

The Dumping and Subsidizing of Cold-Rolled Steel in Coils and Strip

Public Attachment 195

COMPLAINT

☐ Administrative procedures ☐ Legal texts ☐ Legal FAQs

≡ Text fields >

🔗 Insurrance (/van-ban/linh-vuc-20-bao-hiem.html)

🔗 Real estate (/van-ban/linh-vuc-8-bat-dong-san.html)

🔗 Bureaucracy (/van-ban/linh-vuc-1-bo-may-hanh-chinh.html)

🔗 Stock (/van-ban/linh-vuc-26-chung-khoan.html)

🔗 Information Technology (/van-ban/linh-vuc-17-cong-nghe-thong-tin.html)

🔗 Food Technology (/van-ban/linh-vuc-38-cong-nghe-thuc-pham.html)

🔗 Industry (/van-ban/linh-vuc-37-cong-nghiep.html)

🔗 Invest (/van-ban/linh-vuc-15-dau-tu.html)

🔗 Legal service (/van-ban/linh-vuc-24-dich-vu-phap-ly.html)

🔗 Power electronics (/van-ban/linh-vuc-39-dien-dien-tu.html)

🔗 Enterprise (/van-ban/linh-vuc-10-doanh-nghiep.html)

🔗 Education (/van-ban/linh-vuc-13-giao-duc.html)

🔗 Traffic (/van-ban/linh-vuc-40-giao-thong.html)

🔗 Transportation (/van-ban/linh-vuc-12-giao-thong-van-tai.html)

🔗 Chemistry (/van-ban/linh-vuc-41-hoa-chat.html)

🔗 Accounting and auditing (/van-ban/linh-vuc-23-ke-toan-kiem-toan.html)

🔗 Labor - Wages (/van-ban/linh-vuc-11-lao-dong-tien-luong.html)

🔗 Other areas (/van-ban/linh-vuc-16-linh-vuc-khac.html)

🔗 Agriculture (/van-ban/linh-vuc-35-nong-nghiep.html)

🔗 Civil rights (/van-ban/linh-vuc-19-quyen-dan-su.html)

🔗 Intellectual Property (/van-ban/linh-vuc-27-so-huu-tri-tue.html)

🔗 State financial (/van-ban/linh-vuc-3-tai-chinh-nha-nuoc.html)

🔗 Resources - Environment (/van-ban/linh-vuc-6-tai-nguyen-moi-truong.html)

🔗 Sports - Health (/van-ban/linh-vuc-9-the-thao-y-te.html)

🔗 Procedure (/van-ban/linh-vuc-21-thu-tuc-to-tung.html)

🔗 Tax-free-fee (/van-ban/linh-vuc-5-thue-phi-le-phi.html)

🔗 Commerce (/van-ban/linh-vuc-7-thuong-mai.html)

🔗 Monetary Bank (/van-ban/linh-vuc-18-tien-te-ngan-hang.html)

🔗 Criminal responsibility (/van-ban/linh-vuc-25-trach-nhiem-hinh-su.html)

🔗 Sociocultural (/van-ban/linh-vuc-2-van-hoa-xa-hoi.html)

🔗 Administrative Violations (/van-ban/linh-vuc-22-vi-pham-hanh-chinh.html)

🔗 Build (/van-ban/linh-vuc-36-xay-dung.html)

🔗 Construction - Urban (/van-ban/linh-vuc-4-xay-dung-do-thi.html)

Law No. 107/2016/QH13 dated April 06th, 2016, on Export and import duties

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Diagram

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Related documents

Vietnamese (/luat-thue-xuat-khau-thue-nhap-khau-2016.html)

Administrative procedures related

THE NATIONAL ASSEMBLY

SOCIALIST REPUBLIC OF VIETNAM
Independence - Freedom - Happiness

Law No. 107/2016/QH13

Hanoi, April 06, 2016

THE LAW

ON EXPORT AND IMPORT DUTIES

Pursuant to the Constitution of Socialist Republic of Vietnam;

The National Assembly promulgates the Law on Export and import duties.

Chapter I

GENERAL PROVISIONS

Article 1. Scope

This Law provides for taxed goods, taxpayers, basis for tax calculation, time for tax calculation, tariff schedules, anti-dumping duty, countervailing duty, safeguard duty imposed upon exports and imports; tax exemption, tax reduction, refund of export and import duties.

Article 2. Taxed goods

1. Goods exported and imported through Vietnam's border and border checkpoints.
2. Goods exported from the domestic market into free trade zones; goods imported from free trade zones into the domestic market.
3. Goods indirectly exported-imported; goods exported and imported by enterprises exercising their right to export, import, or distribute.
4. The following goods do not incur export and import duties:
 - a) Goods in transit;
 - b) Goods that are humanitarian aid or grant aid;
 - c) Goods exported from a free trade zone to abroad; goods imported from abroad to a free trade zone and used within such free trade zone; goods transported from one free trade zone to another;
 - d) Amounts of petroleum used as severance tax paid to the State upon its exportation.
5. The Government shall regulate this Article.

Article 3. Taxpayers

1. Owners of exports and imports.
2. Entrusted exporters and importers.
3. People entering and leaving Vietnam carrying exports or imports, sending or receiving goods through Vietnam's border and border checkpoints.
4. Taxpayers' guarantors and other entities authorized to pay tax on behalf of taxpayers, including:
 - a) Customs brokerage agents in case authorized by the taxpayer to pay export and import duties;
 - b) Providers of postal services or international express mail services paying tax on behalf of taxpayers;
 - c) Credit institutions or other organizations operating under the Law on credit institutions that provide guarantee or pay tax on behalf of taxpayers;
 - d) People authorized by goods owners in case goods are gifts of individuals; any luggage sent before or after its owner's arrival or departure;
 - dd) Any branch of an enterprise authorized to pay tax on its behalf;

e) Other people authorized to pay tax on behalf of taxpayers as prescribed by law.

5. Any person who purchases or transports goods within the tax-free allowance applied to border residents which are sold domestically instead of being consumed or used for manufacture; foreign traders permitted to deal in exports and imports at bordering markets as prescribed by law.

6. Owners of exports or imports that are initially tax-free but then taxed.

7. Other cases prescribed by law.

Article 4. Definitions

For the purpose of this Law, the terms below are construed as follows:

1. *Free trade zone* means an economic zone located within Vietnam's territory, established in accordance with law, having a definite geographic boundary, and separated from the outer area by hard fences in order to facilitate customs inspection and customs control by the customs authority and relevant agencies with regard to exports and imports, inbound and outbound vehicles and passengers; the trading relationship between the free trade zone and the outside area is consider exportation and importation.

2. *Mixed duty* means the total amount of proportional tax and fixed tax.

3. *Proportional duty* means tax expressed as a percentage of the taxable value of exports and imports.

4. *Fixed duty* means a fixed amount of tax imposed upon a unit of exports and imports.

5. *Anti-dumping duty* means an additional import duty imposed upon dumped imports in Vietnam that cause or threaten to cause considerable damage to domestic manufacturing or prevents the formation of domestic manufacturing.

6. *Countervailing duty* means an additional import duty imposed upon subsidized goods imported into Vietnam that causes or threatens to cause considerable damage to domestic manufacturing or prevents the formation of domestic manufacturing.

7. *Safeguard duty* means an additional import duty that is imposed in case the quantity of goods imported into Vietnam is above the acceptable level and thus causes or threatens to cause considerable damage to domestic manufacturing or prevents the formation of domestic manufacturing.

Chapter II

BASIS AND TIME FOR TAX CALCULATION, TAX SCHEDULES

Article 5. Basis for calculation of proportional duties

1. The amount of export or import duty is determined according to the taxable value and duty rate (%) of each article at the time of tax calculation.

2. Export duty rate of each article is specified in the export duty schedule.

Where goods are exported to a country or group of countries or territories having an agreement on concessional export duties with Vietnam, such agreement shall apply.

3. Import duty rates include preferential rates, special preferential rates, and ordinary rates as follows:

a) Preferential rates apply to imports originated in any country or group of countries or territories that accord Vietnam most-favored nation treatment; goods that are imported from a free trade zone to the domestic market and originating in a country or group of countries or territories that accord Vietnam most-favored nation treatment;

b) Special preferential rates apply to imports originated in any country or group of countries or territories that have an agreement on special preferential import duties with Vietnam; goods that are imported from a free trade zone to the domestic market and originating in a country or group of countries or territories that have an agreement on special preferential import duties with Vietnam;

c) Ordinary rates apply to imports other than those mentioned in Point a and Point b of this Clause. The ordinary rate is 150% of the preferential rate applied to the corresponding article. In case preferential rate is 0%, the Prime Minister shall decide the application of ordinary rate pursuant to Article 10 of this Law.

Article 6. Basis for calculation of fixed duties and mixed duties

1. The amount of fixed export or import duty imposed depends on the actual quantity of exports or imports and the amount of duty per unit of goods at the times of tax calculation.

2. The amount of mixed duty imposed upon exported or imported goods is the total amount of proportional tax and fixed tax as prescribed by Clause 1 Article 5 and Clause 1 Article 6 hereof.

Article 7. Duties imposed upon imports applying tariff quotas

1. Goods imported inside the tariff quota shall apply the duty rates and fixed duties specified in Clause 3 Article 5 and Article 6 hereof.

2. Goods imported outside the tariff quota shall apply the out-quota rates and fixed duties specified in Clause 3 Article 5 and Article 6 hereof.

Article 8. Taxable value and time for tax calculation

1. The taxable value is the customs value prescribed by the Law on Customs.

2. The time for calculating export or import duty is the time of registration of the customs declaration.

In case of exports or imports that are not subject to taxation, exempt from export or import duties, or applying in-quota duty rates or fixed duty but then the eligibility for tax exemption or in-quota duties is changed as prescribed by law, the time for tax calculation is the time of registration of the new customs declaration.

The time of registration of the customs declaration shall comply with regulations of law on customs.

Article 9. Tax payment deadline

1. Duties on exports and imports have to be paid before customs clearance or release as prescribed by the Law on Customs, except for the case in Clause 2 hereof.

Where a credit institution provides guarantee for the amount of tax payable, customs clearance or release shall be granted. However, late payment interest shall be paid for the period from the date of customs clearance or release to the tax payment date in accordance with the Law on Tax administration. The guarantee period shall not exceed 30 days from the day on which the customs declaration is registered.

If the taxpayer fails to pay tax and late payment interest by the end of the guarantee period, the guarantor shall fully pay tax and late payment interest on behalf of the taxpayer.

2. The taxpayer given priority as prescribed by the Law on Customs shall pay tax on the customs declarations granted customs clearance or release in the month by the 10th of the next month. If the taxpayer fails to pay tax by the aforesaid deadline, the taxpayer shall fully pay outstanding tax and late payment interest as prescribed by the Law on Tax administration.

Article 10. Rules for imposition of tariff schedules and duty rates

1. Encouragement of import of raw materials that cannot be manufactured domestically; focus on development of high technology, source technology, energy-saving, and environmental protection.

2. Suitability for the orientation of socio-economic development and commitments on export and import duties in international treaty to which Socialist Republic of Vietnam is a signatory.

3. contribution to stabilization of the market and state budget revenues.

4. Simplicity and transparency, facilitation of tax payment and of tax formalities.

5. Uniform imposition of duty rates upon goods of the same nature, composition, uses, or technical features; import duties are regressive from finished products to raw materials; export duties are progressive from finished products to raw materials.

Article 11. The power to impose tariff schedules and duty rates

1. Pursuant to Article 10 hereof, the export duty schedule enclosed herewith, the Schedule of Concessions annexed to the Protocol of Accession to WTO approved by the National Assembly and other international treaties to which Socialist Republic of Vietnam is a signatory, the Government shall promulgate:

- a) Preferential export duty and special preferential export duty schedules;
- b) Preferential import duty and special preferential import duty schedules;
- c) Lists of goods and fixed duties, mixed duties, and out-quota import duties.

2. Where necessary, the Government shall request Standing Committee of the National Assembly to amend the Export duty Schedule enclosed herewith.

3. The power to impose anti-dumping duties, countervailing duties, and safeguard duties is specified in Chapter III hereof.

Chapter III**ANTI-DUMPING DUTIES, COUNTERVAILING DUTIES, SAFEGUARD DUTIES****Article 12. Anti-dumping duties**

1. Conditions for applying anti-dumping duties:

- a) The imports being dumped in Vietnam and the dumping margin must be determined;
- b) The dumping causes or threatens to cause considerable damage to domestic manufacturing or prevents the formation of domestic manufacturing.

2. Rules for applying anti-dumping duties:

- a) Anti-dumping duty may only be applied to a reasonable extent to prevent or minimize damage to domestic manufacturing;
 - b) The anti-dumping duties shall be applied after an investigation is carried out and conform to the investigation conclusion as prescribed by law;
 - c) Anti-dumping duty shall be imposed upon dumped imports in Vietnam;
 - d) The application of anti-dumping duties must not cause damage to domestic socio-economic interest.
3. Anti-dumping duties shall be applied for a period not exceeding 5 years from the day on which the decision to apply anti-dumping duty takes effect. Such decision may be extended where necessary.

Article 13. Countervailing duties

1. Conditions for applying countervailing duties:

- a) It is determined that imports are subsidized as prescribed by law;
- b) The imports cause or threaten to cause considerable damage to domestic manufacturing or prevent the formation of domestic manufacturing.

2. Rules for applying countervailing duties:

- a) Countervailing duties may only be applied to a reasonable extent to prevent or minimize damage to domestic manufacturing;
 - b) The countervailing duties shall be applied after an investigation is carried out and conform to the investigation conclusion as prescribed by law;
 - c) Countervailing duties shall be imposed upon subsidized imports in Vietnam;
 - d) The application of countervailing duties must not cause damage to domestic socio-economic interest.
3. Countervailing duties shall be applied for a period not exceeding 5 years from the day on which the decision to apply anti-dumping duty takes effect. Such decision may be extended where necessary.

Article 14. Safeguard duties

1. Conditions for applying safeguard duties:

- a) The volume, quantity or value of imports drastically increases compared to the volume, quantity, or value of like or directly competitive domestic goods;
- b) The increase of volume, quantity or value of imports mentioned in Clause a of this Clause causes or threatens to cause considerable damage to domestic manufacturing of like or directly competitive goods or prevents the formation of domestic manufacturing.

2. Rules for applying safeguard duties:

- a) Safeguard duties may only be applied to a reasonable extent to prevent or minimize serious damage to domestic manufacturing and facilitate the improvement of competitiveness of manufacturing;
 - b) The application of safeguard duties shall take into account the investigation conclusion, unless temporary safeguard duties are applied;
 - c) Safeguard duties are applied in a non-discriminatory manner and regardless of goods origins.
3. Safeguard duties shall be applied for a period not exceeding 4 years, including the period of applying temporary safeguard duties. The period of application of safeguard duties may be extended for up to 06 more years if serious damage or the threat of serious damage to domestic manufacturing still remains and there is evidence that the manufacturing is improving its competitiveness.

Article 15. Application of anti-dumping duties, countervailing duties, safeguard duties

1. The application, adjustment, removal of anti-dumping duties, countervailing duties, safeguard duties shall comply with this Law, regulations of law on anti-dumping, anti-subsidy, and safeguard measures.
2. In consideration of duty rates, quantity, or value of goods subject to anti-dumping duties, countervailing duties, or safeguard duties, the declarant shall declare and pay duties in accordance with regulations of law on tax administration.
3. The Ministry of Industry and Trade shall decide the application of anti-dumping duties, countervailing duties, safeguard duties.
4. The Ministry of Finance shall provide for the declaration, collection, payment, and refund of anti-dumping duties, countervailing duties and safeguard duties.
5. Where the interests of Socialist Republic of Vietnam are infringed or violated, pursuant to international treaties, the Government shall propose to the National Assembly other appropriate safeguard duty measures.

Chapter IV**TAX EXEMPTION, REDUCTION, AND REFUND****Article 16. Tax exemption**

1. Exported or imported goods of foreign entities granted diplomatic immunity and privileges in Vietnam within the allowance under an international treaty to which Socialist Republic of Vietnam is a signatory; luggage within the tax-free allowance of inbound and outbound passengers; imports to be sold at duty-free shops.
2. Personal belongings, gifts from foreign entities to Vietnamese entities and vice versa within the tax-free allowance.

If the quantity or value of personal belongings or gifts exceeds the tax-free allowance, the excess amount or value shall be taxed, unless the recipient is an entity funded by state budget and permitted by a competent authority to receive them or they are meant to serve humanitarian or charitable purposes.

3. Goods traded across the border of border residents on the List of goods and within the tax-free allowance serving the manufacturing or consumption by border residents.

Goods that are purchased or transported within the tax-free allowance but do not serve the manufacturing or consumption by border residents, exports and imports of foreign traders permitted to be sold at bordering markets shall be taxed.

4. Goods exempt from export and import duties under international treaties to which Socialist Republic of Vietnam is a signatory.

5. Goods whose value or tax payable is below the minimum level.

6. Imported raw materials, supplies, components serving processing of exports; finished products imported to be fixed on processed products; outward processing products.

Regarding outward processing products derived from domestic raw materials that subject to export duties, the amount of domestic raw materials incorporated into the products shall be taxed.

Goods exported for processing and then imported are exempt from export duty and import duty on the value of exported raw materials incorporated into the processed products. Goods exported for processing and then imported that are natural resources, minerals, or products whose the total value of natural resources or minerals plus energy costs makes up at least 51% of the product price shall be taxed.

7. Materials, supplies, components imported for manufacture of exports. products.

8. Goods manufactured, processed, recycled, assembled in a free trade zone without using imported raw materials or components when they are imported into the domestic market.

9. Goods temporarily imported for re-export or goods temporarily exported for re-import within a certain period of time, including:

a) Goods temporarily imported or exported to participate in fairs, exhibitions, product introduction, sports or art events, or other events; machinery and equipment temporarily imported for re-export for testing, research and development; machinery and equipment, tools temporarily imported or exported to be used for certain period of time or serve overseas processing, except for machinery, equipment, tools, vehicles permitted to be temporarily imported too serve investment projects, construction, installation, or manufacture;

b) Machinery, equipment, components, spare parts temporarily imported for replacement or repair of foreign ships or airplanes, or temporarily exported for replacement or repair of Vietnamese ships or airplanes overseas; goods temporarily imported to supply for foreign ships or airplanes in Vietnam's ports;

c) Goods temporarily imported or exported for warranty, repair, or replacement;

d) Vehicles temporarily imported or exported to carry exports or imports;

dd) Goods that are temporarily imported and re-exported by the deadline or extended deadline and a credit institution provides a guarantee or a deposit equivalent to import duties on the temporarily imported goods has been paid.

10. Non-commercial goods: samples, pictures, videos, models instead of samples; advertisement publications in small quantities.

11. Imports as fixed assets of an entity eligible for investment incentives as prescribed by regulations of law on investment, including:

a) Machinery and equipment; components, parts, spare parts for assembly or operation of machinery and equipment; raw materials for manufacture of machinery and equipment, components, parts, or spare parts of machinery and equipment;

b) Special-use vehicles in a technological line directly used for a manufacture project;

c) Building materials that cannot be domestically produced.

Exemption of import duty on the imports specified in this Clause also applies to new investment projects and extension projects.

12. Plant varieties; animal breeds, fertilizers, pesticides that cannot be domestically produced as prescribed by competent authority.

13. Raw materials and components which cannot be domestically manufactured and are imported serving the manufacturing of investment projects eligible for investment incentives or in an extremely disadvantaged area prescribed by regulations of law on investment, high technology enterprises, science and technology enterprises, science and technology organizations are exempt from import duties for 05 years from the commencement of manufacture.

The exemption of import duties specified in this Clause does not apply to mineral extraction projects; projects for manufacture of products where total value of natural resources or minerals plus energy costs makes up at least 51% of the product price; projects for manufacture or sale of goods/services subject to special excise tax.

14. Raw materials and components which cannot be domestically manufactured of investment projects for manufacture or assembly of medical equipment given priority shall be exempt from import duties for 05 years from the commencement of manufacture.

15. Imports serving petroleum activities, including:

a) Machinery, equipment, components, means of transport necessary for petroleum activities, including those temporarily imported for re-export;

b) Components, parts, spare parts for assembly or operation of machinery and equipment; raw materials for manufacture of machinery and equipment, components, parts, or spare parts of machinery and equipment necessary for petroleum activities;

c) Supplies necessary for petroleum activities that cannot be domestically produced.

16. Shipbuilding projects and shipyards eligible for incentives as prescribed by regulations of law on investment shall have tax exempted from:

a) Imports that constitute fixed assets of the shipyard, including: machinery and equipment; components, parts, spare parts for assembly or operation of machinery and equipment; raw materials for manufacture of machinery and equipment, components, parts, or spare parts of machinery and equipment; means of transport in the technological line directly serving shipbuilding; building materials that cannot be domestically produced;

c) Imported machinery, equipment, raw materials, supplies, components, semi-finished products serving shipbuilding that cannot be domestically produced;

c) Ships for export.

17. Imported machinery, equipment, raw materials, supplies, components, parts, spare parts serving money printing and mincing.

18. Imported raw materials, supplies, components serving that cannot be domestically produced serving manufacture of information technology products, digital contents, software.

19. Exports and imports serving environmental protection, including:

a) Imported machinery, equipment, equipment, tools, supplies that cannot be domestically produced serving collection, transport, treatment wastewater, wastes, exhaust gases, environmental monitoring and analysis, production of renewable energy, treatment of environmental pollution, response to environmental emergencies;

b) Exports that are products of waste recycling and treatment.

20. Imports directly serving education that cannot be domestically produced.

21. Imported dedicated machinery, equipment, components, supplies that cannot be domestically produced, scientific materials serving scientific research, technological development, technological cultivation, cultivation of science and technology enterprises and technological innovation.

22. Imported dedicated products directly serving national defense and security, the vehicles among which must be those that cannot be domestically produced.

23. Exports and imports serving assurance of social security, recovery from disasters, epidemics, and other special situations.

24. The Government shall regulate this Article.

Article 17. Procedures for tax exemption

The Dumping and Subsidizing of Cold-Rolled Steel in Coils and Strip

Public Attachment 195

COMPLAINT

1. In the cases specified in Clause 11, 12, 13, 14, 15, 16 and 18 of Article 16, the taxpayer shall notify the customs authority of goods eligible for tax exemption to be imported.

2. The procedures for tax exemption shall comply with regulations of law on tax administration.

Article 18. Tax reduction

1. Exports and imports that are damaged or lost under customs supervision and the damage or loss is verified by a competent organization, tax reduction shall be granted.

The level of reduction shall be proportional to the loss of goods. Tax is exempt if the exports or imports are completely damaged or lost.

2. The procedures for tax reduction shall comply with regulations of law on tax administration.

Article 19. Tax refund

1. Cases of tax refund:

a) Any taxpayer who has paid export duty or import duty but has no exports or imports, or the quantity of exports or imports is smaller than the quantity on which duty is paid;

b) Any taxpayer who has paid export duty but the exports has to be re-imported shall receive a refund of export duty and does not have to pay import duty;

c) Any taxpayer who has paid import duty but the imports has to be re-exported shall receive a refund of import duty and does not have to pay export duty;

d) Any taxpayer who has paid tax on goods imported to serve manufacture or business operation and they have been used for manufacture of exports and the products are already exported;

dd) Any taxpayer who has paid tax on machinery, equipment, tools, vehicles of organizations and individuals that are permitted to be temporarily imported for re-export, except for those rented to execute investment projects, construction and installation, manufacture, when they are re-exported to abroad or exported to a free trade zone.

The amount of import duty refunded depends on the remaining value of goods when they are re-exported according to the period of time over which they are used or stay in Vietnam. If the goods are no longer usable, import duty shall not be refunded.

Tax shall not be refunded if the refundable amount is below the minimum level specified by the Government.

2. Tax on the goods specified in Point a through c of Clause 1 of this Article shall be refunded if such goods have not been used or undergone working or processing.

3. The procedures for tax refund shall comply with regulations of law on tax administration.

Chapter V

IMPLEMENTATION

Article 20. Effect

1. This Law comes into force from September 01, 2016.

2. The Law on Export and import duties No. 45/2005/QH11 is null and void from the effective date of this Law.

Article 21. Transition

1. Any project given export duty or import duty incentives that are more advantageous than the incentives specified in this law may keep having such incentives for the remaining incentive period of the project. If the incentives given are less advantageous or incentives have not been given as prescribed by this Law, incentives specified in this Law shall be given for the remaining incentive period of the project.

2. This Law shall apply to raw materials, supplies, components imported for manufacture of exports but the products have not been exported; goods temporarily imported that have not been re-exported under declarations registered with customs authorities before the effective date of this Law and tax on which have not been paid.

Article 22. Elaboration

The Government shall elaborate the Articles and Clauses of this Law.

This Law is adopted by the 13th National Assembly of Socialist Republic of Vietnam on this 6th of April 2016.

PRESIDENT OF THE NATIONAL ASSEMBLY

Nguyen Thi Kim Ngan

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Related text effect

1 Law No. 45/2005/QH11 of June 14, 2005, on import tax and export. (/law-no-45-2005-qh11-of-june-14-2005-on-import-tax-and-export.html)

Documents related content

1 Constitution dated November 28, 2013 of the socialist republic of Vietnam (/constitution-dated-november-28-2013-of-the-socialist-republic-of-vietnam.html)

2 Law No. 54/2014/QH13 dated June 23, 2014, on Customs (/law-no-54-2014-qh13-dated-june-23-2014-on-customs.html)

3 Law No. 47/2010/QH12 of June 16, 2010, on credit institutions (/law-no-47-2010-qh12-of-june-16-2010-on-credit-institutions.html)

4 Decree No. 87/2010/ND-CP of August 13, 2010, detailing a number of articles of the law on import duty and export duty (/decree-no-87-2010-nd-cp-of-august-13-2010-detailing-a-number-of-articles-of-the-law-on-import-duty-and-export-duty.html)

5 Law No. 78/2006/QH11 of November 29, 2006 on tax administration (/law-no-78-2006-qh11-of-november-29-2006-on-tax-administration.html)