



Vietnam Chamber of Commerce and Industry
The Center for WTO and Economic integration

REPORT
REVIEW VIETNAM LEGAL FRAMEWORK AGAINST EUROPEAN UNION –
VIETNAM FREE TRADE AGREEMENT (EVFTA) COMMITMENTS
ON CUSTOMS AND TRADE FACILITATION

PREAMBLE

The Vietnam – EU Free Trade Agreement’s negotiation rounds were officially concluded in the early December 2015. It is among two biggest free trade pacts of Vietnam. Having large scope of commitments, covering a great deal of trade and non-trade issues both in the border and beyond border, the EVFTA is predicted to have a great impact on Vietnamese legal framework and economy in the near future.

EVFTA commitments on custom and trade facilitation are considered to have direct impacts on the effectiveness of EVFTA’s implementation on trade in goods. In fact, Vietnam did have commitments on customs and trade facilitation under the Trade Facilitation Agreement of WTO (TFA) with similar or even more extensive commitments. However, meanwhile the TFA provides Vietnam with flexible right to choose the schedule to comply, EVFTA sets compulsory commitments under fixed schedule. With regard to the implementation, the operation of EVFTA commitments are going to have immediate and direct effects on the trade in goods between Vietnam and the EU at the time the EVFTA has effect. Hence, it is necessary to review the Vietnam legal framework against EVFTA commitments on customs and trade facilitation in order to define the differences between them, and then, figure out the needed amendments and revision of Vietnam legal framework.

The Report on “Review Vietnam legal framework against EVFTA commitments on customs and trade facilitation” done by the Vietnam Chamber of Commerce and Industry (VCCI) provides analysis of the level of compatibility in the aspects of business community (esp. export/ import entities); then, proposes the solution for complying with the EVFTA in the way that mostly benefits enterprises and export/ import entities.

This is one of the five reviews of Vietnam legal framework against EVFTA commitments on five (05) important areas (including customs and trade facilitation, investment, government procurement, intellectual property, and transparency) prepared by the Vietnam Chamber of Commerce and Industry under the framework of the project: “Vietnamese legal framework ready for EU-Vietnam Free Trade Agreement (EVFTA) implementation” sponsored by the Embassy of the United Kingdom of Great Britain and North Ireland in Vietnam

We hope that this Review would be considered as a useful resource for the Government in reviewing Vietnamese legislations to implement EVFTA, and for reference of the competent authorities of the National Assembly in the process of EVFTA formal approval.

The Vietnam Chamber of Commerce and Industry would like to express our great appreciation to the Embassy of the United Kingdom of Great Britain and North Ireland in Vietnam for its sponsorship of this meaningful project./

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ABBREVIATION

EVFTA:	the EU – Vietnam Free Trade Agreement
EU:	the European Union
FTA:	Free Trade Agreement
VLf:	Vietnam legal framework
TFA:	Trade Facilitation Agreement of WTO
TPP:	The Trans-Pacific Partnership Agreement
WTO:	World Trade Organization

Part one

SUMMARY OF REVIEWING RESULT

I. Objectives and reviewing context

On 2nd December 2015, the negotiations of EU – Vietnam Free Trade Agreement (**EVFTA**) were officially concluded. Containing 24 chapters, the near-final draft of EVFTA published on 1st February 2016 indicates that this pact is a new generation one with a large scope of commitments, covering not only traditional commercial fields (e.g. trade in goods and services,) but also first-time-committed trade issues (e.g. State-owned enterprises, government procurement,) and non-but-related trade issues (e.g. environment, and sustainable development,). The extent of commitments and liberalization provided in the pact is significantly higher than the previously signed free trade agreements, and comparable to the Trans-Pacific Partnership (**TPP**).

Therefore, EVFTA is predicted to have noteworthy impact on the legal framework and economy of Vietnam in the near future. Consequently, in order to ensure the provided compliance and implementation under EVFTA, Vietnam legal framework (VLF) is challenged to adapt with EVFTA commitments. In other hand, the revision of VLF is expected to lead to a wave of institutional reform; as a result, the platform of sustainable development is constructed and brings opportunities to foreign business partners, especially from EU.

Customs and trade facilitation are considered as important fields which may have significant and direct impacts on the implementation and seizing the opportunities of the EVFTA. This field contains an assemblage of principles, and requirement on custom formalities, management measures of exports/ imports between Vietnam and EU. The revision of VLF is not only necessary to implement EVFTA commitments, but also a prerequisite to seize the opportunities to promote trade in goods between Vietnam and the EU. These opportunities come from trade facilitation, reducing time and fee of cross-border transfers of goods (both of exports from Vietnam to the EU, and vice versa).

To prepare for this process, review of current legal framework is an important and necessary initiative. The result of this review shall be grounds to determine the difference or incompatibilities between VLF and EVFTA commitments on customs and trade facilitation; and then, analysis and propose the solution for revision of VLF to comply with EVFTA.

In principle, under Vietnam legitimate procedure of international agreement's negotiation and approval, this review shall be prepared by competent

authorities (e.g. Ministry of Justice, and General Department of Vietnam Customs,) in order to support state's implementation of EVFTA.

In addition, an active review from the enterprises side is extremely necessary, because:

- In many cases, commitments could be interpreted and implemented in different ways. If the Review is prepared with the view of enterprises, the interpretations which most benefits business community are proposed;
- Being different from commitments in other areas, EVFTA commitments on customs and trade facilitation will not only apply to EU entities, but to all other entities. Consequently, the impact of these commitments on the legal framework (if any) is dramatically extensive, and directly affects thousands of export/ import enterprises. Hence, in this area, a legal review from the aspect of enterprises is necessary and meaningful.

Objectives of this Review are: (i) constructing detailed comparison between EVFTA commitments and VLF on each obligation on customs and trade facilitation: (ii) analysing current Vietnam legislations, legal principles and the inner demands of Vietnam (including Vietnam enterprises' needs), against related EVFTA requirements; and (iii) making revision proposal from the perspective and interest of enterprises.

II. Scope of review

1. EVFTA commitments on customs and trade facilitation

Under EVFTA, the institution of custom and trade facilitation is mainly provided in Chapter 5 of the EVFTA (Customs and Trade facilitation), and Chapter 20 (Protocol on mutual administrative assistance in customs matters).

About contents, EVFTA commitments on customs and trade facilitation could be classified into five groups, as following:

Group 1: Commitments on specific custom formalities:

- Release of goods;
- Transit and transshipment;
- Advance rulings;
- Risk management;
- Customs brokers;
- Fees and charges;
- Customs valuation; and
- Pre-shipment inspections.

Group 2: Commitments on trade facilitation:

- Erasing unnecessary procedures, discrimination, and undue delay;
- Simplifying customs and legislative procedures;
- Using modern methods (risk management, post-clearance audit methods); and
- Using electronic system for exchange information.

Group 3: Commitments on transparency of customs procedures:

- Making available to the public legislations, regulations, procedures, and administrative information; and
- Mechanisms of difference settlement with regard to administrative decisions related to customs procedures.

Group 4: Support enterprises in customs issues:

- Points of contact for information enquiries; and
- Timely consultations with trade representatives.

Group 5: Commitments on administrative cooperation between customs authorities of EU and Vietnam:

- Commitments on implementation of the EVFTA; and
- Commitments on administrative assistance among customs authorities.

About the merit, EVFTA commitments on custom and trade facilitation are designed based on, and similar to the requirements of the Trade Facilitation Agreement of WTO (TFA). In addition, when EVFTA provides general commitments with no compulsory method or specific implementation, TFA contains a lot of specific and strict requirements on a large number of issues (esp. issues related to specific customs procedures,.) However, about the legal effect, TFA does not provide specific schedule of members' compliance (each WTO member shall define its own schedule of application, including Group A – commitments immediately apply, Group B – commitments apply under schedule; Group C – commitments only apply under circumstances; and register its schedule before WTO). EVFTA commitments on customs and trade facilitation require the implementation since EVFTA has effect (only one case reserved).

Except commitments on administrative assistance in customs matters between the EU and Vietnam customs authorities under Chapter 20 (Protocol on mutual administrative assistance in customs matters), all other commitments (related to enterprises) are provided under Chapter 5 (Customs and Trade facilitation).

Hence, this Review contains analysis on requirements of Chapter 5 EVFTA. Chapter 20 is out of the scope of scrutiny because its requirements (i) mainly provide rights and responsibilities of cooperation among customs authorities; (ii) do not directly affect rights and responsibilities of export/ import entities; (iii) and do not directly impact the customs and legislative procedures, and competent authorities' responsibilities for export/ import entities.

2. Vietnam legal framework on customs and trade facilitation

Under VLF, issues related to customs and trade facilitation are divided into 02 main groups:

- Laws on customs and related legislations: including Customs law, guiding legislation of Custom law, other legislations directly regulate the transparency of customs procedure and trade facilitation;
- Specialized law on export/ import of specific goods: including legislations of different areas having requirements on procedures and conditions of specialized inspection. Currently, there are 200 legislations on export/ import goods under the authorization of 07 ministries (the Ministry of Industry and Trade; the Ministry of Health, the Ministry of Agriculture and Rural Development, the Ministry of Defence, the Ministry of Information and Communications; the Ministry of Culture, Sports and Tourism; and the Ministry of National resources and Environment).

The scope of this Review is limited to legislations on customs and related legislations on trade facilitation and transparency generally applying for all kinds of goods. The number of legislations on specialized inspection of export/ import goods is too enormous to review in the framework of this Review, and should be researched in a separate review on specialized requirements on customs and trade facilitation.

By a common system, Vietnam legislations of customs and related legislations indiscriminately apply to all entities without the difference among domestic entities and foreign entities, member or non-member of Vietnam's international agreements. This system generally applies to all items which are exported, imported, transited and transhipped. Goods under specialized inspection scope of competent authorities are not only regulated by general legislations on customs but also by specialized legislations when going beyond border.

III. Overview of results and recommendations

The Review of VLF against EVFTA commitments on customs and trade facilitation has the following results:

1. Group of EVFTA commitments on customs and trade facilitation which Vietnam legislations are compatible with

Results

The detailed review indicates that VLF is fundamentally compatible with EVFTA commitments on customs and trade facilitation.

Although at the moment it is not the due-date of Vietnam to implement its commitment under TFA which having similar requirements as EVFTA, this result is not quite surprising. The reasons are as followed:

Firstly, with regard to standards on customs and trade facilitation, being a member of the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures (**Kyoto Convention**), Vietnam has being reforming and revising a large number of constitutions in law on customs to meet this convention's requirements. In the other hand, a majority of TFA commitments was constructed on the basis of the Kyoto Convention aiming to provide a common standard for all WTO member. Therefore, with the high similarity level between TFA and EVFTA, during of the negotiations of TPP and EVFTA, a lot of EVFTA commitments are legalised in the VLF on customs. Remarkably, the VLF on customs recently has an overall reform by the issue of Law on custom 2014 (having effect since 1st January 2015) and guiding legislations. Therefore, it is understandable when VLF on customs basically reaches the international direction and standards on customs and trade facilitation (including TFA and fundamental principle of TPP and EVFTA)

Secondly, with regard to transparency, for years, Vietnam puts considerable effort into administrative reform and enhancement of transparency in the VLF and increase the involvement of civilian in this process (via related legislations such as: Law on Promulgation of legislative documents 2008, Decree No. 63/2010/ND-CP on controlling administrative procedures, and specialized legislations,...). As a result, a lot of requirements on transparency, publishing information and consultation under TFA are met by VLF.

Specifically, VLF completely fulfils the following commitments under Chapter 5 of the EVFTA:

Article 1:

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- Commitments to recognize the important of customs and trade facilitation in developing trade; and
 - Commitments to recognize the public objectives, the protection of legitimate trade and that fight against fraud shall not be compromised in any way.

Article 3:

- Commitments to ensure that member's customs provisions and procedures shall be based on the Kyoto Convention, and the International convention on the Harmonized Commodity Description and Coding System (**HS Convention**);
- Commitments to provide that legislations on customs avoid unnecessary or discriminatory burdens, that the measures, procedures and remedies shall be proportionate and non-discrimination, and in their application shall not unduly delay the release of goods; and
- Commitments to simplify requirements and formalities whenever possible, and aim to the simplification and standardization of required data and documentation.

Article 4:

- Commitments to apply requirements and procedures that provide for the release of goods within a period no greater than necessary, to reduce release times and release the goods without delay; and
- Commitments to provide for electronic submission and eventual processing of information before physical arrival of goods to enable the release of goods on arrival.

Article 5:

- Commitments to require a single administrative document or electronic equivalent for the purpose of completing customs procedure; and
- Commitments to promote the progressive development and use of systems to facilitate the electronic exchange of data between traders, customs administrations and other related agencies.

Article 6: Commitments to ensure the facilitation and effective control of transshipment and transit

Article 7: Commitments to adopt and apply the import, export, transit, and transshipment on the basis of risk management

Article 8:

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- Commitments to ensure that regulations on customs are readily available to all interested parties; and
 - Commitments to designate one or more inquiry or information points to address inquiries by interested parties.

Article 9:

- Commitments to issue prior to the importation of a good into its territory written advance rulings, upon written request from traders;
- Commitments to publish the advance rulings on tariff classification (except secret information).

Article 11:

- Commitments to not require the mandatory use of customs brokers; and
- Commitments to apply transparent, non-discriminatory and appropriate rules if and when licensing customs brokers.

Article 12:

- Commitments to determine the customs value of goods in accordance with the Agreement on the Implementation of Article VII of the GATT (1994); and
- Commitments to cooperate with a view to reaching a common approach to issues relating to customs valuation.

Article 13:

- Commitments not to require the mandatory use of the preshipment inspections as defined in the WTO Agreement on Preshipment Inspection; and
- Commitments not to require the mandatory use of any other inspection activity performed at destination, before clearance, by private companies.

Article 14: Commitments to provide effective, prompt, non-discriminatory and easily accessible procedures to guarantee the right of appeal against customs and other agency administrative actions, rulings and decisions affecting import or export of goods or goods in transit.

Article 15

- Commitments to agree on the need for consultations with trade representatives on legislative proposals and general procedures related to customs and trade facilitations issues; and to establish the appropriate consultation;

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- Commitments to publish or otherwise make available to the public new legislation, general procedures, notices of an administrative nature, hours of operation and operating procedures related to customs and trade facilitation issue;
 - Commitments to agree on the need for a reasonable time period between the publication of new or amended legislations on custom and trade facilitation; and
 - Commitments to ensure that the customs and related requirements and procedures meet the needs of the trading community, follow best practices, and remain as little trade-restrictive as possible.

Assessment and Recommendation

In general, if only commitments having impact to domestic legal system is considered, but for commitments on right (which Vietnam could choose to implement or not), and commitments on cooperation between competent authorities of EU and Vietnam, Vietnam legal system could be determined to be completely compatible with all commitment on customs and trade facilitation but for commitment on conditions of choosing preferential enterprise (in order to facilitate small and medium sized enterprises). Some incompatible issues are located in specialized legislations (e.g. commitments on fee and charges, on risk management, and post-clearance audit method, on consular transactions in connection with the importation of or exportation of goods) and fall out of the scope of this Review.

Therefore, with regard to legislations and regulations, Vietnam almost reaches the international standards on customs and trade facilitation. Hence, in principle, Vietnam does not to amend, supplement or revise any current legislations on customs to implement these EVFTA commitments.

However, it should be noted that EVFTA Chapter on Customs and Trade facilitation is designed to provide general requirements which do not require the reform of Vietnam legal system to meet some detailed commitments under the pact, but set the target on effective implementation of Vietnam legislations. In other word, under EVFTA commitments, Vietnam has space for adopt measures to meet detailed provisions, but has binding responsibility on effective implementation.

For example, under Clause 2 Article 1 EVFTA Chapter on Customs and Trade facilitation, Vietnam has responsibility that customs procedures shall be based upon the use of modern methods and effective controls to combat fraud and to promote legitimate trade. Accordingly, Vietnam does not have any binding responsibility on either management method or detailed control; therefore, it

is not compulsory to reform current legislations to any specific direction (due to that analysis, the Review comes to conclusion that Vietnam legislations on customs and trade facilitation are completely compatible). However, this commitment requires that Vietnam shall ensure the measure based upon the use of enough “modern” and enough “effective” to reach the target to “combat fraud and promote legitimate trade”. In other words, with such commitment, Vietnam always has to fulfill the duty to be compliant with EVFTA commitments to meet the requirement of “modern” and “effective”, and the result of “combat fraud and promote legitimate trade”, and to maintain these results when reaching these requirements. Hence, this responsibility is considered as a harder duty than a simple change in the legislation system.

Similarly, point c Clause 1 Article 3 provides that Vietnam shall ensure that “legislation that avoids unnecessary or discriminatory burdens on economic operators, that provides for further facilitation for operators with high levels of compliance, and that ensures safeguards against fraud and illicit or damageable activities”. It could be seen that these commitments provide requirement of target, and require Vietnam to ensure the final result, instead of specific legal change.

Other similar EVFTA commitments could be seen in Clause 1 Article 3; Clause 2 Article 3; Article 4; Clause 1, 3, and 4 Article 5; Clause 1 Article 6; Article 7; Article 8; Clause 1 Article 10, etc.

Therefore, in order to implement such EVFTA commitments, when almost relevant legislations are not required to revise (due to being compatible in majority), Vietnam needs to concentrate on implementation to ensure the effectiveness of customs activities. In the circumstance that customs performance does not meet expectation despite the recent improvement (e.g. Vietnam current objectives are reaching the improvement of customs procedures as the level being set under ASEAN-6 and ASEAN-4), that resources and capability of competent authorities are limited, and fraud situation is complex, ensuring the EVFTA implementation by “results/implementation effectiveness” is a big challenge for Vietnam.

Therefore, in order to implement this kind of EVFTA commitment, Vietnam need to proceed its attempt to reform and improve customs formalities and related procedures (including revision, clarification legal norms to facilitate the implementation even when it is not required by the pact) and, especially pay attention to ensure the following targets as indicated under the pact:

- *Improve the national single window*: this mechanism helps to reach the objective of modernizing the information exchange method, risk

management, post-clearance audit; and, therefore, facilitate legitimate trade, and precisely control fraud;

- *Totally reform the mechanism of specialized inspection of importing/exporting goods:* according to experts' analysis, about 30-35% importing/exporting goods are under the scope of specialized inspection; and the time period of specialized inspection accounting for about 72% total time of customs procedure.¹ Preliminary review indicates that this group has high risk of incompatibility with EVFTA commitment (especially commitments on risk management, post-clearance audit, fee and charges, consular transaction, etc.). Therefore, the administrative review, revision, and reform of the group having specialized inspection is fundamentally important to meet the objectives of trade facilitation, and effective EVFTA implementation.

Reform of these two areas needs strictly cooperating among competent authorities in which customs authorities is the contact point; and a huge resource to improve the technical infra-structure, train the government staff, and enterprises to participate in this mechanism. Therefore, these fields of activities should be concentrated in the framework of EU's technical support for Vietnam related to EVFTA commitments on customs and trade facilitation.

2. Group of EVFTA commitments on customs and trade facilitation which Vietnam legislations are not fully compatible with

Results

In comparison with other EVFTA commitments on customs and trade facilitation which Vietnam legislations are compatible with, the incompatible issues have a quite small quantity, and appear sporadically.

In the aspect of legislations on customs, Vietnam legislations are not incompatible with EVFTA commitments only in Clause 1 Article 5 related to preferential enterprises. Specifically, under EVFTA Vietnam shall ensure that the mechanism of preferential enterprises is transparency, effective to reduce costs and enhance predictability for economic operators, including for small and medium sized enterprises. However, under Vietnam laws, conditions for preferential enterprises have one condition of minimum of import-export turnover which is too high that no small and medium sized could reach.²

¹ Report on trade beyond border published by the Central Institute for Economic management (CIEM) coordinating with GIG project – USAID, September 2015

² Article 10.4 Decree No. 08/2015/NĐ-CP provides the criteria on export and import turnover:

a) Export and import enterprises must record the turnover of USD 100 million per annum;
b) Enterprises that export made-in-Vietnam products must record the turnover of USD 40 million per annum;
c) Enterprises that export agricultural, aquatic products manufactured or cultivated in Vietnam must record the turnover of USD 30 million per annum;

However, it should be noted that this EVFTA commitment also requires the effectiveness of the mechanism of preferential enterprises which Vietnam legislations do not meet.

In the aspect of specialized legislations on imports and exports, although this group of legislations is unduly reviewed, the preliminary review indicates this group is incompatible with at least three groups of EVFTA commitments:

- Commitments on modern management application (risk management, post-clearance audit) under Clause 1 Article 1, Clause 3 Article 5, and Clause 1 Article 7;
- Commitments on fee and charges (which shall not exceed approximate cost of service provided; and shall not be calculated on an ad valorem basis) under Clause 1 Article 10;
- Commitments on consular transactions (which shall not be required by neither party, and after three years of entry into force of this Agreement, a Party may not require consular authentication of the importation of goods) under Clause 2 Article 10.

Assessment and Recommendation

Legislations on customs

As mentioned, legislations on customs have only one issue which is incompatible with EVFTA commitment related to the criteria of minimum import-export turnover of the preferential enterprises mechanism.

The solution for this issue is to adjust the criteria of minimum export-import turnover (which means to revise Article 10.4 Decree 08/2015/ND-CP) so that these criteria will be no longer a barrier for small and medium sized enterprises to accede the preferential enterprises mechanism. Specifically, these criteria could be revised to reduce the minimum import-export turnover so that small and medium enterprises could meet.

The arguments that some other countries also set the equivalent criteria of import-export turnover; or that the criteria could not be expanded due to the lack of resource for an intensive application; or that it would be no longer “preferential” if applying this mechanism to small and medium sized enterprises, etc. could not change the fact that it is a compulsory commitment of Vietnam under EVFTA; and that Vietnam has responsibility to implement this commitment. In other word, not as the same as the similar TFA commitments which Vietnam could choose the implementation schedule on

d) In respect of enterprises that render customs brokerage services, the number of customs declaration forms to be filled out under customs procedures in a year must equal 20,000 sheets per annum.

the base of its capacity and implementation possibility, EVFTA commitments under Article 5 are compulsory when EVFTA has effect.

Specialized legislations

As provided above, though this issue is not fully reviewed, preliminary review indicates a lot of incompatible points between this group of legislation and EVFTA commitments on customs and trade facilitation (especially related to risk management)

Therefore, with regard to this group, it is necessary to proceed a detailed and full review the system of specialized legislations (09 systems under the management of 09 specialized authority) to determine the incompatible issues. On the basis of this detailed review, the incompatible issues of Vietnam legal framework could be revised to fully in compliance with EVFTA.

Why should Vietnam legal framework for common application be revised to be compatible with EVFTA commitments on customs and trade facilitation?

In principle, Vietnam only has responsibilities to accord measure to EU nationals as provided under EVFTA in general, and in particular, EVFTA commitments on customs and trade facilitation.

However, with regard to EVFTA commitments on customs and trade facilitation, this application method should not be implement due to the following reasons:

- In the legal aspect, Chapter 5 on customs and trade facilitation under EVFTA is provided with general terms, legal norms and reference to general legal issue and actual implementation, and unlimited issues of any entities, even EU nationals. Hence, Vietnam commits to apply on all nationals, not only EU nationals;
- In the aspect of actual implementation, even when EVFTA only includes commitments on customs and trade facilitation applying on parties' import/export entities, by observing the actual implementation of customs procedure, it is quite hard to apply a parallel system of customs and specialized inspection, which contains one mechanism for EU nationals, and the last for the other.

Therefore, meanwhile the implementation of other EVFTA commitments provided under other Chapters of EVFTA (such as government procurement, investment,...) could be one of options that are (i) revising legislations applying to all nationals; or (ii) revising legislations applying to nationals

under the EVFTA scope, the implementation of EVFTA commitments on customs and trade facilitation has only one option that is revising legislations applying to all nationals.

3. Group of EVFTA commitments on customs and trade facilitation out of the scope of domestic legislations

As mentioned, a majority of EVFTA commitments on customs and trade facilitation (including some articles of Chapter 5 and all Chapter 20 of EVFTA) are issues related to administrative cooperation and coordinance between Vietnam and EU customs authorities:

- Chapter 5 commitments includes issues related to information exchange and special committee on customs established by Vietnam and EU;
- Chapter 20 of EVFTA could be considered as an agreement on mutual administrative assistance in customs matters which states (including Vietnam) often separately negotiate and sign. This agreement contains issues related to cooperation in information exchange, investigation and remedies for each specific cases in order to prevent and combat fraud in customs activities.

These issues are out the scope of domestic legislations on merit (which directly regulates activities of organizations and individuals related to customs formalities and procedures, and other relevant issues), therefore, are out of the coverage of this Review.

However, during the implementation of this group of commitments, competent and related authorities (especially customs authorities) need to pay attention to internal procedures, and build new appropriate mechanism for the effective implementation of this group of commitments.

Conclusion

Review of Vietnam legislations on customs against EVFTA commitments on customs and trade facilitation indicates that, in total view, Vietnam legal framework is basically compatible with EVFTA requirements on this issue. There is only one issue being incompatible with EVFTA which provides the opportunities for small and medium sized enterprises to reach preferential enterprises mechanism. However, EVFTA commitments in this area not only contain requirements on legal norms, but also set the target of effective implementation. Therefore, in the aspect of legislation, Vietnam shall need to revise one related legislation; in the aspect of customs formalities reform and transparency of customs legislation, Vietnam shall put a great deal of effort for a full implementation of EVFTA commitments on this issue.

But for full review, preliminary analysis shows that specialized legislations on import/export goods (including 09 areas) currently contain incompatible legal norms in comparison with EVFTA commitments, at least, in the following issues: (i) risk management and post-clearance audit; (ii) fee and charges; and (iii) consular transactions in connection with the importation of or exportation of goods.

Totally, to reach an effective implementation of EVFTA commitments on customs and trade facilitation, Vietnam shall need to:

- Continue to improve customs procedures, especially take the forward step to full and effective implementation of national one stop mechanism;
- Take detailed review of legislations on specialized inspection, figure out the incompatible points, revise specialized legislations to meet EVFTA requirement; and, at the same time, enhance the reform of specialized inspection so that this inspection procedure keeps up with the reform stage of the general customs system, and seeks benefit for total customs system.

Part two – Brief table of reviewing results

BRIEF TABLE

RESULTS OF REVIEWING EVFTA COMMITMENTS AGAINST VIETNAM LEGAL FRAMEWORK ON CUSTOMS AND TRADE FACILITATION

Note

Commitments that Vietnam does not/ not yet have to perform (due to reserve, optional, not due to the schedule or the conditions have not occurred, etc.)
Commitments that Vietnam's legal framework have been fully compatible with
Commitments that Vietnam's legal framework have been partly compatible with
Commitments that Vietnam's legal framework have been not compatible with, need amending
Commitments on the procedures of cooperation/ exchange between VN-EU, not within the scope of regulation of domestic legislation

Article	Group of specific commitments		
Article 1 Objectives	Commitment to recognizing the importance of customs and trade facilitations matters in the evolving global trading environment Commitment on cooperation to promote trade facilitation and effective custom control	Commitment to guaranteeing that legislation shall be non-discriminatory and customs procedures shall be based upon the use of modern methods and effective controls to combat fraud	Commitment to recognizing public policy objectives and not compromising in fighting against fraud, commitment on legitimate trading protection

Article 2 Customs cooperation and mutual administrative assistance	Commitment on cooperation between custom authorities of the Parties	Commitment on cooperation in exchanging information; developing joint initiatives relating to import, export and other customs procedures; strengthening cooperation in international organizations; establishing mutual recognition	Commitment on mutual administrative assistance in customs matters in accordance with the provisions of Protocol X
Article 3 Customs and legislative procedures	Commitment to guaranteeing custom regulations and procedures – based on the standards under Kyoto Convention, HS Convention	Commitment to eliminating from custom legislation unnecessary, discriminatory burdens; and commitment to performing effectively proportionate, non-discriminatory measures and not unduly delay the release of goods	Commitment to simplifying the requirements and formalities wherever possible, endeavoring towards the further simplification and standardization of required data and documentation.
Article 4 Release of Goods	Commitment on legislation's provision for the release of goods within a period no greater than that required to ensure compliance with it customs and for the reduction in the release times.	Commitment to regulating on advance electronic submission and eventual processing of information before physical arrival of goods to enable the release of goods	
Article 5 Simplified Customs Procedures	Commitment on simplified customs procedures that are transparent and efficient to all entities, including SMEs Accessing to customs	Commitment on requirement of a single administrative document for goods	Commitment on the use of modern customs techniques, including risk management and post-clearance audit methods

	simplifications must be in accordance with objective and non-discriminatory criteria		
	Commitment on the development and use of electronic exchange of data system between customs administrations and enterprises		
Article 6 Transit and Transshipment	Commitment to ensuring the facilitation and effective control of transshipment operations and transit movements through territories		
Article 7 Risk Management	Commitment on goods examination and release procedures based on risk assessment principles	Commitment on goods import, export, transit and transshipments based on risk management principles	
Article 8 Transparency	Commitment to ensuring that custom regulations are published and readily available	Commitment to designating one or more information point to address inquiries for organizations, individuals	
Article 9 Advance Rulings	Commitment to issuing written advance rulings on tariff classification or any other matter upon request	Commitment on publication of the advance rulings on tariff classification (except for confidential information)	Commitment on the updates on changes in legislation on advance rulings

	from traders		
Article 10 Fees and charges	Commitment to imposing only fees and charges relating to import and export, the fees and charges are not exceed the approximate cost of the service and not calculated on an ad valorem basis.	Commitment not to requiring consular transactions for documents in custom documentation; to eliminate the requirement on consular authentication for the importation of goods after 03 years.	
Article 11 Customs Brokers	Commitment not to requiring the mandatory use of customs brokers	Commitment on application of transparent, proportionate, non-discriminatory rules when licensing custom brokers	
Article 12 Customs valuation	Commitment on compliance with the Agreement on the Implementation of Article VII of the GATT	Commitment on cooperation with a view to reaching a common approach to issues relating to customs valuation	
Article 13 Pre-shipment Inspections	Commitment not to requiring the mandatory use of preshipment inspections as defined in the WTO Agreement on Preshipment Inspection	Commitment not to requiring any inspection activity performed at destination, before customs clearance, by private companies	
Article 14 Review and Appeal	Commitment on the provision of effective, prompt, non-discriminatory and easily accessible procedures to appeal against the		

	administrative decisions issued by custom authorities relating to the import or export of goods or goods in transit		
Article 15 Relations with the Business Community	Commitment on reorganization of the need for consultations with trade representatives and custom authorities on custom regulations and procedures; of the need to establish such consultation mechanism	Commitment on publication of custom regulations and procedure; administrative notices on custom time and procedure of custom authorities	Commitment on a reasonable time period between the publication of new or amended legislation on custom Commitment on custom procedure that meet the needs of enterprise and remain as little trade-restrictive as possible
Article 16 Special committee on Customs	Commitment on Special Committee con Customs (functions and missions)		

**DETAILED REVIEW OF VIETNAM LEGAL FRAMEWORK AGAINST EVFTA COMMITMENTS
ON CUSTOMS AND TRADE FACILITATION**

Commitments EVFTA	Vietnam legal framework	Assessment and Recommendation
Article 1 Objectives		
1. The Parties recognise the importance of customs and trade facilitation matters in the evolving global trading environment. The Parties agree to reinforce cooperation in this area with a view to ensuring that the legislation and formalities fulfill the objectives of promoting trade facilitation while ensuring effective customs control.	<p>- Article 3, Article 6, Article 8 Customs Law 2014³</p> <p>Article 3 Customs Law 2014: Customs policies</p> <p>1. The State of Vietnam shall facilitate customs formalities applied to import, export, exit, entry and transit in the Vietnamese territory.</p> <p>2. Developing Vietnam Customs into a clean, strong, professional and modern agency with transparent and efficient operation.</p>	<p>Assessment:</p> <p>In principle, full compliance</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

³ Law No. 54/2014/QH13 of National Assembly dated 23rd Jun 2014 on Customs (“**Customs Law 2014**”)

	<p>Article 6. International cooperation in customs</p> <p>1. International cooperation in customs shall contain:</p> <p>b/ Exploitation and exchange of information and professional cooperation with customs authorities of foreign countries and relevant international organizations.</p> <p>Article 8 Customs Law 2014: Customs modernization</p> <p>1. The State shall give priority to investment in modern technical equipment and facilities and advanced technologies to ensure the effective customs management; encourage entities to participate in developing advanced technologies and technical equipment to ensure the application of modern customs management methods. Entities involved in import and export are responsible for participating in developing and performing</p>	
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	<p>electronic transactions and electronic customs formalities.</p> <p>2. The system of technical standards for communication of electronic data and legal validity of electronic legitimate documents when following electronic customs formalities shall comply with the law on electronic transactions.</p> <p>- Law on Promulgation of Legal documents 2015⁴</p>	
<p>2. To this end, the Parties agree that legislation shall be non-discriminatory and that customs formalities shall be based upon the use of modern methods and effective controls to combat fraud and to promote legitimate trade.</p>	<p>- Article 2, Article 8 Customs Law 2014</p> <p>Article 2 Customs Law 2014: Regulated entities</p> <p>1. Entities that import, export, or transit goods, or have vehicle on exit or entry or in transit.</p> <p>2. Entities that have rights and obligations related to the import, export and transit of goods and exit, entry and transit of vehicle.</p>	<p>Assessment:</p> <ul style="list-style-type: none"> - Customs Law 2014 and its guiding legal documents governing the import-export procedures for goods in general apply to all group of entities without discrimination between domestic and foreign-related entities. Therefore, full compliance. - With regard to the use of modern methods, Vietnam legislations regulate the method of electronics customs management. <p>However, the specific examination</p>

⁴ Law No. 80/2015/QH13 of National Assembly dated 22nd Jun 2015 on Promulgation of Legal documents (“**Law on Promulgation of Legal documents 2015**”)

	<p>Article 8 Customs Law 2014: Customs modernization</p> <p>1. The State shall give priority to investment in modern technical equipment and facilities and advanced technologies to ensure the effective customs management; encourage entities to participate in developing advanced technologies and technical equipment to ensure the application of modern customs management methods. Entities involved in import and export are responsible for participating in developing and performing electronic transactions and electronic customs formalities.</p> <p>2. The system of technical standards for communication of electronic data and legal validity of electronic legitimate documents when following electronic customs formalities shall comply with the law on electronic transactions.</p>	<p>procedures over specific goods imported/exported under the management of specific authorities other than Customs have not use modern method yet (the authorities examine every shipments, no electronic formalities, etc)</p> <ul style="list-style-type: none"> - With regard to effective controls to combat fraud and legitimate trade facilitation, Vietnam legislations are in compliance with EVFTA. However, there is no adequate assessment on real “effective control” in practice. <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - With regard to implementation, attention should be put on improving the effectiveness of anti-fraud measures, and promoting legitimate trade.
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<p>3. The Parties recognise that legitimate public policy objectives, including in relation to security, safety and fight against fraud shall not be compromised in any way.</p>	<p>- Law on Promulgation of Legal documents 2015</p> <p>Article 5 Law on Promulgation of Legal documents 2015: <i>Rules for formulating and promulgating legislative documents</i></p> <p>5. Ensure national defense and security, environmental protection without obstruction of implementation of the international agreements to which the Socialist Republic of Vietnam is a signatory.</p>	<p>Assessment:</p> <p>Full compliance.</p> <p>Besides, it is right, not compulsory obligation under EVFTA.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>
<p>Article 2</p> <p>Customs cooperation and mutual administrative assistance</p> <p>1. The Parties shall cooperate on customs matters between their respective authorities in order to ensure that the objectives set out in Article 1 are attained.</p> <p>2. The Parties shall develop cooperation, inter alia:</p> <p>(a) exchanging information</p>	<p>- Customs Law 2014</p> <p>Article 6 Customs Law 2014: International cooperation in customs</p> <p>1. International cooperation in customs shall contain:</p> <p>a/ Negotiation, conclusion and organization of implementation of treaties and international agreements on customs;</p> <p>b/ Exploitation and exchange of</p>	<p>Assessment:</p> <p>This issue is related to the administrative cooperation between Vietnam and EU.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended; - If necessary, a circular of cooperation mechanism could be issued.

<p>concerning customs legislation, its implementation, and customs procedures; particularly in the following areas: - simplification and modernisation of customs procedures, - enforcement of intellectual property rights by the customs authorities, - facilitation of transit movements and transshipment; - relations with the business community,</p> <p>(b) considering developing joint initiatives relating to import, export and other customs formalities including technical assistance, as well as towards ensuring an effective service to the business community;</p> <p>(c) strengthening their cooperation in the field of customs in international organisations such as the World Trade Organisation (WTO) and the World Customs Organisation (WCO).</p>	<p>information and professional cooperation with customs authorities of foreign countries and relevant international organizations;</p> <p>c/ Delegating Vietnamese customs officials abroad and receiving foreign customs officials sent to Vietnam to perform professional customs operations in accordance with the law on customs, treaties to which the Socialist Republic of Vietnam becomes a party or concluded international agreements;</p> <p>d/ Exercise of rights, performance of obligations and enjoyment of interests of the State of Vietnam at the World Customs Organization, customs-related international organizations, countries and territories.</p> <p>2. Vietnam Customs must conduct operation as prescribed in Clause 1 of this Article in accordance with law.</p>	
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<p>(d) establishing, where relevant and appropriate, mutual recognition of trade partnership programmes and customs controls including equivalent trade facilitation measures.</p> <p>3. The Parties shall provide each other with mutual administrative assistance in customs matters in accordance with the provisions of Protocol X.</p>		
<p>Article 3</p> <p>Customs and legislative formalities</p>		
<p>1. The Parties agree that their respective customs provisions and formalities shall be based upon:</p> <p>(a) international instruments and standards applicable in the area of customs and trade, including the substantive elements of the Revised Kyoto Convention on the Simplification and Harmonisation</p>	<p>- Acceding the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures, the International Convention on the Harmonized Commodity Description and Coding System;</p> <p>- Being member of the World Customs Organization;</p>	<p>Assessment:</p> <p>- Vietnam is member to cited Conventions and have revised its legal documents in compliance with the latters</p> <p>- The principles of transparency, and avoidance of unnecessary delay in customs formalities are provided under Vietnam policies, esp. piloting the implementation of national one-stop-shop (OSS) customs mechanism.</p>

<p>of Customs Procedures, the International Convention on the Harmonized Commodity Description and Coding System (hereinafter referred as “HS Convention”), the Framework of Standards to Secure and Facilitate Global Trade of the World Customs Organisation and the Customs Data Model of the World Custom Organization;</p> <p>(b) the protection of legitimate trade through effective enforcement and compliance of legislative requirements;</p> <p>(c) legislation that avoids unnecessary or discriminatory burdens on economic operators, that provides for further facilitation for operators with high levels of compliance, and that ensures safeguards against fraud and illicit or damageable activities;</p> <p>(d) measures, formalities and</p>	<p>- Article 3, Article 9, Article 26.3, Article 37 Customs Law 2014</p> <p>Article 3 Customs Law 2014: Customs policies</p> <p>1. The State of Vietnam shall facilitate customs formalities applied to import, export, exit, entry and transit in the Vietnamese territory.</p> <p>2. Developing Vietnam Customs into a clean, strong, professional and modern agency with transparent and efficient operation.</p> <p>Article 9 Customs Law 2014: Cooperation in the adherence to the law on customs</p> <p>1. Customs authorities shall take charge, and closely cooperate with regulatory bodies, organizations and people’s armed forces in implementation of the law on customs.</p> <p>2. Regulatory bodies, organizations and people’s armed forces shall,</p>	<p>- Vietnam custom law and regulations are applied on non-discriminatory basis, thus in compliance with EVFTA.</p> <p>- Solutions for specific cases are provided in custom law to reduce unnecessary delay in goods clearance.</p> <p>- With regard to the requirements of reducing unnecessary delay and burdens; protecting legitimate trade, Vietnam has made several considerable achievements in custom administrative reforms.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p> <p>With regard to implementation, attention should be put on enhancing administrative reform in custom</p>
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remedies shall be proportionate and non-discriminatory and in their application shall not unduly delay the release of goods;	<p>within the area of competence, cooperate with and enable customs authorities to fulfill their tasks.</p> <p>Article 26 Customs Law 2014: Classification of goods</p> <p>3. The list of Vietnamese imports and exports is made on the basis of full application of the International Convention on Harmonized Commodity Description and Coding System.</p> <p>Article 37 Customs Law 2014: Customs clearance for goods</p> <p>1. Goods shall be cleared from customs formalities after such formalities are completed.</p> <p>2. In case customs declarants have completed customs formalities, but have not paid or fully paid payable tax amounts within the regulated time limit, their goods may be cleared from customs formalities when they have such payable tax amounts guaranteed by a credit</p>	
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	<p>institution or enjoy a tax payment time limit in accordance with the tax law.</p> <p>3. In case goods owners are fined by customs authorities or competent regulatory bodies for their customs-related administrative violations and their goods are permitted for export or import, such goods may be cleared from customs formalities if the goods owners have paid the fines or have their payable fines guaranteed by a credit institution for implementing the fining decisions.</p> <p>4. For goods subject to inspection, analysis or assessment to determine whether or not they fully satisfy the export or import requirements, customs authorities shall permit customs clearance only after the goods are determined that to be eligible for export or import on the basis of inspection, analysis or assessment conclusions or inspection exemption notices of</p>	
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	<p>specialized inspection agencies in accordance with law.</p> <p>5. Goods used for urgent requirements; goods exclusively used for security and defense purposes; and diplomatic bags, consular bags and luggage of agencies, organizations or individuals entitled to privileges or immunities shall be cleared from customs formalities under Articles 50 and 57 of this Law.</p> <p>- Decree No. 08/2015/NĐ-CP</p> <p>Article 13 Decree No. 08/2015/NĐ-CP: Application of risk management to customs-related professional activities</p> <p>1. Customs authorities shall carry out their customs supervision and inspection, post-clearance audit, inspection and other professional approaches on the basis of aggregating and dealing with the results of evaluating customs</p>	
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	<p>declarant's compliance with laws and classifying risk levels.</p> <p>Article 15 Decree No. 08/2015/NĐ-CP: Classification of risk levels</p> <p>1. Classifying levels of risk incurred from export, import, exit, entry or transit shall be carried out on the basis of the degree of customs declarant's compliance with laws.</p> <p>2. In the process of risk level classification, customs authorities shall consider related factors such as:</p> <p>a) Managerial and tax policies applied to exports, imports, in-transit goods, outgoing, incoming and in-transit transports, baggage that inbound, outbound and in-transit persons carry;</p> <p>b) Nature and attributes of cargos, baggage and transports;</p> <p>c) Frequency, nature and severity of</p>	
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	<p>violation pertaining to cargos, baggage and transports;</p> <p>d) Origin of exports, imports or in-transit cargos;</p> <p>dd) Route and mode of transportation of cargos and baggage;</p> <p>e) Other factors relating to export, import, entry, exit or transit activities.</p> <p>3. Customs authorities shall evaluate and classify risks imposed on customs declarants, export, import, exit, entry or transit according to different levels in order to apply proper measures for customs examination, supervision and inspection.</p>	
<p>2. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and</p>	<p>- Customs Law</p> <p>Article 37 Customs Law: Customs clearance for goods</p> <p>1. Goods shall be cleared from</p>	<p>Assessment:</p> <ul style="list-style-type: none"> - Vietnam law provide that The document review must be conducted regularly as soon as there are grounds for such review

<p>accountability of operations, the Parties shall:</p> <p>(a) simplify and review requirements and formalities wherever possible; in respect of the rapid release and clearance of goods, inter alia allowing the release of goods, without the payment of customs duties, subject to the provision of a guarantee, if required, according to legislation of the Parties, in order to secure the final payment of customs duties.</p> <p>(b) work towards the further simplification and standardisation of data and documentation required by customs and other agencies;</p>	<p>customs formalities after such formalities are completed.</p> <p>2. In case customs declarants have completed customs formalities, but have not paid or fully paid payable tax amounts within the regulated time limit, their goods may be cleared from customs formalities when they have such payable tax amounts guaranteed by a credit institution or enjoy a tax payment time limit in accordance with the tax law.</p> <p>3. In case goods owners are fined by customs authorities or competent regulatory bodies for their customs-related administrative violations and their goods are permitted for export or import, such goods may be cleared from customs formalities if the goods owners have paid the fines or have their payable fines guaranteed by a credit institution for implementing the fining decisions.</p>	<p>without omitting any document within review responsibility; promptly processing review results; complying with the review order and procedure. Thus, in full compliance.</p> <ul style="list-style-type: none"> - Vietnam law provide for goods clearance without payment of customs duties, subject to the provision of a guarantee is allowed. - Vietnam legislation and implementation intend to simplify and standardize customs required documents and procedure. <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Accelerating the implementation of national one stop shop on customs - Continuing to simplify the administrative customs formalities to meet EVFTA requirements.
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	<p>4. For goods subject to inspection, analysis or assessment to determine whether or not they fully satisfy the export or import requirements, customs authorities shall permit customs clearance only after the goods are determined that to be eligible for export or import on the basis of inspection, analysis or assessment conclusions or inspection exemption notices of specialized inspection agencies in accordance with law.</p> <p>5. Goods used for urgent requirements; goods exclusively used for security and defense purposes; and diplomatic bags, consular bags and luggage of agencies, organizations or individuals entitled to privileges or immunities shall be cleared from customs formalities under Articles 50 and 57 of this Law.</p> <p>- Law on Promulgation of Legal</p>	
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	<p>documents</p> <p>Article 170 Law on Promulgation of Legal documents: Reviewing, systemizing legislative documents</p> <p>1. Every regulatory agency, within their competence, has the responsibility to review and systemize legislative documents; suspend, annul, amend, replace legislative documents that are found illegitimate, inconsistent, expired, or no longer applicable with regard to socio-economic, or issue new legislative documents; they may do these tasks themselves or request a competent authority to do so.</p> <p>Every organization and citizen are entitled to request competent authorities to consider suspending, annulling, amending, replacing legislative documents, or issuing new legislative documents.</p> <p>2. Legislative documents must be review as frequently as possible. The</p>	
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	<p>systemization of legislative documents must be carried out periodically in order to publish the collection of systemized effective legislative documents in a timely manner.</p> <p>3. Standing Committee of the National Assembly shall decide overall review of the system of legislative documents; other regulatory agencies shall review legislative documents by topic, field, or geographic areas as demanded.</p> <p>4. The Government shall elaborate this Article.</p> <p>- Decree No. 08/2015/NĐ-CP</p> <p>Customs Law , Decree No. 08/2015/NĐ-CP having provisions related to the national one stop shop</p> <p>- Decision No. 48/2011/QĐ-TTg of the Prime Minister dated 31st Aug 2011 on piloting the implementation of national one stop shop (OSS) customs mechanism</p>	
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	<ul style="list-style-type: none"> - Joint Circular No. 84/2013/TTLT-BTC-BCT-BGTVT guiding the implementation of Decision No. 48/2011/QĐ-TTg dated 31 Aug 2011 of the Prime Minister. - Decree No. 16/2013/NĐ-CP on review and systemization of legal normative documents. - Resolutions of the Government in 2014 and 2015 	
<p>Article 4</p> <p>Release of Goods</p> <p>Each Party shall ensure that its customs shall apply requirements and formalities that:</p> <p>1. provide for the release of goods within a period no greater than that required to ensure compliance with its customs and other trade-related laws and formalities. Each party shall work to further reduce release times and release the goods</p>	<ul style="list-style-type: none"> - Article 25, Article 29, Article 33, Article 34, Article 36, Article 37 Customs Law Article 25 Customs Law: Time limit for submission of customs documents 1. The customs declarations shall be submitted: <ul style="list-style-type: none"> a/ After goods are transported to places notified by customs declarants and at least 4 hours before the exit of vehicle regarding 	<p>Assessment:</p> <p>Full compliance in the following issues:</p> <ul style="list-style-type: none"> - Prompt release of goods and time saving. - Electronical customs formalities and pre-arrival processing to enable the release of goods on arrival. <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

<p>without undue delay;</p> <p>2. provide for advance electronic submission and eventual processing of information before physical arrival of goods, so-called pre-arrival processing, to enable the release of goods on arrival.</p>	<p>to exported goods; , at least 2 hours before the exit of vehicle regarding exported goods delivered by express delivery services;</p> <p>b/ Before goods arrive at border checkpoints or within 30 days after goods arrive at border checkpoints regarding to imported goods;</p> <p>c/ As prescribed in Clause 2, Article 69 of this Law.</p> <p>2. Customs declarations are valid for customs formalities within 15 days from the day on which they are registered.</p> <p>3. The time limit for submission of relevant documents in customs documents:</p> <p>a/ Regarding to e-customs declaration, when customs authorities conduct examination of customs documents and physical inspection of goods, customs declarants shall submit paper documents in customs documents,</p>	
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	<p>except documents which are already available in the national single-window communication system;</p> <p>b/ Regarding to paper customs declarations, customs declarants shall submit relevant documents when registering their customs declarations.</p> <p>Article 29 Customs Law: Customs declaration</p> <ol style="list-style-type: none"> 1. Customs declarants shall sufficiently, accurately and clearly fill all items in customs declarations. 2. Customs declaration shall be made electronically, except that customs declarants may fill in paper customs declarations as prescribed in regulations of the Government. 3. Registered customs declarations are valid for customs formalities. Policies on goods management and taxes on imported goods and exported goods are applied when the customs declaration forms are 	
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	<p>registered, unless otherwise provided by the law on import duty and export duty.</p> <p>4. If a customs declarant found that the declaration contains errors, he/she may make an additional declaration in the following cases:</p> <p>a/ For goods undergone customs formalities: Before the customs authority notifies the direct examination of the customs document;</p> <p>b/ For goods granted clearance: Within 60 days from the date of customs clearance and before the day on which customs authority decides to conduct post-customs clearance inspection, unless additional declaration are related to the import or export permit; specialized inspection in terms of quality, health, culture, animal quarantine, plant quarantine and food safety.</p>	
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	<p>If customs declarants detect errors in their customs declarations when the time limit prescribed at Points a and b of this Clause has expired, they shall make additional declaration and their errors shall be handled in accordance with the laws on taxes and handling of administrative violations.</p> <p>5. Customs declarants may submit incomplete declaration or documents in substitution of declaration for customs clearance and shall complete declaration forms within the time limit prescribed in Articles 43 and 50 of this Law, and may make a single customs declaration for multiple importation or exportation during a certain period of time for certain goods items.</p> <p>6. For goods which are undergone customs formalities or for which customs formalities have been</p>	
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	<p>completed but which are still subject to customs supervision, customs declarants may change the form of importation or exportation in accordance with the law on customs.</p> <p>Article 33 Customs Law: Physical inspection of goods</p> <p>1. The following goods are exempted from physical inspection:</p> <p>a/ Goods used for urgent demands;</p> <p>b/ Goods exclusively used for national defense and security purposes;</p> <p>c/ Goods used for other special cases as decided by the Prime Minister.</p> <p>2. If there is any violation is detected in goods as prescribed in Clause 1 of this Article, such goods shall be physically inspected.</p> <p>3. For goods other than those as prescribed in Clause 1 of this Article, physical inspection shall be conducted based on the application</p>	
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	<p>of risk management.</p> <p>4. Goods which are live animals or plants, hard to be preserved or other special goods shall be prioritized for inspection.</p> <p>5. Physical inspection of goods may be conducted by customs officials manually or with the aid of machines, technical equipment or by other professional measures.</p> <p>The physical inspection of goods shall be conducted in the presence of customs declarants or their legal representatives after customs declarations are registered and goods are transported to places of inspection, except the cases prescribed in Article 34 of this Law.</p> <p>6. The physical inspection of goods at places for joint inspection by Vietnamese customs authorities and customs authorities of neighboring countries shall be conducted under agreements between Vietnam and</p>	
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	<p>these countries.</p> <p>7. The Minister of Finance shall provide guidance on the physical inspection of goods.</p> <p>Article 34 Customs Law: Physical inspection of goods in the absence of customs declarants</p> <p>1. Heads of customs authorities in places where goods are retained shall decide and take responsibility for the physical inspection of goods in the absence of customs declarants in the following cases:</p> <p>a/ For security protection;</p> <p>b/ For hygiene and environmental protection;</p> <p>c/ Upon detection of law violation;</p> <p>d/ The customs declarants have not conducted customs formalities at the border checkpoint although the imported goods arrive over 30 days;</p> <p>dd/ Other cases prescribed in regulations of law.</p>	
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	<p>2. Physical inspection of goods in the absence of customs declarants shall be conducted in the following forms:</p> <p>a/ Non – intrusive inspection;</p> <p>b/ Inspection with technical equipment and other operational measures of customs authorities;</p> <p>c/ Opening goods for direct inspection in the presence of representatives of the government authorities at the border checkpoint, the transportation enterprises and the enterprises trading ports and depots. An inspection record shall be made and signed by related parties.</p> <p>Article 36 Customs Law: Release of goods</p> <p>1. Release of goods means permission for the export or import of goods by customs authorities when the following requirements are fully satisfied:</p> <p>a/ The goods fully meet the export</p>	
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	<p>or import requirements but the official payable tax amounts cannot be determined;</p> <p>b/ The customs declarants have paid taxes or have their declared and calculated payable tax amounts guaranteed by a credit institution.</p> <p>2. The time limit for determining the official payable tax amounts is within 30 days from the day on which the goods are released; for goods subject to assessment, this time limit shall be determined from the date of receipt of assessment results.</p> <p>3. If the customs declarants disagree with payable tax amounts determined by customs authorities, they have rights to lodge complaints. The lodging and settlement of complaints must comply with the Law on Complaints.</p> <p>Article 37 Customs Law: Customs clearance for goods</p>	
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	<p>1. Goods shall be cleared from customs formalities after such formalities are completed.</p> <p>2. In case customs declarants have completed customs formalities, but have not paid or fully paid payable tax amounts within the regulated time limit, their goods may be cleared from customs formalities when they have such payable tax amounts guaranteed by a credit institution or enjoy a tax payment time limit in accordance with the tax law.</p> <p>3. In case goods owners are fined by customs authorities or competent regulatory bodies for their customs-related administrative violations and their goods are permitted for export or import, such goods may be cleared from customs formalities if the goods owners have paid the fines or have their payable fines guaranteed by a credit institution for</p>	
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	<p>implementing the fining decisions.</p> <p>4. For goods subject to inspection, analysis or assessment to determine whether or not they fully satisfy the export or import requirements, customs authorities shall permit customs clearance only after the goods are determined that to be eligible for export or import on the basis of inspection, analysis or assessment conclusions or inspection exemption notices of specialized inspection agencies in accordance with law.</p> <p>5. Goods used for urgent requirements; goods exclusively used for security and defense purposes; and diplomatic bags, consular bags and luggage of agencies, organizations or individuals entitled to privileges or immunities shall be cleared from customs formalities under Articles 50 and 57 of this Law.</p>	
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	<p>- Article 7, Article 25 Decree No. 08/2015/NĐ-CP</p> <p>Article 7 Decree No. 08/2015/NĐ-CP: Implementation of national single-window system</p> <p>1. Customs declarants shall make their customs declaration and submit electronic documents in order to follow customs and administrative procedures that regulatory agencies stipulate in relation to exports or imports through an integrated information system (hereinafter referred to as national single-window portal). Time for making their customs declaration and submitting electronic documents shall be identified in accordance with regulations laid down in Laws on specialized management and guiding documents on implementing such laws.</p> <p>2. Regulatory agencies shall receive</p>	
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	<p>and handle information provided by customs declarants; respond with the handling result to customs declarants; exchange the declared information under administrative procedures and the result of such information with other regulatory agencies through the national single-window portal.</p> <p>3. Customs declarants shall receive the handling result from regulatory agencies through the national single-window portal.</p> <p>4. Customs authorities shall take a look at the handling result from regulatory agencies to make a final decision about export, import clearance, customs transit, and respond with their handling result to customs declarants through national single-window portal.</p> <p>Article 25 Decree No. 08/2015/NĐ-CP: Customs declaration</p>	
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	<p>1. Customs declaration shall be carried out in the electronic. Customs declarants shall register their customs declaration through the electronic customs procedures under the regulations set out by the Minister of Finance.</p> <p>2. Paper customs declaration is permitted if:</p> <p>a) Cargos required to complete the customs declaration before being exported or imported are those of border residents;</p> <p>b) Exported and imported cargos are in excess of limits on tax exemption applied to incoming and outgoing persons;</p> <p>c) Cargos are used for the purpose of emergency assistance and humanitarian aid;</p> <p>d) Cargos are used as personal gifts, presents and property;</p> <p>dd) Cargos are equipment used for</p>	
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	<p>containing cargos according to the temporary importation – reexportation or temporary exportation – reimportation rotation method in accordance with regulations laid down at Point a, b Clause 1 Article 49 hereof;</p> <p>e) Goods to be temporarily imported and re-exported, or temporarily exported and re-imported which are carried along by incoming and outgoing persons are used for work in the pre-determined time;</p> <p>g) Customs electronic data processing system or electronic customs declaration system fails to carry out mutual electronic transactions which may be caused by the operational failure of single or both system(s) or may result from any other reason.</p> <p>In case customs electronic data processing system fails to carry out electronic customs procedures,</p>	
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	<p>customs authorities shall be responsible for making an announcement on the customs website at least 01 hour from the time when such failure takes place;</p> <p>h) Other commodities stipulated by the Minister of Finance.</p> <p>3. Customs declarants must provide sufficient, accurate and clear information required in the customs declaration, decide their self-assessed taxes and other payments to the State budget as well as take their full responsibility before the laws for their declared information.</p> <p>4. When carrying out customs declaration, customs declarants shall be required to:</p> <p>a) Input their information declared on the electronic customs declaration system;</p> <p>b) Send their customs declaration to customs authorities through customs electronic data processing</p>	
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	<p>system;</p> <p>c) Receive feedbacks and follow instructions from customs authorities.</p> <p>With regard to paper customs declaration, customs declarants are required to provide sufficient information required in the customs declaration form, append their names and signatures (except when customs declarants are individuals) in their declarations for submission to customs authorities.</p> <p>5. If exports or imports are classified as regulated entities required to pay export, import taxes, excise duties, value-added taxes, environmental taxes, or of which export or import taxes are exempted or such tax exemption is under consideration, or of which the tax rate is imposed according to the tariff quota, and cargos are customs released or cleared but then subject to changes</p>	
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	<p>in entities that are not required to pay taxes or in purposes for which exports or imports are exempted from paying taxes or under consideration for their tax exemption; exports or imports are taxed at the rate that conforms to the tariff quota; imports are raw materials used for processing or manufacturing exports or temporarily imported – re-exported products that have been released or cleared under customs procedures but then their use purpose has changed for domestic consumption, new customs declarations must be submitted instead. Policies on management of exports and imports and policies on taxes levied on exports and imports shall be implemented in the time when new customs declarations are registered, except when all of policies on management of exports and imports have been fully implemented at the</p>	
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	<p>time when the initial customs declaration is registered.</p> <p>6. Commodities to be exported or imported in different manners must be declared in different export or import declarations that such commodities are required to carry out.</p> <p>7. Customs declaration that commodities agreed in various commercial contracts or orders are required to complete</p> <p>a) Imports which are agreed in various commercial contracts or orders, or described in one or many invoices issued by one seller under the same terms of commodity delivery, payment, one-time shipment, and those with one bill of lading shall be declared in the same customs declaration;</p> <p>b) Imports which are agreed in various commercial contracts or orders under the same terms of</p>	
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	<p>commodity delivery, payment, or sold to the same client and those under the agreement on one-time shipment shall be declared in one or many customs declaration(s).</p> <p>8. Registration of one-time customs declaration</p> <p>Customs declarants who frequently export or import a single commodity at a specified time as agreed upon in the same sale contract under which contracting parties are the same seller or buyer, and whose commodities are exported or imported across the same border checkpoint shall be entitled to register their one-time customs declaration for a period of below 01 year.</p> <p>One-time customs declaration shall become invalid for further customs procedures when any change to policies on taxation or management of exports or imports occurs.</p>	
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	<p>9. Utilization of electronic customs declaration</p> <p>Electronic customs declaration shall be valid for use when procedures for taxation, certification of commodity origin, payment made at banks and other administrative procedures as well as serve as evidence to show the legality of commodities to be traded in the market are required to be completed. Relevant regulatory agencies shall use this electronic customs declaration for their administrative purpose and shall not be allowed to request customs declarants to submit paper customs declarations.</p> <p>Customs authorities shall be responsible for providing information required in the customs declaration in the form of electronic data for relevant regulatory agencies. These agencies shall be responsible for installing necessary</p>	
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	<p>equipment for customs declarants to get access to the data provided in the electronic customs declaration.</p> <p>10. The Ministry of Finance shall set out detailed regulations on addition or cancellation of customs declaration, register one-time customs declaration or complete a new customs declaration for commodities of which the use purpose is changed or consumption market is changed to domestic one.</p> <p>- Decision No. 48/2011/QĐ-TTg of the Prime Minister</p>	
<p>Article 5</p> <p>Simplified Customs Formalities</p>		
<p>1. Each Party shall provide for simplified customs formalities that are transparent and efficient in order to reduce costs and increase predictability for economic operators, including for small and medium sized enterprises. Easier access to customs simplifications</p>	<p>- Article 4, Article 17, Article 24, Article 30, Article 33, Article 36, Article 37, Article 42 Customs Law 2014</p> <p>Article 4. Custom Law 2015</p> <p>Privilege given to enterprises</p> <p>1. Exemption from examination of</p>	<p>Assessment:</p> <p>Vietnam: full compliance, except to the requirement of SMEs accessibility to simplified mechanism.</p> <p>- Regarding to statutory requirements, SME could never satisfy the requirements of export and import turnover for simplified custom procedure</p>

<p>shall also be provided for authorised traders according to objective and non-discriminatory criteria.</p>	<p>relevant documentary evidence in customs documents and exemption from physical inspection of goods in the course of carrying out customs formalities, except cases in which law violation are detected or random inspection is needed to assess law compliance.</p> <p>2. Follow customs formalities with incomplete customs declarations or documentary evidence in substitution of customs declarations. Within 30 days from the date of registration of incomplete customs declarations or submission of documentary evidence in substitution of customs declarations, customs declarants shall submit complete customs declarations and relevant documentary evidence in customs documents.</p> <p>3. Be prioritized when carrying out tax formalities for goods in accordance with the law on taxation.</p>	<p>(The only way for SME to have the privilege is via enterprises rendering customs brokerage services)</p> <p>- As to the fact, according to Custom Authorities, up to July 2015, out of 50,000 importers/exporters, there were only 39 entities being granted with “simplified mechanism” (with total import/export turnover amounting to 25% total import/export value of Vietnam in 2015 as a whole). This means SMEs, with much smaller import/export turnover, could never be granted with “simplified mechanism”. Also from the Custom news, even the grantees are still facing with administrative burden during implementing simplified mechanism.</p> <p>Recommendation:</p> <p>- Consider to revise Article 10.4, Article 10.5, and Article 10.6 of Decree 08/2015/NĐ-CP on criterion of export and import turnover in order to reduce the annual import/export turnover to a average annual import/export turnover of the majority of SMEs;</p>
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	<p>Article 17 Customs Law 2014: Customs operating locations</p> <p>1. Customs operating locations include:</p> <p>a/ Areas of land border checkpoints, international railway stations, international civil airports; seaports and inland waterway ports where import, export, exit, entry and transit operations are conducted; areas where goods subject to customs supervision are stored, export processing zones and customs preference zones; customs clearance places, bonded warehouses, tax- suspension warehouses, international posts, head offices of customs declarants where post-customs clearance inspection is carried out; and places for inspection of imported and exported goods in the customs territory;</p> <p>b/ Other areas and places which</p>	<ul style="list-style-type: none"> - If it is unfeasible to revise law for general application as above recommended, adopt a Circular to guiding the application in the case of EU partners to meet EVFTA requirements and in long term, consider to revise law for general application.
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	<p>meet state management requirements and in which import, export and transit of goods and exit, entry and transit of vehicle are permitted as prescribed in Decisions of the Prime Minister.</p> <p>2. In customs operating locations, customs authorities are responsible for inspect, supervise and control goods and vehicle and handle violations against the law on customs in accordance with Vietnamese law and treaties to which the Socialist Republic of Vietnam becomes a party.</p> <p>3. The Government shall stipulate the scope of customs operating locations.</p> <p>Article 24 Customs Law 2014: Customs document</p> <p>1. A customs document comprises:</p> <p>a/ A customs declaration or documentary evidence in substitution;</p>	
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	<p>b/ Relevant documentary evidence.</p> <p>As the cases maybe, a customs declarant shall submit sale contract, commercial invoice, bill of lading, certificate of origin of goods, import or export permit, notice of specialized inspection results or exemption from specialized inspection, and documentary evidence related to goods as prescribed by corresponding regulations of law.</p> <p>2. Documents in customs documents may be paper or electronic documents. Electronic documents must ensure the integrity and format prescribed in regulations of law on e-transactions.</p> <p>3. Customs documents shall be submitted to customs authorities at their head offices.</p> <p>In case of application of the national single-window mechanism, specialized regulatory bodies shall</p>	
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	<p>send import or export permits and notices of specialized inspection results or exemption from specialized inspection in the electronic form via the integrated communication system.</p> <p>4. The Minister of Finance shall set the customs declaration form, use of customs declarations and documents in substitution of customs declarations, and cases in which relevant documents specified in Clause 1 of this Article must be submitted.</p> <p>Article 30 Customs Law 2014: Registration of customs declarations</p> <p>1. Methods of registration of customs declarations are prescribed as follows:</p> <p>a/ E-customs declarations shall be electronically registered;</p> <p>b/ Paper-customs declarations shall be registered directly with custom</p>	
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	<p>offices.</p> <p>2. Customs declarations may be registered after customs authorities accept the declaration of customs declarants. The registration date shall be stated in customs declarations.</p> <p>In case the registration of customs declaration is rejected, customs authorities shall provide explanation in writing or by electronic method to customs declarants.</p> <p>Article 33 Customs Law 2014: Physical inspection of goods</p> <p>1. The following goods are exempted from physical inspection:</p> <p>a/ Goods used for urgent demands;</p> <p>b/ Goods exclusively used for national defense and security purposes;</p> <p>c/ Goods used for other special cases as decided by the Prime Minister.</p> <p>2. If there is any violation is detected</p>	
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	<p>in goods as prescribed in Clause 1 of this Article, such goods shall be physically inspected.</p> <p>3. For goods other than those as prescribed in Clause 1 of this Article, physical inspection shall be conducted based on the application of risk management.</p> <p>4. Goods which are live animals or plants, hard to be preserved or other special goods shall be prioritized for inspection.</p> <p>5. Physical inspection of goods may be conducted by customs officials manually or with the aid of machines, technical equipment or by other professional measures.</p> <p>The physical inspection of goods shall be conducted in the presence of customs declarants or their legal representatives after customs declarations are registered and goods are transported to places of inspection, except the cases</p>	
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	<p>prescribed in Article 34 of this Law.</p> <p>6. The physical inspection of goods at places for joint inspection by Vietnamese customs authorities and customs authorities of neighboring countries shall be conducted under agreements between Vietnam and these countries.</p> <p>7. The Minister of Finance shall provide guidance on the physical inspection of goods.</p> <p>Article 36 Customs Law 2014: Release of goods</p> <p>1. Release of goods means permission for the export or import of goods by customs authorities when the following requirements are fully satisfied:</p> <p>a/ The goods fully meet the export or import requirements but the official payable tax amounts cannot be determined;</p> <p>b/ The customs declarants have paid</p>	
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	<p>taxes or have their declared and calculated payable tax amounts guaranteed by a credit institution.</p> <p>2. The time limit for determining the official payable tax amounts is within 30 days from the day on which the goods are released; for goods subject to assessment, this time limit shall be determined from the date of receipt of assessment results.</p> <p>3. If the customs declarants disagree with payable tax amounts determined by customs authorities, they have rights to lodge complaints. The lodging and settlement of complaints must comply with the Law on Complaints.</p> <p>Article 37 Customs Law 2014: Customs clearance for goods</p> <p>1. Goods shall be cleared from customs formalities after such formalities are completed.</p> <p>2. In case customs declarants have</p>	
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	<p>completed customs formalities, but have not paid or fully paid payable tax amounts within the regulated time limit, their goods may be cleared from customs formalities when they have such payable tax amounts guaranteed by a credit institution or enjoy a tax payment time limit in accordance with the tax law.</p> <p>3. In case goods owners are fined by customs authorities or competent regulatory bodies for their customs-related administrative violations and their goods are permitted for export or import, such goods may be cleared from customs formalities if the goods owners have paid the fines or have their payable fines guaranteed by a credit institution for implementing the fining decisions.</p> <p>4. For goods subject to inspection, analysis or assessment to determine whether or not they fully satisfy the export or import requirements,</p>	
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	<p>customs authorities shall permit customs clearance only after the goods are determined that to be eligible for export or import on the basis of inspection, analysis or assessment conclusions or inspection exemption notices of specialized inspection agencies in accordance with law.</p> <p>5. Goods used for urgent requirements; goods exclusively used for security and defense purposes; and diplomatic bags, consular bags and luggage of agencies, organizations or individuals entitled to privileges or immunities shall be cleared from customs formalities under Articles 50 and 57 of this Law.</p> <p>Article 42. Custom Law 2014 Requirements for application of the privilege</p> <p>1. An enterprise may enjoy the privilege when fully satisfying the</p>	
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	<p>following requirements:</p> <p>a/ Strictly observe the customs and law on taxation for 2 consecutive years;</p> <p>b/ Earn an annual export and import value reaching the prescribed level;</p> <p>c/ Carry out e-customs formalities and e-tax formalities; have an information technology program for managing its export and import activities connected with the customs authority's network;</p> <p>d/ Make via-bank payment;</p> <p>dd/ Have its internal control system;</p> <p>e/ Strictly observe accounting and audit regulations.</p> <p>2. Privileged enterprises in countries or territories that have signed with Vietnam agreements on mutual recognition of privileged enterprises may apply the privilege in accordance with this Law.</p> <p>3. The Government shall specify</p>	
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	<p>requirements and formalities for recognition, extension, suspension, stoppage, privilege and management of enterprises entitled to the privilege.</p> <p>- Section 2 Chapter III – Privilege given to enterprises of Customs Law 2014</p> <p>- Decree No. 08/2015/NĐ-CP</p> <p>- Circular No. 72/2015/TT-BTC of the Ministry of Finance dated 12th May 2015 regulating on application of priority policy in customs procedures, customs inspection and supervision for exported and imported goods of enterprises</p> <p>- Article 10, Article 11 Decree No. 08/2015/NĐ-CP</p> <p>Article 10 Decree No. 08/2015/NĐ-CP: Requirements for eligibility to be given priority</p> <p>1. Compliance with the law on</p>	
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	<p>customs and taxation</p> <p>Within a period of 02 consecutive years from the date on which enterprises file their applications for recognition of enterprises' eligibility for priority, these enterprises have not committed any of the following violations against the law on taxation and customs to an extent that punitive measures shall be applied:</p> <p>a) Tax evasion; tax fraud; goods smuggling and illicit trafficking across the border;</p> <p>b) Administrative violations which are committed in the form and on which penalty rates are imposed ultra vires the Head of Customs Sub-departments and others who hold the equivalent title.</p> <p>2. Compliance with the law on accounting and auditing:</p> <p>a) Conformity with accounting principles under regulations set out</p>	
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	<p>by the Ministry of Finance;</p> <p>b) Annual financial statements that must be audited by auditing companies that meet requirements for rendering auditing services under legal regulations on independent audit. An audit opinion about a financial statement as expressed in an audit report must be an unqualified opinion in accordance with Vietnam's Audit Standards.</p> <p>3. Internal audit:</p> <p>Enterprises must devise and maintain the system and process for managing, monitoring and controlling actual operations in all of their export and import supply chains.</p> <p>4. Export and import turnover:</p> <p>a) Export and import enterprises must record the turnover of USD 100 million per annum;</p> <p>b) Enterprises that export made-in-</p>	
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	<p>Vietnam products must record the turnover of USD 40 million per annum;</p> <p>c) Enterprises that export agricultural, aquatic products manufactured or cultivated in Vietnam must record the turnover of USD 30 million per annum;</p> <p>d) In respect of enterprises that render customs brokerage services, the number of customs declaration forms to be filled out under customs formalities in a year must equal 20,000 sheets per annum.</p> <p>The export and import turnover stipulated at Point a, b, c and d of this Clause must be the average turnover recorded over 02 consecutive years till the date on which enterprises file their applications, exclusive of the turnover recorded from entrusted export and import.</p> <p>5. Requirements relating to export</p>	
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	<p>and import turnover as stipulated in Clause 4 of this Article shall not be applied to enterprises licensed to be high-technology enterprises by the Ministry of Science and Technology in accordance with regulations laid down in the Law on High Technology.</p> <p>6. The Ministry of Finance shall consider giving priority to enterprises under regulations enshrined in Article 9 hereof on imports in order to execute key investment projects under the Prime Minister's directions before granting the investment licence to projects that enter the preliminary construction stage.</p> <p>Article 11 Decree No. 08/2015/NĐ-CP: Procedure</p> <p>1. Application for priority that an enterprise must file shall include the following documentation:</p> <p>a) The application form issued by</p>	
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	<p>the Ministry of Finance: 01 original;</p> <p>b) The comprehensive and statistical report on export and import operations of such enterprise that has been compiled over 02 latest years by completing the form issued by the Ministry of Finance: 01 original;</p> <p>c) The report on compliance with the Law on Customs, Taxation and Accounting that has been compiled over 02 latest years by completing the form issued by the Ministry of Finance: 01 original;</p> <p>d) The financial statement that has been audited over 02 latest years: 01 copy;</p> <p>dd) The audit report that has been compiled over 02 latest years: 01 copy;</p> <p>e) The inspection conclusion towards that enterprise's operations in over 02 latest years: 01 copy;</p>	
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	<p>g) The full description of internal control system including the process for managing, monitoring and controlling actual operations in all of that enterprise's export and import supply chains: 01 copy;</p> <p>h) Awards, certificates of merit, certificates of quality (if any): 01 copy.</p> <p>2. Verification and recognition of an enterprise's eligibility for priority</p> <p>a) Within a period of 30 days from the date on which sufficient documentation has been filed in accordance with regulations laid down in Clause 1 of this Article, the General Department of Customs shall carry out the verification and come to conclusion concerning the recognition of that enterprise's eligibility for priority.</p> <p>In complicated situations when consultation with relevant Ministries and agencies is required,</p>	
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	<p>the deadline for such verification is likely to be extended for below 30 days;</p> <p>b) Upon verifying that such enterprise is eligible for priority, the Director of the General Department of Customs shall make a decision on such enterprise's recognized priority.</p> <p>This decision shall remain valid for a period of 03 years from the decision-making date and automatically be extended for another 03 successive years provided that the enterprise sustains their conformity to regulatory requirements.</p> <p>3. Temporary suspension of priority given to an enterprise: If such enterprise is notified by customs authorities that they have yet to fulfill their responsibilities in accordance with Article 45 of the Customs Law, temporary suspension of priority decided by these customs</p>	
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	<p>authorities shall become effective for a period of 60 days.</p> <p>4. Cessation of priority given to an enterprise</p> <p>An enterprise shall be subject to cessation of priority if:</p> <p>a) That enterprise has not sustained their conformity to regulatory requirements for eligibility to be given priority as stipulated in Article 10 hereof;</p> <p>b) That enterprise continues failing to comply with regulations laid down in Article 45 of the Customs Law after the temporary suspension ends;</p> <p>c) That enterprise files an application for cessation of priority.</p> <p>If an enterprise is subjected to cessation of priority, the General Department of Customs shall not consider or give recognized priority to this enterprise.</p>	
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<p>2. A single administrative document or electronic equivalent shall be used for the purpose of completing the formalities connected with placing the goods under a customs procedure.</p>	<p>Custom Law</p> <p>Article 29. Customs declaration</p> <p>5. Customs declarants may submit incomplete declaration or documents in substitution of declaration for customs clearance and shall complete declaration forms within the time limit prescribed in Articles 43 and 50 of this Law, and may make a single customs declaration for multiple importation or exportation during a certain period of time for certain goods items.</p>	<p>Assessment:</p> <p>Vietnam law and regulations are in full compliance with EVFTA.</p> <p>In fact, this requirement of EVFTA is similar to the Kyoto Convention requirement that Vietnam is member and revised its law to implement years ago.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>
<p>3. The Parties shall apply modern customs techniques, including risk assessment and post- clearance audit methods in order to simplify and facilitate the entry and the release of goods.</p>	<p>- Article 8, Article 17, Article 77, Article 78 Customs Law 2014</p> <p>Article 8 Customs Law 2014: Customs modernization</p> <p>1. The State shall give priority to investment in modern technical equipment and facilities and advanced technologies to ensure the</p>	<p>Assessment:</p> <p>Vietnam custom law and regulation are in full compliance with EVFTA.</p> <p>However, the specific examination procedures over specific goods imported/exported under the management of specific authorities other than Custom have not use modern method yet (the authorities examine every shipments, no</p>

	<p>effective customs management; encourage entities to participate in developing advanced technologies and technical equipment to ensure the application of modern customs management methods. Entities involved in import and export are responsible for participating in developing and performing electronic transactions and electronic customs formalities.</p> <p>2. The system of technical standards for communication of electronic data and legal validity of electronic legitimate documents when following electronic customs formalities shall comply with the law on electronic transactions.</p> <p>Article 17 Customs Law 2014: Risk management in professional customs operations</p> <p>1. Customs authorities shall apply the risk management in deciding on customs inspection and supervision</p>	<p>electronic formalities, etc)</p> <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Need to review regulations on specific examination over specific goods within the scope of management of authorities other than Custom against this commitment of EVFTA
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	<p>of goods and vehicle; support the tackling of smuggling and illegal cross-border trafficking of goods.</p> <p>2. Risk management in customs operations shall include the collection and processing of customs information; establishment of criteria for and evaluation of customs declarants' adherence to the law, and classification of risks; and implementation of appropriate measures for customs management.</p> <p>3. For the purposes of serving the application of risk management to customs operations, Customs authorities shall manage and apply the communication system that automatically integrate and process data.</p> <p>4. The Minister of Finance shall establish criteria for evaluation of customs declarants' adherence to the regulations of law, classify risks and apply risk management to</p>	
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	<p>customs operations.</p> <p>Article 77 Customs Law 2014: Post-customs clearance inspection</p> <p>1. Post-customs clearance inspection means inspection carried out by customs authorities of customs documents, accounting books and documents and goods-related documents and data; and a physical inspection of goods where necessary and requirements which are required to meet after such goods are granted clearance.</p> <p>Post-customs clearance inspection aims to assess the accuracy and truthfulness of documents and dossiers that are declared, submitted and produced by customs declarants to customs authorities; and observance by customs declarants of the law on customs and other laws related to the management of imported and exported goods.</p>	
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	<p>2. Post-customs clearance inspection shall be caused out at customs authorities or premises of customs declarants.</p> <p>Premises of customs declarants include their head offices, branches, stores and goods production and preservation establishments.</p> <p>3. The time limit for post-customs clearance inspection is 5 years from the day on which of customs declaration registration.</p> <p>Article 78 Customs Law 2014: Cases of post-customs clearance inspection</p> <p>1. Inspection in case there are violation of the law on customs and other laws relevant to the management of imported and exported goods.</p> <p>2. In cases other than those as prescribed in Clause 1 of this Article, post-customs clearance inspection</p>	
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	<p>shall be carried out based on the application of risk management.</p> <p>3. Inspection of law observance by customs declarants.</p> <p>- Article 7, Article 12, Article 13, Article 15 Decree No. 08/2015/NĐ-CP</p> <p>Article 7 Decree No. 08/2015/NĐ-CP: Implementation of national single-window system</p> <p>1. Customs declarants shall make their customs declaration and submit electronic documents in order to follow customs and administrative procedures that regulatory agencies stipulate in relation to exports or imports through an integrated information system (hereinafter referred to as national single-window portal). Time for making their customs declaration and submitting electronic documents shall be identified in accordance with</p>	
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	<p>regulations laid down in Laws on specialized management and guiding documents on implementing such laws.</p> <p>2. Regulatory agencies shall receive and handle information provided by customs declarants; respond with the handling result to customs declarants; exchange the declared information under administrative procedures and the result of such information with other regulatory agencies through the national single-window portal.</p> <p>3. Customs declarants shall receive the handling result from regulatory agencies through the national single-window portal.</p> <p>4. Customs authorities shall take a look at the handling result from regulatory agencies to make a final decision about export, import clearance, customs transit, and respond with their handling result to</p>	
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	<p>customs declarants through national single-window portal</p> <p>Article 13 Decree No. 08/2015/NĐ-CP: Application of risk management to customs-related professional activities</p> <p>1. Customs authorities shall carry out their customs supervision and inspection, post-clearance audit, inspection and other professional approaches on the basis of aggregating and dealing with the results of evaluating customs declarant's compliance with laws and classifying risk levels.</p> <p>2. The Director of the General Department of Customs shall use the result of aggregating and dealing with the results of evaluating customs declarant's compliance with laws and classifying risk levels, mentioned in Clause 1 of this Article in accordance with criteria promulgated by the Ministry of</p>	
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	<p>Finance, as the basis for taking a decision or delegating authority to take a decision on customs examination, supervision, post-clearance audit, inspection and other customs-related professional approaches in conformity with human resource and actual requirements concerning customs management</p> <p>Article 15 Decree No. 08/2015/NĐ-CP: Classification of risk levels</p> <p>Article 25 Decree No. 08/2015/NĐ-CP: Customs declaration shall be carried out in the electronic, unless provided otherwise.</p>	
4. The Parties shall promote the progressive development and use of systems, including those based upon Information Technology, to facilitate the electronic exchange of data between traders, customs	<p>- Article 8, Article 24 Customs Law</p> <p>Article 8 Customs Law Customs modernization</p> <p>Article 24 Customs Law Customs document</p>	<p>Assessment:</p> <p>Vietnam has made efforts to promote electronic customs formalities via the mechanism of national one stop shop.</p> <p>Therefore, in principle, full compliance.</p>

<p>administrations and other related agencies.</p>	<p>3. Customs documents shall be submitted to customs authorities at their head offices.</p> <p>In case of application of the national single-window mechanism, specialized regulatory bodies shall send import or export permits and notices of specialized inspection results or exemption from specialized inspection in the electronic form via the integrated communication system.</p> <p>- Decree No. 08/2015/NĐ-CP</p> <p>Article 7 Decree No. 08/2015/NĐ-CP: Implementation of national single-window system</p> <p>1. Customs declarants shall make their customs declaration and submit electronic documents in order to follow customs and administrative procedures that regulatory agencies stipulate in relation to exports or imports through an integrated information</p>	<p>However, national one stop shop need to develop from trying application to full and general application,</p> <p>Recommendation:</p> <p>Continue to technically implement EVFTA commitments.</p>
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	<p>system (hereinafter referred to as national single-window portal). Time for making their customs declaration and submitting electronic documents shall be identified in accordance with regulations laid down in Laws on specialized management and guiding documents on implementing such laws.</p> <p>2. Regulatory agencies shall receive and handle information provided by customs declarants; respond with the handling result to customs declarants; exchange the declared information under administrative procedures and the result of such information with other regulatory agencies through the national single-window portal.</p> <p>3. Customs declarants shall receive the handling result from regulatory agencies through the national single-window portal.</p>	
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	<p>4. Customs authorities shall take a look at the handling result from regulatory agencies to make a final decision about export, import clearance, customs transit, and respond with their handling result to customs declarants through national single-window portal.</p> <p>- Joint Circular No. 98/2010/TTLT/BTC-BNNPTNT-BYT of the Ministry of Finance, the Ministry of Agriculture, and Rural development and the Ministry of Health dated 8th Jul 2010 on guiding the provision and exchange of information relating to taxpayers and the state management of customs, agriculture and health.</p>	
<p>Article 6</p> <p>Transit and Transhipment</p> <p>1. Each Party shall ensure the facilitation and effective control of transhipment operations and transit movements through their</p>	<p>- Article 12, Article 14, Article 16, Article 38, Article 39, Article 56, Article 64, Article 68, Article 69, Article 65 Customs Law 2014</p> <p>Article 12 Customs Law 2014: Tasks of the customs service</p>	<p>Assessment:</p> <p>Vietnam has relevant provisions which meet EVFTA requirements.</p> <p>However, EVFTA commitments underline “real effectiveness” which go beyond simple legal provisions (‘implementation effectiveness’,</p>

<p>respective territories.</p> <p>2. Each Party shall ensure cooperation and coordination between all concerned authorities and agencies in their respective territories to facilitate traffic in transit.</p>	<p>Vietnam Customs shall inspect and supervise goods and vehicle; tackle smuggling and illegal cross-border trafficking of goods; implement laws on taxation applied to imported and exported goods; release statistics on imported and exported goods in conformity with this Law and other corresponding laws; propose policies and administrative measures for customs applicable to import, export, exit, entry and transit operation and tax policies applicable to imported and exported goods.</p> <p>Article 14 Customs Law 2014: Organization of the customs service</p> <p>1. The organization of Vietnam Customs comprises:</p> <p>a/ The General Department of Customs;</p> <p>b/ Customs Departments of provinces;</p>	<p>‘facilitation’, ‘effective control’). Meanwhile, there are still many limitations and shortcoming in the implementation of custom law.</p> <p>Recommendation:</p> <p>Continue the effort of administrative reform</p>
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	<p>c/ Sub-department of Customs Sub-Departments, Customs control team and equivalent units.</p> <p>2. According to quantities, scale and characteristics of import, export, exit, entry and transit and socio-economic conditions of each administrative division, the Government shall to regulates requirements for establishment of Customs Departments; and specify the organization, tasks and operation of customs authorities.</p> <p>Article 16 Customs Law 2014: Rules of following customs formalities, inspection and supervision</p> <p>1. Goods and vehicle must be undergone customs formalities, subject to customs inspection and supervision; carried in the proper routes and passed through border checkpoints or other places on schedule as prescribed in</p>	
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	<p>regulations and laws.</p> <p>2. Customs inspection and supervision shall be conducted on the basis of applying the risk management in order to ensure effectiveness and efficiency of state management of customs and facilitate import, export, exit, and entry and transit operation.</p> <p>3. Goods may enjoy customs clearance and vehicle may be permitted for exit or entry after going through customs formalities.</p> <p>4. Customs formalities shall be carried out in a public, quick and convenient manner and in accordance with law.</p> <p>5. The arrangement of manpower and working time must meet the requirements of import, export, exit, entry and transit activities.</p> <p>Article 38 Customs Law 2014: Objects, methods and duration of customs supervision</p>	
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	<p>1. Objects of customs supervision include goods, vehicle and domestic vehicle which transport goods currently subject to customs supervision.</p> <p>2. Customs supervision shall be conducted by the following methods:</p> <p>a/ Customs sealing;</p> <p>b/ Direct supervision by customs officials;</p> <p>c/ Use of technical devices and equipment.</p> <p>3. According to risk analysis and assessment results and other information relating to objects of customs supervision, customs authorities shall decide appropriate methods of supervision. When detecting law violation, customs authorities shall conduct physical inspection of goods.</p> <p>4. Duration of customs supervision:</p> <p>a/ Imported goods shall be subject</p>	
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	<p>to customs supervision from the day on which they arrive at customs operating locations until they are granted clearance, released and brought out of these areas;</p> <p>b/ Exported goods exempt from physical inspection shall be subject to customs supervision from the day on which they are granted clearance until they are brought out of customs operating locations. Exported goods subject to physical inspection shall be subject to customs supervision from the day on which the physical inspection starts until the goods are brought out of customs operating locations;</p> <p>c/ Goods in transit shall be subject to customs supervision from the day on which they arrive at the first border checkpoint of importation until they are brought out of the last border checkpoint of exportation;</p> <p>d/The duration of customs</p>	
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	<p>supervision applied to vehicle must comply with Article 68 of this Law.</p> <p>Article 39 Customs Law 2014: Responsibilities of customs authorities in customs supervision</p> <ol style="list-style-type: none"> 1. Apply appropriate methods of supervision which facilitate export, import, exit, entry and transit activities and ensure customs management of goods in accordance with this Law. 2. Use technical devices and equipment ensuring customs supervision in accordance with this Law. 3. Guide and examine customs declarants, port, and depot operation enterprises, export producers and related parties in their observance of regulations on customs supervision. <p>Article 56 Customs Law 2014: Customs inspection and supervision of goods on vehicle</p>	
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	<p>1. Goods being articles on vehicle are not required to follow customs formalities but are subject to customs inspection and supervision.</p> <p>2. Goods purchased from vehicle on entry must follow customs formalities like imported goods.</p> <p>3. Goods supplied to serve vehicle on exit or in transit must follow customs formalities like exported goods.</p> <p>Article 64 Customs Law 2014: Customs formalities for goods transported under customs supervision</p> <p>1. Goods transported under customs supervision include transited goods and goods transported from border checkpoint to border checkpoint.</p> <p>2. When transporting goods subject to customs supervision, customs declarants shall complete goods transportation declaration forms;</p>	
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	<p>submit the documents specified at Point b, Clause 1, Article 24 of this Law.</p> <p>3. Customs authorities shall receive goods transportation declaration forms, check documents and goods produced by customs declarants to decide to permit the transportation of goods subject to customs supervision.</p> <p>4. In the course of transporting goods under customs supervision, if customs declarants wish to transship, warehouse or divide shipments, change the transportation mode or perform other jobs, they shall notify such to customs authorities and obtain their approval before implementation. Customs authorities shall reply within two hours after receiving customs declarant's notices.</p> <p>Article 65 Customs Law 2014: Transportation routes and</p>	
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	<p>duration</p> <ol style="list-style-type: none"> 1. Goods under customs supervision must be transported along proper routes, through proper border checkpoints and within proper time limit. 2. Routes for transportation of transited goods are prescribed in regulations of the Minister of Transport. 3. Routes for transportation of goods from border checkpoint to border checkpoint are registered by customs declarants and accepted by customs authorities that receive and process customs documents. <p>Article 68 Customs Law 2014: Routes and duration subject to customs supervision for vehicle</p> <ol style="list-style-type: none"> 1. Foreign commercial vehicle on entry, exit or in transit must go along the proper routes, be subject to customs supervision from day on which they arrive at customs 	
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	<p>operating locations, during their movement and to the day on which they leave the Vietnamese territory.</p> <p>2. Vietnamese commercial vehicle on entry must be subject to customs supervision from the day on which they arrive at customs operating locations to day on which all imported goods carried by the vehicle are unloaded for import procedure completion.</p> <p>Vietnamese commercial vehicle on exit must be subject to customs supervision from the day on which the exported goods are loaded to the day on which they leave the Vietnamese territory.</p> <p>3. Non-commercial vehicle on entry, exit or in transit must be subject to customs inspection and supervision when carrying out customs formalities at entry or exit border checkpoints or other places as prescribed.</p>	
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	<p>4. When there are reasonable grounds that smuggled goods are hidden on board vehicle and there are other signs of law violation, heads of customs authorities where customs formalities for vehicle are carried out, heads of customs control squads may decide to temporarily postpone the departure or stop the vehicle for search. Such search must comply with law and decision issuers shall take responsibility before law for their decisions.</p> <p>Article 69 Customs Law 2014: Customs formalities for vehicle</p> <p>1. When carrying out customs formalities for vehicle, owners and drivers of vehicle or persons authorized by owners of vehicle shall make customs declaration; submit or produce bills of lading for carrying out customs formalities;</p>	
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	<p>supply information and documents related to goods and items on vehicle.</p> <p>Where relevant documents have satisfied requirements of the customs inspection, owners and drivers of vehicle or persons authorized by owners of vehicle are not required to fill in the customs declarations, except for baggage, imported or exported goods of people on exit or entry aboard their vehicle.</p> <p>2. Time limits for declaration and submission of customs declarations and relevant documents are prescribed as follows:</p> <p>a/ For vehicle in transit, immediately after their arrival at the first entry border checkpoint and before they go through the last border checkpoint for exit;</p> <p>b/ For seagoing vehicle on entry, within 2 hours after the port</p>	
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	<p>authorities announce that these vehicle have arrived at the places for pilot embarkation; for seagoing vehicle on exit, within 1 hour before they exit;</p> <p>c/ For air vehicle on exit or entry, immediately after their arrival at the border checkpoint and before carriers stop carrying out formalities for receiving exported goods and passengers on exit;</p> <p>d/ For railway, land and river way vehicle on exit or entry, immediately after their arrival at the first entry border checkpoint and before they go through the last border checkpoint for exit.</p> <p>3. Military vehicles and other vehicle used for national defense and security purposes must go through customs formalities and be subject to customs inspection and supervision.</p> <p>4. The Government shall stipulate</p>	
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	<p>customs formalities and customs inspection and supervision of vehicle.</p> <p>- Chapter VII Decree No. 187/2013/NĐ-CP of the Government dated 20 Nov 2013 on detailing the implementation of the commercial law regarding international goods sale and purchase and goods sale, purchase, processing and transit agency activities with foreign countries.</p> <p>- Article 10 Circular No. 04/2014/TT-BCT of the Ministry of Industry and Trade dated 27 Jan 2014 on elaborating the implementation of the Government's Decree No. 187/2013/NĐ-CP.</p> <p>Article 10. Transit of goods through Vietnam</p> <p>1. The transit of goods through Vietnam must comply with Chapter VII of the Decree No. <u>187/2013/ND-</u></p>	
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	<p><u>CP</u></p> <p>2. The transit of goods of China, Laos, and Cambodia through Vietnam must respectively comply with:</p> <p>a) The Decision No. <u>0305/2001/QĐ-BTM</u> dated March 26, 2001 of the Ministry of Commerce (now the Ministry of Industry and Trade), which promulgates the Regulation on transit of goods of China through Vietnam.</p> <p>b) The Decision No. <u>22/2009/TT-BCT</u> dated August 04, 2009 of the Minister of Industry and Trade on transit of goods of Laos through Vietnam.</p> <p>c) The Decision No. <u>08/2009/TT-BCT</u> dated May 11, 2009 of the Minister of Industry and Trade on transit of goods of Cambodia through Vietnam.</p>	
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<p>Article 7</p> <p>Risk Management</p> <p>1. Each Party shall base its examination and release formalities and its post-clearance audit formalities on risk assessment principles and audits, rather than examining each shipment in a comprehensive manner for compliance with all import requirements.</p> <p>2. The Parties agree to adopt and apply their import, export, transit and transshipments control requirements and formalities for goods on the basis of risk management principles, to be applied to focus compliance measures on transactions that merit attention.</p>	<p>- Article 16, Article 17, Article 31, Article 33.3, Article 38.3 Customs Law 2014</p> <p>Article 16 Customs Law 2014: Rules of following customs formalities, inspection and supervision</p> <p>1. Goods and vehicle must be undergone customs formalities, subject to customs inspection and supervision; carried in the proper routes and passed through border checkpoints or other places on schedule as prescribed in regulations and laws.</p> <p>2. Customs inspection and supervision shall be conducted on the basis of applying the risk management in order to ensure effectiveness and efficiency of state management of customs and facilitate import, export, exit, and entry and transit operation.</p> <p>3. Goods may enjoy customs</p>	<p>Assessment:</p> <p>Vietnam custom law and regulation are in full compliance with EVFTA.</p> <p>However, the specific examination procedures over specific goods imported/exported under the management of specific authorities other than Custom have not use modern method yet (the authorities examine every shipments, no electronic formalities, etc)</p> <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Need to review regulations on specific examination over specific goods within the scope of management of authorities other than Custom against this commitment of EVFTA
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	<p>clearance and vehicle may be permitted for exit or entry after going through customs formalities.</p> <p>4. Customs formalities shall be carried out in a public, quick and convenient manner and in accordance with law.</p> <p>5. The arrangement of manpower and working time must meet the requirements of import, export, exit, entry and transit activities.</p> <p>Article 17 Customs Law 2014: Risk management in professional customs operations</p> <p>1. Customs authorities shall apply the risk management in deciding on customs inspection and supervision of goods and vehicle; support the tackling of smuggling and illegal cross-border trafficking of goods.</p> <p>2. Risk management in customs operations shall include the collection and processing of customs information; establishment of</p>	
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	<p>criteria for and evaluation of customs declarants' adherence to the law, and classification of risks; and implementation of appropriate measures for customs management.</p> <p>Article 31 Customs Law 2014: Grounds and competence for decision on customs inspection</p> <p>According to results of risk analysis and assessment, and information relating to the goods, heads of customs authorities processing customs documents shall decide examination of customs documents and physical inspection of goods.</p> <p>Article 33 Customs Law 2014: Physical inspection of goods</p> <p>1. The following goods are exempted from physical inspection:</p> <p>a/ Goods used for urgent demands;</p> <p>b/ Goods exclusively used for national defense and security purposes;</p>	
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	<p>c/ Goods used for other special cases as decided by the Prime Minister.</p> <p>2. If there is any violation is detected in goods as prescribed in Clause 1 of this Article, such goods shall be physically inspected.</p> <p>3. For goods other than those as prescribed in Clause 1 of this Article, physical inspection shall be conducted based on the application of risk management.</p> <p>Article 38 Customs Law 2014: Responsibility of customs authorities</p> <p>3. Receive financial reports on current use of raw materials, machinery, equipment and exports, submitted by organizations or individuals; handle issues relating to taxes levied on specific forms of importation of raw materials, machinery and equipment used for production of exports.</p>	
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	<p>- Decree No. 08/2015/NĐ-CP</p> <p>Article 13 Decree No. 08/2015/NĐ-CP: Application of risk management to customs-related professional activities</p> <p>1. Customs authorities shall carry out their customs supervision and inspection, post-clearance audit, inspection and other professional approaches on the basis of aggregating and dealing with the results of evaluating customs declarant's compliance with laws and classifying risk levels.</p> <p>Article 15 Decree No. 08/2015/NĐ-CP: Classification of risk levels</p> <p>1. Classifying levels of risk incurred from export, import, exit, entry or transit shall be carried out on the basis of the degree of customs declarant's compliance with laws.</p> <p>2. In the process of risk level</p>	
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	<p>classification, customs authorities shall consider related factors such as:</p> <ul style="list-style-type: none"> a) Managerial and tax policies applied to exports, imports, in-transit goods, outgoing, incoming and in-transit transports, baggage that inbound, outbound and in-transit persons carry; b) Nature and attributes of cargos, baggage and transports; c) Frequency, nature and severity of violation pertaining to cargos, baggage and transports; d) Origin of exports, imports or in-transit cargos; dd) Route and mode of transportation of cargos and baggage; e) Other factors relating to export, import, entry, exit or transit activities. <p>3. Customs authorities shall evaluate</p>	
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	and classify risks imposed on customs declarants, export, import, exit, entry or transit according to different levels in order to apply proper measures for customs examination, supervision and inspection.	
<p>Article 8</p> <p>Transparency</p> <p>1. Each Party shall ensure that its customs and other trade-related laws, regulations and general administrative formalities and other requirements, including fees and charges, are readily available to all interested parties and where feasible and possible, official website.</p> <p>2. Each Party shall designate or maintain one or more inquiry or information points to address inquiries within a reasonable time by interested persons concerning</p>	<p>- Law on Promulgation of Legal documents</p> <p>Article 150 Law on Promulgation of Legal documents: Publishing legislative documents on Official Gazette</p> <p>1. Legislative documents of central regulatory agencies must be published on Official Gazette of Socialist Republic of Vietnam, except for those that contain state secrets.</p> <p>4. Within 03 days from the publishing or signing date, the agency or person competent to promulgate legislative documents must send the document to the</p>	<p>Assessment:</p> <p>1. About publication: In full compliance</p> <ul style="list-style-type: none"> - All legislations shall be published on Official Gazette. - All concerned legislations are published on Vietnam National Single Window; the website of the General Department of Vietnam Customs, the websites of the local departments of customs, and the website of some ministries - No single Portal providing all legislations relating to/governing the import-export procedures (both customs legislations and legislations on the specific examinations over imported/exported goods)

<p>customs and other trade-related matters.</p>	<p>regulatory of Official Gazette (Vietnam News Agency) for publishing or publicly posting.</p> <p>Vietnam News Agency shall publish the legislative document in full on the Official Gazette within 15 days if it is promulgated by a central regulatory agency or 07 days if it is promulgated by the People's Council or the People's Committee of a province or local government of a administrative - economic unit from the day on which the document is received.</p> <p>Article 157 Law on Promulgation of Legal documents: Posting and publishing legislative documents</p> <p>Legislative documents promulgated by central regulatory agencies, the People's Councils and the People's Committees must be posted in full on the national legal database within 15 days from the day on which they are announced or signed and</p>	<p>2. Vietnam: There is no legal requirements of establishing and maintaining customs enquiry points (except the general provision of compulsory responsibilities to answer customs-related questions under Decree No. 66/2008/NĐ-CP). However, in fact, a lot of customs enquiry points were established:</p> <ul style="list-style-type: none"> - Consultation section on the official website of the General Department of Vietnam Customs, and local departments. - Other customs enquiry points under administrative internal rules of customs. - Online support section in the National Single Window website; and - Other enquiries points established under the administrative internal rule of governing ministries. <p>All of the above consultations are free of charge.</p> <p>Thus, full compliance.</p> <p>3. With regard to address inquiries within a reasonable time</p>
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	<p>published on the media, except for those that contain state secrets according to regulations of law on state secrets.</p> <p>Legislative documents posted on the national legal database are official.</p> <p>- Article 19.2, Article 93, Article 94, Article 95 Customs Law 2014</p> <p>Article 19.2 Customs Law 2014: Customs officials have tasks and entitlements to instruct customs declarants and related entities on requests.</p> <p>Article 93 Customs Law 2014: Customs communication</p> <p>Customs communication shall be collected, archived, managed and used for carrying out customs formalities; making statistics on imported and exported goods; applying the risk management in professional customs operations and post-customs clearance inspection; tackling smuggling and illegal cross-</p>	<p>There is no compulsory mechanism of custom enquiries points, therefore, 'reasonable time' is hard to be determined.</p> <p>Recommendation:</p> <ol style="list-style-type: none"> 1. With regard to publication of legislations: No revision to current legal framework recommended 2. With regard to customs enquiry points: Consider to pay attention to Vietnam's commitments under the Trade Facilitation Agreement of WTO. Consider to build-up a Decree on transparency and consultation of customs formalities including at least one article providing that: <ul style="list-style-type: none"> - Compulsory customs enquiry point(s) in each local customs authorities. - Each customs enquiry points should meet the requirements under Point 3.1 Article 1 of TFA. It is recommended to expand the function of each enquiry point to regularly update information as provided under Point 1.1 Article 1 of TFA.
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	<p>border transportation of goods.</p> <p>Article 94 Customs Law 2014: Customs communication system</p> <p>1. The customs communication system consists of:</p> <p>a/ Database on the communication system;</p> <p>b/ Technical infrastructure on the communication system.</p> <p>2. The customs communication database contains:</p> <p>a/ Information on imported, exported and transited goods;</p> <p>b/ Information on vehicles on exit or entry or in transit;</p> <p>c/ Information on entities involved in import or export activities, on exit or entry or in transit;</p> <p>d/ Other information related to professional operations of customs authorities.</p>	<p>- Specialized governing authorities should have responsibilities to provide information and cooperate with each customs enquiry point.</p> <p>This enquiry point is expected to be the hub for all information on customs and related legislations.</p>
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	<p>3. The customs communication database shall be managed in a centralized and uniform manner. The General Department of Customs shall set up, manage and develop the database and technical infrastructure of the customs communication system by updating and integrating information and data of the entire customs service; connect and share information and data with the communication systems of entities outside the customs service, customs authorities of other countries and international organizations in accordance with Vietnamese law and treaties to which the Socialist Republic of Vietnam becomes a party.</p> <p>Customs authorities shall apply measures to keep confidential information and prevent illegal access to the customs communication system.</p>	
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	<p>Article 95 Customs Law 2014: Collection and provision of customs communication in the country</p> <p>1. Customs authorities shall organize the collection of information from the following sources:</p> <p>a/ Customs operations;</p> <p>b/ Ministries and related ministerial-level agencies;</p> <p>c/ Entities involved in or related to production, import and export activities, on exit or entry or in transit;</p> <p>d/ Other sources of information.</p> <p>2. Responsibilities and entitlements of customs authorities in the collection and provision of customs communication:</p> <p>a/ Receive and provide information to customs declarants;</p> <p>b/ Establish and implement the mechanism for cooperation in the</p>	
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	<p>exchange and provision of information to functional agencies of related ministries and ministerial-level agencies;</p> <p>c/ Apply measures and professional techniques to collect information;</p> <p>d/ Request entities to provide information related to import, export, exit, entry and transit activities;</p> <p>dd/ Access other related sources of information.</p> <p>3. Rights and responsibilities of agencies, entities in providing customs communication:</p> <p>a/ Entities may request customs authorities to provide customs communication related to their rights and obligations;</p> <p>b/ Ministries and related ministerial-level agencies shall provide information related to import, export, exit, entry and</p>	
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	<p>transit activities to customs authorities;</p> <p>c/ Entities involved in or related to import, export, exit, entry and transit activities shall provide information to customs authorities in accordance with this Law and other corresponding regulations of law.</p> <p>4. The Government shall provide guidance on this Article.</p> <p>- Decree No. 66/2008/NĐ-CP on legal aid for enterprises</p> <p>Article 10 provided that the answering of law inquiries of enterprises is made in the following forms: (1) written answer; (2) online answer; (3) face-to-face or phone answers; and (4) other formes of communication as specified by law.</p> <p>- Internal Rule No 1915/QĐ-TCHQ dated 17/10/2007 of the General Department of Vietnam Customs</p>	
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	(internal administrative application only)	
<p>Article 9</p> <p>Advance Rulings</p> <p>1. Upon written request from traders each Party shall issue, through its customs authorities, prior to the importation of a good into its territory written advance rulings, in accordance with the parties' laws and regulations, on tariff classification or any other matter as the Parties may agree upon.</p> <p>2. Subject to any confidentiality requirements in its law each Party shall publish, e.g. on the Internet, its advance rulings on tariff classification and any matters as the Parties may agree upon.</p> <p>3. To facilitate trade, the Parties shall include in their bilateral dialogue regular updates on changes in their respective</p>	<p>- Article 4.26, Article 14.16, Article 18.1, Article 18.2, và Article 28</p> <p>Customs Law 2014</p> <p>Article 4 Customs Law 2014: Interpretations of term</p> <p>26. Prior determination of customs codes, origin and value means determination by customs authorities of HS codes, origin before carrying out customs formalities.</p> <p>Article 18 Customs Law 2014: Rights and obligations of customs declarants</p> <p>1. A customs declarant shall have rights to:</p> <p>a/ Be provided by customs authorities with information about customs declaration for goods, vehicle, guidance on carrying out customs formalities, and laws on</p>	<p>Assessment:</p> <p>1. Vietnam: full compliance, including:</p> <ul style="list-style-type: none"> - Advance rulings mechanism (three issues could be applied advance rulings, going beyond EVFTA requirements) - Mechanism to publish results of advance rulings on internet. <p>2. Issues provided under Article 9.3 are out of the scope of domestic legislations.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

<p>legislation on advance rulings.</p>	<p>customs;</p> <p>b/ Request customs authorities to predetermine HS codes, origin and customs value of goods when providing sufficient and accurate information to customs authorities;</p> <p>c/ Preview goods, take samples of the goods under the supervision of customs officials before making customs declaration in order to ensure accurate customs declaration;</p> <p>d/ Request customs authorities to re-verify goods if they disagree with customs authorities' decisions provided that such goods have not been granted clearance;</p> <p>dd/ Use customs documents for customs clearance or good transportation or following related formalities at other competent agencies in accordance with law;</p> <p>e/ Make complaints and denunciations about illegal acts</p>	
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	<p>against customs authorities and customs officials;</p> <p>g/ Claim compensation for damage caused by customs authorities and customs officials in accordance with the law on State compensation liability.</p> <p>2. Customs declarants who are owners of goods or vehicle shall have obligations to:</p> <p>a/ Make customs declarations and follow customs formalities in accordance with this Law;</p> <p>b/ Provide sufficient and accurate information in order for customs authorities to predetermine HS codes, origin and customs value of goods;</p> <p>c/ Take legal responsibility for the authenticity of statement declared and documentary evidence submitted; information consistency between dossiers kept at enterprises and dossiers kept at customs</p>	
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	<p>authorities;</p> <p>d/ Follow decisions and requests of customs authorities and customs officials during conducting customs formalities, inspection and supervision of goods and vehicle;</p> <p>dd/ Keep customs documents records of goods which are granted clearance within 05 years from the day on which the declaration of such goods is register, unless otherwise provided by law; keep accounting books and documentary evidence and other documents related to imported and exported goods which are granted clearance for a time limit in accordance with law; submit related dossiers, information and documents for verification at the request of customs authorities as prescribed in Articles 32, 79 and 80 of this Law;</p> <p>e/ Dispose manpower and equipment to perform relevant jobs</p>	
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	<p>in order for the customs officials verify goods and vehicle;</p> <p>g/ Pay taxes and fulfill other financial liabilities in accordance with the laws on taxes, charges and fees and other corresponding regulations of laws.</p> <p>Article 28 Customs Law 2014: Predetermination of HS codes, origin and customs value of goods</p> <p>1. In case customs declarants request customs authorities to predetermine HS codes, origin and customs value of goods to be imported or exported, they shall provide relevant information and documents and samples of goods to be imported or exported to customs authorities for predetermination of HS codes, origin and customs value of goods.</p> <p>In case of failure to provide samples of goods to be imported or exported, customs declarants shall provide</p>	
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	<p>technical documents related to such goods.</p> <p>2. According to regulations of law on good classification, origin and customs value and relevant information and documents provided by customs declarants, the Customs authorities shall predetermine HS codes, origin, and customs value of goods and notify in writing customs declarants of results of predetermination. In case of failure to predetermine at the request of customs declarants, customs authorities shall notify such to customs declarants or request customs declarants to provide additional documents.</p> <p>3. Within 60 days after receiving notices of predetermination results, if customs declarants disagree with such results, they may request customs authorities to reconsider such results. Customs authorities shall reconsider predetermination</p>	
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	<p>results and notify them to customs declarants within regulated time limit.</p> <p>4. Notices of predetermination results are legally valid for customs authorities to carry out customs formalities for goods are imported or exported in conformable with relevant information and documents and goods samples provided by customs declarants.</p> <p>5. The Government shall specify conditions, formalities and time limit for prior identification of customs codes, origin and value; time limit for settlement of requests for reconsideration of prior identification results; and validity duration of documents on prior identification prescribed in this Article.</p> <p>- Article 24 Decree No. 08/2015/NĐ-CP</p>	
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	<p>Article 24. Procedures for pre-determination of code, origin and customs value</p> <p>1. Requirements for pre-determination of code, origin and customs value</p> <p>a) Organizations, individuals shall request customs authorities to pre-determine code, origin and customs value of proposed exports and imports, and provide necessary information, documents and records concerning the pre-determination of code, origin and customs value;</p> <p>b) Exports and imports of which customs values need to be pre-determined are commodities that are exported and imported for the first time, or affected by any substantial or unexpected change compared with the customs value currently applied to customs declarant's commodities, or cargos which are shipped as break bulk</p>	
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	<p>cargos or deemed unpopular or have no comparable or similar ones launched in the market.</p> <p>2. Responsibility of organizations, individuals for requesting the pre-determination of code, origin and customs value:</p> <p>a) File sufficient documents required to apply for the pre-determination of code, origin and customs value to the General Department of Customs;</p> <p>b) Enter into a dialogue with the customs authority in order to clarify information provided in the application for the pre-determination of code, origin and customs value at the request of that customs authority;</p> <p>c) Send a written notification to the General Department of Customs within a period of 10 working days as from the date when any change to commodities of which the application for the pre-</p>	
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	<p>determination of code, origin and customs value has been filed, in which the modified content, reasons for such change and change-making date must be clearly stated.</p> <p>3. Responsibility of the General Department of Customs:</p> <p>a) Within 05 working days of receipt of the application, the customs authority shall respond with the written refusal of the pre-determination of code, origin and customs value to organizations, individuals in the event that applicants fail to meet regulatory requirements and submit sufficient documents required to apply for the pre-determination of code, origin and customs value;</p> <p>b) The Director of the General Department of Customs shall issue the written announcement about the result of predetermination of code, origin and customs value within 30</p>	
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	<p>days of receipt of sufficient documents (with regard to normal applications) or 60 days of receipt of sufficient documents (with regard to complicated applications that need to be carefully authenticated). The written announcement about the result of pre-determination of code, origin and customs value must be sent to organizations, individuals, and concurrently used for keeping the database managed by customs authorities up to date, and released on the official website of the General Department of Customs.</p> <p>4. The written announcement about the result of pre-determination of code, origin and customs value shall serve as the basis for customs declaration according to the customs procedures.</p> <p>In case organizations, individuals disagree over the statement on pre-determination of code, origin and customs value of their commodities</p>	
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	<p>required to undergo customs clearance, released by the Director of the General Department of Customs, their self-assessed taxes must be paid or guarantee must be carried out in accordance with legal regulations in order to serve the purpose of completing the customs clearance of commodities. Customs authorities shall carry out their customs post-clearance examination at their offices.</p> <p>5. In case of disagreeing over the content of pre-determination of code, origin and customs values, organizations, individuals must send a written request to the General Department of Customs for the purpose of calling for their consideration. Within 10 working days (with regard to normal commodities) or 30 days (with regard to complicated commodities required to be clearly authenticated) from the date on which customs</p>	
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	<p>declarant's requests have been obtained, the General Department of Customs shall respond with the result to such customs declarants.</p> <p>6. The validity of the written announcement about the result of pre-determination of code, origin and customs value:</p> <p>a) The validity of the written announcement about the result of pre-determination of code, origin and customs value shall be restricted to less than 03 years from the date on which the Director of the General Department of Customs brings it into effect. In particular, the written announcement about the result of pre-determination of price levels shall become effective directly towards shipments of which price level is pre-determined;</p> <p>b) The written announcement about the result of pre-determination of code, origin and customs value shall</p>	
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	<p>become invalid if actual commodities or records on exports and imports are differentiated respectively from sample commodities or applications for pre-determination of code, origin and customs value;</p> <p>c) The Director of the General Department of Customs shall issue written notice to cancel the result of predetermination of code, origin and customs value if documents submitted to apply for pre-determination of code, origin and customs value by organizations, individuals consist of false and inaccurate information;</p> <p>d) The written announcement about the result of pre-determination of code, origin and customs value may be annulled if legal regulations as the basis for issuing the written announcement about the result of pre-determination of code, origin and customs value shall be revised,</p>	
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	<p>supplemented or replaced.</p> <p>7. The Minister of Finance shall stipulate applications that must be filed to apply for pre-determination of code, origin and customs valuation.</p> <p>- Draft of circular on customs procedure, supervisions, import/export duties, and tax management of imports and exports.</p>	
<p>Article 10</p> <p>Fees and charges</p> <p>1. Fees and charges shall only be imposed for services provided in connection with the importation or exportation in question. They shall not exceed the approximate cost of the service provided; and shall not be calculated on an ad valorem</p>	<p>- Customs Law 2014</p> <p>Article 21. Customs formalities</p> <p>1. While following the customs formalities, a customs declarant shall:</p> <p>c/ Pay taxes and fulfill other financial obligations in accordance with the laws on taxes, charges and fees and other corresponding</p>	<p>Assessment:</p> <p>1. With customs charges and fees:</p> <p>- Vietnam: No provision providing that fee and charges are calculated on an ad valorem basis. Law on Fees and Charges indirectly provide that charges and fee collection is not for profit which technically means charges and fees do not exceed the amount to supply relevant services. Thus,</p>

<p>basis.</p> <p>2. Neither Party shall require consular transactions⁵, including related fees and charges, in connection with the importation of or exportation to of goods to the other Party. After three years of entry into force of this Agreement, a Party may not require consular authentication for the importation of goods covered by this Agreement.</p> <p>3. The information on fees and charges shall be published via an officially designated medium, and where feasible and possible, official website. This information shall include the reason for the fee or charge for the service provided, the responsible authority, the fees and charges that will be applied, and when and how payment is to be</p>	<p>regulations of law.</p> <p>2. While conducting customs formalities, customs authorities and customs officials shall:</p> <p>c/ Collect taxes and other amounts payable in accordance with the laws on taxes, charges and fees and other corresponding regulations of law;</p> <p>- Article 12 to Article 16 of the Ordinance No. 38/2001/PL-UBTVQH10 dated 28 Aug 2001 on charges and fees (“Ordinance on charges and fees 2001”)</p> <p>Article 12 Ordinance on charges and fees 2001: The determination of charge rates shall be based on the following principles:</p> <p>1. The rates of charges for services invested by the State must ensure the retrieval of capital within a reasonable period of time, taking</p>	<p>in full compliance</p> <ul style="list-style-type: none"> - However in specific regulations governing specific examination over special imported/exported goods, there might be provisions that are in contrary to the requirement in this Article 10 of EVFTA (there are cases where fee and charges are calculated on an ad valorem basis, i.e Circular 223/2012/TT-BTC, or the fee/charges level are considered to be far above the cost of rendered services) <p>2. With regard to consular certification and legalization:</p> <ul style="list-style-type: none"> - Vietnam: no related requirements; <p>Vietnam is proceeding to accede the Hague Convention abolishing the requirement of legalisation for foreign public documents which is determined to finished before the third year since EVFTA has effect.</p> <p>Thus, in full compliance</p> <ul style="list-style-type: none"> - However in specific regulations governing
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⁵ Consular transactions means the formalities of obtaining from a consul of the importing Party in the territory of the exporting Party, or in the territory of a third party, a consular invoice or a consular visa for a commercial invoice, certificate of origin, manifest, shippers’ export declaration or any other customs documentation in connection with the importation of the good.

<p>made.</p> <p>4. New or amended fees and charges shall not be imposed until information in accordance with paragraph 3 is published and made readily available.</p>	<p>into account the State's policies in each period.</p> <p>2. The rates of charges for services invested by organizations and individuals must ensure the retrieval of capital with a reasonable period of time and suit to the payment capability of payers.</p> <p>Article 13 Ordinance on charges and fees 2001: The rates of fees shall be pre-fixed for each work, not aiming to cover expenses, and comply with international practices; particularly for the registration fee rates, they shall be calculated as a percentage of the value of the registered property.</p> <p>Article 16 Ordinance on charges and fees 2001: Charge- and fee-collecting organizations and individuals must publicly post up or publicize at the collection places the names of charges and fees, their rates, the collection methods as well</p>	<p>specific examination over special imported/exported goods, there might be provisions that are in contrary to the requirement in this Article 10 of EVFTA (there are cases where consular transactions are required, i.e Circular 20/2011/TT-BCT). In principle, Vietnam make a reservation of 03 year to this commitment, thus its current legislations on consular transactions are still in compliance with EVFTA, but it will not after this period.</p> <p>3. With regard to the publication of information on fees and charges,</p> <p>Vietnam: providing in the circulars of the Ministry of Finance, and the adoption of these legislations is comply with the requirement under law on promulgation of legal documents.</p> <p>Thus, in full compliance</p> <p>Recommendation:</p> <p>No revision to current legal framework</p>
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	<p>as the collection-prescribing agencies.</p> <p>- Article 9, Article 14, and Annex of Decree No. 57/2002/NĐ-CP (amended and supplemented by Decree No. 24/2006/NĐ-CP) on guiding the Ordinance on charges and fees</p> <p>Article 9 Decree No. 57/2002/NĐ-CP: The fee rates shall be pre-fixed in a certain sum of money for each State management job for which fee is collected, not for the purpose of covering expenses for the fee-labile jobs, and comply with international practices. Particularly for the registration fee, the rates shall be set in a percentage (%) of the value of registered property according to the stipulations of the Government.</p> <p>Article 14 Decree No. 57/2002/NĐ-CP: Charge and fee exemption and reduction are prescribed as follows:</p>	<p>recommended</p> <p>Need to review legislations on specific examination procedures over special goods against the commitments of EVFTA.</p>
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	<p>1. For fees:</p> <p>The rates of fees shall be pre-fixed, associated with each State management job, and fees, in principle, are non-exempt and non-reducible. Particularly for registration fee, the Government shall specify cases where it is necessary to be exempt or reduced in order to contribute to the realization of the State's socio-economic policies in each period.</p> <p>2. For charges:</p> <p>The rates of charges aim to offset expenses, ensure the retrieval of capital within a reasonable period of time, therefore charges, in principle, are non-exempt and non-reducible, except for special cases specified in this Decree. To cancel the granting of charge exemption cards.</p> <p>Charge exemption or reduction shall apply in the following cases:</p>	
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	<p>a/ Exemption from bridge, land road tolls and boat and ferry fares for:</p> <ul style="list-style-type: none"> - Ambulances, including vehicles of other kinds carrying victims to first-aid places; - Fire engines; - Agricultural and forestial machinery, including mechanical ploughs, rakes, hoers, weeding machines, paddy pluckers; - Dike maintenance vehicles; vehicles on emergency duty in service of flood and storm combat; - Special-use vehicles in service of defense and security, including tanks, armored vehicles, artillery-hauling vehicles, vehicles carrying armed soldiers in operation; - Hearses and vehicles in funeral processions; - Motorcades with escort or leading cars ; 	
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	<p>- Where traffic jams have not yet been settled, bridge and land road tolls shall be temporarily not collected for two-wheeled and three-wheeled motorcycles and mopeds.</p> <p>b/ Reduction of bridge and land road tolls, boat and ferry fares for monthly tickets.</p> <p>The Ministry of Finance shall specify the types of bridge and land road tolls, boat and ferry fares as well as the regime on the management and use thereof to suit the practical situation; coordinate with the Ministry of Communications and Transport in instructing concretely the places where bridge and land road tolls shall be temporarily not collected for two-wheeled and three-wheeled motorcycles and mopeds.</p> <p>c/ Exemption from or reduction of school fees for a number of subjects, to be specified by the Government in a governmental document on school</p>	
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	<p>fees;</p> <p>d/ Exemption from or reduction of hospital fees for a number of subjects, to be specified by the Government in a governmental document on hospital fees;</p> <p>e/ Exemption from or reduction of irrigation charges in some certain cases, to be specified by the Government in a governmental document on irrigation charges;</p> <p>3. Where exemption and reduction of charges and/or fees are truly needed due to the socio-economic development requirements and the situation and characteristics of each period, the Ministry of Finance shall submit these cases to the Prime Minister for consideration and decision.</p> <p>4. The cases of charge or fee exemption and reduction prescribed in this Article must be publicized and post up at the charge-and fee-</p>	
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	<p>collecting places.</p> <ul style="list-style-type: none"> - Circular No. 172/2010/TT-BTC on customs charges and fees. - Law on Promulgation of Legal documents <p>Article 150. Publishing legislative documents on Official Gazette</p> <p>1. Legislative documents of central regulatory agencies must be published on Official Gazette of Socialist Republic of Vietnam, except for those that contain state secrets.</p>	
<p>Article 11</p> <p>Customs Brokers</p> <p>The Parties agree that their respective customs provisions and formalities shall not require the mandatory use of customs brokers. The Parties shall apply transparent, non-discriminatory and proportionate rules if and when licensing customs brokers.</p>	<ul style="list-style-type: none"> - Article 20 Customs Law 2014 - Circular No. 12/2015/TT-BTC of the Ministry of Finance dated 30th Jan 2015 on detailing the procedures for issuance of certificate of training in customs declarations; issuance and revocation of customs broker number, formalities for recognition and operation of customs brokerage agents. - Article 4.14, Article 20 Customs 	<p>Assessment:</p> <p>Full compliance.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

	<p>Law 2014</p> <p>Article 4.14 Customs Law 2014: <i>Customs declarants</i> include goods owners; vehicle owners; vehicle operators; customs brokers and persons authorized by goods owners or vehicle owners to formalities follow customs formalities.</p> <p>Article 20 Customs Law 2014: Customs brokers</p> <p>1. Requirements for a customs broker:</p> <p>a/ There is a business registration certificate or an enterprise registration certificate, in which operation of good forwarding or customs brokers is stated;</p> <p>b/ There are employees in charge of customs brokerage services (hereinafter referred to as customs employees);</p> <p>c/ There is information technology infrastructure satisfying the</p>	
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	<p>requirements for making e-customs declaration and other requirements as prescribed.</p> <p>2. A customs employee must be a Vietnamese citizen who fully satisfies the following requirements:</p> <p>a/ Obtain at least a collegiate degree in economics, law or technique;</p> <p>b/ Obtain a certificate of training in customs declaration;</p> <p>c/ Obtain customs employee's code granted by a customs office.</p> <p>3. The General Director of Customs shall decide the recognition, suspension or termination of customs broking; grant of certificates of training in customs declaration; grant and revocation of customs employee's codes.</p> <p>4. Customs brokers and customs employees shall exercise the rights and perform the obligations of customs declarants as prescribed in</p>	
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	<p>Article 18 of this Law.</p> <p>5. The Minister of Finance shall provide guidance on formalities for recognition and operation of customs brokers; formalities for grant of certificates of training in customs declaration, and grant and revocation of customs employee's codes.</p>	
<p>Article 12</p> <p>Customs valuation</p> <p>1. The Parties shall determine the customs value of goods in accordance with the Agreement on the Implementation of Article VII of the GATT (1994).</p> <p>2. The Parties shall cooperate with a view to reaching a common approach to issues relating to customs valuation.</p>	<p>- Article 86 Customs Law 2014</p> <p>Article 86. Customs value</p> <p>1. Customs value is used as a basis for the calculation of import and export duties and making of statistics on imported and exported goods.</p> <p>2. Customs value of exported goods means selling prices of such goods when they arrive at border checkpoints of exportation, excluding international insurance cost and freight.</p> <p>3. Customs value of imported goods</p>	<p>Assessment:</p> <ol style="list-style-type: none"> 1. Vietnam legislation had been revised meet WTO requirements, therefore, meet Article 12.1 requirements. 2. Article 12.2 requirements is out of the scope of domestic legislations. <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Active cooperation and coordinance.

	<p>means payable actual prices determined when they arrive at the first border checkpoint of importation in compliance with Vietnamese law and treaties to which the Socialist Republic of Vietnam becomes a party.</p> <p>- Section 3 Decree No. 08/2015/NĐ-CP</p> <p>Article 20 Decree No. 08/2015/NĐ-CP:</p> <p>1. In the context of exported commodities, the customs value is the selling price of such commodities, exclusive of international insurance and transportation costs. The selling price calculated at the customs exit gates is the price agreed in the sales contract or others that have the similar legal value to such contract, commercial invoices and relevant records that help to prove that such shipments are identical to actual</p>	
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	<p>exported commodities.</p> <p>2. In the context of imported commodities, the customs value is the actual buying price calculated at the first port of arrival on the basis of applying the General Agreement on Tariffs and Trade or in accordance with the international commitment to which the Socialist Republic of Vietnam is a signatory. The first port of arrival shall be identified as follows:</p> <p>a) As for sea and air transportation mode, the first port of arrival is the unloading port specified on the bill of lading;</p> <p>b) As for rail transportation mode, the first port of arrival is the international intermodal rail terminal located at borders;</p> <p>c) As for road, inland waterway transportation mode, the first port of arrival is the border gate where commodities are imported into the</p>	
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	territory of Vietnam.	
<p>Article 13</p> <p>Pre-shipment Inspections</p> <p>The Parties agree that their respective customs provisions and formalities shall not require the mandatory use of preshipment inspections as defined in the WTO Agreement on Preshipment Inspection, or any other inspection activity performed at destination, before customs clearance, by private companies.</p>	<p>Chapter III – Customs formalities, custom inspection and supervision of Customs Law 2014</p>	<p>Assessment:</p> <p>Vietnam: no provisions of mandatory use of preshipment inspections as defined in the WTO Agreement on Preshipment Inspection; no provisions of any other activity performed at destination, before customs clearance by private companies.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>
<p>Article 14</p> <p>Review and Appeal</p> <p>Each Party shall provide effective, prompt, non-discriminatory and easily accessible formalities to guarantee the right of appeal against customs and other agency administrative actions, rulings and</p>	<p>- Article 3.1, Article 7 Law on complaint 2011⁶</p> <p>- Legislations on Customs</p> <p>+ Specific procedures for appeal the result of first inspection of advance rulings, and factual inspection of goods;</p>	<p>Assessment:</p> <p>- Vietnam legislations meet the requirements of Article 14 Chapter Customs EVFTA, specifically as following:</p> <p>+ Mechanism of complaint applying to complaint in the area of import/export of goods or goods in transit.</p>

⁶ Law No. 02/2011/QH13 of the National Assembly dated 11th Nov 2011 on complaint.

<p>decisions affecting import or export of goods or goods in transit.</p>	<p>+ Other cases is referred to general legislations on complaint and appeal.</p> <p>- Article 2, Article 30 Law in administrative procedures ⁷</p> <p>Article 2 Law in administrative procedures: Subjects of application and effect of the Law on Administrative Procedures</p> <p>1. The Law on Administrative Procedures applies to all administrative procedural activities conducted in the territory, including the mainland, islands, maritime zones and air space, of the Socialist Republic of Vietnam.</p> <p>2. The Law on Administrative Procedures applies to administrative procedural activities conducted overseas by representative missions of the Socialist Republic of Vietnam.</p> <p>3. The Law on Administrative</p>	<p>+ This mechanism is non-discriminatory.</p> <p>+ Provided procedures and time limit are reasonable;</p> <p>+ The specific procedures for immediate review as second inspection are provided in some decisions of customs authorities.</p> <p>- With regard to effectiveness requirement, out of the application scope domestic legislations.</p> <p>Recommendation:</p> <p>- No revision to current legal framework recommended</p> <p>- Consider to enhance the effort to promote the effectiveness of review and appeal mechanisms.</p>
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⁷ Law No. 93/2015/QH13 of the National Assembly dated 25th Nov 2015 on administrative procedures (having effect on 1st Jul 2016)

	<p>Procedures applies to the settlement of administrative cases involving foreign elements. In case a treaty to which the Socialist Republic of Vietnam is a contracting party otherwise provides, such treaty will prevail.</p> <p>4. Administrative cases involving foreign agencies, organizations and individuals and international organizations eligible for diplomatic or consular privileges and immunities in accordance with Vietnamese law or treaties to which the Socialist Republic of Vietnam is a contracting party shall be settled through diplomatic channels.</p> <p>Article 30 Law in administrative procedures: Lawsuits under jurisdiction of courts</p> <p>1. Lawsuits over administrative decisions or acts, except:</p> <p>a/ Administrative decisions or acts pertaining to state secrets in the</p>	
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	<p>fields of national defense, security and foreign affairs in accordance with law;</p> <p>b/ Court rulings or acts in the application of administrative handling measures or handling of acts obstructing procedural activities;</p> <p>c/ Internal administrative decisions or acts of agencies and organizations.</p> <p>2. Lawsuits over disciplinary decisions on dismissal of civil servants holding the position of general director of a general department or equivalent or lower position.</p> <p>3. Lawsuits over decisions on settlement of complaints about decisions on handling of competition cases.</p> <p>4. Lawsuits over voter lists.</p>	
Article 15		

Relations with the Business Community		
<p>The Parties agree:</p> <p>(a) on the need for timely consultations with trade representatives on legislative proposals and general formalities related to customs and trade facilitation issues. To that end, appropriate consultation between administrations and the business community shall be established by each Party;</p>	<p>- Article 6, Article 36, Article 55, Article 57, Article 102 Law on Promulgation of Legal documents 2015</p> <p>Article 6 Law on Promulgation of Legal documents 2015: Providing opinions for formulation of legislative documents</p> <p>1. Vietnamese Fatherland Front, Vietnam Chamber of Commerce and Industry, other associate organizations of Vietnamese Fatherland Front, other agencies, organizations, and individuals are entitled and will be enabled to provide opinions about formulation of legislative documents and draft legislative documents.</p> <p>2. During the formulation of legislative documents, the drafting agencies and relevant organizations must enable other organizations and</p>	<p>Assessment:</p> <ul style="list-style-type: none"> - Vietnam legislations meet EVFTA requirements with regard to consultation with trade representatives on legislative proposals and general formalities related to customs and trade facilitation issues; - In reality, customs authorities have regular dialogue with enterprises (central government level and some authorities in local level) <p>Recommendation:</p> <ul style="list-style-type: none"> - No revision to current legal framework recommended - Consider to promulgate specific regulations on compulsory regular dialogue between customs authorities and enterprises in the local government, and enhance the effectiveness of dialogue on custom in the central government.

	<p>individuals to provide opinions about formulation of legislative documents and draft legislative documents; seek opinions from entities regulated by legislative documents.</p> <p>3. Opinions about formulation of legislative documents and draft legislative documents must be considered during the process of adjusting draft documents.</p> <p>Article 36 Law on Promulgation of Legal documents 2015: Seeking opinions about request for law/ordinance formulation</p> <p>1. Agencies, organizations, and deputies of the National Assembly who make requests for law, ordinance formulation have the responsibility to:</p> <p>a) Post the summary report, report on impacts of proposed policies on the information portal of the National Assembly if the request is</p>	
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	<p>made by Standing Committee of the National Assembly, Ethnic Council, Committees of the National Assembly, deputies of the National Assembly, or the information portal of the Government if the request is made by the government, and the information portal or the requesting agency/organization for at least 30 days.</p> <p>b) Seek opinions from the Ministry of Finance, the Ministry of Home Affairs, the Ministry of Foreign Affairs, the Ministry of Justice, relevant organizations, entities under the direct impacts of proposed policies, and solution for implementation of such policies in the request for law/ordinance formulation. Hold a meeting to seek opinions about basic policies in the request for law/ordinance formulation where necessary</p> <p>Article 55 Law on Promulgation of Legal documents 2015: Duties of</p>	
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	<p>the drafting agency</p> <p>3. Seek opinions about the project or draft document from relevant agencies, organizations, and individuals; post the project or draft document on the information portal prescribed in Point a Clause 1 Article 36 of this Law and that of the drafting agency; receive, consider, explain, aggregate opinions; post the explanatory report and the revised draft document on the information portal prescribed in Point a Clause 1 Article 36 of this Law and that of the drafting agency.</p> <p>Article 57 Law on Promulgation of Legal documents 2015: Seeking opinions about law/ordinance project or draft resolution</p> <p>1. During the drafting process, the agency or deputy of the National Assembly in charge of drafting must seek opinions from the entities under the direct impact of the</p>	
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	<p>document and relevant organizations; specify the issues that need opinions and address for receipt of opinions; post the entire draft document and description on the information portal of the drafting agency mentioned in Point a Clause 1 Article 36 of this Law for at least 60 days in order to receive opinions, except for those promulgated under simplified procedures. If the drafting agency revises the draft document while it is open for comments, the revised one must be posted.</p> <p>In case of seeking opinions in writing, the enquired organizations must give written responses within 20 days from the receipt of the request.</p> <p>2. Apart from posting the draft document as prescribed in Clause 1 of this Article, opinions may be obtained by asking directly, sending the draft document, holding</p>	
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	<p>discussions, or using the media.</p> <p>3. The drafting agency shall receive, consider the opinions, publish the explanation and feedbacks on the information portal of the Government and of themselves.</p> <p>4. If the project or draft document is prepared by a deputy of the National Assembly the Office of the National Assembly, Office of National Assembly Delegation, Legislative Research Institute shall conduct the enquiry as prescribed in this Article.</p> <p>Article 102 Law on Promulgation of Legal documents 2015: Appraising the draft circular</p> <p>1. The legal organization affiliated to the Ministry or Ministerial agency shall appraise the draft circular before it is submitted to the minister or Heads of ministerial agency.</p> <p>If the circular contains regulations that directly affect the rights, obligations, interests of the people,</p>	
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	enterprises, involve multiple fields or sectors, or drafted by a legal organization, the minister or Heads of ministerial agency shall establish an appraisal council which is participated by relevant organizations, units, experts, and scientists.	
(b) to publish or otherwise make available, as far as possible through electronic means, and new legislation and general formalities related to customs and trade facilitation issues prior to the application of any such legislation and procedures, as well as changes to and interpretations of such legislation and procedures. They shall also make publicly available relevant notices of an administrative nature, including agency requirements and entry procedures, hours of operation and operating formalities for customs offices at ports and border crossing	<p>- Article 150, Article 157 Law on Promulgation of Legal documents</p> <p>Article 150 Law on Promulgation of Legal documents: Publishing legislative documents on Official Gazette</p> <p>1. Legislative documents of central regulatory agencies must be published on Official Gazette of Socialist Republic of Vietnam, except for those that contain state secrets.</p> <p>4. Within 03 days from the publishing or signing date, the agency or person competent to promulgate legislative documents must send the document to the</p>	<p>Assessment:</p> <p>Full compliance.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

<p>points, and points of contact for information enquiries;</p>	<p>regulatory of Official Gazette (Vietnam News Agency) for publishing or publicly posting.</p> <p>Vietnam News Agency shall publish the legislative document in full on the Official Gazette within 15 days if it is promulgated by a central regulatory agency or 07 days if it is promulgated by the People's Council or the People's Committee of a province or local government of a administrative - economic unit from the day on which the document is received.</p> <p>Article 157 Law on Promulgation of Legal documents: Posting and publishing legislative documents</p> <p>Legislative documents promulgated by central regulatory agencies, the People's Councils and the People's Committees must be posted in full on the national legal database within 15 days from the day on which they are announced or signed and</p>	
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	<p>published on the media, except for those that contain state secrets according to regulations of law on state secrets.</p> <p>Legislative documents posted on the national legal database are official.</p> <p>- Article 19.2, Article 93, Article 94, Article 95 Customs Law 2014</p> <p>Article 19 Customs Law 2014: Tasks and entitlements of customs officials</p> <p>2. Instruct customs declarants and related entities on request.</p> <p>Article 93 Customs Law 2014: Customs communication</p> <p>Customs communication shall be collected, archived, managed and used for carrying out customs formalities; making statistics on imported and exported goods; applying the risk management in professional customs operations and post-customs clearance inspection;</p>	
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	<p>tackling smuggling and illegal cross-border transportation of goods.</p> <p>Article 94 Customs Law 2014: Customs communication system</p> <p>1. The customs communication system consists of:</p> <p>a/ Database on the communication system;</p> <p>b/ Technical infrastructure on the communication system.</p> <p>2. The customs communication database contains:</p> <p>a/ Information on imported, exported and transited goods;</p> <p>b/ Information on vehicles on exit or entry or in transit;</p> <p>c/ Information on entities involved in import or export activities, on exit or entry or in transit;</p> <p>d/ Other information related to professional operations of customs</p>	
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	<p>authorities.</p> <p>3. The customs communication database shall be managed in a centralized and uniform manner. The General Department of Customs shall set up, manage and develop the database and technical infrastructure of the customs communication system by updating and integrating information and data of the entire customs service; connect and share information and data with the communication systems of entities outside the customs service, customs authorities of other countries and international organizations in accordance with Vietnamese law and treaties to which the Socialist Republic of Vietnam becomes a party.</p> <p>Customs authorities shall apply measures to keep confidential information and prevent illegal access to the customs communication system.</p>	
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	<p>Article 95 Customs Law 2014: Collection and provision of customs communication in the country</p> <p>1. Customs authorities shall organize the collection of information from the following sources:</p> <p>a/ Customs operations;</p> <p>b/ Ministries and related ministerial-level agencies;</p> <p>c/ Entities involved in or related to production, import and export activities, on exit or entry or in transit;</p> <p>d/ Other sources of information.</p> <p>2. Responsibilities and entitlements of customs authorities in the collection and provision of customs communication:</p> <p>a/ Receive and provide information to customs declarants;</p> <p>b/ Establish and implement the mechanism for cooperation in the</p>	
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	<p>exchange and provision of information to functional agencies of related ministries and ministerial-level agencies;</p> <p>c/ Apply measures and professional techniques to collect information;</p> <p>d/ Request entities to provide information related to import, export, exit, entry and transit activities;</p> <p>dd/ Access other related sources of information.</p> <p>3. Rights and responsibilities of agencies, entities in providing customs communication:</p> <p>a/ Entities may request customs authorities to provide customs communication related to their rights and obligations;</p> <p>b/ Ministries and related ministerial-level agencies shall provide information related to import, export, exit, entry and</p>	
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	<p>transit activities to customs authorities;</p> <p>c/ Entities involved in or related to import, export, exit, entry and transit activities shall provide information to customs authorities in accordance with this Law and other corresponding regulations of law.</p> <p>4. The Government shall provide guidance on this Article</p> <p>- Decree No. 66/2008/NĐ-CP on legal aid for enterprises</p> <p>Article 10. Answering of law inquiries of enterprises</p> <p>1. Enterprises may request specialized agencies of provincial-level People's Committees to answer their law inquiries concerning their operation within branches or domains under these agencies' management.</p> <p>2. In case the answers of specialized</p>	
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	<p>agencies of provincial-level People's Committees specified in Clause 1 of this Articles do not satisfy inquiring enterprises, these enterprises may request concerned ministries to answer.</p> <p>3. The answering of law inquiries is made in the following forms:</p> <p>a/ Written answers:</p> <p>b/ Online answers:</p> <p>c/ Face-to-face or phone answers:</p> <p>d/ Other forms of communication as specified by law.</p> <p>4. Specialized agencies of provincial-level People's Committees and ministries shall answer law inquiries within 15 working days after enterprises fully supply information relating to their law inquiries. For law inquiries which are complicated or related to the state management of more than one branch or domain, the time limit for answering is 30</p>	
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	<p>working days.</p> <p>5. In case of refusal to answer law inquiries, requested agencies shall give reasons for their refusal.</p> <p>6. The answering of law inquiries specified in this Article is not applicable to enterprises' law-inquiries about specific cases related to their production and business activities.</p> <p>- Rules No. 1915/QĐ-TCHQ dated 17th Oct 2007</p>	
<p>(c) on the need for a reasonable time period between the publication of new or amended legislation, formalities and fees or charges and their entry into force;</p>	<p>- Article 151, Article 152 Law on Promulgation of Legal documents</p> <p>Article 151 Law on Promulgation of Legal documents: Effective dates of legislative documents</p> <p>1. The effective date of the whole or part of a legislative document shall be specified in the document. Nevertheless, the effective date is not sooner than 45 days from the day on which it is ratified or signed</p>	<p>Assessment:</p> <p>Full compliance.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

	<p>if it is promulgated by a central regulatory agency, or not sooner than 10 days from the day on which it is signed if it is promulgated by the People's Council or the People's Committee of a province, or not sooner than 07 days from the day on which it is signed if it is promulgated by the People's Council or the People's Committee of a district or commune.</p> <p>2. A legislative document promulgated under simplified procedures may come into force from the day on which it is ratified or sign and must be immediately published on information portal of the promulgating agency and posted on the media; such document must be published on Official Gazette of Socialist Republic of Vietnam or the province within 03 days from the day on which it is announced or signed.</p> <p>Article 152 Law on Promulgation</p>	
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	<p>of Legal documents: Retrospective effect of legislative documents</p> <p>1. A law, resolution of the National Assembly, or legislative document of a central regulatory agency may have a retrospective effect if it is necessary for assurance of common interests, rights and interests of the entities regulated by the document.</p>	
<p>(d) to ensure that their respective customs and related requirements and formalities continue to meet the needs of the trading community, follow best practices, and remain as little trade-restrictive as possible.</p>	<p>- Law on Promulgation of Legal documents</p> <p>Article 170 Law on Promulgation of Legal documents: Law on Promulgation of Legal documents</p> <p>1. Every regulatory agency, within their competence, has the responsibility to review and systemize legislative documents; suspend, annul, amend, replace legislative documents that are found illegitimate, inconsistent, expired, or no longer applicable with regard to socio-economic, or issue new legislative documents; they may do</p>	<p>Assessment:</p> <p>Full compliance.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

	<p>these tasks themselves or request a competent authority to do so.</p> <p>Every organization and citizen are entitled to request competent authorities to consider suspending, annulling, amending, replacing legislative documents, or issuing new legislative documents.</p> <p>2. Legislative documents must be review as frequently as possible. The systemization of legislative documents must be carried out periodically in order to publish the collection of systemized effective legislative documents in a timely manner.</p>	
<p>Article 16</p> <p>Special committee on Customs</p> <p>1. The Parties hereby establish a Special Committee on Customs composed of representatives of the Parties. The Committee shall meet on a date and with an agenda agreed in advance by the Parties.</p>	<p>No regulations</p>	<p>Assessment:</p> <p>Out of the scope of domestic legislations.</p> <p>Recommendation:</p> <p>No revision to current legal framework recommended</p>

<p>The office of chairperson of the Committee shall be held alternately by each of the Parties and rotate annually. The Committee shall report to the XXX Committee.</p> <p>2. The Committee shall ensure the proper functioning of this chapter, including the enforcement of Intellectual Property Rights by Customs in sub-section 3.2 of the IPR chapter, the Protocol xx on Rules of Origin, the Protocol yy on MAA and any additional customs-related provisions agreed between the Parties.</p> <p>3. The Committee shall examine the need for, and take, decisions, opinions, proposals or recommendations on all issues arising from their implementation. It shall have the power to adopt decisions on mutual recognition of risk management techniques, risk standards, security controls and trade partnership programmes,</p>		
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including aspects such as data transmission and mutually agreed benefits.		
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