

## CUSTOMS POSITION PAPER

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We would first like to note and commend the significant efforts and progress on the part of the General Department of Customs over the past year in terms of improved regulation, operational improvements through e-customs, and increased dialogue with the Vietnam business community.

Over the past 12 months we have seen the introduction of the new e-Customs system, the new Customs Law which came into effect on 1st January 2015, and the related implementing Decrees which came into effect March 15, and a host of new (Circulars) issued in late March and effective from April 1, of this year. The most comprehensive of the new regulations, *Circular No. 38/2015/TT-BTC* replaces 13 previous customs regulations. Still more regulations have been drafted but await approvals for issuance by the Ministry of Finance.

- The new regulation provides for **Advance Customs Rulings** concerning HS customs tariff classification, valuation and origin of goods. These new regulations now allow for practical use of these by importers, for the first time.
- The transformation of Vietnam Customs from a collection of local, port-centered services based upon transactional processing, into a more centralized and modern service that conducts operations on the basis of *customs risk management* and **Post-Clearance Inspection (Audit)** is being rapidly implemented. Companies involved with importing, exporting and transit trade will be assessed and classified by Vietnam Customs into three major categories: (i) *Priority Enterprises* that will enjoy privileged customs treatment and priorities in compliance and operations areas, (ii) *Compliant Enterprises* that will be subject to compliance requirements that are enhanced in the new regulations, and (iii) *Non-Compliant Enterprises* that will be subjected to measures to bring them into compliance, including consultations, Post-Clearance audits, administrative fines and penalty action.
- Export Processing Companies (EPC's and EPZ firms) will enjoy relief from many of the burdensome and impractical administrative burdens of various reporting procedures that have long been complained of by business. Advance "registration" that required notification, filing and updating of Bills of Material (BOM's) called "norms" for export products involving use of imported materials and components has been eliminated.

Nevertheless, the new regulation requires that EPC companies maintain records of *actual Bills of Material* (called "practical" norms) that were used as the basis for their reporting of processing and consumption of imported materials or components used to manufacture export goods.

- Requirements for "registration" or filing of import / export processing contracts and their appendices have been eased, while the deadline date for finalization or "liquidation" for materials used in processing operations has been extended to the 90-day after the close of the fiscal year.

The changes in Vietnam's customs laws, regulations and procedures are driven by requirements stemming from the international trade agreements that Vietnam is or, soon will be a party to. These include the ASEAN agreements implementing AFTA, the WTO Trade Facilitation Agreement and, anticipated requirements that will appear in TPP, the EU-VN FTA and others being negotiated by Vietnam.

Common to all of these agreements are major requirements involving advance customs rulings, availability of information, discipline on fees and penalties, separation of customs clearance from final determination of duties and taxes, post-clearance inspection and international customs cooperation, National Single Window implementation and many others. In addition, Prime Minister's Resolution No. 19 for 2015-2018 has made these far-reaching changes a mandatory priority. Vietnam Customs and other border agencies are also receiving technical assistance by foreign experts in these matters under WTO, WCO and other programs providing such assistance.

Companies that are involved with importing, exporting and manufacturing activities in Vietnam involving trade will find it necessary to raise their customs and trade compliance standards and processes, in order to adapt well to the rapidly changing environment. The standards for informed compliance will continue to rise under the new trade agreements, particularly in such areas as HS classification, customs valuation, certification of origin processes under new and very technical Rules of Origin, record-keeping and other requirements. This is due to the fact that free trade and trade facilitation benefits cannot be enjoyed without higher standards of trade compliance and enforcement.

Detailed implementing regulations are still under discussion. Once their content is clear, we will give detailed information on the relevant issues.