amounts, and

Decision No. ... dated ... issued by ..., on deduction"; and concurrently append a stamp indicating the deducted tax and fine amounts and numbers and dates of customs declarations involved in the clearing in the original tax refund decisions, customs declarations eligible for tax refund or involving overpaid tax and fine amounts, and tax payment documents of customs declarations eligible for tax refund, for monitoring. (Such stamp is provided in form No. 02, Appendix II to this Circular);

b/ In case taxpayers still owe tax and fine amounts for goods lots under the same importation mode, customs offices shall clear refundable overpaid tax or fine amounts against those owed by taxpayers.

c/ In case taxpayers still owe overdue tax and fine amounts for goods lots under different importation modes to be remitted into the state budget, customs offices shall issue state budget or account remittance papers and pay these amounts on behalf of taxpayers;

d/ If, after the clearing mentioned above, there is a remainder of refundable overpaid tax and fine amounts, customs offices shall carry out procedures for refunding this remainder to taxpayers.

In case taxpayers do not request refund of refundable tax amounts or remainder of overpaid tax and fine amounts after payment of all debts in the sequence of tax payments but request in writing the clearing thereof against tax amounts arising for subsequent imports and exports, customs offices at which taxpayers have refundable tax amounts or overpaid tax and fine amounts shall make the clearing under Point a of this Clause.

2. In case the source for refund of overpaid tax and fine amounts is the state budget:

a/ In case taxpayers no longer owe overdue tax and fine amounts and do not request the clearing of these amounts against subsequent payable tax amounts, customs offices shall send tax refund requests enclosed with tax refund decisions to tax-refunding state treasury offices. In case customs offices have partially cleared amounts of the same tax in the same locality of budget revenue collection, these requests must indicate the remainder of tax amounts requested for refund under tax refund decisions. Based on customs offices' tax refund decisions, state treasury offices shall refund tax amounts to taxpayers.

Refunded tax amounts shall be accounted as follows:

- For unsettled revenues, state treasury offices shall return them according to the state budget index.

- For settled revenues, state treasury offices shall account them as budget expenditures and send 1 copy of the tax refund document (printed or electronic) to customs offices which have issued decisions on refund of tax or fine amounts, for monitoring and management.

b/ In case taxpayers eligible for refund of overpaid tax and/or fine amounts have to pay other tax amounts: After customs offices partially clear amounts of the same tax in the same locality of budget revenue collection, they shall send tax refund requests enclosed with tax or fine refund decisions and budget revenue collection orders to tax-refunding state treasury offices for accounting them under regulations. Refunded tax amounts shall be accounted as follows:

b.1/ In case tax-refunding state treasury offices are concurrently taxcollecting ones, refunded amounts shall be accounted under Point a of this Clause. Collected budget revenues shall be accounted under customs offices' collection orders, with the remainder (if any) of overpaid tax and fine amounts paid to taxpayers.

b.2/ In case tax-refunding state treasury offices are other than tax-collecting ones, the former shall account refunded tax amounts under Point a of this Clause and transfer these amounts together with

customs offices' budget revenue collection orders to the latter for accounting state budget revenues strictly according to collection orders and refunding the remainder (if any) of tax and fine amounts to taxpayers.

b.3/ After refunding tax, state treasury offices shall send one (1) copy of the tax refund document to customs offices which have issued decisions on refund of overpaid tax and/or fine amounts, for monitoring and management.

c/ The handling of overpaid tax and fine amounts under this Article is not applicable to value-added tax amounts for imports wrongly paid or overpaid by taxpayers to customs offices (customs offices will not refund value-added tax).

In case taxpayers wrongly pay or overpay value-added tax amounts for imports to customs offices in an accounting period (budgetary month, quarter or year) as detected by taxpayers themselves or customs offices, such amounts shall be adjusted according to form No. C1-07 attached to the Finance Ministry's Circular No. 128/2008/TT-BTC of December 24, 2008, guiding the collection and management of state budget revenues via state treasury. At the same time, taxpayers shall submit the original receipts and customs offices shall certify, sign and stamp on the front page of these originals, for value-added tax amounts already recorded as other tax amounts for state treasury offices' adjustment. For other cases of wrong payment or overpayment of value-added tax amounts, customs offices shall certify these wrongly paid or overpaid amounts for tax offices to refund to taxpayers under regulations.

Article 132. Time limit for submission of liquidation, tax refund or tax exemption dossiers

1. Taxpayers shall submit tax refund (or tax exemption) dossiers in the cases specified in Articles 117 and 120 of this Circular to competent customs offices within 45 days after the date of registration of customs declarations of exports or imports, for request for import duty or export duty refund, respectively.

2. For cases specified in Articles 118 and 119 of this Circular (also applicable to cases eligible for the import duty or export duty rate of 0%):

a/ If taxpayers that satisfy the conditions specified at Point a, Clause 4, Article 42 of the Law on Tax Administration actually export goods within the tax payment time limit counting from the date of customs declaration registration, the time limit for submission of tax refund or exemption dossiers is 45 days after the expiration of the tax payment time limit indicated in import declarations for which tax refund or exemption is requested.

If taxpayers that fail to satisfy the conditions specified at Point a, Clause 4, Article 42 of the Law on Tax Administration have paid tax for imports before receiving them, the time limit for submission of tax refund or exemption dossiers is the same as that for taxpayers satisfying the conditions specified at Point a, Clause 4, Article 42 of the Law on Tax Administration. (For example, in case enterprise A fails to satisfy the conditions specified at Point a, Clause 4, Article 42 of the Law on Tax Administration when importing goods for export production but has paid tax before receiving goods, the time limit for submission of tax refund dossiers is 45 days counting from the 276th day after the date of customs declaration registration);

b/ If taxpayers do not actually export goods within the tax payment time limit:

b.1/ They shall declare and pay import duty and value-added tax (if any) after the expiration of the tax payment time limit. Customs offices shall inspect and collect import duty and value-added tax under regulations; Paid tax amounts shall be refunded under regulations upon actual exportation of products produced from imports for which tax has been paid;

b.2/ The time limit for submission of tax refund or exemption dossiers is 45 days after the date of export declaration registration.

c/ If, at the time of submission of tax refund dossiers, enterprises fail to produce via-bank payment documents because the payment time limit indicated in export contracts or annexes thereto is longer than 45 days from the date of export declaration registration or the date of expiration of the tax payment time limit, the time limit for submission of liquidation, tax refund or tax exemption dossiers still complies with Clause 1, and Points a and b, Clause 2, of this Article, but enterprises shall make a written commitment to producing payment documents within 15 days from the date of expiration of the payment time limit indicated in these contracts or annexes thereto, except the case specified at Point d.2, Clause 6, Article 128 of this Circular;

d/ The time limit for submission of tax refund dossiers for materials and supplies imported for the production of exports which have been exported abroad but not yet actually sold to foreign traders and are still in these enterprises' overseas warehouses or consigned to overseas bonded warehouses or kept at overseas entrepot ports as specified in Clause 8, Article 118 of this Circular complies with Clause 2 of this Article.

In case enterprises have no export contracts by the time of submission of tax refund dossiers, they shall make a written commitment to producing export contracts to foreign customers within 15 days after signing these contracts.

If, at the time of submission of tax refund dossiers, enterprises have no payment documents, the time limit for submission of payment documents is 15 days from the date of expiration of the payment time limit indicated in contracts or annexes thereto. Enterprises shall make a written commitment to producing payment documents under the above regulations, except the case specified at Point d.2, Clause 6, Article 128 of this Circular.

3. Guidance on the application of the tax payment time limit and coercive measures specified in Article 93 of the Law on Tax Administration in cases goods have been exported and tax has been paid for redundant materials and supplies for which liquidation or tax refund dossiers have been submitted

Pending liquidation or tax refund, imported materials and supplies from which exports have been produced, which have been exported and for which liquidation or tax refund dossiers have been submitted are eligible for the tax payment time limit applicable to taxpayers satisfying the conditions specified at Point a, Clause 4, Article 42 of the Law on Tax Administration, and not yet subject to coercive measures specified in Article 93 of the Law on Tax Administration, if the following conditions are fully satisfied:

a/ Taxpayers only owe tax amounts for the volume of materials and supplies imported for export production awaiting liquidation, including:

a.1/ The whole volume of imported materials and supplies already put into export production and products actually exported within 275 days or more (in cases eligible for extension of the tax payment time limit), for which enterprises have submitted sufficient liquidation dossiers to customs offices within the time limit specified in Clause 2 of this Article;

a.2/ In case part of materials and supplies imported for export production has been put into export production and products have been actually exported, enterprises shall fully pay tax for the remainder within 275 days or more (in cases eligible for extension of the tax payment time limit), for which enterprises have submitted sufficient liquidation dossiers to customs offices within the time limit specified in Clause 2 of this Article;

b/ Taxpayers commit in writing to implementing final decisions of customs offices.

4. Past the time limit specified in Clause 1 or 2 of this Article, taxpayers that fail to submit liquidation dossiers shall be sanctioned for administrative violations in the customs sector.

5. District-level Customs Departments carrying out liquidation procedures shall receive and process liquidation dossiers and handle violations (if any) under law.

Section 7

PROLONGATION OF TAX PAYMENT TIME LIMIT; REMISSION OF TAX AND FINE ARREARS

Article 133. Prolongation of the tax and fine payment time limit

1. Taxpayers may be considered for prolongation of the tax and fine payment time limit, for the case specified in Clause 1, Article 24 of Decree No. 85/2007/ND-CP, which was amended in Clause 15, Article 1 of Decree No. 106/2010/ND-CP.

2. A dossier for prolongation of the tax and fine payment time limit complies with Clause 2, Article 51 of the Law on Tax Administration, comprising:

a/ A written request for prolongation of the tax and fine payment time limit, clearly stating the reason for the request, tax and fine amounts and requested prolonged time limit. In case tax and fine amounts requested to be paid within a prolonged time limit are indicated in different customs declarations, customs declarations related to the time limit prolongation request shall be listed with a commitment to make accurate declaration and supply a proper dossier of request for prolongation and a plan and commitment to pay tax and fine amounts within the prolonged time limit: to submit 1 original;

b/ The customs declaration for the tax and fine amounts requested to be paid within a prolonged time limit; the goods trading contract: to submit 1 copy each (for cases falling within the competence of district-level Customs Department directors to prolong the time limit); the tax declaration dossier for the tax and fine amounts requested to be paid within a prolonged time limit: to submit 1 copy (for cases falling beyond the competence of district-level Customs Department directors to prolong the time limit);

c/ A written record of the damage level and value, made by a competent state agency and certified by the commune-level People's Committee and the provincial-level Police Department or People's Committee of the locality in which occurs the event due to for which time limit prolongation is requested, for cases of natural disaster, fire or accident: to submit 1 original;

d/ A written certification by the local tax office directly managing the taxpayer, of the level of direct damage caused by relocation of the business place or a change in state policies, or for other special reasons: to submit 1 original;

e/ A competent state agency's decision, for the case of relocation of the business place: to submit 1 copy;

f/ Documents on policy change, for the case of damage caused by a change in state policies: to submit 1 copy;

g/ Papers evidencing the reason for prolongation of the tax and fine payment time limit, for cases of other special reasons: to submit 1 original; h/ A report on payable and owed tax and fine amounts: to submit 1 original. 3. Tax and fine amounts allowed to be paid within a prolonged time limit comply with Clause 2, Article 24 of Decree No. 85/2007/ND-CP, which was amended in Clause 15, Article 1 of Decree No. 106/2010/ND-CP. 4. Prolonged tax and fine payment time limits comply with Clause 3, Article 24 of Decree No. 85/2007/ND-CP, which was amended in Clause 15, Article 1 of Decree No. 106/2010/ND-CP.

5. Procedures for prolongation

a/ Taxpayers eligible for a prolonged tax and fine payment time limit under Points a, b and c, Clause 1, Article 24 of Decree No. 85/2007/ND-CP, which was amended in Clause 15, Article 1 of Decree No. 106/2010/NDCP, shall compile and send tax payment time limit prolongation dossiers to competent customs offices.

b/ Taxpayers that encounter other particular objective difficulties and subject to the Prime Minister's decisions on tax and fine payment time limit prolongation at the request of the Minister of Finance shall compile and send tax payment time limit prolongation dossiers to the General Department of Customs.

c/ Customs offices competent to prolong tax payment time limit shall receive and process dossiers under Article 52 of the Law on Tax Administration.

d/ The General Department of Customs shall receive dossiers of request for tax payment time limit prolongation in the cases specified at Point d, Clause 1, Article 24 of Decree No. 85/2007/ND-CP, which was amended in Clause 15, Article 1 of Decree No. 106/2010/ND-CP, and report them to the Minister of Finance for submission to the Prime Minister for consideration and decision on a case-by-case basis.

6. Competence to prolong tax and fine payment time limits:

a/ Directors of district-level Customs Departments are competent to prolong tax and fine payment time limits for the cases in which a taxpayer is unable to pay tax and fine amounts within a time limit specified at Points a, b and c, Clause 1, Article 24 of Decree No. 85/2007/ND-CP, which was amended in Clause 15, Article 1 of Decree No. 106/2010/ND-CP, but his/her/its tax and fine amounts requested to be paid within a prolonged time limit arise at only one district-level Customs Department;

b/ Directors of provincial-level Customs Departments are competent to prolong tax and fine payment time limits for the cases in which a taxpayer is unable to pay tax and fine amounts within a time limit specified at Points a, b and c, Clause 1, Article 24 of Decree No. 85/2007/ND-CP, which was amended in Clause 15, Article 1 of Decree No. 106/2010/ND-CP, but his/her/its tax and fine amounts requested to be paid within a prolonged time limit arise at different district-level Customs Departments under the same provincial-level Customs Department;

c/ The General Director of Customs is competent to prolong tax and fine payment time limits for the cases in which a taxpayer is unable to pay tax and fine amounts within a time limit specified at Points a, b and c, Clause 1, Article 24 of Decree No. 85/2007/ND-CP, which was amended in Clause 15, Article 1 of Decree No. 106/2010/ND-CP, but his/her/its tax and fine amounts requested to be paid within a prolonged time limit arise at different provincial-level Customs Departments;

d/ Cases in which taxpayers have other particular objective difficulties specified at Point d, Clause 1, Article 24 of Decree No. 85/2007/ND-CP, which was amended in Clause 15, Article 1 of Decree No. 106/2010/NDCP, shall be decided by the Prime Minister at the proposal of the Minister of Finance.

Article 134. Remission of tax and fine arrears

1. Cases specified in Article 65 of the Law on Tax Administration are eligible for remission of tax and fine arrears.

2. A dossier of request for remission of tax and fine arrears comprises:

a/ A written request for remission of tax and fine arrears, made by the provincial-level Customs Department to which the taxpayer owes tax and fine amounts eligible for remission, clearly stating the reason for remission and tax and fine amounts requested for remission: to submit 1 original;

b/ The customs dossier for the tax and fine arrears requested for remission: to submit 1 copy;

c/ A competent state agency's decision and the declaration for tax finalization for cases in which an enterprise declared bankrupt has made payments under the bankruptcy law and has no more asset for tax and fine payment: to submit 1 original;

d/ A court ruling or judgment declaring an individual dead, missing or having lost the civil act capacity without any property to pay tax and fine arrears: to submit 1 original;

e/ Documents related to the requested tax and fine remission: to submit 1 copy.

3. Competence and procedures for remission:

a/ Provincial-level Customs Departments shall examine and verify the accuracy and completeness of these dossiers and process them as follows:

a.1/ If dossiers are incomplete, within 10 working days from the date of dossier receipt, to notify in writing such taxpayers for completion thereof, clearly indicating improper documents and documents to be added;

a.2/ If dossiers are complete, within 10 working days from the date of dossier receipt, to send these dossiers and written reports on dossier examination results to the General Department of Customs for consideration of remission plans.

b/ Within 30 working days after receiving complete dossiers from provincial-level Customs Departments, the General Department of Customs shall propose plans on tax and fine remission to the Ministry of Finance.

c/ The Ministry of Finance shall issue decisions on tax and fine remission or notify in writing district-level Customs Departments, which have compiled these dossiers, of taxpayers' ineligibility for tax and fine remission within 10 working days after receiving tax and fine remission dossiers reported by the General Department of Customs.

Section 8

FULFILLMENT OF THE TAX PAYMENT OBLIGATION

Article 135. Fulfillment of the tax payment obligation by persons on exit

1. Vietnamese who leave the country for overseas permanent residence and overseas Vietnamese and foreigners who have tax or fine arrears on exports or imports shall fulfill the tax payment obligation before their exit from Vietnam.

2. Taxpayers mentioned in Clause 1 of this Article shall obtain tax offices' certification of fulfillment of the tax payment obligation before their exit from Vietnam. Customs offices shall notify in writing or electronically immigration management agencies of the performance of the tax payment obligation by individuals with tax or fine arrears on exports or imports. Such a notice must specify full names, dates of birth, nationalities and numbers of identity cards or passports of persons who fail to fulfill the tax payment obligation and customs offices which manage arising tax arrears.

3. Immigration management agencies shall stop the exit of individuals who fail to fulfill the tax payment obligation specified in Clause 1 of this Article in accordance with Article 53 of the Law on Tax Administration.

Article 136. Fulfillment of the tax payment obligation in cases of dissolution, bankruptcy and operation termination

1. Fulfillment of the tax payment obligation in cases of dissolution and bankruptcy complies with Article 54 of the Law on Tax Administration and the laws on enterprises, cooperatives and bankruptcy. Responsibilities to fulfill the tax payment obligation in cases of dissolution and bankruptcy are as follows:

a/ Owners of private enterprises, member councils or owners of limited liability companies, boards of directors of joint-stock companies or enterprise liquidation organizations are responsible for fulfilling dissolved enterprises' tax payment obligation.

b/ Councils for dissolution of cooperatives are responsible for fulfilling dissolved cooperatives' tax payment obligation.

c/ Asset management and liquidation teams are responsible for fulfilling bankrupt enterprises' tax payment obligation.

2. Responsibilities to fulfill the tax payment obligation in case taxpayers terminate operation without carrying out dissolution or bankruptcy procedures under law:

a/ If enterprises which terminate operation not according to dissolution or bankruptcy procedures fail to fulfill the tax payment obligation, tax arrears shall be paid by owners of private enterprises, chairmen of member councils or owners of limited liability companies, chairmen of boards of directors of joint-stock companies or heads of management boards of cooperatives.

b/ If households or individuals that terminate business activities fail to fulfill the tax payment obligation, tax arrears shall be paid by heads of those households or those individuals.

c/ If cooperative groups which terminate operation fail to fulfill the tax payment obligation, tax arrears shall be paid by heads of cooperative groups.

Article 137. Fulfillment of the tax payment obligation by reorganized enterprises

1. Prior to its reorganization, an enterprise shall fulfill the tax payment obligation for its exports or imports.

2. When an enterprise fails to fulfill the tax payment obligation prior to its reorganization, it shall issue a document determining the tax payment obligation of each enterprise to be established from its reorganization, and newly established enterprises shall make written commitments with customs offices to fulfilling the tax payment obligation transferred from the reorganized enterprise.

3. Tax offices may not grant tax identification numbers to enterprises established from an enterprise's reorganization if these enterprises fail to produce customs offices' written certifications of their compliance with provisions of Clause 2 of this Article.

Article 138. Certification of fulfillment of the tax payment obligation

1. A taxpayer wishing to have his/her/its fulfillment of the tax payment obligation certified shall send a written request for certification to the General Department of Customs, clearly indicating the following details:

a/ His/her/its name and tax identification number;

b/ Information to be certified;

c/ Documents evidencing the information to be certified.

2. Customs offices shall examine and certify taxpayers' fulfillment of the tax payment obligation when taxpayers make a written request in accordance with law.

In case of refusal to give certification, customs offices shall issue a written reply clearly stating the reason.

When examination or comparison of information on a taxpayer's performance of the tax payment obligation is needed prior to certification, a customs office shall send the taxpayer a notice thereof.

The time limit for replying taxpayers is 5 working days after the receipt of taxpayers' complete dossiers of request for certification.

3. Within 15 days (after the General Department of Customs issues a written confirmation of tax arrears), the provincial-level Customs Department shall base itself on documents and books for accounting import duty and export duty to inspect tax arrears of the enterprise. In case it determines that the enterprise owes tax arrears based on data on the tax accounting system (KT559) and tax arrears on imports and exports not recorded on this system, it shall promptly report these data to the General Department of Customs for re-confirmation of tax arrears of the enterprise. Past that time limit, if the provincial-level Customs Department fails to notify data to the General Department of Customs, it shall take responsibility for arrears of the enterprise.

4. After the General Department of Customs issues a written confirmation of tax arrears, if the enterprise registers to carry out import or export procedures at the provincial-level Customs Department, it shall fully pay taxes and state budget remittances for its import and export activities before receiving goods.

5. A written confirmation of tax arrears of the General Department of Customs is valid 30 days after its signing. Enterprises shall guarantee that they have no tax and state budget remittance arrears for their import and export activities by the date of confirmation signing and take responsibility before law for their guarantee.

Part VI

POST-CUSTOMS CLEARANCE EXAMINATION AND TAX INSPECTION

Chapter I

GENERAL GUIDANCE ON POST-CUSTOMS CLEARANCE EXAMINATION AND TAX INSPECTION

Article 139. Principles of post-customs clearance examination and tax inspection

1. The risk management method shall be applied to post-customs clearance examination to decide on examination or non-examination, preexamination or post-examination, scheduled examination, sample examination or examination based on signs of violation of examined subjects;

2. Tax inspection complies with the Law on Tax Administration and the inspection law.

Article 140. Purposes of post-customs clearance examination and tax inspection

Post-customs clearance examination and tax inspection aim to determine the accuracy and truthfulness of goods declaration, tax calculation and payment and law observance by enterprises, providing a basis for retrospective collection of tax amounts, determination of the level of priority in customs management of enterprises' imports and exports and handling of violations of the tax and customs laws.

Article 141. Scope of post-customs clearance examination and tax inspection

1. Depending on the requirements of each post-customs clearance examination, such examination may be conducted in a comprehensive or intensive manner, covering:

a/ Examination of all import and export activities of an enterprise in a certain period;

b/ Examination of the import or export of a goods item of one or many enterprises in a certain period;

c/ Examination of one or many import or export items of an enterprise in terms of one or many aspects (value, for instance) in a certain period; d/ Examination of one or many modes of importation or exportation of an enterprise in a certain period.

2. When conducting tax inspection at enterprises, inspection teams may only inspect activities under approved inspection plans. In the course of inspection, any necessary modification or supplementation to the inspection plan shall be made under the inspection law and Article 154 of this Circular.

Article 142. Subjects of post-customs clearance examination and tax inspection

Importers or exporters; persons entrusted to import or export goods; agents to carry out customs procedures, postal and express delivery service providers; and persons authorized by goods owners to carry out customs procedures are subject to post-customs clearance examination and tax inspection.

Article 143. Objects of post-customs clearance examination and tax inspection

Objects of post-customs clearance examination and tax inspection include:

1. Customs dossiers filed at enterprises and customs offices where concerned goods are cleared.

2. Vouchers and documents related to cleared imports and exports, such as accounting books and documents, financial statements and related documents and data, filed by enterprises in hard or soft copies.

3. Goods and places of production, when necessary and where conditions permit.

Article 144. Contents of post-customs clearance examination and tax inspection

1. A post-customs clearance examination covers:

a/ The completeness, lawfulness and validity of customs dossiers;

b/ The accuracy of tax bases and declarations of payable, exempt and refundable tax amounts and tax amounts not to be collected;

c/ The observance of other tax regulations;

d/ The observance of the customs law.

2. When conducting inspection, inspection teams shall comply with requirements, contents and time limit indicated in inspection decisions. Any necessary changes in the contents of inspection decisions shall be made under the inspection law.

Article 145. Explanation in post-customs clearance examination and tax inspection

1. Explanation means a concerned enterprise's clarification of questionable or unreasonable issues or signs of violation of law as required by postcustoms clearance examination or tax inspection.

2. Explanation requesters include directors of Sub-Departments for PostCustoms Clearance Examination, the director of the Department for PostCustoms Clearance Examination, heads of post-customs clearance examination teams and tax inspection teams, and inspectors of tax inspection teams.

3. Form of explanation request: in writing, specifying issues to be explained, time for explanation and documents to be supplied.

4. Form of explanation: Enterprises may choose to give written explanations or verbal explanations directly to customs offices. When an enterprise chooses to give written explanation, it shall enclose with this explanation supporting documents, which shall be sent to the explanation requester within the time limit specified in the written request for explanation.

When an enterprise chooses to make verbal explanation, it may choose the venue for such explanation, either the customs office or its office. Verbal explanations shall be recorded in a working minutes, enclosed with supporting documents. An enterprise choosing to make verbal explanation at a customs office shall register the date and time of explanation with that customs office.

Article 146. Verification in post-customs clearance examination and tax inspection

1. Verification means a customs office's request for concerned or capable organizations and individuals to clarify questionable or unreasonable issues or signs of violation of law.

2. Verification deciders include directors of Sub-Departments for PostCustoms Clearance Examination, heads of inspection divisions under provincial-level Customs Departments, directors of provincial-level Customs Departments, the director of the Department for Post-Customs Clearance Examination, the Chief Inspector of the General Department of Customs and heads of post-customs clearance examination teams and tax inspection teams.

3. Subject to verification are concerned organizations and individuals.

4. Verification may be requested and replied in writing; or verifiers may work directly with verified persons according to letters of reference of leaders of verifying organizations. Verification results shall be recorded in a working minutes which serves as a basis for considering the case.

5. In case of direct verification, customs offices may do so on their own or request customs offices with favorable conditions to do so.

Article 147. Assignment of responsibilities for post-customs clearance examination at offices of enterprises and tax inspection 1. The General Department of Customs shall conduct post-customs clearance examination at offices of enterprises and tax inspection nationwide with regard to:

a/ A problem arising in different localities;

b/ An issue being implemented inconsistently by localities;

c/ Issues related to the implementation of major policies, sensitive issues and modes of importation and exportation and imports and exports of high risk;

d/ Cases showing signs of violation which local customs offices fail to detect or examine;

e/ Typical cases which can serve as demonstration cases for guidance in the entire sector;

f/ Other cases approved by the General Director of Customs.

2. Provincial-level Customs Departments shall conduct post-customs clearance examination at offices of enterprises and tax inspection within localities under their management.

a/ When a customs office detects signs of violation by an enterprise which carries out customs procedures at this customs office, but is not based in the locality under its management, it shall:

a.1/ Conduct post-customs clearance examination at its office. If such examination involves goods lots which have been cleared at customs offices of other localities, it may request such customs offices to provide information and data or may even directly go to those customs offices to study and copy dossiers.

a.2/ Report to the General Director of Customs for assignment of a customs office to conduct examination or tax inspection at the office of the enterprise when necessary.

b/ In case an enterprise is based in the locality under a customs office but its goods have been cleared at another customs office:

When the customs office in the locality in which the enterprise is based conducts post-customs clearance examination at the office of the enterprise or tax inspection, concerned customs offices shall provide information, data and make and send dossier copies when requested by the examining customs office.

3. For the cases specified in Clause 1 of this Article, before conducting post-customs clearance examination at the office of the enterprise or tax inspection, the General Department of Customs shall notify enterprises which will be examined or inspected by it to directors of provincial-level Customs Departments.

Article 148. Powers of heads of examination or inspection teams

The head of an examination or inspection team may perform a number of tasks of his/her examination or inspection team, specifically:

1. Signing letters of reference and invitations;

2. Signing written requests for provision of dossiers, documents and data by organizations and individuals involved in the case subject to examination;

3. Discussing directly or in writing with concerned state management agencies on policies and laws related to the case;

4. Other powers provided by law.

Chapter II

SPECIFIC GUIDANCE

Section 1

POST-CUSTOMS CLEARANCE EXAMINATION

Article 149. Post-customs clearance examination at customs offices

1. Post-customs clearance examination at customs offices is a routine activity of customs offices to evaluate enterprises' observance of the tax and customs laws. For post-customs clearance examination at customs offices, customs offices will issue no examination decisions.

2. Post-customs clearance examination at customs offices shall be conducted according to plans worked out for each period or of each customs office or when there is information on or there are signs of violation of the customs and tax laws related to exports or imports.

3. Post-customs clearance examination at customs offices shall be conducted by collecting, summing up, analyzing and processing information from the customs service's databases on enterprises, goods items and mode of importation or exportation to be examined. When there are insufficient grounds for evaluation and conclusion, customs offices shall:

a/ Examine customs dossiers and relevant vouchers and documents filed at customs offices where procedures have been cleared for imports or exports.

b/ Request enterprises to explain unclear or questionable issues.

c/ Verify unclear or questionable issues at concerned organizations and individuals.

d/ Assess questionable documents and goods when necessary and where conditions permit.

When an examination requires professional expertise and techniques beyond the capacity and conditions of post-customs clearance examination units, these units may request assessment by specialized assessment agencies or organizations. Conclusions of those agencies or organizations serve as a basis for post-customs clearance examination.

4. Upon completion of post-customs clearance examination at customs offices, customs officers or groups of customs officers conducting postcustoms clearance examination shall report on the examination scope, contents, process and results and propose examination conclusions and handling measures to competent persons for consideration and decision, specifically as follows:

a/ When a customs office finds sufficient grounds to conclude that tax underpayment, fraud or evasion is committed by an enterprise, it shall notify such to the enterprise:

a.1/ If the enterprise gives explanation and additionally provides information and documents proving its proper importation or exportation and tax payment, its customs dossier will be accepted.

a.2/ If the enterprise agrees with the customs office's conclusions, the customs office shall issue decisions to assess payable tax amounts and handle administrative violations (if any).

a.3/ If the enterprise fails to give explanation or its explanation is not accepted, the customs office shall assess payable tax amounts and handle administrative violations (if any) or decide on post-customs clearance examination at the enterprise's office.

b/ When a customs office detects no violations, it shall complete the examination and file dossiers according to regulations.

5. Examination results shall be handled according to Section 3 of this Chapter.

Article 150. Post-customs clearance examination at offices of enterprises 1. Cases of post-customs clearance examination at offices of enterprises include:

a/ Planned examination;

Planned examination means examination conducted by customs offices at offices of enterprises according a plan worked out for each year. Each year, a certain number of enterprises shall be examined. Enterprises to be examined shall be identified according to the criteria set by the General Department of Customs.

b/ Sample examination;

Sample examination means customs offices' selection, based on the situation of tax evasion and trade frauds in each period, of typical enterprises, modes of importation and exportation and imports and exports for examination at offices of enterprises.

c/ Post-customs clearance examination at offices of enterprises when there are signs or possibilities of violation of the tax and customs laws. 2. Decisions and notices of decisions on post-customs clearance examination at offices of enterprises shall be issued as follows:

a/ The General Director of Customs or directors of provincial-level Customs Departments shall decide on post-customs clearance examination at offices of enterprises;

b/ Decisions on planned post-customs clearance examination at offices of enterprises and sample examination shall be notified to enterprises directly or by registered mail or facsimile within 3 working days after their signing;

Post-customs clearance examination based on signs of violation shall be conducted immediately after decisions are announced without prior notice. In this case, examination decisions shall be directly handed to enterprises during working hours.

c/ A decision on post-customs clearance examination at the office of an enterprise has the following basic details:

c.1/ Legal grounds for examination;

c.2/ Subjects of examination (when the enterprise has member units, the decision must specify member units to be examined);

c.3/ Examination contents, scope and tasks;

c.4/ Examination duration;

c.5/ Names of the head and other members of the examination team.

d/ When an enterprise fails to observe an examination decision, a written record of violation shall be made to serve as a basis for sanctioning administrative violations under law.

3. Durations of post-customs clearance examination at offices of enterprises are as follows:

a/ Fifteen working days, for planned post-customs clearance examination and sample examination.

b/ Five working days, for post-customs clearance examination when there are signs or possibilities of violation of the tax and customs laws.

c/ In complicated cases, examination deciders may extend the examination duration which must not exceed the above durations. To-be-examined enterprises shall be notified of the reason for and time of examination extension.

The starting and ending of the examination duration specified at Points a, b and c of this Clause shall be indicated in the examination decision.

d/ Working days means consecutive workdays other than holidays under law (weekends, public holidays and new year holidays).

4. An examination team shall conduct post-customs clearance examination at the office of an enterprise as follows:

a/ To commence the examination, the examination team head shall announce the decision on postcustoms clearance examination and explain the decision's contents for the enterprise's understanding and compliance.

b/ The examination order and procedures comply with Clause 2, Article 78 of the Law on Tax Administration.

c/ Examination contents and methods:

- Examination contents comply with Article 144 of this Circular; - To examine documents related to cleared imports or exports, accounting books and documents, financial statements and related documents and data filed by the enterprise in hard or soft copies or in other forms. d/ To take the measures specified in Section 4, Chapter X of the Law on Tax Administration, and Articles 39, 40 and 41 of Decree No. 85/2007/NDCP, when detecting signs of tax evasion or fraud committed by the enterprise.

5. Written conclusion on post-customs clearance examination at the office of an enterprise shall be made specifically as follows:

a/Within one working day after completing the examination at the office of the enterprise, the examination team head shall send the draft examination conclusion to the enterprise.

b/ Within 2 working days after receiving the draft examination conclusion from the examination team head, the enterprise shall complete its explanation. Past this time limit, if the enterprise fails to submit a written explanation, it will be regarded as having no opinions divergent from the draft examination conclusion of the examination team head.

c/ Within 2 working days after the time limit for the enterprise's explanation, the examination team head shall issue a written conclusion on post-customs clearance examination at the office of the enterprise.

d/ A written conclusion on examination covers the following principal parts:

d.1/ Introduction: legal grounds for examination;

d.2/ Content: examined issues and examination results;

d.3/ Conclusion: conclusion on each examined issue and each violation committed by the enterprise (if any), the severity of violation, handling measures applied within the team's competence and its recommendations on handling measures.

e/ The written examination conclusion shall be signed by the examination team head and sent to the examination decider and examined enterprise.

6. The handling of results of post-customs clearance examination at offices of enterprises complies with Section 3 of this Chapter.

Section 2

SPECIFIC GUIDANCE ON TAX INSPECTION

Article 151. Cases of tax inspection

Customs offices shall conduct tax inspection in the cases specified in Article 81 of the Law on Tax Administration. Cases of tax inspection are specified in Clause 2, Article 81 of the Law on Tax Administration and Clause 2, Article 36 of Decree No. 85/2007/ND-CP, specifically when taxpayers commit one of the following violations of the tax law:

1. Repeated violations of the tax law;

2. Violations committed in different localities;

3. Violations involving many organizations and individuals (customs offices have grounds to believe that taxpayers have been in collusion or cahoots with many organizations and individuals to commit tax fraud or evasion);

4. Signs of tax evasion;

5. Signs of dispersal of documents and exhibits in order to commit tax evasion or fraud during customs offices' post-customs clearance examination at offices of enterprises;

6. Signs of new tax-related violations after customs offices complete postcustoms clearance examination at offices of enterprises;

7. Complicated and serious cases such as big appropriated tax amounts; taxpayers' use of unlawful or fake documents for tax declaration.

Article 152. Competence to decide on tax inspection

The General Director of Customs and directors of provincial-level Customs Departments may decide on tax inspection.

Article 153. Collection of information on inspected subjects

1. Information to serve as a basis for deciding on inspection must be specific and directly related to to-beinspected persons or cases. 2. Information sources to be exploited and collected a/ Official information sources of the customs service (the system of databases on taxpayers, import-export dossiers and imports and exports; results of reexamination of dossiers, results of post-customs clearance examination and tax inspection; signs of violation reported by customs offices);

b/ Information outside the customs service (from other agencies and units related to import-export activities such as tax administration agencies, banks, transport, insurance and assessment organizations, associations of businesses, media reports and written complaints and denunciations of organizations and individuals);

c/ Other information collected by post-customs clearance examination forces or anti-smuggling investigative agencies (from informants, information sellers, international cooperation activities and other information).

Article 154. Making of evaluation reports and inspection plans

1. To study and analyze selected information to make evaluation reports with the following principal contents:

a/ General situation and statistics of enterprises and their import or export activities (main export or import items, number of customs declarations, type of business, import or export turnover, tax amounts due, annual performance of the tax payment obligation and observance of law);

b/ Review and evaluation of major problems, signs of tax law violation and nature and level of revenues risks;

c/ Proposal of inspection contents and plans, clearly indicating focal and key issues; concerned organizations and individuals to be examined or verified.

2. To work out inspection plans with the following principal contents:

a/ Inspection purposes and requirements;

b/ Subjects of inspection;

c/ Scale and scope of inspection;

d/ Inspection contents;

e/ Tentative time for inspection.

An inspection plan must specifically indicate each issue to be inspected, jobs to be done, implementation methods, places to go and time to start and complete these jobs, members of the inspection team and their tasks. In the course of inspection, if finding it necessary to modify and supplement the inspection plan, the inspection team head shall make a written request therefor to the inspection decision issuer for consideration and decision. Such a request must clearly state the reason and contents to be modified and supplemented and other contents (if any). When the inspection decision issuer issues a written approval of such modification and supplementation, the inspection team head shall modify and supplement the inspection plan based on this approval.

3. Inspection plans of provincial-level Customs Departments shall be sent to the General Department of Customs for coordination, for cases of overlapping inspection contents among units, and professional direction and guidance.

Article 155. Inspection teams

An inspection team is composed of a head and members. When necessary, an inspection team may have a deputy head who shall assist the head in performing the assigned tasks and take responsibility to the head for the performance of his/her assigned tasks. An inspection team must have at least one member being a tax inspector.

Article 156. Inspection duration

The duration of an inspection must not exceed 30 days, from the announcement of the inspection decision to the completion of the inspection at the place of inspection. When necessary, the inspection decider may extend the inspection duration once for no more than 30 days.

Article 157. Inspection decisions

1. An inspection decision must have the following contents:

a/ Legal grounds for inspection;

b/ Subjects, contents, scope and tasks of inspection;

c/ Inspection duration;

d/ Head and other members of the inspection team.

2. Within 3 working days from the date of its signing, an inspection decision shall be sent directly or by registered mail to the to-be-inspected subject, except extraordinary inspection.

3. Within 15 days from the date of signing an inspection decision, the inspection team head shall announce such decision to the to-be-inspected subject.

For an enterprise which fails to observe an inspection decision, an inspector or inspection team head shall make a record of administrative violation and issue a decision to sanction such administrative violation or refer the case to a competent person for handling under law.

Article 158. Inspection

When conducting an inspection, an inspection team shall perform the following jobs:

1. Announcing the inspection decision:

a/ The inspection team head shall introduce inspection team members, read the full text of the inspection decision; specifically explain inspection purposes, requirements and contents for the inspected subject to understand and comply with this decision; announce the working agenda for the inspection team and the inspected subject and other inspection-related jobs. When the scope of inspection also covers member units, branches and attached units of an inspected enterprise, the inspection team head shall specifically announce the list of to-be-inspected units, inspection time and contents, and rights and obligations of involved parties, for proactive compliance by the inspected subjects;

b/ To notify the inspection plan and request the inspected subject to provide dossiers and documents related to inspection contents;

c/ To request the inspected subject's representative to report on the enterprise's general situation, including its business line; organizational structures, functions, tasks and forms of accounting of its member units, branches and attached units; production or business organization modes; applied accounting standards and year; number of officials and employees and their salaries; partners in joint ventures or associations (if any);

d/ The announcement of the inspection decision shall be recorded in writing.

2. Receiving dossiers, documents, accounting documents and books and financial statements (below collectively referred to as documents) related to cleared imports and exports provided by the enterprise. When these documents are stored in computers or other media, the enterprise shall also hand over these media to the inspection team. The inspection team shall check, count, preserve, exploit and use dossiers and documents properly and may not lose them. When necessary to preserve the status of dossiers, papers and documents, the inspection team head shall decide to seal up part or all of the documents. The sealing of documents, removal of seals for exploitation of documents or cancellation of the sealing comply with law.

3. Conducting detailed examination, compiling dossiers of proofs To-be-examined contents include:

a/ The completeness, lawfulness, validity, consistency, accuracy and truthfulness of customs dossiers filed at the enterprise as compared with customs dossiers filed at the customs office;

b/ Dossiers, documents, accounting documents and books, financial statements and other papers related to inspection contents;

c/ The enterprise's observance of the laws on taxes and tax administration and other relevant regulations;

d/ Production lines, machinery, equipment, materials and supplies related the production and processing of imports or exports; and physical inspection of imports or goods produced by sub-contract mode, manufactured or processed from imports being stored by the enterprise, when necessary and conditions permit;

e/ In the course of examination, if detecting violations by the inspected subject, to make working minutes of those violations; if detecting signs of tax evasion or fraud, to apply the measures specified in Articles 89 thru 91 of the Law on Tax Administration and Articles 39 thru 41 of Decree No. 85/2007/ND-CP.

4. Consolidating proofs and legal grounds, covering:

a/ Requesting explanation by the inspected subject:

For unclear issues with insufficient grounds for conclusion, an inspector or the inspection team head shall request explanation by the enterprise. If the enterprise's written explanation is not clear enough, a question-and-answer session may be held;

Upon completion of the question-and-answer session, a written record shall be made, fully and accurately recording contents discussed by the two parties. When necessary, audio or visual recording of such question-andanswer session may be made.

b/ Conducting examination and verification

b.1/ Unclear proofs and explanations provided by the enterprise shall be verified at concerned organizations and individuals or those having the capacity and conditions to clarify those issues. A report

on examination and verification results shall be made, enclosed with supporting documents. The examination and verification report serves as a basis for carrying out subsequent steps.

b.2/ The tax inspection team head shall specifically notify verifying organizations of contents to be examined and verified and documents to be supplied and give them sufficient time to make full and accurate preparations.

c/ Soliciting assessment

For issues that require professional expertise and techniques beyond the inspection team's capacity and conditions for making conclusions, the inspection team head shall decide to solicit assessment in accordance with law.

5. After clarifying issues of inspection, the inspection team shall finalize dossiers of proofs, supplement documents and statistics, sign together with the inspected subject working minutes or written certifications of documents and statistics, and compile inspection dossiers. An inspection dossier, which is the original document for making the inspection record, comprises:

a/ Examination result minutes, working minutes;

b/ Documents and reports made by the enterprise at the request of the inspection team;

c/ Lists of documents and statistics jointly made by the inspection team and enterprise;

- d/ Copies of related documents;
- e/Written explanations;
- g/ Verification results.
- 6. Sanctioning administrative violations

In the course of inspection, when detecting violations subject to administrative sanctioning under law, inspectors or the inspection team head shall make written records of administrative violations, issue administrative sanctioning decisions or refer them to a competent person for handling according to the law on sanctioning of administrative violations.

7. Handing dossiers and documents

Upon completion of an inspection, each inspection team member shall:

a/ Hand working minutes, written certifications of statistics and all collected proofs to the inspection team head; make lists of documents and number them; make a brief report on the case, propose conclusions and handling measures and provide grounds for such proposal;

b/ Return unnecessary dossiers and documents to the enterprise; keep dossiers and documents necessary for subsequent steps. Written records on return or keeping of dossiers and documents shall be made. Article 159. Inspection records

1. Completing an inspection, the inspection team head shall draft an inspection record. Before this record is officially signed by the inspected subject, the inspection team head shall hold a meeting with inspection team members to approve the inspection record or give written opinions on the draft inspection record.

An inspection record shall be made and signed within 5 working days after completing an inspection.

2. An inspection record must specify results of each inspection content, violations and grounds for conclusion, consisting of the following parts:

a/ Introduction: to state legal grounds for making the inspection record;

b/ Content: to specify inspected issues, results of comparison by the inspection team with statistics declared and reported by the taxpayer; to explain reasons and causes; and give inspection proofs;

c/ Conclusion: to specify each inspected issue and determine the severity of violation by the taxpayer on the basis of specific regulations; and handling measures applied within the inspection team's competence, and propose handling measures.

3. An inspection record shall be signed by the inspection team head and the taxpayer (or his/her/its lawful representative) on every page and appended with the taxpayer's stamp (if any). Issues agreed and disagreed between the inspection team and taxpayer shall all be specified in the inspection record.

4. An inspected subject may receive the tax inspection record and request explanation thereon and have other rights under Clause 2, Article 86 of the Law on Tax Administration;

5. When necessary to extend the inspection duration, the inspection team head shall report on such extension to the inspection decision issuer for decision and may only extend inspection when such decision is issued. Article 160. Inspection result reports and draft inspection conclusions 1. Within 15 working days after an inspection, the inspection team head shall submit an inspection result report and a draft inspection conclusion to the inspection decision issuer. An inspection result report must have the following contents:

a/ Specific reporting on every inspected issue;

b/ Clear determination of the nature and severity of violation, reasons and responsibilities of violators (if any);

c/ Divergent opinions of inspection team members and the inspection team head on contents of the inspection result report (if any);

d/ Handling measures applied according to the team's competence and proposed handling measures;

e/ Regulations to serve as a basis for determining the nature and severity of violation and proposing handling measures;

2. An inspection team head may discuss and seek opinions of concerned agencies and organizations on problems arising in the drafting of the inspection report and conclusion to assure accurate and objective inspection conclusion.

3. An inspection result report (signed by the inspection team head) must fully cover inspected issues, issues which have not been inspected according to, or which have been inspected outside, the approved inspection decision and plan, and reasons therefor; disagreements of the enterprise; and propose management policies and regulations. Each conclusion content must specify the issue, grounds for right and wrong doings, causes, responsibilities and form of handling.

4. An inspection result report and draft inspection conclusion submitted to the inspection conclusion issuer must fully include written opinions of inspection team members. Team members' opinions must

confirm whether or not to agree with the report and draft conclusion made by the inspection team head on the jobs directly performed by themselves and by other members. In case of disagreement, the reason must be stated clearly. If inspection team members hold divergent opinions on the inspection result report and draft inspection conclusion, the inspection team head shall make his/her own decision and take responsibility for this decision.

Article 161. Inspection conclusion

1. Within 15 days after receiving an inspection result report, the inspection decision issuer shall issue an inspection conclusion. An inspection conclusion must have the following contents:

a/ Evaluation of the inspected subject's observance of the tax law concerning inspected issues;

b/ Conclusions on inspected issues;

c/ Determination of the nature, severity and causes of violation and responsibilities of violators (if any);

d/ Handling of administrative violations according to competence or proposing to competent persons for handling under law.

2. Before issuing an inspection conclusion, the inspection decision issuer may request the head and members of the inspection team to report on and the inspected subject to explain issues necessary for making inspection conclusion. When necessary, the inspection decision issuer shall request the inspection team to conduct additional inspection to clarify issues. Additional inspection results shall be recorded in a report serving as a basis for making the inspection conclusion.

3. An inspection conclusion shall be sent to the inspected subject, the General Director of Customs (when a provincial-level Customs Department issues the inspection decision) or a provincial-level Customs Department (when the General Director of Customs issues the inspection decision).

4. When, through tax inspection, acts of tax evasion are detected to show criminal signs, within 10 working days after the detection, customs offices shall forward dossiers to competent agencies for investigation according to the criminal procedure law. Customs offices shall coordinate with investigative agencies in investigating into tax-related crimes under law.

Article 162. Rights and obligations of inspected subjects Inspected subjects have the obligations and rights specified in Article 86 of the Law on Tax Administration.

Section 3

IMPLEMENTATION OF CONCLUSIONS ON POST-CUSTOMS CLEARANCE EXAMINATION AND TAX INSPECTION

Article 163. Jobs to be done after the issuance of conclusions on postcustoms clearance examination or tax inspection

After the issuance of conclusions on post-customs clearance examination or tax inspection, the following jobs shall be done:

1. Issuing tax assessment decisions (if any).

2. Issuing decisions on handling of administrative violations (if any) and supervising, urging and enforcing the implementation of these decisions under law.

3. When detecting acts of tax evasion showing criminal signs, complying with Clause 2, Article 76 of the Law on Tax Administration and the criminal procedure law.

4. Updating information on tax examination and inspection results into the database system for subsequent management.

5. Proposing competent authorities to amend, supplement or promulgate legal documents to stop and prevent violations.

6. Collecting taxes and urging enterprises to pay taxes according to tax assessment decisions and fining delayed tax payment cases (if any) under law.

7. Monitoring and inputting data into the KT559 accounting system and issuing decisions and enforcing tax payment by enterprises under law. 8. Reporting on tax collection results to tax assessment decision issuers.

Article 164. Assignment of implementation responsibilities

1. In case provincial-level Customs Departments decide on and conduct post-customs clearance examination or tax inspection, they shall perform all the jobs specified in Article 163 of this Circular.

2. In case the General Department of Customs conducts post-customs clearance examination:

a/ The General Director of Customs shall perform the jobs specified in Clause 1, Article 163 of this Circular.

b/ The Department for Post-Customs Clearance Examination shall perform the jobs specified in Clauses 2 thru 8, Article 163 of this Circular.

3. In case the General Department of Customs conducts tax inspection:

a/ The General Director of Customs shall comply with Clause 1, Article 163 of this Circular;

b/ The General customs Department's Inspectorate shall perform the following jobs:

- The jobs specified in Clauses 3 and 5, Article 163 of this Circular;

- Performing or assigning competent persons to perform the jobs specified in Clause 2, Article 163 of this Circular.

After the General Director of Customs issues tax assessment decisions, the General Customs Department's Inspectorate shall:

- Send to every provincial-level Customs Department which clears customs procedures for exports and imports 1 copy of the tax assessment decision enclosed with a detailed list of declarations subject to tax assessment and assessed tax amounts for these provincial-level Customs Departments to collect taxes under Clauses 6 and 7, Article 163 of this Circular;

- Oversee the tax collection by provincial-level Customs Departments according to the General Director of Customs' tax assessment decisions;

- Coordinate with the provincial-level Customs Departments which handle and settle problems related the implementation of tax assessment decisions;

c/ Provincial-level Customs Departments which clear customs procedures for exports and imports shall organize the performance of, and direct district-level Customs Departments in performing, the jobs specified in Clauses 4, 6, 7 and 8, Article 163 of this Circular.

Part VII

ORGANIZATION OF IMPLEMENTATION

Article 165. Implementation responsibilities

1. The General Director of Customs shall, based on the guidance in this Circular, promulgate customs procedures and guide customs offices in uniformly carrying out these procedures to facilitate importexport activities while ensuring proper customs management.

2. Competent customs offices shall carry out customs procedures; conduct customs examination and supervision; consider and give tax exemption, reduction and refund and non-collection, extend tax payment time limit, remit tax arrears, assess taxes, apply tax payment time limits and perform other tax administration jobs in strict accordance with current regulations and this Circular. In the course of implementation, customs offices, customs declarants and taxpayers shall specifically report arising problems to the Ministry of Finance (the General Department of Customs) for consideration and guidance for settlement on a case-by-case basis.

Article 166. Effect

1. This Circular takes effect on January 20, 2011, and replaces the Finance Ministry's Circulars No. 79/2009/TT-BTC of April 20, 2009, and previous guiding documents which are contrary to this Circular.

2. In the course of implementation, if relevant documents mentioned in this Circular are amended, supplemented or replaced, the amended, supplemented or replaced documents apply.

For the Minister of Finance

Deputy Minister

DO HOANG ANH TUAN

Note: All the forms and appendices mentioned in this Circular are not printed herein.

(Source: The Ministry of Finance)