

MINISTRY OF FINANCE

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SOCIALIST REPUBLIC OF VIETNAM

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No: 13/2015/TT-BTC

Hanoi, January 30, 2015

**CIRCULAR**

DEFINING INSPECTION, SUPERVISION, TEMPORARY SUSPENSION OF CUSTOMS PROCEDURES FOR EXPORTED AND IMPORTED GOODS THAT ARE SUBJECTS OF INTELLECTUAL PROPERTY RIGHTS; CONTROL OF COUNTERFEIT GOODS AND GOODS INFRINGING INTELLECTUAL PROPERTY RIGHTS

*Pursuant to the Law on Customs No. 54/2014 / QH-13 dated June 23, 2014;*

*Pursuant to the Law on Intellectual property No. 50/2005 / QH11 dated November 29, 2005;*

*Law Amending and Supplementing a Number of Articles of the Law on Intellectual Property No. 36/2009 / QH12 dated June 19, 2009;*

*Pursuant to the Government's Decree No. 08/2015 / ND-CP dated January 21, 2005 detailing the Law on Customs on customs procedures, customs inspection, supervision and control and measures for its implementation;*

*Pursuant to the Government's Decree 105/2006 / ND-CP dated September 22, 2006 providing instructions on the implementation of a number of articles of the Law on Intellectual property on protection of intellectual property rights and State management of intellectual property ;*

*Pursuant to the Government's Decree No. 119/2010 / ND-CP dated December 30, 2010 amending and supplementing a number of articles of the Government's Decree No. 105/2006 / ND-CP dated September 22, 2006 providing instructions on the implementation of a number of articles of the Law on Intellectual property on protection of intellectual property rights and State management of intellectual property ;*

*Pursuant to the Government's Decree No. 185/2013 / ND-CP dated November 15, 2013 defining penalties for administrative violations in producing and trading counterfeit goods, forbidden goods and protection of consumer rights;*

*Pursuant to the Government's Decree No. 215/2013 / ND-CP dated December 23, 2013 defining the functions, tasks, entitlements and organizational structure of the Ministry of Finance;*

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

*The Minister of Finance promulgates the Circular defining inspection, supervision, temporarily suspension of customs procedures for exported and imported goods that are*

*subjects of intellectual property right; control of counterfeit goods and goods infringing intellectual property rights*

## **Chapter I**

### **GENERAL PROVISIONS**

#### **Article 1. Scope of regulation**

This Circular defines the inspection, supervision, temporarily suspension of customs procedures for exported and imported goods that are subjects of intellectual property rights; control of counterfeit goods and goods infringing intellectual property rights

#### **Article 2. Regulated entities**

1. Customs authority, customs officers;
2. Goods exporters or importers or authorized person;
3. Holders of intellectual property right, owners of genuine goods which is counterfeited or legal representatives of the owners;
4. Other related organizations and individuals.

#### **Article 3. Interpretation of terms**

The terms used in this Circular shall be construed as follows:

1. Counterfeit goods include goods as defined in paragraph 8, Article 3 of the Government's Decree No. 185/2013 / ND-CP dated November 15, 2013 defining penalties for administrative violations in producing and trading counterfeit goods, forbidden goods and protection of consumer rights;
2. Protection of intellectual property rights in customs field means customs authority shall apply measures of inspection , monitoring, control, temporary suspension of customs procedures for exported and imported goods that are subjects of intellectual property rights in accordance with Article 216 of the Law on Intellectual Property and Articles 73, 74, 75, 76 of the Law on Customs and relevant legal documents to detect, combat and handle the infringement of intellectual property rights in the field of customs.
3. Temporary suspension of customs procedures for goods which are suspected of infringing intellectual property rights means measures are carried out at the request of the holders of intellectual property rights in order to gather information and evidence so that holders of intellectual property rights shall request actions against infringement and application of temporary emergency measures or measures of prevention and ensuring administrative penalties.
4. Customs inspection of counterfeit goods, goods infringing intellectual property rights is inspection of customs dossiers, related documents and actual inspection of goods and means

of transport carried out by the customs authorities in order to detect goods which are suspected of counterfeit, goods which infringe intellectual property rights.

5. Customs supervision of counterfeit goods, goods infringing intellectual property rights is operational measures applied by the customs authorities to ensure the status quo of goods and compliance with the provisions of law in the preservation, storage, loading and unloading, transporting and use of exported and imported goods that are subject of intellectual property rights under the management of customs.

6. Customs controls of counterfeit goods or goods infringing intellectual property rights are measures of patrol, investigation or other operational measures applied by the customs authorities to prevent and combat smuggling and illegal transport of counterfeit goods and goods infringing intellectual property rights which are transported across the border or carried out, carried in the free trade zones .

7. Application includes: A written form of inspection and supervision of exported and imported goods that are subject of intellectual property rights and a written form of temporary suspension of customs procedures (forms are enclosed herewith this Circular)

8. Applicants are holders of intellectual property rights (including holders of intellectual property rights and organizations or individuals to whom intellectual property rights are transferred by the owners) or legally authorized persons.

9. Infringements of intellectual property rights are the acts referred to in Articles 28, 35,126, 127, 129 and 188 of the Law on Intellectual Property.

#### **Article 4. Rights and obligations of related organizations and individuals.**

1. Commercial information provided to the customs authorities shall be kept confidential by customs authority, except providing for functional agencies in accordance with the law.

2. Holders of intellectual property rights, owners of the goods counterfeited intellectual property rights or legally authorized representatives, along with the customs authorities, shall participate in inspection, monitoring, control, verification, collection of evidence to determine goods infringing intellectual property rights, counterfeit goods, processing of goods, exhibits of violations, except the necessary protection of trade secrets, State secret in accordance with the law.

3. Handling decisions of counterfeit goods, goods infringing intellectual property rights, application of measures to control exported and imported goods related to intellectual property of customs authorities shall be complained or filed a lawsuit in accordance with the provisions of the law on complaints, denunciations and administrative procedures.

4. Information and documents related to exported or imported goods which are suspected of infringing intellectual property rights, counterfeit goods shall be provided timely for customs authority when requested or when there is information.

5. Organizations and individuals infringing intellectual property rights shall destroy and pay all expenses related to the destruction of exported and imported goods infringing intellectual property rights or counterfeit goods as prescribed in law on handling of administrative violations.

#### **Article 5. Rights and obligations of customs authority**

1. Commence to apply measures of inspection , monitoring, control, temporary suspension of customs procedures as prescribed in the regulation of law on customs, the regulation of law on commerce and regulation of law on Intellectual property for goods which are suspected of counterfeit or infringing intellectual property rights .

2. Explain and guide related organizations and individuals to comply with the provisions of the Law on Customs, the Law on Intellectual property and the guidance in this Circular. Notify in writing to related organizations and individuals the settlement and handling results of the case.

3. Coordinate with the State management agencies, the competent forces in anti-counterfeit and protection of intellectual property rights in combating and handling counterfeit goods, goods infringing intellectual property rights under the provisions of current laws.

4. Request related individuals and organizations to submit, present related documents to explain, clarify the doubts of customs authority on exported and imported goods infringement intellectual property rights or counterfeit goods.

5. Resolve the lawsuits and complaints of related organizations and individuals on counterfeit goods, goods infringing intellectual property rights, application of measures to control exported and imported goods related to intellectual property of customs authorities as prescribed by law.

6. Implement the regulations of report, keeping documents and records related to anti-counterfeiting goods and protection of intellectual property rights according to current regulations.

### **Chapter II**

#### **RECEPTION AND ACTIONS AGAINST APPLICATION FOR INSPECTION, MONITORING EXPORTED OR IMPORTED GOODS THAT ARE SUBJECTS OF INTELLECTUAL PROPERTY RIGHTS**

**Article 6. Provisions of application for inspection, supervision of exported or imported goods that are subjects of intellectual property rights**

Holders of intellectual property rights or authorized person shall submit an application to the General Department of Customs (Customs Management Supervision Department), including:

1. A written form of inspection and supervision of exported and imported goods that are subjects of intellectual property rights in the form No.01-SHTT enclosed with this Circular: 01 original;
2. A Diploma of protection of industrial property rights or other documents of industrial property rights which are protected in Vietnam or Certificate of transfer contract registration of right to enjoyment of industrial property objects; Certificate of registration of copyright and rights related to copyright, plant variety rights or other documents of copyrights and rights related to copyrights, plant variety rights: 01 copy signed, stamped and certified by the holders of intellectual property rights or authorized person;
3. A detailed description of goods infringing intellectual property rights, photos, characteristics to distinguish genuine goods with goods infringing intellectual property rights: 01 original;
4. A list of legal exporters and importers goods required supervision; a list of people who may export and import of goods infringing intellectual property rights: 01 original.

**Article 7. Reception, inspection and actions against application**

1. After receiving a full application as prescribed in Clause 1, Article 6 of this Circular, the customs authorities shall check the application in accordance with the following contents:

- a) The legal status of the applicant in accordance with the law;
- b) The match between the content of the application and the enclosed documents; the validity of the diplomas of protection of intellectual property rights;
- c) Specimens, exhibits (or snapshot) in accordance with the content of intellectual property rights required for protection or denunciation content of violations;
- d) The authorized content in accordance with the competence of the customs authorities and the applicant (in case of authorized application).

2. Applications shall be rejected in the following cases:

- a) The application is not submitted to the proper competent agencies;
- b) The customs authority has basis to assert that the applicant does not have enough legal status under the provisions of law;
- c) The applicant does not provide all the documents prescribed in Clause 2, Article 74 of the Law on Customs;
- d) When handling of the application, the customs authorities receive the documents of the State management agencies on intellectual property notifying of dispute or complaint about the holders, protection ability, and scope of protection of intellectual property rights.

3. If the application is accepted, the process shall be as follows:

a) After receiving the request for customs supervision and inspection for exported and imported goods that are subject of intellectual property rights, the General Department of Customs ( Customs Management Supervision Department) shall update the database system of protection of intellectual property rights and send an acceptance notice of the application to the Customs Departments of the provinces, cities; the Smuggling Investigation and Prevention Department to commence the inspection and supervision.

b) Customs Departments of provinces and cities, the Smuggling Investigation and Prevention Department shall receive the notice of the General Department of Customs (Customs Management Supervision Department) and look up data on the system to commence the implementation within their administrative division;

c) Sub-department of Customs shall base on the database and the notice of the General Department of Customs (Customs Management Supervision Department) to commence measures of customs supervision and inspection for exported and imported goods which have signs of infringing intellectual property rights as stipulated in Article 14 of this Circular.

4. Within 20 days after the date of receipt of satisfactory application under the provisions of paragraph 1 of Article 6 of this Circular, the General Department of Customs ( Customs Management Supervision Department) shall inspect and notify in writing to the applicant about accepting the application or not .

#### **Article 8. Invalidation of application**

The General Department of Customs (Customs Management Supervision Department) shall have notice of termination invalidation of application for inspection and supervision of exported and imported goods that are subject of intellectual property rights in the following cases:

1. The applicant has a written request for permission to terminate the inspection and supervision of the customs authorities for goods required for protection;
2. The applicant does not have a written request for permission for extension upon the expiry of validity of the application for inspection and supervision;
3. State management agencies of intellectual property have a notice of cancellation of degree of protection of intellectual property rights granted to the applicant.

### **Chapter III**

#### **RECEPTION AND ACTION AGAINST APPLICATION FOR TEMPORARY SUSPENSION OF CUSTOMS PROCEDURES AND PROCEDURES FOR TEMPORARY SUSPENSION OF CUSTOMS PROCEDURES**

## **Article 9. Provisions on submitting application for temporary suspension of customs procedures**

Holders of intellectual property rights or authorized person shall submit an application for temporary suspension of customs procedures to the Sub-department of Customs where the customs procedures are carried out for the batches of exported goods), including:

1. A written form of temporary suspension of customs procedures in the form No. 02-SHTT enclosed herewith this Circular: 01 original;
2. A diploma of protection of industrial property rights or other documents of industrial property rights which are protected in Vietnam or Certificate of transfer contract registration of right to enjoyment of industrial property objects; Certificate of registration of copyright and rights related to copyright, plant variety rights or other documents of copyrights and rights related to copyrights, plant variety rights: 01 copy signed, stamped and certified by the holders of intellectual property rights or authorized person;
3. A detailed description of goods infringing intellectual property rights, photos, characteristics to distinguish genuine goods with goods infringing intellectual property rights: 01 original;
4. A list of legal exporters and importers goods required supervision; a list of people who may export and import of goods infringing intellectual property rights: 01 original;
5. Guarantee certificate of credit institutions: 01 original or a guarantee amount of money prescribed in paragraph 3 of Article 74 of the Law on Customs.

## **Article 10. Temporary suspension of customs procedures**

1. Within 02 working hours from the time of receiving a satisfactory application as prescribed in Article 9 of this Circular, if the application is accepted, the Sub-department of Customs shall decide to temporarily suspend the customs procedures in the form 03-IPR enclosed herewith this Circular. The suspension decision shall be submitted directly or by registered mail as well as faxed immediately to involved organizations and individuals.
2. The term of suspension of customs procedures shall be 10 working days since the customs authorities issue a decision on temporary suspension of customs procedures. In case of the solicitation of assessment or expertise consultation from the State management agencies for intellectual property, customs authorities will continue the temporary suspension of customs procedures until receiving the results of the solicitation of expertise or expertise.

After the applicant submits the extension application and the guarantee amount of money or guarantee documents as prescribed by law, the Sub-department of Customs which decides to temporarily suspend shall extend the time of temporary suspension in the form 04- IP enclosed with this Circular and notify the applicant, the goods owners and the involved

parties. The extended period shall be within 10 working days from the date of extension decision.

3. While temporarily suspending or applying the preventive measures as prescribed, Sub-department of Customs which decides to temporarily suspend shall fulfill the following tasks:

a) Request goods owners, holders of intellectual property rights to provide documents related to the goods (catalog, assessment conclusions, and documents from abroad, results of handling of similar cases ....).

b) Solicit assessment in specialized organizations of customs or other verifying organizations as prescribed in Clause 1, Article 40 of the Government's Decree 105/2006 / ND-CP dated September 22 , 2006 providing instructions on the implementation of a number of articles of the Law on Intellectual property and protection of intellectual property rights and State management of intellectual property or consult the expertise of State management agencies on intellectual property to identify signs of infringement of intellectual property;

c) Request the organizations and individuals to take samples for assessment under the provisions of Clause 2, Article 40 of the Government's Decree 105/2006 / ND-CP dated September 22, 2006. Sampling procedures, sampling techniques, sample keeping place, sample keeping time of goods shall comply with the guidance in the Ministry of Finance's Circular defining customs procedures; customs inspection and supervision; export tax, import duty and tax management for exported and imported goods.

d) Carry out the additional assessment, re-assessment under the provisions of Clause 13, Article 1 of the Government's Decree No. 119/2010 / ND-CP dated December 30, 2010 amending and supplementing a number of articles of the of articles of the Government's Decree No. 105/2006 / ND-CP dated September 22, 2006 .

dd) Cooperate and discuss with the State management agencies on intellectual property in administrative division if there are disputes or complaints about the right's holder, protection, protection scope of intellectual property rights, competence to handle violations.

e) Report to Customs Departments of provinces, cities and the General Department of Customs to direct and timely resolve in case the temporarily suspended batches of goods have great value; goods suspected of infringing intellectual property rights of famous brands; cases related to many localities, state agencies, international organizations; cases arising disputes, complaints related to the holders of intellectual property rights, protection, scope of protection of intellectual property rights, competence to handle violations.

4. When the temporary suspension of customs procedures or application of preventive measures prescribed ends, Sub-department of Customs which decides to temporarily suspend shall fulfill one or more following tasks:

a) Decide to handle the case under administrative procedures after asserting goods temporarily suspended the infringement of intellectual property rights on the basis of assessment conclusions about the intellectual property of the assessment organization of Intellectual Property (in the case of solicitation of assessment); expertise of the State management agencies on intellectual property, other State management agencies (in the case of consulting expertise); documents and evidence provided by the holders of intellectual property rights.

Decide to detain the goods in case there is a basis to assert that the detained goods are counterfeit goods of intellectual property; goods infringing intellectual property rights are the food, medicinal products, cosmetic, food for livestock, fertilizers, veterinary medicine, plant protection products, building materials. .

Handle administrative violations for infringement of intellectual property rights, goods infringing intellectual property rights in accordance with law. Within 10 working days since the decision on penalty takes effect, Sub-department of Customs shall notify in writing to compel the infringer to pay the incurred expenses due to administrative violations and repay the paid amount to the person who requests for temporary suspension of customs procedures.

b) Continue to carry out the customs procedures for the batches under the provisions of Article 11 of this Circular if, through inspection, goods temporarily suspended are asserted not to infringe the intellectual property rights, .

c) Comply with the decision of the court in case the applicant files a civil lawsuit.

d) Transfer the case to other intellectual property right enforcement agencies to handle if determining the violations outside the handling competence of the customs authorities.

dd) Temporarily suspend the handling after receiving the documents from State management agencies on intellectual property which notify the dispute, complaints about the right's holders, protection , scope of protection of intellectual property rights.

e) Transfer to the competent agencies to conduct the investigation, prosecution under the provisions of law in case of determining the violations having signs of crime as prescribed in the Criminal Code.

5. Applications shall be rejected in the following cases:

The Director of Sub-department of Customs shall notify in writing to the applicant of rejection of the application in the following cases:

a) Sub-department of Customs do not carry out customs procedures for the batches of exported goods, imported goods which are requested for temporary suspension of customs procedures;

- b) The customs authority has basis to assert that the applicant does not have enough legal status under the provisions of law;
- c) The applicant does not provide all the documents prescribed in Article 9 of this Circular;

**Article 11. Continuation of customs procedures**

1. Sub-department of Customs which decide to temporarily suspend shall continue the customs procedures for the batches as prescribed in clause 4 of Article 76 of the Law on Customs and notify the involved parties (Form No. 05 -SHTT attached to this Circular).
2. Within 10 working days from the date of completion of customs procedures for the temporarily suspended batches of goods, Sub-department of Customs shall:
  - a) Notify to the owners of intellectual property rights or legally authorized person to make payments to the owners of the incurred expenses under the provisions of clause 5 of Article 76 of the Law on Customs.
  - b) Repay the guarantee amount of money to the person who requests for temporary suspension as prescribed in clause 6 of Article 76 of the Law on Customs.

**Chapter IV**

**CUSTOMS SUPERVISION AND INSPECTION FOR EXPORTED OR IMPORTED  
GOODS INFRINGING INTELLECTUAL PROPERTY RIGHTS AND  
COUNTERFEIT GOODS**

**Article 12. Customs inspection**

When inspecting the actual exported goods and imported goods, in addition to compliance with the provisions of the Circular defining customs procedures; customs supervision and inspection; export tax, import tax and tax management for exported and imported goods of the Ministry of Finance, customs officers shall:

1. Inspect and compare the information on customs declaration on the written customs declaration about goods' names, brands, origin, value, packing, goods quality, transportation route of goods and information in the data system of the written form of inspection and supervision of exported and imported goods related to intellectual property, list of risk management of intellectual property and information gathered by the customs authorities to determine the sign of goods infringing intellectual property rights, counterfeit goods.
2. Base on the conclusions of specialized inspection agency to determine signs of counterfeit goods, if the goods are under the specialized inspection;
3. Compare the inspection results with the provisions of law on goods infringing intellectual property rights, counterfeit goods.

**Article 13. Actions against counterfeit goods or goods with signs of counterfeit**

1. If exported, imported goods are detected to be counterfeit, preventive and penalty measures in accordance with legislation on penalties for administrative violations shall be applied

2. If exported and imported goods are detected with signs of counterfeit, the Director of the Sub-department of Customs shall request the customs declaration to provide documents related to the goods.

a) A sale contract of goods or vouchers with equivalent value: 01 snapshot;

b) A technical documents or a written component analysis (if any): 01 snapshot.

3. If the owner of the genuine goods which are counterfeited is determined, the owner of genuine goods which are counterfeited shall provide documents related to goods (such as catalogs, assessment conclusions, and documents from abroad, results of handling of similar cases). If the owner of the genuine goods can not determined, customs dossiers, actual goods, analysis results of the risk information of goods and provisions of the legislation on goods shall be based to determine; customs control forces shall be cooperated to investigate, verify (if necessary) or transfer information, case files to customs control forces to investigate, verify and handle in accordance with clause 4 of this Article.

4. Verification of counterfeit goods shall be carried out as follows:

While goods are detained or applied preventive measures as prescribed, Sub-department of Customs shall be responsible for the following tasks:

a.1) Request the owner of the genuine goods which are counterfeited (as the owner determined) to provide documents related to goods (such as catalogs, assessment conclusions, documents from abroad, results of handling of similar cases).

a.2) Coordinate with the owner of genuine goods which are counterfeited to sample to assess in technical organizations designated to inspect serving State management or assessment traders (in case the technical organizations are designated to inspect have a written refusal) and base on the assessment concludes to carry out. If the customs declaration does not agree with this conclusion, complaints shall be made in accordance with the legislation.

Procedures for sampling, sampling techniques shall be carried out under the guidance in the Ministry of Finance's Circular defining customs procedures; customs inspection and supervision; export tax, import duty and tax management for exported and imported goods.

a.3) Coordinate with anti-smuggling control force in the verification and investigation in accordance with defined operation.

a.4) Report to Customs Departments in central-affiliated provinces, inter-provinces cities and city (hereinafter referred to as Customs Departments at province and city level) and the General Department of Customs to promptly direct and resolve complicated cases, high value goods, involving many localities, regulatory agencies, and international organizations.

b) If the duration of detaining or application of preventive measures as prescribed ends, and basis to conclude that the suspected goods are counterfeit is sound, customs authority shall handle violations as prescribed in law.

c) If concluding that the goods are not counterfeit, customs authority shall continue the procedures for customs clearance of the goods as prescribed goods. The settlement of a complaint or compensation claims due to the detention of goods caused by the customs authorities of the goods owners shall comply with current regulations on settlement of complaints and indemnity of damages.

**Article 14. Actions against goods with signs of infringing intellectual property rights**

1. Sub-department of Customs shall notify the applicant the request for inspection and supervision of goods with signs of infringement of intellectual property rights in the form of IP-06 enclosed with this Circular, with pictures of goods suspected of infringing intellectual property rights (if any).

2. Within 05 working days from the date of notification, Sub-department of Customs shall be responsible for the following tasks:

a) In case of receiving an application for temporary suspension of customs procedures or unregistering for inspection, monitoring of intellectual property at customs authority, but the holder of intellectual property rights requests in writing for suspension of customs procedures, if the holder of intellectual property rights fulfills the obligations specified in paragraph 3 of Article 74 of the Law on Customs:

a.1) Decide to temporarily suspend the customs procedures for the batches of goods suspected of infringing intellectual property rights.

a.2) Consider the decision to apply administrative measures for handling in accordance with provisions of Article 214 and Article 215 of the Law on Intellectual Property, and coordinate with the control forces at all levels to verify and collect information about goods as prescribed if there are sufficient basis to assert that the goods as notified infringe intellectual property rights, .

b) In case the holder of intellectual property rights does not have an application or written request for permission for temporary suspension of customs procedures, but fulfill the obligations stipulated in Clause 3 of Article 74 of the Law on Customs or has an application for temporary suspension of customs procedures but does not fulfill the obligations specified in Clause 3 of Article 74 of the Law on Customs, the batches of goods shall not be temporarily suspended the customs procedures except for goods counterfeiting the intellectual property.

3. If there is no information required to protect the rights of intellectual property, but when inspecting the customs dossier, actual goods, the customs authorities detect the imported goods with signs of infringing intellectual property rights, they shall carry out the actual inspection of goods, sampling or taking photograph of goods, and coordinate with the specialized units of controlling intellectual property at the General Department of Customs, Customs Departments in provinces and cities to decide the customs clearance of goods or decide to detain goods if determining goods with signs of violation.

## **Chapter V**

### **CUSTOMS CONTROL FOR COUNTERFEIT GOODS AND GOODS INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS**

#### **Article 15. Responsibility and competence of customs control forces**

1. Scope of responsibility of customs control forces in anti-counterfeit goods and anti-goods infringing intellectual property rights shall comply with the provisions of Article 88 of the Law on Customs and the Government's Decree No. 01/2015 / ND CP dated January 02, 2015 detailing the scope of customs area; responsibility for coordinating in prevention of and fighting illegal import, illegal transport of goods across borders.

2. When carrying out the duties of customs controls on counterfeit goods or goods infringing intellectual property rights, the customs control force shall have competence in applying operational measures of customs control as prescribed in the Government's Decree No. 08/2015 / ND-CP dated January 21, 2015 to detect, investigate, arrest and handle goods infringing intellectual property rights and counterfeit goods under the provisions law.

3. When carrying out the duties, the customs control forces are entitled to request the involved agencies, organizations, and individuals, customs units at all levels to provide dossiers, documents and coordinate, facilitate to fulfill the assigned functions and tasks

#### **Article 16. Commencement of control operation**

1. The customs control forces shall collect information under the provisions of law to catch the situation and detect entities, methods, violated operation tricks related to infringing counterfeit good and goods infringing intellectual property rights.

2. When receiving or detecting information on counterfeit goods or goods infringing intellectual property rights, the customs control forces shall directly inspect or cooperate with Sub-department of Customs where customs procedures are carried out for inspection, compare with the relevant legal provisions and the detected actual goods to make decision on detaining goods.

3. The customs control forces shall collect, verify evidence, inspect, compare, and assess the provided information related to counterfeit goods, goods infringing intellectual property rights with the detained actual goods to determine the violated goods

4. If there is basis to determine the violated goods, the customs control forces shall apply or cooperate with Sub-department of Customs where customs procedures are carried out to apply preventive measures as prescribed by law for handling administrative violations. If there is no basis to determine the violated goods, the customs control forces shall transfer the dossiers to the Sub-department of Customs where the customs procedures are carried out to continue the procedures for customs clearance for the batches of goods under the provisions of this Circular.

## **Chapter VI**

### **IMPLEMENTATION**

#### **Article 17. Implementation responsibility**

1. The General Department of Customs shall be responsible for guiding and directing their affiliated units to implement specifically the provisions of this Circular.

2. Customs authority, customs declaration, applicant for inspection and supervision of exported and imported goods that are subject of intellectual property rights, denouncer of violations and organizations, individual involved shall comply with current regulations and guidance in this Circular.

#### **Article 18. Effect**

This Circular takes effect from March 15, 2015 and replaces the Minister of Finance's Circular No. 44/2011 / TT-BTC dated April 11, 2011 providing guidance on anti-counterfeit goods and protection of intellectual property rights in the field of customs, previous guiding documents that are contrary to the provisions of this Circular. /.

**PP. MINISTER**  
**DEPUTY MINISTER**

**Do Hoang Anh Tuan**