

MINISTRY OF FINANCE (MOF)
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Subj: Restructuring of customs procedure
performance

SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom - Happiness

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To: Customs sub-departments of provinces and cities.

Between 08-10 Sep 2015, the GDVC organized the Preliminary Review Workshop to evaluate the implementation of the Customs Law 2014 and the documents guiding implementation of the customs procedures and tax management for imports and exports in Hanoi and HCMC. At the Workshop, the GDVC received some complaints from the business community and associations during the process of performing customs procedures. Accordingly, there's inconsistency in the customs procedures at various different locations of performing customs procedures.

To ensure the transparency and consistency in performing customs procedures, the GDVC hereby requests DVCs of all provinces and cities to instruct affiliated Customs sub-departments to strictly implement regulations of the Customs Law 2014, Decree 08/2015/ND-CP, Circular 38/2015/TT-BTC dated 25 Mar 2015 of the MOF, the customs procedures and processes are promulgated along with Decision 1966/QD-TCHQ dated 10 July 2015 of GDVC, including the emphasis on the restructuring of the following contents:

1. Examination of customs dossiers

During the process of performing e-customs procedures under current regulations, some Customs sub-departments still require businesses to submit the documents under customs dossiers with regards to the declaration sheet of green line. Although the documents under customs dossiers will be sent to Customs authorities electronically, the Customs authorities still require paper documents. Concerning this issue, GDVC requires the units to seriously follow the regulations on examination of customs dossiers as follows:

- For the green-line declaration sheet: under regulation in Clause 1, Article 6 of Decision 1966/QD-TCHQ, the System will automatically examination the information on the declaration sheet and move to Step 4 (Examination over the fulfillment of taxation, fee and charge obligations). Accordingly, customs civil servants must not require the customs declarers to submit the documents under the customs dossiers for examination with regard to the green-line declaration sheet.
- For the yellow-line and red-line declaration sheet: as stipulated in clause 2, Article 3 of Circular 38/2015/TT-BTC, customs declarers can either submit the documents under the customs dossiers via the e-customs data processing system or submit the paper dossiers. Clause 2 Article 7 Decision 1966/QD-TCHQ dated 10 July 2015 of GDVC provides guidance to customs civil servants to examination customs dossiers based on the customs dossiers submitted by customs declarers directly or via the System. Accordingly, the Customs authorities accept the dossiers submitted by the customs declarers electronically

or paper-based. The civil servants must not require customs declares to introduce their paper documents for examination when they examine the dossiers with regard to the declaration sheet streamlined as yellow and red lines if the businesses have submitted the documents under the customs dossiers via the System.

- DVCs of provinces and cities are requested to strictly instruct and strengthen examination and monitoring; in cases where breaches are detected, sanctions must be applied and the cases must be reported to the GDVC.
2. Regarding the content of labelling the origin on products, packages and exports.

GDVC received complaints that some Customs sub-departments would not accept or provided administrative violation sanctions for some cases of exporting textile products without labelling “Made in Vietnam” or the cases where other languages are inscribed on the origin labelling (not in English).

Concerning this complaint, as specified in clause 3 Article 5 Decree 89/2006/ND-CP dated 30 Aug 2006 of the Government, the labelling on the exports is performed under the agreement in the buy-and-sell contracts between foreign importing organizations and individuals with exporting enterprises. The labelling of good on the exports is the responsibility of the exporting enterprise toward foreign importing organizations and individuals, not the content of examination by Customs authorities.

Customs Departments of various provinces and cities are requested to direct Customs sub-departments to strictly implement the regulations provided in Decree No. 89/2006/ND-CP.

3. Conduct physical examination of goods for exporting textile products from the imported raw materials

GDVC received complaints from enterprises and Vietnam Textile and Apparel Association (VITAS) on the fact that some Customs sub-departments require that when importing, details must be declared by each fiber compositions when importing raw materials, when exporting. Contrast with the labels of the material compositions attached to the exports and provide administrative violation sanctions for the enterprises that have differences and deviations of fiber compositions.

Concerning this fact, the GDVC requires DVCs of various provinces and cities to direct their Customs sub-departments to consistently implement as follows:

With regard to the textile products exported from the imported sources of raw materials, during physical examination, the Customs authorities will accept petty deviations of the fiber composition when contrasting the material compositions on the labels of the exporting products with the imported materials provided that these deviations will not result in the change in HS code of the imports and will not change the policies on imports and exports management for the batches of goods (if any).

4. Taking the goods to preservation

GDVC received complaints from enterprises and Association on the fact that some Customs authorities would not allow the goods to be taken to preservation though the enterprises had submitted Letter of Request as well as approval from the specialized management agency in the Registration Letter for Specialized management without clearly informing the reason for such refusal to enterprises.

The Customs authorities are advised to comply with regulations in Article 32 of Circular 38/2015/TT-BTC, which specifies that the Customs authorities shall base on the request of the specialized management agency or the Letter of Request of the customs declarer to decide for the goods to be returned for preservation. In cases of non-approval to the request of taking the goods to preservation by the customs declarer, the Customs authorities must specify the reason to the customs declarer through the System (with regard to the e-customs declaration sheet) or in writing (for the paper-based customs declaration sheet).

5. Verification of goods going through the customs control area for the goods listed in the e-customs declaration sheet

GDVC received complaints that during the process of verifying goods going through the customs control area with regard to the import customs declaration sheet eligible for going through the customs control area and registered at the Customs sub-departments outside the border gate, in addition to the list of containers, list of goods, some Customs sub-departments require the customs declarers to present the manifest for examination and contrasting.

Regarding this issue, GDVC requests DVCs of various provinces and cities to instruct their Customs sub-departments to consistently execute the verification of goods going through the customs control area with regard to goods listed in the e-customs declaration sheet as follows:

Strictly implement in line with regulations in Article 52 of Circular 38/2015/TT-BTC and Part V Decision No. 1966/QĐ-TCHQ, according to which the Customs authorities shall base on the information provided in the list of containers, list of goods under the form No. 29/DSCT/GSQL, Form No. 30/DSHH/GSQL Appendix V promulgated along with Circular 38/2015/TT-BTC submitted and presented by the customs declarers for examining and contrasting with the information on the monitoring System, to serve as the basis for certifying the goods through the customs control area on the System. The customs declarers shall not be required to introduce the printed e-customs declaration sheet, manifest or any kind of document for contrasting.

6. Signing, stamping and certifying on the printed e-customs declaration sheet

GDVC received complaints from enterprises and Association on the fact that some customs civil servants still certify with the “Customs clearance” stamp on the cleared goods customs declaration sheet on the System.

This content, as specified in the Customs Law, Decree 08/2015/ND-CP, Circular 38/2015/TT-BTC, Decision No. 1966/QĐ-TCHQ, customs civil servants will not sign, stamp the civil servant seal and certify on the e-customs declaration sheet printed from the System. In cases where some state management agencies have not equipped with the devices to search for the data of the e-customs as specified in clause 9, Article 25 of Decree 08/2015/ND-CP, GDVC will issue

separate guiding documents for each case regarding the certification on the printed e-customs declaration sheet to assist the customs declarers to perform relevant procedures. The units only perform the certification on the printed e-customs declaration sheet under the guidelines of GDVC (to date, GDVC has issued 02 guiding documents No. 5259/TCHQ-GSQL dated 9 June 2015 and 6397/TCHQ-GSQL dated 15 July 2015).

7. Tax refund documents for imports to manufacture exports

As reflected by Associations and businesses, during the process of handling tax refund documents for imports to manufacture exports, some Customs authorities still require customs declarers to present the export customs declaration sheet, bill of lading, receipts, goods packing slip, etc. to examine and certify “having checked”, to serve the refund activities.

Regarding this matter, GDVC have asked DVCs of various provinces and cities to instruct their Customs sub-departments to consistently execute as follows:

As defined in Article 119 Circular 38/2015/TT-BTC, when performing the tax refund procedures for the exported products during conducting e-customs procedures, customs declarers only have to prepare a letter requesting tax refund. The letter specifies (1) number of declaration sheet for imports requesting for tax refund, number of export declaration sheet, number of contracts,...; (2) the paid import tax, the amount of import tax asking for refund; (3) number of payment documents for the cases where payment is made through banks; (4) **information on the exported goods under regulation in Article 53 of Circular 38/2015/TT-BTC**. Accordingly, beside the letter requesting tax refund, the customs declarer do not have to submit other documents in the tax refund document set. The Customs authorities will base on the information on the System of the Customs authorities to perform examination but they are not allowed to ask the customs declarer to submit other documents (such as bill of lading, receipts, goods packing slip, printed customs declaration sheet...) for considerations of tax refund.

8. Duration for proceeding the procedures of not collecting tax on the re-imported goods

GDVC received complaints on the fact that some Customs sub-departments did not perform the the procedures for non-collection of tax at the time when the customs declarer performs the re-importing procedures for the returned exports.

Regarding this, clause 3, Article 47 Decree 08/2015/ND-CP specifies: “*Customs authorities will not collect tax for the re-imported goods under regulations in clause 1 of this Article, if at the time of performing the re-importing procedures, the customs declarer must submit a full set of documents on non-collection of tax as specified*”.

Accordingly, DVCs of various provinces and cities are requested to instruct their Customs sub-departments to consistently execute as follows:

If the customs declarer submits the full set of documents on non-collection of tax as defined at the time of performing the re-importing procedures, the Customs authorities must simultaneously perform the procedures on non-collection of tax and re-importing procedures within the timeline defined in Article 23 of the Customs Law.

9. Regarding the registration of the duration for physical examination of goods

GDVC received complaints on the fact that some Customs sub-departments require the customs declarer to register the duration of performing the physical examination of goods with the Supervision Team.

As per current regulations, there's no regulation asking for the customs declarer to register the duration of performing the physical examination of goods with the Supervision Team. The units are requested to strictly follow the guideline in Article 8 Decision 1966 on the physical examination of goods. In cases where there's the joint-examination between the Customs sub-department where the declaration sheet is registered and the Supervision Team, then the units must coordinate and exchange information on the duration of performing the physical examination of goods by the customs declarer without asking the customs declarer to register the duration of performing the physical examination of goods with the Supervision Team.

GDVC shall guide DVCs of various provinces and cities to implement and request DVCs of various provinces and cities to strictly direct and strengthen examination, monitoring; in cases where violations are detected, there must be sanctions and reports to the GDVC.

SIGN ON BEHALF OF THE GENERAL DIRECTOR

DEPUTY GENERAL DIRECTOR

Signed and sealed

Vu Ngoc Anh