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Vietnam Customs Requires Certificate of Origin for Meat and Poultry

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Report Highlights:

This report provides an unofficial translation of Circular 38/2018/TT-BTC issued by the Ministry of Finance (MOF) on April 20, 2018 regulating the identification of origin for imported and exported goods. Accordingly, Vietnam customs now requires a Certificate of Origin (C/O) containing required information for meat and livestock and poultry products (including animal fats) from June 5, 2018. Animal products in HS Chapters 2, 15 and 16 are affected by this requirement.

Summary:

Circular 38/2018 provides for the dossiers of prior identification of origin, submission of proof of origin, procedures of inspection, identification and verification of origin of imported and exported goods. This Circular includes the below five chapters:

- Chapter I: General provisions
- Chapter II: Prior identification of origin of goods and submission of proof of origin
- Chapter III: Inspection, identification and verification of origin of exported goods
- Chapter IV: Inspection, identification and verification of origin of imported goods
- Chapter V: Implementation provisions

List of imported goods required for Certificate of Origin

According to Article 4.2 of Circular 38/2018, proof of origin of goods or Certificate of Origin must be submitted to customs authorities for imported goods described in Appendix II of this Circular, which include meat and livestock and poultry products. The List of meat, livestock products and poultry products and relevant HS codes is detailed as below. The list shall be reviewed and amended annually or when necessary by the Minister of Finance.

HS code	Description
I. Meat, livestock products and poultry products	
Chapter 2	Meat and edible offal [including all products described in this Chapter
1501	Pig fat (including lard) and poultry fat, other than that of heading 02.09 or 15.03.
1502	Fats of bovine animals, sheep or goats, other than those of heading 15.03.
1503	Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared.
1504	Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified.
1505	Wool grease and fatty substances derived therefrom (including lanolin).
15060000	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified.
151610	- Animal fats and oils and their fractions:
151710	- Margarine, excluding liquid margarine:
151790	- Other:
15179010	- - Imitation ghee
15179020	- - Liquid margarine
15179030	- - Of a kind used as mould release preparations
15179043	- - - Shortening
15179044	- - - Imitation lard

15179080	- - Of mixtures or preparations of animal fats or oils or of their fractions
15179090	- - Other
15180012	- - Animal fats and oils
15180020	- Inedible mixtures or preparations of animal fats or oils or of fractions of different fats or oils
15180060	- Inedible mixtures or preparations of animal fats or oils or of fractions thereof and vegetable fats or oils or fractions thereof
1601	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products.
1602	Other prepared or preserved meat, meat offal or blood.
1603	Extracts and juices of meat, fish or crustaceans, mollusks, or other aquatic invertebrates.

Required information in proof of origin

Specifically, due to Article 15.1, proof of origin of goods or Certificate of Origin must contain the following information:

- a. Exporter;
- b. Importer;
- c. Means of transport;
- d. Goods description, codes of goods [HS codes]
- dd. Quantity, weight or volume of goods;
- e. Countries, groups of countries or territories of origin;
- g. Date of issuance;
- h. Signature [of the person in charge of issuing C/O]

Verification of proof of origin

Due to Article 4.2.b, if a proof of origin of goods has not submitted for the goods included in Appendix II of Circular 38/2018, such goods shall not be cleared and will be handled in accordance with provisions of laws. Additionally, due to Article 22.1.b, if customs authorities have sufficient grounds to believe that proof of origin is not satisfactory, they shall reject the proof of origin. Such goods shall not be cleared and will be handled in accordance with provisions of laws.

Article 19 of this Circular allows customs authorities to verify origin of imported goods in the following cases:

- Information in the proof of origin is inconsistent with information declared by the customs declarant and in other documents enclosed in the customs dossier.

- There are grounds for doubting the origin criterion in the proof of origin,
- There are grounds for doubting the validity of the proof of origin.

Due to Article 20, the General Department of Customs shall conduct an inspection visit to the production facility of the exporting country when the results of verification fails to provide sufficient grounds for determining origin of imported goods.

Should U.S. exporters have any questions or need clarification concerning this Circular as they apply to U.S. food and agricultural products, please contact aghanoi@fas.usda.gov.

The full Circular 38/2018/TT-BTC in Vietnamese is available at:
<http://vbpl.vn/botaichinh/Pages/vbpq-toanvan.aspx?ItemID=129157&Keyword=>

Below is unofficial translation of Circular 38/2018/TT-BTC

MINISTRY OF FINANCE SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No. 38/2018/TT-BTC

Hanoi, April 20, 2018

CIRCULAR

**ON REGULATIONS ON IDENTIFICATION OF ORIGIN OF IMPORTED AND EXPORTED
GOODS**

Pursuant to the Law 54/2014/QH13 on Customs dated June 23, 2014;

Pursuant to the Law 107/2016/QH13 on Tariff dated April 06, 2016;

Pursuant to the Law 05/2017/QH14 on Foreign Trade Management dated June 12, 2017;

Pursuant to Decree 08/2015/ND-CP dated January 21, 2015 of the Government providing for details and measures for implementation of the Law on Tariff with respect to the customs procedure, inspection, supervision and management; Decree 59/2018/ND-CP dated April 20, 2018 of the Government on amendments to the former law;

Pursuant to Decree 31/2018/ND-CP dated March 08, 2018 of the Government providing for details of the regulation on origin of goods in the Law on Foreign Trade Management;

Pursuant to Decree 87/2017/ND-CP dated July 26, 2017 of the Government on functions, missions, rights and organizational structure of the Ministry of Finance;

At the request of Director General of General Department of Customs,

The Ministry of Finance promulgates a Circular dealing with regulations on identification of origin of imported and exported goods.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Circular provides for the documentation of prior identification of origin, submission of proof of origin, the procedure, inspection, identification, and verification of origin of imported and exported goods.

Article 2. Regulated entities

1. Customs declarant
2. Customs authorities, customs officers
3. Agencies or organization issuing the Certificate of Origin; traders self-issuing certificate of origin
4. Other organizations and individuals whose rights and obligations relate the identification of origin of imported and exported goods.

Chapter II

PRIOR IDENTIFICATION OF ORIGIN DOCUMENTS, SUBMISSION OF PROOF OF ORIGIN

Article 3. Application for prior identification of origin

1. Organizations and individuals shall submit an application for prior identification of origin of goods intended for import or export in accordance with Article 24 of Decree 08/2015/ND-CP dated January 21, 2015 of the Government providing for details and measures for the implementation of the Customs Law [with respect to regulations on the customs procedures, inspection, supervision and management] (hereinafter referred to as Decree 08/2015/ND-CP), and Clause 11 of Article 1 of Decree 59/2018/ND-

CP dated April 20, 2018 of the Government amending and supplementing Decree 08/2015/ND-CP (hereinafter referred to as Decree 59/2018/ND-CP) to the General Department of Customs through the customs electronic data processing system (hereinafter referred to as e-customs system), including:

- a) An application form for prior identification of origin with information prescribed in Form 01/CT/XDTXX/GSQL provided in Appendix I issued thereto;
- b) A copy of declaration of materials and supplies for goods production including the following information: description of goods, HS code, origin of materials and supplies, CIF or equivalent prices of materials and supplies provided by the producer or exporter;
- c) A copy of preliminary description of production process or a Certificate of Analyst issued by the producer;
- d) A copy of catalogue or pictures of goods.

If the e-customs system is not responsive or encounters errors, the customs declarant shall send a printed application to the General Department of Customs including documents prescribed in point b, c and d in this clause and an application form for prior identification of origin according to Form 02/XDTXX/GSQL provided in Appendix I issued together with this Circular.

2. The procedure for prior identification of origin shall comply with regulations in Article 28 of the Customs Law, Article 24 in Decree 08/2015/ND-CP and clause 11 of Article 1 of Decree 59/2018/ND-CP.

Article 4. Proof of Origin submitted to the customs authority

1. Proof of origin submitted to the customs authority as prescribed in clause 1 in Article 26 of Decree 31/2018/ND-CP dated March 08, 2018 of the Government providing details of the Law on Foreign Trade Management with respect to origin of goods (hereinafter referred to as Decree 31/2018/ND-CP), include:

a) For goods from countries, groups of countries or territories (hereinafter referred to as countries) having an agreement on preferential tariff in trade relation with Vietnam; goods imported from free-tariff zones to domestic market produced from countries having a preferential tariff agreement in their trade relation with Vietnam, a declarant who wishes to pay a special preferential tariff rate must submit to the customs authority one of the following proofs of origin in accordance with provisions of laws and International Agreements to which Vietnam is a signatory:

a.1) A Certificate of Origin (hereinafter referred to as C/O): one original copy with the word "ORIGINAL", unless otherwise prescribed in International Agreements to which Vietnam is a signatory or

a.2) Self-issued proof of origin: one original copy;

b) For goods under import management prescribed in provisions of laws or bilateral or multilateral International Agreement to which Vietnam and countries are Parties; goods that are being suspected to be imported from countries in the list of countries embargoed by the Resolution of the United Nations Security Council, customs declarants must submit to the customs authority one original copy of C/O;

c) For goods reported by Vietnam or international organizations to be in the state posing a risk to social safety, public health or environmental hygiene that must be controlled, customs declarants must send the customs authority one original copy of C/O.

d) For goods reported to be imposed under an anti-dumping duty, countervailing duty or subject to safeguard measures, tariff quota or quantity restriction, in pursuit of verifying goods not subjects to these restrictions, customs declarants must send the customs authority one original copy of C/O.

Imported goods required for proof of origin as prescribed in point b, c and d in clause 1 in this Article shall be declared by specialized ministries and the Ministry of Finance.

2. Proof of origin of imported goods must be submitted to the customs authority in compliance with regulations in Article 24 in the Law on Customs for the list of goods prescribed in Appendix II issued together with this Circular.

Annually or when necessary, the Minister of Finance shall issue a decision amending such list.

3. If using an electronic C/O sent through the national single-window system, customs declarants are not required to send a printed C/O as prescribed in this Article.

4. For cases where a proof of origin of goods is not submitted as prescribed in this Article, the following actions shall be taken:

a) If the proof of origin of goods is not submitted as prescribed in point a in clause 1 in this Article, a preferential tariff rate (most favored nation treatment) or general tariff rate will be imposed on the imported goods which will then be cleared as regulated.

When submitting an additional proof of origin within the time limit prescribed in clause 1 in Article 7 of this Circular, the customs declarant must make an additional declaration at the special preferential tariff rate; if the tax paid is more than the tax payable, the overpaid tax must be handled in accordance with regulations on settlement of tax overpaid;

b) If the proof of origin of goods is not submitted as prescribed in point b and 2 in clause 1 and 2 in this Article, such goods shall not be cleared and will be handled in accordance with provisions of laws.

For the goods prescribed in point b and c in clause 1 of this Article, if the customs declarant does not provide proof of origin, but the Vietnam competent authority concludes that such goods are eligible for import; or [the Vietnam competent authority] allows import in accordance with specialized provisions of laws, such goods shall be cleared in accordance with provisions of laws.

c) If customs declarants fail to submit a proof of origin of goods as prescribed in point d in clause 1 in this Article, such goods will be imposed anti-dumping duty or countervailing duty or safeguard duty or outside tariff quota rate [for the whole shipments] and cleared as regulated.

Article 5. Declaration of proof of origin

1. Where a proof of origin is submitted at the time of customs process:

a) For an electronic customs declaration: the customs declarant shall declare the reference number and issuance date of proof of origin of goods under the guidance provided in Appendix II issued together with Circular 38/2015/TT-BTC dated March 25, 2015 of the Minister of Finance prescribing the customs procedure, inspection and supervision; import and export tariff and tax management of imported and exported goods (hereinafter referred to as Circular 38/2015/TT-BTC) which is amended in Appendix issued together with Circular 39/2018/TT-BTC dated April 20, 2018 on amendments to Circular 38/2015/TT-BTC (hereinafter referred to as Circular 39/2018/TT-BTC);

b) For a printed customs declaration: the customs declarant shall write the reference number and issuance date of the proof of origin in Item "Enclosure" in the printed customs declaration under the guidance provided in Appendix IV issued together with Circular 38/2015/TT-BTC.

2. Where a proof of origin is not submitted at the time of customs process:

a) For an electronic customs declaration: at the time of customs process, the customs declarant shall declare the late submission of proof of origin under the guidance provided in Appendix issued together with Circular 39/2018/TT-BTC.

When additionally providing the proof of origin as prescribed in clause 1 in Article 7 of this Circular, the customs declarant shall write the reference number and issuance date of proof of origin on the additional declaration after customs clearance under the guidance provided in Appendix issued together with Circular 39/2018/TT-BTC;

a) For an electronic customs declaration: at the time of customs process, the customs declarant shall write late submission of proof of origin in Item "Enclosure" in the customs declaration under the guidance provided in Appendix IV issued together with Circular 38/2015/TT-BTC at the time of customs processing. When additionally providing the proof of origin as prescribed in clause 1 in Article 7 of this Circular, the customs declarant shall declare the reference number and issuance date of proof of

origin in consistent with Form 03/KBS/GSQL provided in the Appendix issued together with Circular 39/2018/TT-BTC;

Article 6. Cases in which proof of origin is not required

1. Exported goods
2. Imported goods not prescribed in Article 4 of this Circular
3. Imported goods falling in categories of exemption from submission of proof of origin in accordance with International Agreements to which Vietnam is a signatory
4. For goods that are not subject to submission of proof of origin as prescribed in clause 1 and 2 in Article 4 of this Circular, but the customs declarant wants to submit proof of origin of goods at the time of customs processing and makes declaration as prescribed in clause 1 in Article 5 of this Circular, the customs authority shall receive and verify such proof of origin as regulated.

Article 7. Time of submitting proof of origin

1. For goods prescribed in point a Clause 1 of Article 4 of this Circular:
 - a) The customs declarant shall submit proof of origin at the time of customs processing;
 - b) Where proof of origin is not available at the time of customs processing, the customs declarant shall make an additional declaration and submit the proof of origin within 30 days from the day on which the customs declaration is made; except for imported goods with C/O in the EAV form, the customs declarant is required to submit proof of origin at the time of customs processing.

For imported goods with C/O in the VK (KV) form: If proof of origin is not available at the time of custom processing, the customs declarant shall make an additional declaration and submit the proof of origin within 1 year from the day on which the customs declaration is registered;

- c) For case where the customs declarant claims a Most Favored Nation (MFN) tariff rate instead of special preferential tariff rate at the time of customs processing. After such goods have been cleared, the customs authority shall carry out the post-clearance examination to re-identify the HS code or the custom declarant self-discovers and adds the HS code leading to a change in import tariff rate, such customs declarant may additionally provide a proof of origin in the validity period of such proof of origin to the customs authority for their consideration to apply the special preferential tariff rate. Proof of origin must be submitted at the time of submission of documents declaring additional HS code after the custom authority issues the inspection results or when the customs declarant self-discovers errors. Penalties for violations will comply with provisions of laws;

For cases prescribed in point c in this clause, if the customs declarant submits the proof of origin at the time of customs processing as prescribed in point a in this clause or additionally provides proof of origin as prescribed in point b in this clause of which the validity has been verified by the customs authority in post-clearance audit as regulated, the custom authority shall compare the results of inspection or identification of origin of goods at the time of primary import procedure to apply the special preferential tariff rate if no changes can be found in the nature of origin of goods inspected previously due to HS code re-identification.

d) For goods subject to investment incentives that are exempted from an import tariff at the time of customs processing. After goods have been cleared, if the customs authority identify such goods are not subject to investment incentives through post-clearance examination or the customs declarant self-discovers such goods are not subject to investment incentives which leads to a change in import tariff rate, such custom declarant may additionally provide proof of origin within the validity period of such proof of origin to the customs authority for their consideration to apply a special preferential tariff rate. Proof of origin will be submitted at the time of submission of additional declaration after the customs authority issues an examination conclusion or the customs declarant self-discovers that such goods are not subject to investment incentives. Penalties for violations will comply with provisions of laws;

2. For goods prescribed in point b, c and d in clause 1 and 2 in Article 4 of this Circular, the customs declarant shall submit a C/O at the time of customs processing.

3. For goods of prioritized businesses:

a) If proof of origin is available at the time of customs processing, the customs declarant shall comply with regulations in clause 1 in Article 5 of this Circular and submit the proof of origin within the time limit for tax payment as prescribed in clause 2 in Article 9 in the Law on import and export tariff not later than the 10th day of the following month.

b) If proof of origin is not available at the time of customs processing, the customs declarant shall comply with regulations in clause 2 in Article 5 of this Circular and submit the proof of origin in accordance with regulations in point b in clause 1 in Article 7 of this Circular.

The customs authority shall receive and verify proof of origin as regulated.

4. Proof of origin submitted to the custom authority must remain unexpired including renewed proof of origin, revised proof of origin, a proof of origin issued retroactively or their certified true copy of proof of origin in accordance with provisions in International Agreements to which Vietnam is a signatory.

5. The time of customs processing is any time between the time of customs declaration registration and customs clearance. For cases of goods release, the time of customs processing is identified from the time of customs declaration registration to the time of goods release.

Chapter III

INSPECTION, IDENTIFICATION AND VERIFICATION OF ORIGIN OF EXPORTED GOODS

Article 8. Inspection and identification of origin of exported goods

1. The customs authority shall inspect and determine the origin of goods based on the verification of contents declared by the customs declarant, required documents provided in the customs dossier and the results of physical inspection of goods (physical examination of goods is applied to goods requiring physical examination during customs clearance or when it is eligible for physical examination after such goods are cleared).

2. Where the Customs Department at which the customs declaration is registered has sufficient grounds for determining that origin of goods is falsely claimed by the customs declarant, they may take action against violations as regulated and request the customs declarant to make an additional declaration as prescribed in clause 9 in Article 1 of Circular 39/2018/TT-BTC; if having sufficient grounds for identifying fraudulent misrepresentation of the origin of exported goods or illegal transshipment, the Customs Department at which the customs declaration is registered may take actions as regulated.

Where the Customs Department in charge of physical inspection of goods (different from the Customs Department at which the customs declaration is registered) has sufficient grounds for determining that the origin of goods is falsely claimed by the customs declarant, they may impose sanctions against violations as regulated and send the results to the Customs Department at which the customs declaration is registered, which shall then request the customs declarant to make an additional declaration as prescribed in clause 9 in Article 1 of Circular 39/2018/TT-BTC.

3. Where the Customs Department at which the customs declaration is registered has grounds for suspecting origin of goods or receives report of illegal transshipment, they shall take actions as follows:

a) They shall request the customs declarant to provide proof of origin of exported goods, including:

a.1) A proof of origin: one copy; or

a.2) Production process: one copy; and

a.2.1) A declaration of costs of input materials, supplies, value of manufacturing output together with a materials and supplies sales invoice or document in case where ad valorem percentage criterion is applied: one copy; or

a.2.2) A detailed declaration of input materials and supplies, and finished products in case where change in tariff classification is applied: one copy;

b) The customs declarant must submit these documents through the e-customs system within 30 days from the day proof of origin is requested by the custom authority. For cases in which the e-customs system fails to receive the documents or encounters errors, the customs declarant shall provide the printed documents prescribed in point a in this clause for the Customs Department at which the customs declaration is registered.

c) If the Customs Department at which the customs declaration is registered has grounds to suspect the validity of proof of origin or of information concerning the origin of goods as stated in the proof of origin; or has reason to doubt the customs declarant's dossier, documents, or data relating to the inspection and identification of origins of exported goods, they shall notify and request the Customs Department of provinces, cities to conduct an inspection at the production facility as prescribed in Article 10 of this Circular or verification at the agencies or organization authorized to issue proof of origin as prescribed in Article 9 of this Circular;

d) For cases where the customs declarant fails to submit proof of origin or fails to provide such proof of origin within the time limit prescribed in point b in this clause or such proof of origin fails to provide sufficient grounds for determining the origin of goods, the Customs Department at which the customs declaration is registered shall notify and request the Customs Department of provinces or cities to undertake an audit at the production facility of exported goods as prescribed in Article 10 of this Circular.

4. While pending for the examination and verification of origin, exported goods are subject to customs procedures and clearance as regulated.

Article 9. Procedures for verification conducted at agencies or organizations issuing proof of origin of exported goods

1. The Customs Department of provinces or cities at which the customs declaration is registered shall send a verification request with suspected information concerning the origin of goods to agencies or organizations issuing proof of origin (hereinafter referred to as referred to as issuing authority) through the e-customs system; or send the printed copy if such e-customs system fails to receive the request or system error is founded.

2. The Customs Department of provinces, cities shall notify the verification results to the Customs Department at which the customs declaration is registered, the customs declarant, as well as the General Department of Customs within 3 working days, if such verification results are received within 60 days from the day on which the written request for verification is sent.

3. If the verification results fails to be received within 60 days from the day on which the written request for verification is sent, the Customs Department of provinces, cities at which the customs declaration is registered shall conduct an inspection at the production facility as prescribed in Article 10 of this Circular.

Article 10. Procedures for inspection visit to the production facility of exported goods

1. Issuance of inspection decision

a) Director of the Customs Department of provinces, cities promulgates a decision on inspection of exported goods production facility according to Appendix III issued together with this Circular;

b) Such inspection decision shall be sent to the producer through the e-customs system. Where the e-customs system fails to receive the decision or system error is detected, such decision shall be sent by registered mail or fax to the producer not later than 5 working days before the inspection.

If receiving the document from the producer requesting the change of inspection time, the agency issuing the inspection decision may consider and change one time as request by the producer within 3 working days before the inspection. The inspection date is the date specified in the decision on changing inspection time sent to the producer;

c) For cases in which the production facility is not located in the area under management of the Customs Department of provinces, cities at which the customs declaration is registered or the exported goods is not produced by the exporter, the Customs Department of provinces, cities shall send a report to the General Department of Customs for cooperating with the Ministry of Industry and Trade in conducting an inspecting of exported goods production facility as regulated.

2. The inspection visit to the production facility shall be undertaken within 10 working days from the inspection date stated in the inspection decision. For difficult cases, the agency issuing the inspection decision may expand the inspection time but less than 10 working days.

If the producer fails to abide by the inspection decision or fails to represent or provide dossiers, documents, or data as required by the customs authority, such customs authority may impose penalties on violations as regulated.

3. Inspection contents

a) Verifying required documents in customs dossier, sales or processing contracts (if the contract is signed with foreign traders) or VAT invoices of domestic purchase/sale of materials, supplies (in case of domestic purchase); export license (if any); a detailed declaration of exported goods eligible for preferential origin or non-preferential origin according to the form issued by the Ministry of Trade and Industry; declaration of origin by the producer or provider of materials, supplies or declaration of origin of domestic goods according to the form issued by the Ministry of Trade and Industry in case such materials or supplies are used in the following stage to produce other goods; other relevant documents, documentation or data.

b) Verifying the production process

For documents attached to the customs dossier, the customs authority shall not request the producer to provide the printed copy.

4. Inspection minutes making

All contents as well as process of verification shall be recorded in the Inspection minutes between the legal representative of the producer and the inspection delegation.

5. Inspection results

a) The customs authority shall send the inspection results through the e-customs system to the producer not later than 5 working days from the finish date of the inspection or send a printed copy if such e-customs system fails to receive the results or system error is founded;

b) The producer shall send the representation to the custom authority through the e-customs system within 5 working days from the day on which the verification result is received or send a written representation if such e-customs system fails to receive the result or system error is founded. The customs authority shall take action as regulated based on the current documents if not receiving the representation in 5 working days.

c) For tough cases in which there are not sufficient grounds for drawing the conclusion, the customs authority may consult the competent authorities about professional issues. The customs authority must issue a verification conclusion no later than 15 days from the date of the consultation with competent authorities.

Article 11. Processing of results of verification and inspection visit to issuing authority and production facility exported goods

1. If information, dossiers, documents, data, or results of verification visit to the production facility, issuing authority or representation by the customs declarant provide sufficient grounds for proving that

the origin of goods claimed is appropriate, the customs authority shall accept such origin of goods claimed by the customs declarant.

2. If information, dossiers, documents, data, or results of verification visit to the production facility, issuing authority or representation by the customs declarant fails to provide sufficient grounds for proving that the origin of goods claimed is appropriate, the customs authority shall handle as regulated based on current documents and request the customs declarant to additionally provide the correct origin of goods in consistent with the results of verification of origin of goods issued by the customs authority.

3. For cases in which there are grounds for doubting or if the customs declarant provides false origin of goods for the purpose of illegally transshipment or evading anti-dumping duty, countervailing duty, safeguard duty or other trade protection measures, the Customs Department of provinces, cities shall notify and request the General Department of Customs to cooperate with the Ministry of Trade and Industry in handling as regulated.

Article 12. Post-clearance examination of origin exported goods

1. The authority and procedure relating to post-clearance examination of origin of exported goods shall comply with provisions of the law on customs.

With regard to verification of origin of exported goods, the person issuing the decision on post-clearance examination will have authority to verify the origin of goods.

2. Matters, methods, and settlement of the results of verification of origin of exported goods shall comply with provisions in this Circular.

Chapter IV

INSPECTION, IDENTIFICATION AND VERIFICATION OF ORIGIN OF IMPORTED GOODS

Article 13. Basis for inspection and identification of origin of imported goods

The customs authority shall inspect and identify origin of imported goods in accordance with provisions of the law on origin of goods; International Agreements to which Vietnam is a signatory; Circulars guiding the implementation of Free Trade Agreement of the Ministry of Trade and Industry; according to the declaration of customs declarant, proof of origin, required documents in the customs dossier and the results of physical inspection of imported goods (physical examination applies to goods requiring physical examination in clearance or when it is eligible for physical examination after such goods are cleared)).

Article 14. Inspection of form of proof of origin

1. When inspecting the form of proof of origin, the customs authority shall inspect to verify if the criteria are sufficiently provided in the proof of origin and such criteria are appropriate to other documents enclosed in the customs dossier. The customs declarant must not adjust information in the proof of origin, except for adjustments made by competent authorities, organizations or individuals in accordance with provisions of laws and International Agreements to which Vietnam is a signatory.

2. The customs authority shall accept proof of origin granted or issued in the following forms:

a) Printed or electronic proof of origin submitted to the customs authority as prescribed in point a, b, c and d in clause 1 and 2 in Article 4 of this Circular;

b) Self-issued certificate of origin must be in printed proof.

3. Proof of origin must bear the signature of the producer or exporter, unless otherwise prescribed in International Agreements to which Vietnam is a signatory or electronic proof of origin granted through the national single-window system.

Article 15. Inspection of information provided in proof of origin

1. With regards to goods exported from countries not having an agreement on special preferential import tariff in trade relation with Vietnam that are subject to submission of the proof of origin as prescribed in Article 4 of this Circular, the customs authority shall inspect to see whether the following information has been sufficiently provided:

a) Exporter;

a) Importer;

c) Means of transport;

d) Goods description, HS code;

dd) Quantity, weight or volume of goods;

e) Countries, groups of countries or territories of origin;

g) Date of issuance;

h) Signature

2. With regard to goods exported from countries having agreement on special preferential import tariff in trade relation with Vietnam, the customs authority shall inspect to see whether the information has

been sufficiently and legally provided in the proof of origin in consistent with the form prescribed in international agreements to which Vietnam is a signatory.

3. For cases where the customs declarant submits the proof of origin granted for the whole shipment but only imports a portion of such shipment, the customs authority shall accept the proof of origin applicable to an imported portion.

4. For cases where the real quantity, weight, or volume of imported goods exceeds that of goods declared in the proof of origin, the customs authority shall accept the preferential treatment only for the quantity, weight or volume of goods provided in proof of origin.

5. With regard to invoices issued by a third party, the customs authority shall inspect information concerning the name, country of invoice issuance and information on such invoice in compliance with provisions in Free Trade Agreements to which Vietnam is a signatory.

6. Minor differences not affecting the validity of proof of origin:

The customs authority shall accept proof of origin in case of minor errors or minor differences between the information declared in proof of origin and other documents provided in the customs dossier if such errors and differences are consistent with reality of imported goods, including:

- a) Spelling errors or typing errors not changing the information declared in the proof of origin;
- b) Differences in marking at Items in the C/O: marked by hand or computer, marked with "x" or "√";
- c) Minor differences between the signature in proof of origin and sample signature;
- d) Differences between measurement units used in proof of origin and in other documents enclosed in the customs dossier such as customs declaration, invoice, bill of lading;
- dd) Differences between the paper size of C/O submitted to the customs authority and that as required;
- e) Differences in ink colors of information declared in proof of origin;
- g) Minor differences between description of goods provided in proof of origin and that in other documents;
- h) Differences between the reference number in proof of origin and that in declaration of imported goods, but not changing the origin of goods and goods imported must be consistent with the description declared in proof of origin;

i) Other minor differences as agreed in International Agreements to which Vietnam is a signatory notified by the General Department of Customs

Article 16. Inspection of back-to-back certificate of origin or Certificate of Non-manipulation

1. The customs authority shall accept a back-to-back certificate of origin issued in case of imported goods transported through one or more than one intermediate country to Vietnam or Certificate of Non-manipulation issued by competent authorities of Vietnam

For cases prescribed in point a in clause 1 in Article 4 of this Circular, the customs authority shall accept back-to-back certificate of origin if such certificate is issued by an intermediate country which is a party of the Free Trade Agreements.

2. Information on origin of goods must be sufficiently provided in the back-to-back certificate of origin. The inspection of back-to-back certificate of origin shall be conducted as proof of origin as prescribed in this Circular.

Article 17. Inspection of proof of origin in case of purpose conversion, change to domestic consumption from tax-exempt goods, non-taxable goods to taxable goods and having a number of customs declarations for a single shipment

1. The customs authority shall inspect the proof of origin submitted by the customs declarant at the time of procedures for purpose conversion, change to domestic consumption from tax-exempt goods, non-taxable goods to taxable goods to consider whether to apply the special preferential tariff rate.

For cases in which the customs declarant has submitted proof of origin at the time of initial import procedure, the customs authority shall inspect and determine the origin and compare with the results of inspection and identification of origin of goods at the time of initial import procedure to consider whether to apply special preferential tariff rate. The customs declarant must follow the procedure for changing purposes, changing domestic consumption at the Customs Department at which the initial customs declaration is registered as prescribed in Article 21 of Circular 38/2015/TT-BTC amended in clause 10 in Article 1 of Circular 39/2018/TT-BTC. The goods must be identified not engaged in production or processing stage (ensure the status quo of origin) from the time of initial customs declaration registration. Proof of origin must remain unexpired at the time of procedure for changing purposes or domestic consumption, unless otherwise prescribed in free trade agreements to which Vietnam is a signatory.

2. If the customs declarant registers a number of customs declarations in different forms at the same time for a single shipment with one proof of origin, the customs authority shall inspect such proof of origin to identify origin of goods and apply that proof of goods to the whole imported goods.

3. The inspection of proof of origin shall comply with regulations in this Circular.

Article 18. Inspection of conditions for direct consignment

1. The following cases shall be considered as consigned directly, unless otherwise prescribed in International Agreements to which Vietnam is a signatory:

- a) Direct consignment from territories of exporting countries to territories of importing countries;
- b) Goods transported passing through one or many countries, group of countries or territories, apart from importing country and group of importing countries or territories or exporting country and group of exporting countries or territories meeting the following requirements:
 - b.1) Transit entry is justified for geographical reason or consideration related exclusively to transport requirements;
 - b.2) The goods have not been entered in trade or consumption there.
 - b.3) The goods have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

2. Cases requiring submission of document proving direct consignment to the Customs Departments at which the customs declaration is registered:

- a) For goods imported as prescribed in point a in clause 1 in Article 4 of this Circular which are transported passing through to territories of a non-Party, the custom declarant must submit a document proving that such goods are eligible for direct consignment to the customs authority
- b) For goods imported as prescribed in point b, c and d in clause 1 and 2 in Article 4 of this Circular which are consigned passing through the territory of an intermediate country other than importing country or exporting country, the customs declarant must submit a document proving that such goods are eligible for direct consignment to the customs authority.

3. Documents proving direct consignment:

Where the document proving that goods are eligible to be directly consigned is required, the customs declarant must submit one of the following documents, unless otherwise prescribed in International Agreement to which Vietnam is a signatory:

- a) A document issued by the customs authority of transit country confirming that goods are managed by the customs of such country territory and not imported there: one copy, or

b) Confirmation note issued by the agency, organization issuing the bill of lading for the shipment imported proving that transit entry is justified for geographical reason or consideration related exclusively to transport requirements; the goods have not entered into trade or consumption there; the goods have not undergone any operation other than unloading and reloading or any operation required to keep them in good condition. Confirmation issued by the subsidiary company, branch or agent of transport company or organization issuing the bill of lading for the shipment in Vietnam accompanied by an authorization of the transport company: one copy; or

c) With regard to goods transported in the form of full container load with the number of containers and lead seal remained from the loading in the loading port of exporting Party to the import into Vietnam, the document proving direct consignment is the bill of lading and information provided in e-manifest system which presents the number of containers and lead seals remained: one copy

The customs authority shall inspect and make comparison of documents prescribed in this clause provided by the customs declarant with information in the customs dossier to identify the status quo of goods during the transport.

Where the e-customs system fails to be responsive or encounters errors, the customs declarant shall submit the printed copy of above-mentioned documents to the Customs Department at which the customs declaration is registered.

Article 19. Verification of origin of imported goods

1. Where information in the proof of origin is inconsistent with information declared by the customs declarant and in other documents enclosed in the customs dossier, the Customs Department at which the customs declaration is registered shall request the customs declarant to make a representation on the inconsistent information in the proof of origin

The customs may conduct verification as prescribed in clause 4 in this Article if the customs declarant fails to make the representation or fail to present sufficient grounds for determining the validity of the proof of origin within 5 days from the day required by the customs.

2. Where there are grounds for doubting the origin information in the proof of origin, the Customs Department at which the customs declaration is registered shall request the customs declarant to provide the following documentation through the e-customs system:

a) Production process of imported goods: one copy;

b) A declaration of costs of input materials and supplies, manufacturing output and invoices, documents of purchase/sale of materials where the ad valorem percentage criterion is applied; or

c) A detailed declaration of input materials and supplies and manufacturing output in case where change in tariff classification is applied: one copy;

Within 10 days from the day requested by the customs, if the customs declarant fails to provide documents as required; or the customs fails to find sufficient grounds for verifying the validity of proof of origin based on documents provided by the customs declarant; or the customs declarant sends a written request for verification to the customs is received, the customs may conduct a verification as prescribed in clause 4 in this Article.

Where the e-customs system fails to be responsive or encounters errors, the customs declarant shall submit the printed copy of above-mentioned documents as required by the customs authority.

3. The customs may conduct verification as prescribed in clause 4 in this Article if doubting the validity of the proof of origin.

4. With regard to cases requiring verification prescribed in clauses 1, 2, and 3 in this Article, the Customs of Department of provinces and/or cities shall send a report and request the General Department of Customs to send a written notice requesting verification of origin of goods to the C/O issuing body of the exporting or importing country, the producer or the customs of exporting country for the purpose of verifying the validity of proof of origin or the correctness of information concerning origin of goods.

5. Where the results of verification conducted by the C/O issuing body or the producer, exporter self-issuing proof of origin or the customs of the exporting country fails to provide sufficient grounds for determining origin of imported goods, the General Department of Customs shall conduct an audit to the production facility of exporting country as prescribed in Article 20 of this Circular.

6. The verification process, including an audit at the exporting country and the issuance of the announcement about inspection results, shall be carried out within no longer than 180 days from the day the General Department of Customs sends the written request for verification, unless otherwise prescribed in International Agreements to which Vietnam is a signatory. The customs authority shall refuse the proof of origin if not receiving the verification results in such required period.

The customs authority shall consider whether to accept proof of origin according to the verification results or representation made by the agency, organization or producer, exporter issuing proof of origin or the customs authority of exporting country if the verification result notification is received beyond the time limit prescribed in this clause. Representation made by the agency, organization, producer, exporter issuing proof of origin or the customs authority of exporting country must be detailed and provide explanation for questions brought up by the customs authority and must be sent directly in written to the General Department of Customs.

7. The customs declarant pending the verification results shall claim an MFN tariff rate or general tariff rate in case of verification of origin of goods during the customs processing or verification of origin of goods during post-clearance audit in which the imposed import tariff rate is consistent with the applied tariff rate at the time of customs processing.

Article 20. Audit at the exporting country, groups of exporting countries and territories

1. Prior to conducting an inspection visit to an exporting Party, the General Department of Customs shall:

a) Send such a written notification to the exporter or the producer whose facility is subject to audit; the C/O issuing body and customs authority of the exporting country that is subject to audit and the importer whose goods are subject to audit;

b) Notify the audit plan including the name, address of the exporter or producer whose facility is subject to audit; name and address of the C/O issuing body and the customs authority subject to audit; name and address of the importer; expected inspection date; scope, contents; name and title of inspector.

2. The General Department of Customs shall conduct the inspection after receiving the written approval of the exporter or producer whose facility is subject to audit or the C/O issuing body or customs authority of the exporting country.

3. The customs authority may refuse the proof of origin as regulated if they have not received the written approval of the exporter, producer or competent issuing authority or customs authority of the exporting country within 30 days from the day the written notification of audit is sent.

Article 21. Actions taken against results of verification, inspection of origin of goods

1. According to the results of verification and audit, representation of the customs declarant, or the C/O issuing authority or the producer, exporter or the results of audit at the exporting country, the customs shall verify the validity of proof of origin as follows:

a) For cases in which the representation or documents provided by the customs declarant are eligible to authenticate the proof of origin; or the results of verification and audit of origin of goods, representation or documents provided by the C/O issuing authority or by the producer, the ability of the exporter to give a detailed explanation for questions from the customs authority, [subsequently], the customs authority has sufficient grounds for verifying the validity of proof of origin, such proof of origin shall be accepted;

b) For cases in which the results of inspection of documents provided by the customs declarant or the results of verification and audit of origin of goods, representation or documents provided by the C/O issuing authority or the producer, exporter fail to give detailed explanations for questions from the

customs authority, the customs authority fails to find sufficient grounds for verifying the validity of proof of origin, such proof of origin shall be refused;

c) For cases in which the exporter or producer fails to provide data, documents for authenticating origin of goods or gives no permission for auditing their facility, production process or causes obstruction which leads to incapability of audit at such facility, the customs authority shall refuse the proof of origin;

d) If having sufficient grounds for determining fraudulent misrepresentation of an origin of goods, the customs authority may impose sanctions against violations as regulated.

2. The customs authority shall notify the results through the e-customs system or send a written verification results to the importer, exporter or producer, the C/O issuing authority or the customs authority of the exporting country.

Article 22. Refusing proof of origin

1. Apart from cases of refusal prescribed in Article 19, 20 and 21 of this Circular, the customs authority shall refuse proof of origin in the following cases:

a) With regard to imported goods requiring proof of origin as prescribed in point a in clause 1 in Article 4 of this Circular, if having sufficient grounds for verifying proof of origin is not satisfactory, the customs authority shall refuse such proof of origin; imported goods shall be imposed MFN -tariff rate or general tariff rate ;

b) With regard to imported goods requiring proof of origin as prescribed in point b and c in clause 1 in Article 4 of this Circular, if having sufficient grounds for verifying proof of origin is not satisfactory, the customs authority shall refuse such proof of origin and handle as prescribed in point b in clause 4 in Article 4 of this Circular; with regard to goods prescribed in clause 2 in Article 4 of this Circular, such proof of origin shall not be accepted; goods shall not permitted to be cleared and handled in accordance with provisions of laws.

c) With regard to imported goods requiring proof of origin as prescribed in point d in clause 1 in Article 4 of this Circular, if the customs authority has sufficient grounds for verifying such proof of origin is not satisfactory, imported goods will be imposed the anti-dumping duty, countervailing duty, safeguard duty or outside tariff quota rate and may be cleared as regulated.

2. The customs authority shall notify through the e-customs system or send a written notification of refusal of proof of origin or notify directly by writing the explanation for refusal on the proof of origin and return it to the customs declarant for them to contact the C/O issuing authority or the producer or exporter issuing such proof of origin right after the time of refusal.

Article 23. Deduction of import quantity in the C/O

1. Where a shipment is transported from a foreign country to a bonded warehouse then divided for multiple import, a C/O may be used to make an import quantity monitoring sheet which is applied to each import and deduction of import quantity at different Customs Departments

2. The procedure for making import quantity monitoring sheet:

a) The customs declarant shall make a registration of deduction of import quantity in the C/O through the e-customs system according to information provided in Form 01/CT/DNTL/GSQL specified in Appendix IV issued together with this Circular and submit a copy of C/O through the e-customs system and an original C/O to the Customs Department in charge of bonded warehouse management before registering the customs declaration for the initial import.

The Customs Department in charge of bonded warehouse management shall inspect the C/O as regulated;

b) According to the request for deduction of import quantity by the customs declarant, the Customs Department in charge of bonded warehouse management shall make an import quantity-monitoring sheet through the e-customs system according to Form 03/TDTL/GSQL provided in Appendix IV issued together with this Circular and notify the customs declarant through the e-customs system.

3. The procedure for monitoring and deducting import quantity:

a) When carrying out the customs procedure for imports, the customs declarant shall declare the number of import quantity monitoring sheet in the electronic customs declaration under the guidance provided in the Appendix issued together with Circular 39/2018/TT-BTC.

With regard to the printed customs declaration, the customs declarant shall write the number of the import quantity-monitoring sheet in Item "Enclosure" in such customs declaration.

b) If the C/O is not available for making the import quantity monitoring sheet before the time of customs declaration registration for initial import and next import, the customs declarant shall later submit the C/O as prescribed in Article 7 of this Circular.

When submitting an additional C/O, the customs declarant shall make a registration of deduction of import quantity in the C/O as prescribed in point a in clause 2 in this Article. The Customs Department in charge of bonded warehouse management shall make an import quantity monitoring sheet at the time the original C/O is submitted within the time limit prescribed in Article 7 of this Circular, verify the C/O as regulated and deduct the import quantity in the additional C/O submitted before the import quantity monitoring sheet is made. The customs declarant shall provide the number of the import quantity-monitoring sheet in the additional declaration after clearance according to the guidance specified in the

Appendix issued together with Circular 39/2018/TT-BTC. When carrying out the customs procedure for the next import, the customs declarant shall declare the number of the import quantity monitoring sheet on the customs declaration as prescribed in point a in this clause.

With regard to the printed customs declaration, the customs declarant shall write the number of the import quantity-monitoring sheet in the Item "Note" in the customs declaration after clearance.

If there are grounds for questioning the validity of the C/O, the customs authority shall verify the C/O as prescribed in Article 19 and 20 of this Circular. The customs declarant, pending the results of C/O verification, shall claim an MFN-tariff rate or general tariff rate.

c) The customs officer shall search for the import quantity-monitoring sheet on the system and update the deducted quantity to such import quantity-monitoring sheet corresponding to the quantity of imports.

d) When the customs declarant imports all goods stated in the C/O, the Customs Department in charge of bonded warehouse management shall summarize the import quantity and verify full import of quantity in the C/O on the import quantity monitoring sheet on the e-customs system.

4. Where the e-customs system fails to provide the service of deduction of import quantity in the C/O, the customs declarant shall submit an original document for registration of deduction of import quantity in the C/O according to Form 02/DNTL/GSQL provided in Appendix IV issued together with this Circular and 1 original C/O to the Customs Department in charge of bonded warehouse management. The Customs Department in charge of bonded warehouse management shall make an import quantity-monitoring sheet according to Form 03/TDTL/GSQL provided in Appendix IV issued together with this Circular.

a) The import quantity monitoring sheet shall be made into two copies in which one copy will be sent to the customs declarant to be showed to the Customs Department in charge of customs procedure for each import and the other one will be sent to the Customs Department in charge of bonded warehouse to be liquidated when all goods with the quantity stated in the import quantity-monitoring sheet are imported.

a) When carrying out the customs procedure for each time of import, the customs declarant shall write the number of the import quantity-monitoring sheet in the electronic customs declaration under the guidance provided in the Appendix issued together with Circular 39/2018/TT-BTC and present the original of the import quantity-monitoring sheet as well as submit a copy of C/O to the customs authority.

The customs authority shall inspect and compare the contents in the import quantity-monitoring sheet with the C/O and deduct the import quantity in the imported quantity-monitoring presented by the customs declarant; sign to verify the import quantity of each time import in the import quantity monitoring sheet and store the copy of import quantity monitoring sheet with deducted import quantity

bearing the verification signature of the Customs Department in charge of customs procedure and copy of the C/O in the customs dossier;

c) When importing all goods with quantity stated in the import quantity-monitoring sheet, the customs declarant shall submit the original of import quantity-monitoring sheet to the Customs Department in charge of customs procedure for the last import in pursuit of verifying full import of goods quantity; the Customs Department where the customs procedure for the last import is carried out shall take responsibility to send the import quantity-monitoring sheet to the Customs Department in charge of bonded warehouse management.

The Customs Department in charge of bonded warehouse management shall inspect and compare the document with the copy of import quantity monitoring sheet and verify the total import quantity in the C/O and two original copies of import quantity monitoring sheet as well as store the customs dossier as required.

5. For cases in which a shipment with a single custom declaration registration as prescribed in Article 93 of Circular 38/2015/TT-BTC is amended in clause 60 in Article 1 of Circular 39/2018/TT-BTC, the customs declarant may use the C/O to deduct the import quantity for each time of import.

The procedure for registering or making the import quantity monitoring sheet and the deduction of import quantity must comply with regulations in clauses 2, 3, and 4 in this Article.

Article 24. Post-clearance examination of origin of imported goods

1. The authority and procedure relating to post-clearance examination of origin of imported goods shall comply with provisions of the law on customs.
2. Matters, methods, and actions against the results of audit of origin of imported goods shall comply with provisions in this Circular.

Chapter V

IMPLEMENTATION PROVISIONS

Article 25. Effect

1. This Circular comes into force on June 05, 2018.
2. For imported goods that are subject to submission of proof of origin as required by specialize ministries before this Circular comes into force, the submission of such proof of origin will continue as prescribed.

3. During the implementation, if relevant documents specified in this Circular are amended or replaced, the amended documents or new documents will prevail.

**ON BEHALF OF MINISTER
VICE MINISTER**

Vu Thi Mai