



Vietnamese Law on Customs

Chapter XVIII

DEALING WITH INFRINGEMENTS OF INTELLECTUAL PROPERTY RIGHTS THROUGH ADMINISTRATIVE AND CRIMINAL REMEDIES; CONTROL OF INTELLECTUAL-PROPERTY-RELATED IMPORTS AND EXPORTS

Section 1.

Dealing with infringements of intellectual property rights through administrative and criminal remedies

Section 2. Control of IP-related imports and exports

Article 216. Border control measures of IP-related imports and exports

1. Border control measures of IP-related imports and exports comprise the followings:

a) Suspension of customs procedures for suspected intellectual property right infringing goods.

b) Supervision to detect goods containing signs of infringement of intellectual property rights.

2. Suspension of customs procedures for suspected intellectual property right infringing goods is a measure taken at the request of the intellectual property right holder for the purpose of collecting information and evidence about the lots of goods which serves as the basis for the intellectual property right holder to exercise the right to request for the handling of the infringement and to request for the application of provisional measures or preventive measures, and to ensure that an administrative penalty is to be imposed.

3. Examination and supervision to detect goods containing signs of infringement of intellectual property rights is a measure taken at the request of the intellectual property right holder for the purpose of collecting information in order to exercise the right to request for the suspension of customs procedures.

4. During the course of application of measures referred to in paragraphs 2 or 3 of this Article, if any goods detected to be intellectual property counterfeit goods in accordance with Article 213 of this Law, the customs offices shall have the right and duty to impose administrative remedies referred to in Article 214 and Article 215 of this Law.

Article 217. Obligations of person who requests for the application of border control measures of IP-related imports and exports

1. A person who requests for the application of border control measure in respect of IP-related imports and exports shall have the following obligations:

a. Proving that he or she is the intellectual property right holder by producing the materials and evidence referred to in paragraph 2 Article 203 of this Law.

b. Providing information sufficient to identify the suspected intellectual property right infringing goods or to discover infringing goods.

c. Lodging an application with the customs office and pay fees and charges prescribed by the laws and regulations.

d. Payment of damages and other incurred expenses to the persons being subject to such measure in case the goods subject to that control measure are found not to infringe upon IPRS.

2. To secure the performance of the obligations set out in clause 1(d) of this Article, a person requesting for the application of measure of suspension of customs procedures must deposit a sum of security in one of the following methods:

a) Depositing an amount of money equal to 20% of the value of the lots of goods that is subject to the suspension of customs procedures; or at least VND 20 million if it is impossible to evaluate such lots of goods;

b) Submitting a guarantee document issued by a bank or other credit organisations.



Article 218. Procedures for the application of suspension of customs procedures

1. When a person who requests for the suspension of customs procedures has properly performed his or her obligations provided for in Article 217 of this Law, the customs office shall issue the decision on suspension of customs procedures with regard to relevant lots of goods.

2. The term of suspension of customs procedures shall be 10 working days from the date of issuing the decision on the suspension of customs procedures. This term may be prolonged up to 20 working days if the person who requests for the suspension of customs procedures has due reasons and having deposited an additional amount of money referred to in paragraph 2 of Article 217 of this Law.

3. At the expiration of the term provided for in paragraph 2 of this Article if the person who requests for the suspension of customs procedures fails to initiate a civil lawsuit and the customs office does not accept the case to handle the importer of the lots of goods under administrative procedures, the customs office shall:

a) Continue the completion of customs procedures for such lots of goods;

b) Compel the person who requests for the suspension of customs procedures to compensate all the damages incurred by the owner of the lots of goods due to unreasonable request for the suspension of customs procedures, and to pay expenses for storage and preservation of goods as well as other costs incurred by the customs office and other related organizations and individuals in accordance with the laws and regulations on customs;

c) Reimburse the person who requests for the suspension of customs procedures the rest of the deposited guarantee amount after having performed obligations and paid all the costs referred to in sub-paragraph b) of this paragraph.

Article 219. Examination and supervision to detect goods containing signs of IPR infringement

When an IPR holder requests for examination and supervision to detect a lot of goods containing signs of IP infringement and when such lot of goods is detected, the customs office shall immediately notify the person who requests for such

examination and supervision. Within three working days from the date of such notification, if the person that made the request fails to make a request for suspension of customs procedures with regard to the detected lot of goods and the customs office does not decide to handle the importer of the lots of goods with administrative remedies in accordance with Articles 214 and 215 of this Law, the customs office shall continue the completion of customs procedures for such lots of goods.

Chapter V

CONTROL OVER IP RELATED IMPORTS AND EXPORTS

Article 34. Requests for controlling over intellectual property right related imports and exports

Intellectual property rights holders may either directly or through their authorised persons lodge a request for control or supervision for the purpose of detecting goods containing signs of intellectual property right infringement or an application for temporary suspension of the customs procedures with respect to imports and exports suspected of intellectual property right infringement.

Article 35. Competent agencies for receipt of applications

1. The Customs sub-Departments shall have the power to receive requests for checking or supervision or temporary suspension of completion of customs procedures at the border gates falling under the scope of their management.

2. Provincial and municipal Customs Departments shall have the power to receive requests checking or supervision or temporary suspension of completion of customs procedures at the border gates falling under the scope of their management.

3. The General Department of Customs shall have the power to receive requests for checking or supervision or temporary suspension of completion of customs procedures at the border gates falling under the scope of management of two and more Customs Departments of provinces and cities under central authority.



4. The IP rights holders can also lodge their applications to each of the Custom sub-Departments or Customs Departments in cases specified in Clauses 2 and 3 of this Article.

Article 36. Procedures for processing applications

1. Within 30 days since the date of receipt of the request for control of imports or within 24 working hours since the receipt of the request for temporary suspension of completion of customs procedures, the customs authority shall be liable to consider and issue a notice on accept of the request, if the applicant has satisfied the requirements under Articles 217.1(a), (b), (c) and Article 217.2 of the Intellectual Property Law. In case of refusal, the customs authority must reply in writing to the applicant and specify the reasons thereof.

2. Where a request is accepted by the General Department of Customs, then the General Department of Customs shall forward and instruct relevant Customs Departments for settlement.

Where a request is received by the Customs Departments, after acceptance the Customs Departments shall forward and instruct the relevant Customs sub-Departments for settlement.

The relevant Customs sub-Department shall be liable to inspect and detect the goods being suspected infringing goods or suspend customs procedures on the basis of the request and instructions of the General Department of Customs, or relevant Customs Departments.

Article 37. Dealing with suspected infringing goods

1. Where the goods being suspected infringing goods are detected, at the request of the intellectual property right holder or under the power to impose administrative sanctions, the customs authority shall issue a decision to temporarily suspend the completion of customs procedures, and give a notice on the temporary suspension of the goods shipment to the intellectual property right holder and the goods owner, in which the names, addresses, facsimile numbers and telephone number of the concerned parties and the reasons and the duration of the temporary suspension shall be specified.

2. The customs authority shall allow to continue the customs declaration procedures for the suspended shipment of goods as mentioned in Article 218.3 of the Intellectual Property Law in the following cases:

a) The decision on temporary suspension of the customs procedures is cancelled or revoked by a decision on the settlement of complaints and denunciations;

b) The requester withdraws the request for temporary suspension of completion of customs procedures.

Article 38. Procedures for controlling intellectual property right-related imports and exports

The procedures for controlling intellectual property right-related imports and exports shall comply with the provisions of this Decree and the laws and regulations on customs.

In order to assist in guaranteeing the implementation of State policies on economic, cultural, social, scientific and technological development; to conduct international exchange and co-operation, and to protect national sovereignty and security, the interests of the State, and the lawful rights and interest of organisations and individuals; Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam; This Law makes provisions on customs.

CHAPTER I

General Provisions

Article 1 Policy on customs

The State of the Socialist Republic of Vietnam shall create favourable conditions in terms of customs for export and import activities, exit, entry and transit in the territory of Vietnam.

Article 2 Governing scope

This Law makes provisions on State administration of customs with respect to goods being exported, imported or in transit and means of transportation of domestic or foreign organisations and individuals entering, exiting or in transit in Vietnam; and provisions on the organisation and operation of customs.



Article 3 Applicability

This Law shall be applicable to:

1. Organisations and individuals engaged in import, export or transit of goods, or entry, exit or transit of means of transportation in Vietnam;
2. Customs offices and State employees of Customs; EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)
3. Other State bodies engaged in co-ordination for State administration of customs.

Article 4 Interpretation of terms

In this Law, the following terms shall have the meanings ascribed to them hereunder:

1. **Goods** include goods imported or exported, or in transit; luggage, foreign currency and Vietnamese currency of persons exiting or entering Vietnam items on means of transportation exiting, entering or in transit in Vietnam; precious metals or stones, antiques, cultural products, postal parcels and other assets exported, imported or in transit or stored within an area of customs operation.
2. **Goods imported, exported, or in transit** include all chattels with a code and name as stipulated by law which are exported, imported, in transit or stored within an area of customs operation.
3. **Luggage of a person exiting or entering Vietnam** means items necessary for personal living or for the purposes of travel of persons exiting or entering Vietnam, including hand-luggage and registered luggage sent prior to or after travel.
4. **Means of transportation** include means of land transportation, railway transportation, air transportation, river transportation or sea transportation exiting, entering or in transit in Vietnam.
5. **Items on means of transportation** include assets used on the means of transportation; materials and fuel serving the operation of the means of transportation; food and other items directly serving living needs of the crew and passengers who are carried by the means of transportation.

6. **Customs procedures** mean the procedures which a declarant and State employees of Customs must perform in accordance with this Law with respect to goods or means of transportation.

7. **Declarants**¹ include owners of goods or means of transportation and persons authorised by the owner of goods or means of transportation.

8. **Customs inspection** means the inspection of customs files and relevant documents and inspection of actual goods or means of transportation carried out by a customs office.

9. Customs control means the professional measures taken by a customs office aimed at ensuring the original state of goods or means of transportation subject to customs management.

10. Customs checking means the measure of making a patrol or investigation or other professional measures taken by the customs office aimed at preventing or combating smuggling or illegal transportation of goods across the borders and other acts in breach of the laws on customs.

11. Customs clearance means that a customs office makes a decision to permit goods to be imported or exported, or means of transportation to exit or enter Vietnam.

12. Bonded warehouse means a warehouse of an owner of goods which is used to store imported goods which have been cleared by customs but for which duty has not yet been paid.

13. Customs bond warehouse means a warehouse used to store the following goods:

(a) Goods awaiting export in respect of which customs procedures have been completed;

(b) Goods brought from a foreign country and awaiting export to another foreign country or import into Vietnam in accordance with the provisions of the law.

¹ The literal translation is "person making a customs declaration". EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAPII)



14. Transit means the process of transferring goods or means of transportation from a foreign country to another country by way of the territory of Vietnam through bordergates, or returning them to that other country.

15. Moveable assets means belongings and items serving living and working needs of individuals and their families which are permitted to accompany them or of organisations upon expiry of residence or termination of operations in Vietnam or abroad.

16. Transshipping means the transfer of goods from a means of transportation entering Vietnam to another exiting from Vietnam for export, or unloading them from a means of transportation entering Vietnam to a warehouse or warehouse yard located within the area of a bordergate then loading them onto another means of transportation for export.

17. Transfer from one bordergate to another means the transfer of goods or means of transportation subject to customs supervision and control from one EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II) bordergate to another; from a bordergate to a place for customs procedures outside the bordergate or vice versa; from one place for customs procedures outside the bordergate to another.

Article 5 Application of international treaties and international practices relating to customs

1. Where an international treaty to which the Socialist Republic of Vietnam is a signatory or participant contains provisions which are inconsistent with this Law, the international treaty shall prevail.

2. In certain cases where this Law, any other Vietnamese legal instrument and any international treaty to which the Socialist Republic of Vietnam is a signatory or participant does not yet contain relevant provisions, then international practices relating to customs may be applicable provided that such application of international customary practices is not contrary to the basic principles of the laws of Vietnam.

Article 6 Areas of customs operation

Areas of customs operation shall include gates of entry by road, international stations, international seaports, international river ports, international civil airports, places for customs procedures outside bordergates, export processing zones, customs bond warehouses, bonded warehouses, preferential customs zones, international post offices, places of inspection of exports or imports located within the territory and the territorial sea aimed at exercising the sovereignty of Vietnam, head offices of enterprises upon conducting inspections after customs clearance, and other areas of customs operation in accordance with the provisions of the law. A customs office shall be responsible for carrying out customs inspection, control and checking of goods and means of transportation within its area of customs operation. The Government shall make specific regulations on areas of customs operation.

Article 7 Building up customs forces

Vietnam Customs shall be built up as a force which is irreproachable, strong, professionally qualified and equipped and shall master modern technology and conduct activities efficiently and effectively.

Article 8 Modernization of the custom management

1. The State shall give priority to developing technology and advanced technical facilities in order to ensure the application of modern methods of customs EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II) management; shall encourage organisations and individuals engaged in import or export activities to participate in the establishment, connection and utilisation of the system of computerised information of customs.

2. The Government shall make specific regulations on a system of technical standards for exchange of electronic data or validity of electronic documents, and responsibilities and powers of relevant State bodies, organisations or individuals engaged in import or export activities, entry or exit with respect to the establishment, development and utilization of the system of computerised information of customs.

Article 9 Co-ordination in implementation of laws on customs

1. Customs offices shall be responsible for coordinating closely with State bodies, relevant organisations and units of the people's armed forces.



2. State bodies, relevant organisations and units of the people's armed forces shall, depending on their respective duties and powers, be responsible for coordinating and facilitating customs offices in performing their duties.

Article 10 Supervision of implementation of laws on customs

1. People's councils at all levels shall, depending on their respective responsibilities, duties and powers, monitor the implementation of the laws on customs.

2. The Vietnam Fatherland Front and its member organisations shall encourage the people to implement strictly the laws on customs; and monitor the implementation of the laws on customs in accordance with the provisions of the law.

3. Customs offices and State employees of Customs must comply with the provisions of the law, rely on the people, and be subject to supervision by the people while performing their duties and powers.

CHAPTER II

Duties and Organisation of Customs

Article 11 Duties of Customs

Vietnam Customs shall have the duties to inspect and control goods and means of transportation; to prevent and combat smuggling and illegal transportation of goods across the borders; to organise implementation of the laws on tax with EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II) respect to imported or exported goods; to make proposals for policies and measures for State management of export, import, exit, entry and transit and for policies on tax with respect to imported or exported goods.

Article 12 Organising and operating principles of Customs

1. Vietnam Customs shall be organised and shall operate on the basis of the centralised and unified principle.

2. The General Director of the General Department of Customs shall assume unified management and administration of operations of Customs at all levels; Customs at lower levels shall be subject to management and direction by Customs at higher levels.

Article 13 Organisational system of Customs

1. The organisational system of Vietnam Customs shall include:
 - (a) The General Department of Customs, being a Government body;
 - (b) Provincial Customs Departments or inter-provincial Customs Departments of two or more provinces, Customs Departments of cities under central authority;
 - (c) Customs offices at bordergates, customs inspection groups, and equivalent levels.

2. The Government shall make specific regulations on duties, organisation and operation of Customs at all levels; service levels of authority, titles, criteria, wages, seniority allowances and other benefits applicable to State employees of Customs; customs badges, flags, stripes showing customs ranks, uniforms and customs identification cards.

Article 14 State employees of Customs

1. State employees of Customs are persons who are recruited, trained and employed in accordance with the provisions of the laws on State employees and officials.
2. State employees of Customs shall have political understanding and perform their duties in accordance with the provisions of the law, shall be faithful, incorruptible, disciplined and polite, and shall strictly abide by any decision on transfer or assignment of duties. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

CHAPTER III

Customs Procedures, Customs Inspection and Control

SECTION 1

General Provisions

Article 15 Principles of performance of customs procedures, customs inspection and control

1. Goods being imported or exported or in transit and means of transportation exiting, entering or in transit in Vietnam shall complete customs procedures, and shall be subject to customs inspection and control, and shall be transported by the correct route through the correct bordergate in accordance with the provisions of the law.



2. Goods or means of transportation shall be cleared by customs upon completing customs procedures.
3. Customs formalities shall be completed in public, efficiently and conveniently in accordance with the provisions of the law.
4. Arrangement of manpower and working hours must satisfy the requirements of import or export activities, entry, exit or transit.

Article 16 Customs procedures

1. When performing customs procedures, a declarant must:
 - (a) Make a declaration and submit a customs declaration; submit or present documents included in the customs file;
 - (b) Take goods or means of transportation to the stipulated place for inspection of actual goods or means of transportation;
 - (c) Pay duties or perform other financial obligations in accordance with the provisions of the law.
2. When performing customs procedures, a State employee of Customs must:
 - (a) Receive and register the customs file;
 - (b) Verify the customs file and inspect the actual goods or means of transportation; EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)
 - (c) Collect duties and other charges in accordance with the provisions of the law;
 - (d) Decide to clear goods or means of transportation through customs.

Article 17 Place for customs procedures

The place for customs procedures shall be the office of the customs office at the bordergate or the office of the customs office outside the bordergate. Where necessary, the inspection of actual goods being imported or exported may be carried out at another place as provided by the General Department of Customs.

Article 18 Time-limits for declaration and submission of customs declarations

A declarant must make a declaration and submit the customs declaration for goods or means of transportation within the following time-limits:

1. In the case of imported goods, within thirty (30) days from the date on which goods arrive at the bordergate.
2. In the case of exported goods, no later than eight hours prior to the departure of the means of transportation from Vietnam.
3. In the case of accompanied luggage of persons who exit or enter Vietnam, upon arrival of goods or means of transportation at the entry bordergate, and prior to the time when the carrier terminates procedures for embarkation of passengers on the means of transportation. Registered luggage of persons who enter Vietnam sent prior to or after travel shall be in accordance with the provisions of clause 1 of this article.
4. In the case of goods or means of transportation in transit, after the arrival of goods or means of transportation at the first entry bordergate, and prior to the time when goods or means of transportation cross the exit bordergate.
5. In the case of means of sea transportation exiting or entering Vietnam, no later than two hours after the port authority provides notice that the means of transportation has arrived at the position for boarding or returning a pilot, and one hour prior to exit of the means of transportation from Vietnam.
6. In the case of means of air transportation exiting or entering Vietnam, upon arrival of the means of transportation, and prior to the time when the carrier terminates procedures for embarkation of exported goods or passengers leaving Vietnam. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)
7. In the case of means of railway transportation, land transportation or river transportation exiting or entering Vietnam, upon arrival of the means of transportation at the first entry bordergate, and prior to the time when the means of transportation crosses the last bordergate for exit from Vietnam.



Article 19 Time-limits for performance of customs procedures by State employees of Customs

1. State employees of Customs shall receive, register and verify a customs file after the declarant submits or presents the customs file in accordance with the provisions of the law; in the case of refusal to register the customs file, the reasons therefore should be notified to the declarant.

2. After the declarant has performed all of the requirements of the performance of customs procedures stipulated in article 16.1(a) and (b) of this Law, the State employee of Customs shall complete the inspection of actual goods or means of transportation within the following time-limits:

(a) No later than eight working hours, with respect to consignments of imported or exported goods to which the form of random inspection of part of the actual goods is applicable;

(b) No later than two working days, with respect to consignments of imported or exported goods to which the form of inspection of the whole of the actual goods is applicable; Where the form of inspection of the whole of the actual goods is applied to consignments of imported goods or exported goods with a great quantity and the inspection is complex, the time-limit for inspection may be extended, but by no more than eight working hours;

(c) The inspection of means of transportation exiting or entering Vietnam must ensure that imported or exported goods are unloaded or loaded or passengers exit or enter Vietnam on time;

(d) Goods or means of transportation shall be cleared by customs in accordance with the provisions of article 25 of this Law.

Article 20 Customs declarations

1. Customs declarations shall be made uniformly in the standard form of customs declaration provided by the General Department of Customs. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

2. The declarant must make a complete, accurate and clear declaration in accordance with the items in the custom declaration form.

3. The declarant may use the form of electronic declaration.

Article 21 Agents performing customs procedures

1. An agent performing customs procedures shall be the declarant in accordance with the authorisation of the person who is entitled and obliged to complete customs procedures with respect to imported or exported goods.

2. Agents performing customs procedures must have an understanding of the laws on customs, be specially skilled in completing customs declarations, and shall be responsible before the law within the scope of the authorisation. The Government shall make specific regulations on conditions for registration and operation of agents performing customs procedures.

Article 22 Customs files

1. The customs file shall include the following:

- (a) Customs declaration;
- (b) Commercial invoices;
- (c) Contract for purchase and sale of goods;
- (d) Permit of the authorised State body in the case of goods being imported or exported or in transit or means of transportation exiting, entering or in transit in Vietnam which require a permit in accordance with the provisions of the law;
- (dd) Other documents which a declarant is obliged to submit or present to the customs office as stipulated by law with respect to each item of goods.

2. The customs file shall be submitted or presented to the customs office at its office. Where there is an appropriate reason which is approved by the director of the customs office at the bordergate or of the customs office of a place for customs procedures outside the bordergate, the declarant shall be entitled to an extension of the time-limit for submitting or presenting a number of documents included in the customs file; and for making additions to or amendments or replacements of the customs declaration which had been registered prior to the time of inspection of actual goods or means of transportation. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

Article 23 Rights and obligations of declarants

1. The declarant shall be entitled:

- (a) To receive information relating to the customs declaration with respect to goods being imported or exported or in transit, or means of transportation



exiting, entering or in transit in Vietnam, and guidelines for performance of customs procedures provided by the customs office;

(b) To monitor goods in advance and take samples of goods under the control of State employees of Customs prior to making a customs declaration in order to ensure that the customs declaration is accurate;

(c) To propose a re-inspection by the customs office of the actual goods which were already inspected if he/she disagrees with the decision of the customs office, in the case where the goods have not yet been cleared by customs;

(d) To lodge a complaint or denunciation in relation to breaches of the law by any customs office or State employee of Customs;

(dd) To request compensation for any damage caused by a customs office or State employee of Customs in accordance with the provisions of the law.

2. The declarant shall be obliged:

(a) To make a declaration and strictly perform the provisions of articles 16.1, 18, 20 and 68 of this Law;

(b) To be responsible before the law for the truthfulness of information declared and documents submitted or presented;

(c) To comply with decisions and requirements of the customs office or State employees of Customs in relation to the performance of customs procedures for goods or means of transportation in accordance with this Law;

(d) To retain books of account, vouchers and other documents relating to imported or exported goods which have been cleared by customs for five years from the date of registration of the customs declaration; to provide relevant information or documents at the request of the customs office for inspection in accordance with articles 28, 32 and 86 of this Law; EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

(dd) To arrange personnel to facilitate the inspection of actual goods or means of transportation;

(e) To pay duties and perform other financial obligations in accordance with the provisions of the law.

Article 24 Responsibilities to inspect goods or means of transportation within areas of customs operation

1. A customs office shall be responsible for inspecting goods being imported or exported and means of transportation exiting or entering Vietnam within its area of customs operation.

2. Where a specialised inspection of quality, health service or culture or a quarantine of animals or plants with respect to goods or means of transportation is required in accordance with the provisions of the law, State bodies authorised to conduct specialised inspections shall carry out such specialised inspection.

3. The director of the customs office at the bordergate shall have the main responsibility to co-ordinate with State bodies authorised to conduct specialised inspections at the bordergate in order to ensure that goods and means of transportation shall be cleared promptly by customs. The Government shall make specific regulations on responsibilities and coordination between authorised State bodies at bordergates.

Article 25 Customs clearance for goods and means of transportation

1. Goods or means of transportation shall be cleared by customs upon completion of customs procedures.

2. Goods or means of transportation which have not completed customs procedures may be cleared by customs in any of the following cases:

(a) A number of documents included in the customs file are not available but the customs office permits such documents to be submitted late within a definite period.

(b) Duty payable has not yet been paid or has not been paid in full within the stipulated time-limit, but a credit institution or another organisation authorised to conduct banking activities provides a guarantee for the amount of duty payable, except for imported or exported goods entitled to a period of deferral of payment of duties in accordance with the provisions of the laws on tax. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

3. Where an owner of goods or means of transportation is subject to penalty in the form of a fine for an administrative offence in relation to customs, the goods or the means of transportation may be cleared by customs if the fine has already been paid or a credit institution or another organisation authorised to conduct banking activities provides a guarantee for the amount payable in order to implement the penalty decision of the customs office or authorised State body.

4. With respect to imported or exported goods which are subject to appraisal, the customs office shall decide on customs clearance on the basis of the results of the



appraisal. Pending the results of an appraisal, if the owner of goods requests to take back goods for conservation, the customs office shall only accept such request in the case where all conditions for customs control stipulated by the General Department of Customs have been satisfied.

5. Goods imported or exported for urgent requirements shall be cleared by customs in accordance with article 35 of this Law.

Article 26 Customs control

1. Customs control of goods and means of transportation shall be carried out by the following methods:

- (a) Seals affixed by customs or by other technical facilities;
- (b) Direct control carried out by State employees of Customs;

2. Periods of customs control:

(a) From the time when goods being imported or means of transportation entering Vietnam arrive in the area of customs operation and until the time of customs clearance;

(b) From the time of commencement of the inspection of actual goods being exported and until the time of actual export;

(c) From the time when goods or means of transportation in transit in Vietnam arrive in the area of custom operation and until the time of exit from the territory of Vietnam.

3. The owner of goods, the captain or the operator of the means of transportation or the agent performing customs procedures shall be obliged to ensure the original state of goods and customs seals; where the original state of goods or of customs seals is not maintained due to force majeure, upon carrying out EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II) necessary measures to prevent and limit all losses which may occur, he or she shall inform the nearest customs office or people's committee of the nearest commune, ward or township for certification, as soon as practicable.

Article 27 Duties and powers of State employees of Customs

When performing customs procedures, State employees of Customs shall have

the following duties and powers:

1. To comply strictly with the law and customs professional process, and to be responsible for the performance of their duties and powers;
2. To provide guidelines to declarants as requested;
3. To carry out customs inspection and control; in the case of discovery of indications of a breach of the laws on customs having been committed, to request the owner of goods, the captain or the operator of the means of transportation or the authorised person to perform the requirements for inspection or search of goods or means of transportation in accordance with the provisions of the law;
4. To take samples of goods in the presence of the declarant for analysis by the customs office or for appraisal to facilitate the inspection of goods; to use results of the analysis or the appraisal to determine the right code and quality of goods;
5. To request declarants to provide information or documents relating to goods or means of transportation aimed at determining the right code or the value of goods in order to facilitate the collection of duties and other charges in accordance with the provisions of the law;
6. To control the opening, closure, transhipping, loading or unloading of goods at places for customs procedures and places of inspection of imported or exported goods;
7. To request the captain or the operator of the means of transportation to operate on the route and stop at the place stipulated;
8. To perform other duties and powers in accordance with the provisions of the law.

SECTION 2

Customs Inspection and Control of Goods

EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)



Article 28 Verification and registration of customs files

Upon receiving a customs file, State employees of Customs shall verify the information declared in light of the items required in the custom declaration form, the documents included in the customs file, and the conformity of information declared in the customs declaration and documents included in the customs file; and shall register the customs file in accordance with the provisions of the law; in the case of refusal to register the customs file, shall provide notification thereof to the declarant.

Article 29 Bases and powers to decide on forms of inspection of actual imported or exported goods for customs clearance

1. The form of inspection of actual goods being imported or exported shall be determined on the basis of observance of the laws by the owner of goods; the State policy on management of imported or exported goods; the nature, the type and the origin of imported or exported goods; the customs file and other information relating to imported or exported goods.

2. The director of the customs office of the bordergate or of the customs office of the place for customs procedures outside the bordergate shall decide on the form of inspection of actual goods being imported or exported and any change of the form of inspection shall be as provided for in article 30 of this Law.

Article 30 Forms of inspection of actual goods being imported or exported for customs clearance

1. Forms of inspection of actual goods being imported or exported shall include the following:

(a) Exemption from inspection of actual goods imported or exported by owners who have strictly complied with the laws on customs applicable to goods regularly imported or exported, exported agricultural or aquatic products, imported or exported goods of export processing zones, goods stored in customs bond warehouses, goods brought into preferential customs zones, and other goods included in the list provided by the Government. With respect to goods for which a decision on exemption from inspection has been made, upon discovery of any indications of a breach of the laws on customs having been committed, the form of inspection stipulated in sub-clause (c) of this clause shall be applied. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

(b) Random inspection of actual goods shall be carried out with respect to ten (10) per cent or less of each consignment of imported or exported goods being raw materials and supplies imported for production of goods for export or processing of goods for export, goods of the same type, goods contained in identical containers or imported or exported goods which are not entitled to exemption from inspection as stipulated in sub-clause (a) of this clause. Where any breach of the laws on customs is discovered during the inspection, the form of inspection stipulated in sub-clause (c) of this clause shall be applied.

(c) Inspection of the whole consignment of actual goods being imported or exported in the case of owners of goods who have breached the laws on customs on a number of occasions; consignments of goods where there are indications of a breach of the laws on customs having been committed.

2. The inspection of actual goods shall be carried out directly by State employees of Customs or by machinery, technical equipment or other professional measures in the presence of the declarant or his or her legal representative, upon registering the customs file and taking goods to the place of inspection. Priority shall be given to inspecting goods which are live animals or plants, perishable goods or other special goods.

Article 31 Inspection of actual goods being imported or exported without declarants being present

1. The director of the customs office of the bordergate or of the customs office of the place for customs procedures outside the bordergate shall decide to carry out an inspection without the declarant being present and provide notification thereof to the owner of goods in the following cases:

(a) For protection of security;

(b) For protection of hygiene or the environment;

(c) There are indications of a serious breach of the law having been committed;

(d) The declarant fails to be present in order to perform customs procedures within the stipulated time-limit; EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

(dd) At the request of the declarant.



2. An inspection without the declarant being absent shall be carried out in the presence of a representative of the carrier concerned or a representative of the people's committee of the nearest commune, ward or township.

Article 32 Inspection after customs clearance

1. In the case of discovery of indications of a breach of the laws on customs having been committed with respect to imported or exported goods which have already been cleared by customs, the customs office may take the measure of inspection after customs clearance.

2. Within five years from the date on which imported or exported goods are cleared by customs, the director of the provincial Customs Department, interprovincial Customs Department of two or more provinces or Customs Department of a city under central authority shall be entitled to make a decision on inspection after customs clearance. Where necessary, the General Department of Customs shall make a decision on inspection after customs clearance.

3. Based on the decision on inspection after customs clearance, State employees of Customs shall directly inspect books of accounts, vouchers and other documents relating to the consignment of imported or exported goods which have been cleared by customs at the enterprise concerned and compare them against the customs declaration and documents included in the customs file; and where necessary and possible, shall carry out inspection of actual goods.

4. During the inspection, bodies, organisations and individuals concerned shall facilitate and make available any accounting vouchers, information and documents necessary for the inspection at the request of the customs office. The Government shall make specific regulations on inspection after customs clearance.

Article 33 Temporarily imported or temporarily exported goods

1. Temporarily imported or temporarily exported goods subject to customs inspection and control shall include the following:

- (a) Goods for fairs, exhibitions or introduction of products;
- (b) Machinery, equipment and specialised tools required for duties for a definite period; EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)



- (c) Accessories and parts required for replacement and repair of foreign seagoing vessels or aircraft;
- (d) Other goods in accordance with the provisions of the law.

2. Temporarily imported goods must be re-exported, or temporarily exported goods must be re-imported, within the stipulated period and shall be subject to customs procedures.

3. Where temporarily imported goods are not re-exported, or temporarily exported goods are not re-imported, but are sold, donated or exchanged, such goods shall be subject to the customs procedures applicable to imported or exported goods; if such goods are those included in the list of goods the import or export of which is conditional, the laws on goods the import or export of which is conditional shall apply.

Article 34 Gifts and donations

1. Goods being gifts or donations shall be subject to customs procedures if such goods are those included in the list of goods the import or export of which is conditional, and the laws on goods the import or export of which is conditional shall apply.

2. Any use of goods included in the list of goods the import or export of which is prohibited as a gift or donation shall be strictly prohibited.

3. The quantity of duty-free goods being gifts and donations shall be stipulated by the Government.

Article 35 Goods imported or exported for urgent requirements

1. Goods imported or exported for urgent requirement shall include the following:

- (a) Goods required for the immediate removal of consequences of a natural calamity;

- (b) Goods for requirements of urgent relief;

- (c) Goods for requirements of national defence and security and goods for other urgent requirements under a decision of the Prime Minister of the Government. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)



2. Goods imported or exported for urgent requirements may be cleared by customs prior to submission of a customs declaration and other documents included in the customs file.

Article 36 Goods purchased, sold or exchanged by residents living in border areas

1. Goods purchased, sold or exchanged by residents living in a border area shall be goods for the living needs and normal production of the residents living in the border area.

2. The purchase, sale and exchange of goods between residents living in a border area of Vietnam and residents living in the border areas of a neighbouring country which shares a national border with Vietnam shall be subject to customs inspection and control; and in areas where there is no customs office, inspection and control by border soldiers in accordance with the provisions of the law.

3. The Government shall provide for the responsibilities of local authorities, coordination between State bodies, and a policy of purchase, sale and exchange of goods between residents living in border areas.

Article 37 Goods imported or exported by post

1. Goods imported or exported by post shall be subject to customs procedures in accordance with this Law.

2. Where the person authorised to make a customs declaration is the enterprise providing postal services, it shall perform all responsibilities of a declarant in accordance with this Law; and shall only be permitted to forward and deliver goods after customs clearance.

Article 38 Goods on means of transportation exiting, entering or in transit in Vietnam

1. Goods being items on means of transportation exiting, entering or in transit in Vietnam shall not be subject to customs procedures but shall be subject to customs control.

2. Goods purchased from means of transportation entering Vietnam shall be subject to the customs procedures applicable to imported goods. Goods sold to the crew and passengers of means of transportation exiting or entering Vietnam shall be subject to customs procedures applicable to exported goods. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

Article 39 Goods imported or exported by the method of e-business

1. Goods imported or exported by the method of e-business shall be subject to customs inspection and control.
2. The Government shall make regulations on customs inspection and control of goods imported or exported by the method of e-business.

Article 40 Goods in transit

1. Goods in transit shall be subject to customs procedures at the first arrival border-gate and at the last departure bordergate; and shall be subject to customs control during transportation in the territory of Vietnam.
2. Where goods are in transit but do not go through the territorial mainland, or goods in transit are stored in a warehouse located within the area of a border-gate, a transit permit shall not be required. Where goods are in transit through the territorial mainland of Vietnam and/or stored in a warehouse located outside the area of a bordergate or goods in transit are subject to a permit in accordance with the provisions of the law, a permit of the authorised State body must be presented.
3. An inspection of goods in transit shall only be carried out in cases where there are indications of a breach of the law having been committed.
4. Goods in transit may only be sold in Vietnam upon obtaining permission from the authorised State body of Vietnam and completing customs procedures applicable to imported goods.

Article 41 Goods transferred from one bordergate to another

1. Goods transferred from one bordergate to another shall include the following:
 - (a) Exported goods in respect of which customs procedures have been completed and which are transported from the place for customs procedures outside the bordergate to the bordergate of departure;



(b) Imported goods which are transported from the bordergate of arrival to the place for customs procedures outside the bordergate;

(c) Imported or exported goods which are transported from one place for customs procedures to another. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

2. Goods transferred from one bordergate to another shall be subject to customs inspection and control.

3. Imported or exported goods moving between two places which are places of inspection of actual goods being imported or exported and are located outside the place for customs procedures shall be entitled to the regime of transfer from one bordergate to another if so agreed in writing by the director of the provincial Customs Department, inter-provincial Customs Department of two or more provinces or Customs Department of a city under central authority.

Article 42 Routes, periods of transit or transfer from one bordergate to another

Goods in transit or transferred from one bordergate to another must be transported by the correct route through the stipulated bordergate on time and shall be subject to customs control. The Ministry of Transport and Communications shall stipulate routes for transportation of goods in transit; the General Department of Customs shall stipulate routes for transportation of goods transferred from one bordergate to another.

Article 43 Moveable assets

An individual, family or organisation having moveable assets must possess a document evidencing ownership rights with respect to such assets, except for belongings and items for normal living needs. The Government shall make specific regulations on moveable assets.

Article 44 Luggage of persons exiting or entering Vietnam

1. Luggage of persons exiting or entering Vietnam shall be subject to customs procedures.

2. Luggage of persons entering or exiting from Vietnam in excess of the quantity of duty-free luggage shall be subject to customs procedures applicable to imported or exported goods. A person who exits or enters Vietnam may deposit his or her luggage in a warehouse at the bordergate and receive it upon entering or exiting from Vietnam.

3. The Government shall make regulations on luggage allowances and quantities of duty-free luggage. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

Article 45 Dealing with goods which are abandoned, misplaced, are taken by mistake or are not received by owners within time-limit for customs declaration

1. Goods the owner of which has publicly declared abandonment or has acted in a way indicating abandonment thereof shall be sold and proceeds of their sale shall be paid to the State Budget after deduction of expenses incurred. Abandonment of goods by an owner shall not be recognised where there are indications of a breach of the law having been committed.

2. In the case of goods which have been misplaced or been taken by mistake, if within one hundred and eighty (180) days the owner proves that such goods are under his or her ownership and have been sent by mistake or mislaid in Vietnam, they shall be re-exported; where such goods have been sent to the incorrect address of the recipient, the incorrect address of the recipient shall be corrected; where such goods have been misplaced in other countries, then forwarded to Vietnam, the owner may perform customs procedures in order to receive such goods upon paying expenses incurred; where no one claims the goods within one hundred and eighty (180) days, such goods shall be dealt with in accordance with clause 4 of this article.

3. Where the customs office reasonably believes that goods which are abandoned, misplaced or taken by mistake are smuggled goods, such goods shall be dealt with as in the case of smuggled goods.



4. In the case of imported goods which are not claimed within ninety (90) days from the date on which such goods arrive at the bordergate for unloading, the customs office shall announce them publicly by way of the mass media. If the owner of goods claims the goods within one hundred and eighty (180) days from the date of notification, he or she may complete import procedures and shall be liable to pay a fine and expenses incurred due to late performance of customs procedures; where the goods remain unclaimed, such goods shall be dealt with in accordance with the provisions of the law.

SECTION 3

Customs Inspection and Control of Goods in Customs Bond Warehouses and Bonded Warehouses

Article 46 Goods in customs bond warehouses and bonded warehouses

1. Goods of domestic or foreign organisations and individuals stored in customs bond warehouses shall be subject to customs inspection and control. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)
2. Only imported goods being materials for production of the owner of a bonded warehouse may be stored in a bonded warehouse.
3. The Government shall make specific regulations on the operation of customs bond warehouses and bonded warehouses.

Article 47 Rights and obligations of owners of customs bond warehouses or owners of goods stored in customs bond warehouses

1. The owner of a customs bond warehouse may perform contracts for storage of goods in the customs bond warehouse in accordance with the provisions of the law; may move goods in the customs bond warehouse under agreement with the owner of goods, but shall have to provide prior notification thereof to the customs office. The owner of a customs bond warehouse shall notify the provincial Customs Department, interprovincial Customs Department of two or more provinces or Customs Department of the city under central authority in writing of the current state of goods and operation of the customs bond warehouse every forty five (45) days. The owner of a customs bond warehouse shall be responsible for performing requests of the customs office for inspection of goods in accordance with the provisions of the law.

2. The owner of goods stored in a customs bond warehouse may reinforce packaging, classify goods and take samples of goods under the control of State employees of Customs; and may transfer the ownership rights of goods in accordance with the provisions of the law. The removal of goods from one customs bond warehouse to another shall be subject to the written approval of the director of the provincial Customs Department, inter-provincial Customs Department of two or more provinces or Customs Department of the city under central authority. For the duration of storage of goods in a customs bond warehouse, the owner of goods must comply with the provisions of the laws on operation of customs bond warehouses.

Article 48 Period of storage of goods in customs bond warehouses

The period of storage of goods in a customs bond warehouse shall not exceed twelve (12) months from the date on which such goods were stored in the customs bond warehouse; where there is a legitimate reason and the written consent of the director of the provincial Customs Department, inter-provincial Customs Department of two or more provinces or Customs Department of the city under central authority, this period may be extended, but by no more than six months. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

Article 49 Authority to establish or terminate operations of customs bond warehouses and bonded warehouses.

The General Director of the General Department of Customs shall make decisions to establish or terminate the operation of customs bond warehouses. Directors of provincial Customs Departments, inter-provincial Customs Departments of two or more provinces or Customs Departments of cities under central authority shall make decisions to establish or terminate the operation of bonded warehouses.

SECTION 4

Customs Inspection and Control of Means of Transportation

Article 50 Places for customs procedures with respect to means of transportation exiting or entering Vietnam

1. When exiting or entering Vietnam, means of transportation must cross Vietnamese bordergates. Means of transportation entering Vietnam shall be subject to customs procedures at the first bordergate of arrival. Means of transportation exiting from Vietnam shall be subject to customs procedures at the last bordergate of departure.



2. The exit or entry of means of transportation through other places shall be in accordance with the regulations of the Government.

Article 51 Routes, period of customs inspection and control with respect to means of transportation exiting, entering or in transit in Vietnam, or transferring from one bordergate to another

1. Foreign means of transportation entering, exiting or in transit in Vietnam or transferring from one bordergate to another must move by the stipulated route and shall be subject to customs control from the time of arrival in the area of customs operation, during movement, and until the time of exit from the territory of Vietnam.

2. Vietnamese means of transportation entering Vietnam shall be subject to customs control from the time of arrival in the area of customs operation and until the time when all imported goods transported by the means of transportation are unloaded from the means of transportation for performance of import procedures. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II) Vietnamese means of transportation exiting Vietnam shall be subject to customs control from the time of loading of exported goods and until the time of exit from the territory of Vietnam.

3. The head of the customs office at the bordergate, the head of the customs office of the place for customs procedures outside a bordergate or the head of the customs inspection group may, where he or she reasonably believes that goods are concealed illegally in a means of transportation entering, exiting or in transit in Vietnam or transferring from one bordergate to another or that there are indications of a serious breach of the law having been committed, order that departure be temporarily delayed or the means of transportation be stopped in order that it may be searched. Any search shall be carried out properly in accordance with the provisions of the law. The officer making the decision shall be responsible for it before the law.

Article 52 Declaration and inspection of means of transportation exiting, entering or in transit in Vietnam

1. When performing customs procedures with respect to means of transportation exiting, entering or in transit in Vietnam, the owner or the operator of the means

of transportation must make a customs declaration; submit or present transport documents; and provide information and documents relating to imported or exported goods and items on the means of transportation. The time-limit for customs declarations shall be in accordance with the provisions of clauses 5, 6 and 7 of article 18 of this Law.

2. The verification of customs files and inspection of actual means of transportation by State employees of Customs shall be carried out in accordance with the provisions of articles 19.2(c) and (d), 20 and 22 of this Law. Where transport documents satisfy the requirements of customs inspection, the owner or operator of the means of transportation shall not be required to make a customs declaration, except for luggage and imported or exported goods of passengers exiting or entering Vietnam who are carried by the means of transportation.

Article 53 Transshipment, transfer from one bordergate to another, unloading from one carriage and loading onto another, disconnection of carriages, loading or unloading of goods on means of transportation exiting or entering Vietnam

The transshipment, transfer from one bordergate to another, unloading from one carriage and loading onto another, disconnection of carriages, loading or unloading EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II) of goods from means of transportation exiting or entering Vietnam during the period of customs inspection or control shall only be carried out upon obtaining the consent of the customs office. The original state of the packages, containers or parcels of goods which are transhipped, transferred from one bordergate to another, unloaded from one carriage and loaded onto another or whose carriage is disconnected must be maintained.

Article 54 International transportation combining with domestic transportation or domestic transportation combining transportation of imported or exported goods

1. Means of transportation used for international transportation may combine with domestic transportation of goods upon obtaining permission from the authorised State body and satisfying conditions for customs control stipulated by the General Department of Customs.



2. Means of transportation used for domestic transportation may combine with transportation of imported or exported goods which are subject to customs control upon obtaining permission from the authorised State body and satisfying conditions for customs control stipulated by the General Department of Customs.

Article 55 Means of transportation exiting, entering or in transit in Vietnam for the purpose of national defence or security

Military means of transportation and other means of transportation used for the purpose of national defence and security shall be subject to customs inspection and control in accordance with the regulations of the Government.

Article 56 Responsibility of heads of port authorities of airports, seaports and international stations to co-ordinate with customs offices

The head of the port authority of an airport, seaport or international station shall be responsible for notifying in advance the head of the customs office of the port of the time of arrival or departure, the place of stopping, and the period of loading or unloading of goods for seagoing vessels, aircraft or international trains.

SECTION 5

Temporary Suspension of Customs Procedures for Imported or Exported Goods For Which Requests for Protection of Intellectual Property Rights Have Been Made EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

Article 57 Principle of temporary suspension of customs procedures

1. An owner of intellectual property rights which are protected in accordance with the provisions of the law of Vietnam shall be entitled to request the customs office to suspend temporarily customs procedures with respect to imported or exported goods in respect of which he or she believes that an infringement of intellectual property rights has been committed.

2. The customs office may only make a decision on temporary suspension of customs procedures with respect to imported or exported goods when all conditions stipulated in article 58 of this Law are satisfied.

Article 58 Conditions for making requests for temporary suspension of customs procedures

When making a request for temporary suspension of customs procedures, the owner of intellectual property rights shall be obliged to:

1. Submit a request application, evidence of lawful intellectual property rights, and evidence of infringement of his or her intellectual property rights to the customs office;

2. Pay in advance or submit a letter of guarantee issued by a credit institution or another organisation authorised to conduct banking activities in order to secure, in accordance with the provisions of the law, compensation for any damage and expenses caused by the improper request for temporary suspension of customs procedures.

Article 59 Specific regulations on temporary suspension of customs procedures The Government shall, on the basis of this Law and other relevant laws, make specific regulations on temporary suspension of customs procedures with respect to imported or exported goods in respect of which requests for protection of intellectual property rights are made.

SECTION 6

Regime for Preferential Treatment and Exemptions

Article 60 Regime for preferential treatment and exemptions

The regime for preferential treatment and exemptions stipulated in this Law shall include preferential treatment and exemptions from customs declaration and customs inspection. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)

Article 61 Exemptions from declaration and customs inspection

1. Diplomatic or consular bags shall be exempt from declaration and customs inspection.

2. Luggage and means of transportation of bodies, organisations and individuals entitled to diplomatic privileges and immunity and the luggage and means of transportation of other special persons shall be exempt from customs inspection.



Article 62 Dealing with breaches of regime for preferential treatment and exemptions

Where there is concrete evidence which proves that the diplomatic or consular-bags are being used for a purpose which is in contravention of the international treaty on diplomatic or consular relations to which the Socialist Republic of Vietnam is a signatory or participant or that the luggage or means of transportation contains prohibited exports and imports or objects which are not entitled by law to the regime for preferential treatment and exemptions, the General Department of Customs shall make a decision to deal with the breach in accordance with such international treaty.

CHAPTER IV

Responsibilities of Customs to Prevent and Combat Smuggling or Illegal Transportation of Goods Across Borders

Article 63 Duties of customs to prevent and combat smuggling or illegal transportation of goods across the borders

1. Customs offices at all levels shall, depending on their respective duties and powers, organise operations to prevent and combat smuggling or illegal transportation of goods across the borders.

2. Customs offices at all levels may establish specialised units aimed at conducting operations to prevent and combat smuggling or illegal transportation of goods across the borders.

Article 64 Scope of responsibilities to prevent and combat smuggling or illegal transportation of goods across borders

1. A customs office shall be responsible for inspecting, controlling and checking goods and means of transportation within its area of customs operation aimed EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II) at actively preventing and combating smuggling or illegal transportation of goods across borders. In the case of goods and means of transportation in the area of customs operation, if any body, organisation or individual discovers an act of smuggling or illegal transportation of goods across borders, such body, organisation or individual shall provide prompt notification thereof to the customs office in order to inspect and deal with such act.

2. With respect to places outside its area of customs operation, the customs office shall be responsible for coordinating with relevant State bodies to take measures to prevent and combat smuggling or illegal transportation of goods across borders. In the case of goods and means of transportation outside its area of customs operation, where a relevant State body has concrete evidence which proves that an act of smuggling or illegal transportation of goods across borders is conducted, such body shall, depending on its authority, inspect and deal with such act in accordance with the provisions of the law.

3. People's committees at all levels shall direct and co-ordinate with the customs office and other relevant State bodies located in their respective localities in carrying out operations to prevent and combat smuggling or illegal transportation of goods across borders.

Article 65 Authority of customs offices to take measures to prevent and combat smuggling or illegal transportation of goods across borders

1. To organise forces, to establish a database, to take necessary professional measures, to collect information in Vietnam and abroad relating to customs operations aimed at actively preventing and combating smuggling or illegal transportation of goods across borders and facilitating customs clearance of goods and inspection after customs clearance; to co-ordinate with relevant bodies in maintaining confidentiality of persons who provide information on smuggling or illegal transportation of goods across borders in accordance with the provisions of the law.

2. To carry out customs control of goods and means of transportation; to have the main responsibility to co-ordinate with relevant State bodies to conduct operations to prevent and combat smuggling or illegal transportation of goods across borders within its area of customs operation.

3. To take necessary intelligence measures in accordance with the provisions of the law aimed at discovering acts of smuggling or illegal transportation of goods across borders. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)



4. To request bodies, organisations and individuals concerned to provide information and documents if such information and documents are necessary for identification of an act of smuggling or illegal transportation of goods across borders.

5. To request enterprises providing postal services to open postal parcels or goods being imported or exported by post for inspection when there is concrete evidence which proves that such postal parcels or goods contain documents or goods relating to smuggling or illegal transportation of goods across borders.

6. To conduct international co-operation in preventing and combating smuggling or illegal transportation of goods across borders.

Article 66 Authority of customs offices and State employees of Customs to deal with acts of smuggling or illegal transportation of goods across borders

1. The head of the customs office at the bordergate or the customs office at the place for customs procedures outside a bordergate or customs inspection group may, where he or she reasonably believes that there is an act of concealing smuggled goods or goods illegally transported across borders, make decisions to conduct body searches, or searches of means of transportation or places where goods are concealed, or to detain temporarily persons, means of transportation or goods in accordance with the provisions of the laws on dealing with administrative offences.

2. When discovering any act in breach of the laws on customs which is subject to prosecution for criminal liability, the customs office or State employees of Customs having authority as stipulated in the laws on criminal legal proceedings may prosecute the case or the offender and conduct investigative activity. The prosecution of the case or the offender or the investigative activity must be carried out in accordance with the provisions of the laws on criminal legal proceedings.

3. Customs offices and State employees of Customs shall be responsible before the law for all decisions made while conducting operations stipulated in clauses 1 and 2 of this article.

Article 67 Equipment and technical means for preventing and combating smuggling or illegal transportation of goods across borders

1. Customs offices and State employees of Customs directly performing their duty to prevent and combat smuggling or illegal transportation of goods across borders shall be equipped with specialised technical means, weapons EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II) and supportive instruments. The equipment and the use of weapons and supportive instruments must comply with the provisions of the law.

2. Where necessary, the customs office or State employees of Customs directly performing its, his or her duty to prevent and combat smuggling or illegal transportation of goods across borders shall be entitled to request bodies, organisations and individuals to co-ordinate their efforts to provide support in terms of resources and provide information; where supported means are damaged, the customs office shall be obliged to pay compensation in accordance with the provisions of the law.

CHAPTER V

State Administration of Customs

Article 68 State administration of customs

State administration of customs shall include the following:

1. To construct and direct the implementation of a strategy, master planning and plans for development of Vietnam Customs;
2. To issue and organise the implementation of legal instruments relating to customs;
3. To guide, implement and disseminate the laws on customs;
4. To make provisions on organisation and operation of Customs;
5. To train, foster and build a body of State employees of Customs;
6. To study and apply science and technology, and modern methods of customs management;



7. To carry out State statistics of customs;
8. To carry out inspections and examinations, to resolve complaints and denunciations, and to deal with breaches of the laws on customs;
9. To conduct international co-operation in relation to customs.

Article 69 State administrative bodies in charge of customs

1. The Government shall assume unified State administration of customs.
2. The General Department of Customs shall be the body assisting the Government in assuming unified State administration of customs.
3. Ministries, ministerial equivalent bodies and Government bodies shall, depending their respective duties and powers, be responsible for coordinating with the General Department of Customs in State administration of customs. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II)
4. People's committees at all levels shall, depending on their respective duties and powers, be responsible for organising the implementation of the laws on customs within their respective localities.

Article 70 Right to lodge complaints or denunciations and right to take legal actions

1. Individuals and organisations shall have the right to lodge a complaint with any customs office or other authorised State body or take legal action at a court in accordance with the provisions of the law relating to administrative decisions or administrative actions of customs offices or State employees of Customs when there is concrete evidence which proves that such decision or action was inconsistent with the provisions of the law or infringed upon their lawful rights and interest.
2. Individuals shall have the right to lodge with any customs office or other authorised State body a denunciation of any breach of the law by any State employee of Customs or customs office which infringes upon the interests of the State or the lawful rights and interest of an organisation or individual.

Article 71 Responsibilities to resolve complaints and denunciations

1. Customs offices at all levels shall be responsible for resolving complaints relating to administrative decisions or administrative actions which fall within their authority; in the case of receipt of a complaint which falls outside their authority, shall be responsible for guiding the complainant to lodge the complaint with the authorised State body for resolution.

2. Customs offices at all levels shall be responsible for resolving denunciations which fall within their authority; in the case of receipt of a denunciation which falls outside their authority, shall be responsible for forwarding it to the competent body or organisation for resolution and providing notification thereof in writing to the person denouncing.

Article 72 Time-limits, procedures and authority to resolve complaints and denunciations

1. The time-limits and procedures for complaints and denunciations or for resolution of complaints and denunciations and the authority to resolve complaints and denunciations shall be in accordance with the laws on complaints and denunciations and other relevant laws.

2. Pending resolution of a complaint or legal action, the organisation or individual must still implement the administrative decision or decision on EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II) penalty for the administrative offence of the customs office or other authorised State body. When a decision to resolve the complaint is made by the customs office or other authorised State body, or when a decision or judgment of the court is legally enforceable, such decision or judgement shall be performed.

CHAPTER VI

Rewards and Dealing with Breaches

Article 73 Rewards

1. Bodies, organisations and individuals making notable achievements in the implementation of the laws on customs; persons who make reports or discoveries or provide assistance to customs offices in combating smuggling or illegal



transportation of goods across borders or other acts in breach of the laws on customs shall be rewarded in accordance with the provisions of the law.

2. Customs offices and State employees of Customs satisfactorily carrying out their duties shall be rewarded in accordance with the provisions of the law.

Article 74 Dealing with breaches

1. Any person who breaches the laws on customs shall, depending on the nature and seriousness of the breach, be subject to administrative penalty or prosecution for criminal liability; and shall be liable to pay compensation for any damage in accordance with the provisions of the law.

2. Any State employee of Customs who obstructs import or export activities, exit, entry or transit or conducts other acts in breach of the laws on customs shall, depending on the nature and seriousness of the breach, be subject to disciplinary action or prosecution for criminal liability; shall be liable to pay compensation for any damage in accordance with the provisions of the law.

CHAPTER VII

Implementation Provisions

Article 75 Effectiveness

This Law shall be of full force and effect as of 1 January 2002. EC-ASEAN Intellectual Property Rights Co-operation Programme (ECAP II) The Ordinance on Customs which was issued by the State Council on 20 February 1990 shall no longer have effect from the date of effectiveness of this Law. All previous provisions which are inconsistent with this Law are hereby repealed.

Article 76 Application of laws in case of goods or means of transportation for which customs files have been registered, but in respect of which customs procedures have not yet been completed, prior to date of effectiveness of this Law

1. In the case of goods being imported, exported or in transit or means of transportation exiting, entering or in transit in Vietnam for which customs files have been registered, but in respect of which customs procedures have not yet been

completed, prior to the date of effectiveness of this Law, customs procedures and customs inspection, control and checking shall be carried out in accordance with the Ordinance of Customs and other relevant laws.

2. Inspection after customs clearance shall not be carried out with respect to goods which have been cleared by customs prior to the date of effectiveness of this Law.

Article 77 Guidelines for implementation

The Government shall make detailed regulations and provide guidelines for implementation of this Law.

This Law was passed by Legislature X of the National Assembly of the Socialist Republic of Vietnam at its 9th session on 29 June 2001.

The Chairman of the National Assembly
NGUYEN VAN AN

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