DIALOGUE BETWEEN VIETNAM BUSINESS FORUM (VBF) & GENERAL DEPARTMENT OF VIETNAM CUSTOMS (GDC)
8th December 2017

CONSOLIDATED ISSUES & FEEDBACKS FROM GDC

No.	VBF's Issues	GDC's Feedbacks
1	Recently, some local customs authorities have rejected the declared value and imposed higher value on imported goods of importers that do not have the special relationship with overseas suppliers. However, the authority does not provide relevant legal basis for such rejection of unrelated-parties' transaction value, or just requests the buyer to demonstrate that the declared valueis not lower than unavailable market price or that from the RM List of prices of imports and exports which is not disclosed to the buyer. This practice causes a lot of difficulties for enterprises engaging in import and export activities. It seems that the comparison used by the customs authority violates the principles of valuation in the WTO Agreement. What is the legal basis that the Customs authority uses to force the enterprises to do such comparison?	• Implementing GATT Valuation Agreement: All relevant domestic normative regulations on customs value has adopted the GATT Valuation Agreement. As such, current rules on customs value have complied and aligned with GATT Valuation Agreement. • Based on the provisions of Article 3, Circular No. 39/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, the declarant makes the declaration and fill in the customs value on their own, in line with the prevailing rules and methods for customs value determination and be accountable to the law for the correctness and reliability of the information declared and self-assessed customs value given. • Based on Article 5, Circular No. 39/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, the customs value is the real price paid at the first import border crossing, and determined through the methods specified in this Circular. • According to the provisions of Decree No. 08/2015/NĐ-CP, Jan. 21, 2015, and Circular No. 38/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, in case there is suspicion of declared customs value (declared value is lower than that in the customs office's database value), the authority will start looking for suspicious indications, and initiate consultation or post-clearance checks as suggested by the applicable protocol to investigate. As explained above, the laws on customs value are there clearly and fully, and in alignment with WTO bindings. Nevertheless, in real life practice, some local customs offices may have chosen to refute declared value without justifying such refutal and saying how they came to the conclusions, and that is hardly in compliance with the law. To ensure consistent application and compliance with existing rules on inspection, consultation and value determination, the General Department of Vietnam Customs released Official Letter No. 6338/TCHQ-TXNK, Sep. 27, 2017, directing provincial and municipal customs offices to set in motion mechanisms to strengthen customs value governance and facilitate

		imports and exports of goods, to be more specific: "Not to impose taxes unless due consultation or post-clearance audit has been done for suspected consignments; determine the customs value in case refutal of the declared value may be justified through consultation or post-clearance audit, in line with applicable protocols, rules and value determining methods specified in Circular NO. 39/2015/TT-BTC. When it comes to customs valuation, customs officers must adequately capture and verify available data sources, and must not indiscriminately impose the reference rates in the list of import/export goods with valuation risks."
2	Currently, there are cases where the customs authority sends documents requesting enterprises to provide documents and dossiers for general post-clearance inspection (with no definite time), or merely for the purpose of having more information on compliance assessment of the company, without mentioning specific objectives or requirements. Many of the documents and dossiers required by the customs authority are already available on the customs system. This not only makes it difficult for enterprises to comply with the customs authority' requirements but also consumes a lot of time, effort and costs while fails to show effectiveness. What is the legal basis for such request of documents? Does it serve any purpose of the customs authority? Will it create favourable conditions for the operation of the enterprises? We respecfully request the customs authority to provide specific requirements, which serve specific purposes, so that the enterprises can comply in an effective way, avoiding waste of time for both parties.	• All the correspondences sent to the clients asking for provision of materials and information will explicitly indicate the normative references used. ✓ Pursuant to Article 1, Law No. 21/2012/QH13, which revises and updates specific clauses of the Tax Administration Law; ✓ Pursuant to Article 77, and paragraphs 1 and 3, Article 95, Customs Law No. 54/2014/QH13, June 23, 2014; ✓ Pursuant to Article 105, Decree No. 08/2015/NĐ-CP, Jan. 21, 2015; • The information requested by the customs from importers/exporters for post-clearance audit purposes is the one that the customs office does not have or have in full. • Such information is needed in order to: ✓ Facilitate clients to provide the customs office timely and accurate information in paper form or electronic data, to help verify the information given by declarants before the customs authority conducts post-clearance audit in ways that do not create unnecessary administrative burden and save declarants the need to provide multiple types of papers and time going back and forth if they are a long way from the customs office; ✓ Encourage voluntary compliance for declarants; ✓ Inform risk rating and design of effective countermeasures to prevent foul play (if any); ✓ Educate declarants to consciously keep their dossiers and documents in order.
3	After being post-clearance audited, a company was imposed additional	• In principle, addressing complaints in line with an appeal ruling will be done

	taxes as well as late payment interest and administrative penalty. The company has duly paid all imposed tax amount to the state budget and carried out the appeal process in accordance with the regulation as it did not agree with the decision on imposing tax of customs authority. The result of appeal handling is that the Decision on imposing tax was revoked, which requires the customs authority to re-calculate the imposed tax amount. If the new imposed tax amount is less than the initial imposed tax amount or is none, then the company shall be refunded the overpaid tax amount as well as the corresponding late payment interest and administrative penalty. Therefore, what is statutory time limit for the customs authority to re-calculate and notify the company of the amended payable tax amount? When must the customs authority refund the overpaid tax with late payment interest on that amount to the company?	within the period of validity specified in such ruling. The customs office will recalculate the taxes from the time an appeal ruling comes into effect. As established by Article 44, Appeal Law: ✓ An initial appeal ruling will remain in effect 30 days after its release, where the complainant does not file a second complaint; and for remote and hard-to-reach areas, this period of validity may be longer, but no longer than 45 days. ✓ A secondary appeal ruling will remain in effect 30 days after its release, and for remote and hard-to-reach areas, this period of validity may be longer, but no longer than 45 days. • In fact, however, depending on the specific case, the administrative procedures adopted and period of validity may vary. Example 2: At the time the ruling on tax imposition is released, the declarant has no unpaid taxes for various types of tax. However, by the time of tax assessment, the declarant has unpaid taxes, and as a result, the tax assessing authority needs time to verify the arrears before it can complete tax finalization for the clients as required by applicable protocols and rules, and avoid any losses of revenue that may incur.
4	Some domestic enterprises sell goods to foreign customers through overseas agents. At the time of export to the agent, there is yet true value, and thus the customs value declaration is based on the provisional value. The prevailing customs regulations allow the customs declarant to declare the official value within 90 days from the date of declaration registration, and after 90 days, the declarant must submit the dossier to the Director of the Customs Department for audit, review and acceptance. Nonetheless, the time when the official value of export goods is available depends largely on the business nature of each enterprise rather than fixed by any time frame. Therefore, except for cases where the export goods have a duty rate higher than 0%, the official value declaration submitted to the Director of Customs Department for each case within a 90-day time frame is unnecessary since it does not affect the amount of duty paid to the State budget while taking up time and cost to implement. We kindly request the GDC and the MOF to consider minimizing the administrative procedures	In respect of official value declaration past 90 days, detailed rules have been provided in Article 17.1, Circular No. 39/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance. We suggest these rules are adhered to.

	in this regards.	
5	Domestic enterprises purchase goods from EPEs or from foreign suppliers and then assign the EPEs or foreign suppliers to place their goods in bonded warehouses for later exporting to other EPEs or selling to local businesses. Pursuant to Official Letter 620/XNK-CN of the Ministry of Industry and Trade, it appears that foreign invested enterprises that do have the right to distribute may not be considered to have the right to transfer ownership in the bonded warehouse; which contradicts with Article 53 of the Law on Customs. Kindly request the MOF to clarify: Are enterprises that have been licensed to exercise import and export rights, distribution rights allowed to transfer ownership in the bonded warehouse? Do EPEs that provide goods to domestic enterprises need to implement customs declaration when bringing goods into bonded warehouses?	Premised on the provisions of Article 8.2, Import-Export Duties Law No. 107/2016/QH13, in case of imports and exports that are tax free and duty free, or subject to absolute terms tax rates and tax levies as part of the quota, where changes relating to the status of being tax free, duty free, or subject to absolute terms tax rates and levies as part of the quota in accordance with existing laws, tax determination will be done at the time of filing a new declaration form. According to the provisions of Article 21.1.d, Circular No. 38/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, for goods with modified end uses or diverted for domestic consumption, tax payers must declare and pay any taxes and penalty (if any) involved as required by law. As defined by the provisions of Article 4.20, Circular No. 219/2013/TT-BTC, Dec. 31, 2013, of the Ministry of Finance, goods that are originally VAT nontaxable on importation as specified in this Article, will be subject to VAT declaration and payment when imported as required by law to the customs authority where the declaration form is lodged, when their end uses are modified. Organizations or individuals selling such goods to domestic markets must declare and pay VAT to the tax administration agency directly in charge as required by law. Accordingly, imports destined to EPEs are duty and VAT free, but in case of modified end uses or diversion for domestic sales, the subject taxpayers will need to make declaration and pay any due taxes and penalty according to applicable rules. Furthermore, in respect of this concern, the Customs Supervision and Administration Bureau received petitions and request for guidance from Honda Trading VN Co. Ltd., to which it gave its responses in Official Correspondences No. 620/XNK-CN, May 11, 2017, and 1444/GSQL-GQ5, July 18, 2017 *(see attachments).*
6	EPE import machinery for the purpose of forming fixed assets and are eligible for import tax exemption. After a period of use, the EPE wants to lease or lend the used machinery to other enterprises. Those who rent or borrow these machinery can be EPEs or domestic enterprises.	In the Dec. 8, 2017 meeting, GCD explicitly gave its reply as follows: • In case the lessee or borrower of the machinery is an export processing enterprise (EPE), as referenced to the Duty and Tariff Law, he/she does not have to pay taxes.

	Does the above mentioned EPE who leases machinery need to carry out customs procedures for repurposing? Do they need to pay import tax and VAT? Are the companies renting/ borrowing machinery subject to tax obligations?	• In case a domestic business buys back machinery from an EPE, i.e. the end uses have changed, such business, pursuant to Article 21, Circular 38, will need to fulfill applicable procedures for end uses conversion. The tax rates and dutiable prices applied will then be re-determined at the time the business files a new customs declaration form.
7	In accordance with Clause 1a Article 34 Decree 134/2016/ND-CP, imports on which import duties have been paid and that are re-exported to a foreign country or exported into a free trade zone shall be eligible for import tax refund. Accordingly, we understand that goods imported for trading purposes when exporting are eligible for import tax refund. Some local customs authority are currently denying tax refund in cases where enterprise makes declarations using Export for sale code and not allowing enterprises to make declarations using Re-exporting code. We respectfully request the GDC and the MOF to confirm whether trading activities (exercise the buy-sell activities, i.e. export goods that were imported) are be eligible for import tax refund? Which export/import code should enterprises use for declaration when selling imported goods to foreign countries or into a free trade zone?	As indicated in Official Correspondence No. 2765/TCHQ-GSQL, Apr. 1, 2015, of the General Department of Customs, **Category item B1** refers to release for business purposes in case a business simply exports commercial goods or imports goods into a non-tariff enclave or EPE under a purchasing contract, and exercising the right to engagement in commercial exportation by a foreign-invested firm (including EPE's rights to doing business); and **Category item B13** refers to exportation of imported goods in the case of: imported goods of various sorts that need to be returned (including return export to a foreign party; further exportation to a third country or exportation to a non-tariff zone); goods being unused raw materials under outsourcing contracts that are returned to a foreign employer, equipment of export processing enterprises, and duty-free machineries and equipment that are liquidated through sales to another country. As explained above about the use of Category item codes, we suggest that the inquiring firm refers to the aforementioned instructions and the nature of the economic activity in question to make declaration appropriately. In the case of Samsung Electronics VN Co., Duty and Tariff Administration had its Official Correspondence No. 5032/TXNK-CST, Dec. 12, 2017, in reply to Bac Ninh Customs Department. *(see attachment)*
8	Some enterprises importing goods for domestic sales and already paid import tax and VAT at import stage. Then, for certain reasons, the enterprises dissolve and re-export the remaining imported goods back to the foreign suppliers. In this case, is the paid VAT amount eligible for refund? Shall the enterprises send the refund dosssiers to the customs authority or tax authority?	The General Department of Customs had Official Correspondence No. 6833/TCHQ-TXNK, Oct. 19, 2017, replying to this inquiry.

9	In accordance with the Law on Export and Import duties 2016, imported materials for the purpose of manufacturing for exports are exempt from import duty. In accordance with the Official Letter 114/TCHQ-TXNK dated 6 January 2017 of the General Department of Customs, in cases where the manufacturers of do not have a factory for manufacturing for exports, do not organize for its production but hire other enterprises to manufacture, the manafacturers are not eligible for import duty exemption or refund. In case where manufacturing/processing for exports enterprises do posses its workshop/factory but want to hire another enterprises to manufacture/process partly or wholly, shall the enterprises eligible for exemption from import duty on input materials?	• *Importation of goods for outsourcing purposes:* In accordance with paragraphs 1 and 2, Article 10, Decree 134/2016/NĐ-CP, goods imported for outsourcing purposes and export outsourcing products under an outsourcing contract are duty free as specified in Article 16.6, Duty and Tariff Law. One of the references to know whether goods are duty free is that the tax payer or organization/individual contracted for outsourcing by the tax payer has facilities for export goods outsourcing and manufacturing within Vietnam, and notify of such outsourcing and manufacturing facilities as required by current customs laws, as well as the outsourcing contract involved to the customs office. As such, a business importing goods for outsourcing purposes that hires another firm to do the outsourcing will be exempted from paying duty if it meets existing requirements for justifying that the goods are duty free as specified in Article 10.2, Decree No. 134/2016/NĐ-CP. • *Importation of goods for export manufacturing:* Pursuant to Article 12.2, Decree 134/2016/NĐ-CP, a business without manufacturing facilities and production operations that hires another firm to do the manufacturing is not exempted from paying the duty. We suggest that the inquiring firms make references to the aforementioned rules for application.
10	We understand that enterprises that manufacture or process for expors, when selling finished products to domestic enterprises, shall have to declare customs for re-purposing and pay taxes on the input materials used to manufacture these finished products based on the duty rate and the value of materials. When EPEs sell finished products to domestic enterprises, in accordance with Article 75 of Circular 38/2015/TT-BTC, EPEs shall carry out on-the-spot export procedures and shall be exempt from tax obligations, while local enterprises shall carry out on-the-spot import procedures, and pay taxes based on the tax rate and the value of finished products. Is the above understanding correct?	Premised on Article 1.5, government Decree No. 114/2015/NĐ-CP, Nov. 9, 2015, revising government Decree No. 29/2009/NĐ-CP, Mar. 14, 2008, providing on industrial parks, export processing zones and economic zones, *"… export processing enterprises may sell its liquidated assets and other commodities in domestic markets in line with applicable laws on investment and trade. At the time of sale or disposition on domestic markets, exports and imports restrictions shall not apply, except for the goods that must be regulated under specialized criteria, standards and specialist inspections that did not apply when the goods are imported. Commodities subject to permit-based regulation must be accepted in writing by the import licensing authority."* Pursuant to Article 12.2, government Decree No. 23/2007/NĐ-CP, Feb. 12, 2007, providing details on the Trade Law regarding procurement of goods and activities

		directly related to procurement of goods by foreign-invested enterprises in Vietnam, foreign-invested enterprises are only allowed to engage in activities referred to in their business permits. To that end, for sales of products by export processing enterprises in domestic markets, we suggest inquiring businesses to make reference to their Investment certificates or Business permits, and the aforementioned rules for application, as they do not have to alter the end uses and divert for domestic sales of the raw materials that help build the products sold in domestic markets. As for the customs procedures for export processing enterprises selling goods in domestic markets, we suggest that HCMC Customs Department refers to Article 75.3, Circular No. 38/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance for application. On the current tax policies, GCD is consulting the Tax Policy Department and Legal Department of the Ministry of Finance, and they will report and advise the ministry on how to proceed.
11	Recently, many businesses have encountered cases where the guidance or post-clearance audit conclusions of the customs authority issued at two different times have contents/ guidance that are different or contradict with one another on the same issue. Customs authority often apply retrospective calculation to collect tax in these cases. For instance, the customs authority determine different HS codes for the same good at two periods, even though the good and description in the tariff schedule throughout the period do not change. Or the enterprise allegedly have applied the wrong HS code and was subject to tax assessment for a commodity during the post-clearance audit; however, when the enterprise requested the classification result for this commodity from the Department of import and export tax, this item is classified in the HS code that has been applied previously by the enterprise. How should the application of two different guidances on the same issue be carried out? What is the legal basis for such retrospective application?	In this regard, Article 6.4, Circular No. 14/2015/TT-BTC, establishes that: *"In case the head of GCD, Minister of Finance and head of other relevant agencies releases a revised guiding document on goods classification that may affect the customs declaration process in terms of ID numbers, tariff rates and potential profit and loss making for the declarants or tax payers, goods classification and the applied tariff rates will apply as soon as the revised guidelines come into effect as defined by law."*
12	Under the master contract, the Vietnamese trading company and overseas	• Based on the provisions of Article 86, Customs Law, the customs value is used

	clients will agree on a provisional value for placing orders and carrying out export procedures based on this provisional value. Afterwards, on a monthly/quarterly basis, the company will adjust the value according to the actual COGS of exported goods. This adjustment, though not attached to a specific shipment, may increase or decrease the related costs during the period. Accordingly, regarding the declaration of export value, the Company must adjust each customs declaration to reflect the selling price of the exported goods. Nonetheless, the adjustment of each declaration in accordance with the current regulations is not feasible, and in fact, does normally not affect the export tax payable. In which way can the Company make adjustments? (Declare the adjustments separately? Declare the adjustments in the final customs form of a certain period?) We hope to receive detailed guidance from the customs authority on this matter.	as the tax base for duty and tariff and import/exports record-keeping. • Article 20, Circular No. 38/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, provides guidance on how declarants provide complementary declaration on the declaration form on the system. • As indicated in Article 17, Circular No. 39/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, declarants fill in the official prices on the revised and updated form after clearance is completed, and pay the surplus taxes (if any) within 05 business days following the release of the official prices. References should be made to the aforementioned rules to inform record-keeping and tax calculation for imports and exports when changes to the customs value occur that requires the firm to make complementary declaration for every affected declaration form as required by law. In response to the concerns raised by Nghi Son Oil refinery and Petrochemical Co., Duty and Tariff Administration will sit and discuss with the company on such issues.
13	The regulations require adjustment of the import declarations in case of incurring additions after importing (for example: royalties, commissions) on the dutiable value of import? How should these additions be allocated to calculate the additional import duty? The adjustment of each item in each declaration is not feasible for the enterprise to implement. Can the additional duty amount be calculated and determined according to the average tariff rate and value of relevant imported goods in a given period. We kindly request the GDC and the Ministry of Finance to provide specific guidance on the method for the amendment, additional declarations and the allocation of additions in these cases.	Based on the provisions of Article 16, Circular No. 39/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, on the allocation of adjusted amounts, declarants may choose one of such allocating methods as allocation by the quantity, weight, volume and invoice amount. In this regard, the two sides have planned on a meeting to discuss the matters in more details.
14	100% foreign invested company of EPE status is manufacturing medical devices and components. Since the raw materials imported for manufacturing are very small in size and large in quantity, each customs declaration/ invoice includes many shipments with the quantity ranging from several thousand to several hundred thousand units/ shipments. Moreover, since the products require a high level of precision, almost	Article 18.2.c, Customs Law No. 54/2014/QH13 defines a responsibility of customs declarants to be accountable to the law on the reliability of the declared information, and lodged and presented documents, as well as the consistency of the information provided in the files maintained at the business and the ones kept at the customs authority. Thus, in order to guarantee reliability in customs declaration, customs files and hard merchandise status, we suggest that the

	perfection, the raw materials or unfinished products cannot be calculated by pieces for inventory purpose to avoid impairment of medical product quality. Besides, in practice, an invoice of imported goods will not be all manufactured in the month but rather the manufacture process lasts 3-4 months, or even one to two years. Due to the typical characteristics of the goods, when importing raw materials, the Company declares the quantity based on the invoice description (unit can be box/barrel/ weight: kg) and does not re-count each item when warehousing. The company only knows the actual quantity of raw materials used when the production is finished. Hence, the Company can only track (according to each code of raw materials in the warehouse) by **inventory check of the materials** or after the manufacture of a product using materials exempt from inventory check finishes. In this case, when detecting the differences, can the company re-declare the amount of imports based on the amount of imports - exports - inventories recorded by the company in each period since it is impossible to make adjustments according to each item listed in each declaration?	inquiring firm monitors and controls consistently its imported raw materials and supplies as declared with the materials and supplies going in and out of its warehouses. In case mistakes occur, modifications and updates will be made as specified in Article 20, Circular No. 38/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, and Official Correspondence No. 7889/TCHQ-GSQl, Dec. 4, 2017, of the General Department of Customs, guiding the modification and update of finalization filing.
15	In Vietnam, enterprise X buys goods from foreign supplier A, and then sells goods to enterprise Y also in Vietnam when goods are being transported. Transport documents are endorsed to ensure the person who receives goods and carries out customs procedures will be Y. So when declaring customs, enterprise Y will declare the value of goods at which value: value in the sales contract between X and A, or contract between X and Y?	Customs value: Based on Article 5, Circular No. 39/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, the customs value is the real price paid at the first import border crossing, and determined through the methods specified in this Circular. As such, the real prices paid at the first import border crossing will be the prices actually paid or to be paid for the imported goods after adjustments have been made in line with Articles 13 and 15, Circular No. 39/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance.
16	Under Article 55 of Circular No. 38/2015/TT-BTC, enterprises conducting export processing activities must, by themselves, set and monitor the norms for all raw materials used for manufacturing/ processing imports. Nevertheless, in practice, the monitoring of norms for shared materials (e.g. gas, oil, lubricants, bolts, tapes, paints, etc.) takes a lot of time and efforts, and is usually inaccurate with significant differences.	We heard the recommendation that such supplies as gas, fuel oil, lubricant and so on that share the same workshop building are exempted from having rated consumption applied to them, and only tracking/stock-in/inventory is required. The General Department of Customs is well noted of the request and has planned on giving guidance in Article 55 of the revised version of Circular No. 38/2015/TT-BTC in ways that only stock-in/stock-out and inventory need to be kept track of, providing that accounting books are maintained in accordance with

	The enterprise proposes that the monitoring should be based on the actual amount showed in the quarterly stock-take minute, instead of setting and monitoring different norms for these shared materials. We hope that the GDC and the Ministry of Finance will provide confirmation and detailed guidance on this matter.	applicable rules of the Ministry of Finance.
17	Similarly, for materials used for packaging such as adhesive tape, wooden pallet, carton box, air bag, etc. Since the customers' orders and requirements will vary from time to time, it is very difficult to set norms for these packacking materials, and the setting of norm can not accurately reflect the consumption of packaging materials. In addition, the total value of these packaging materials is usually insignificant compared to the value of the final product. Therefore, the enterprise proposes that the monitoring should be based on the actual amount showed in the quarterly/periodic stock-take minute, instead of setting and monitoring different norms for these packaging materials. We hope that the GDC and the Ministry of Finance will provide confirmation and detailed guidance on this matter.	In reference to Articles 54 and 55, Circular No. 38/2015/TT-BTC, we suggest that the inquiring firm has in place the consumption norms for its various packaging materials used.
18	A 100% foreign-invested EPE imports used mobile phones for processing and repairing. This company has made a dossier requesting for permission to process used information technology products that are on the List of used information technology products banned from import applicable to foreign traders in accordance with Circular No. 31/2015 / TT-BTTTT dated 29 October 2015, and the company is allowed by the Ministry of Information and Communication to execute the above activities. The processing company assigns part of the process and repair work for a domestic company. Does the domestic company, when carrying out customs procedures, need to present the license that allows it to carry out repairing and processing activities for used mobile phones or not?	According to the provisions of Chapter III, Circular No. 31/2015/TT-BTTTT, Oct. 28, 2015, to be accepted to engage in outsourcing, recycling and repairs of used information technology products in the List of import ban applicable to foreign traders, the geared to the outsourcing contractor seeking an import permit must qualify for the following criteria: having in place plans and methods of treating wastes and waste materials that are produced in the outsourcing processes, and export all the products and goods created in the outsourcing process out of the country, instead of selling them in Vietnam. Given the aforementioned rules, the Ministry of Information and Communication seems to lack specific guidelines on such cases. The General Department of Customs takes notice of this request and will discuss with the designated regulatory authority, namely the Ministry of Information and Communication, to introduce more consistent instructions and guidelines.
19	A domestic company imports a transceiver from abroad. This commodity is subject to import license in accordance with Circular 18/2014/TT-BTTTT dated 26 November 2014, this company has applied for the above license when importing. Then, the domestic company sells the goods to an	Article 3, Circular No. 18/2014/TT-BTTTT, Nov. 26, 2014, defines events where an import permit is waived, Including: *"Radio transmitters and transceivers as referred to in Appendix I of this Circular*

	Export Processing Company. When carrying out customs procedures for selling to EPE, is it required the permit for importing the transceiver to that EPE?	*are waived of the import permit in the following events:* *1. Radio transmitters and transceivers that belong to: Foreign diplomatic agencies and consular establishments, and Vietnam-based representatives of international organizations; foreign senior missions visiting Vietnam that are entitled to diplomatic preferential treatment and diplomatic immunity; international journalists coming into Vietnam for non-resident news coverage (under journalism practice permits granted by the Ministry of Foreign Affairs).* *While the radio transmitters and transceivers referred to in this paragraph are waived of an import permit, to be put in use, a radio frequency availability permit must be obtained from the Radio Frequency Administration in accordance with existing rules.* *2. Terrestrial mobile phones (no import permit exemption is available for satellite phones) consigned in a same trip or another trip with the person entering the country, or imported through postal services and international express delivery services for personal uses; terrestrial mobile phones imported temporarily to be exported later for the purposes of providing warranty, repairs or replacement, providing that they are within the warranty period under an import agreement",* without exclusion of *in situ* exportation. Given the aforementioned rules, the Ministry of Information and Communication seems to lack specific guidelines on such cases. The General Department of Customs takes notice of this request and will discuss with the designated regulatory authority, namely the Ministry of Information and Communication, to introduce more consistent instructions and guidelines.
20	When carrying out customs procedures for importing an incomplete part of the transceiver - just a part of the device without any transmisson function, the company is required by the Customs authority to obtain a certification of the Telecommunications Authority (In accordance with Circular No. 14/2011/TT-BTC dated 7 June 2011 of the Telecommunications Authority, import license is required when importing transceiver). Is it required that the enterprise needs to ask for certification of the Telecommunications Authority for each importation of the aforementioned equipment as it is currently required? The enterprise proposes to send a written commitment instead of asking for confirmation of the Telecommunications Authority, which is time-consuming for both parties,	• As established in Article 2, Circular No. 14/2011/TT-BTTTT, June 7, 2011, licensing importation of radio transmitters and transceivers is for complete equipment, instead of components or parts for these products, and does not cover radio receivers only. The commodities included in the specific list by HS code is provided in Appendix II, Circular No. 14/2011/TT-BTTTT mentioned above. • Pursuant to Article 26, Customs Law; Article 16, government Decree No. 08/2015/NĐ-CP, Jan. 21, 2015, and Article 4, Circular No. 14/2015/TT-BTC, Jan. 30, 2015 of the Ministry of Finance, classification of commodities to identify names and item codes based on the approved List of imports and exports is needed to provide the tax base and apply relevant regulations for the

	especially when the enterprise imports multiple times.	right commodities. • According to Article 4, Circular No. 14/2011/TT-BTTTT mentioned above, an *"import permit for radio transmitters and transceivers may be used for one or more times for the importation of the consignment identified in the permit, which remains valid until the consignment has entirely been cleared by customs, with no more quantities than those defined in the permit, and within the validity period of the quality compliant certificate."* • Circular No. 14/2011/TT-BTTTT has now been revised and updated by Circular No. 18/2014/TT-BTTTT, Nov. 26, 2014. Accordingly, import permits for radio transmitters and transceivers granted under Circular No. 14/2011/TT-BTTTT may still be used until the period of validity stated in the permit expires. We suggest the inquiring firm to make reference to the aforementioned rules and specifications of the imported goods to make sure applicable rules are adhered to.
21	In practice, in case of importing goods from foreign countries through express delivery companies (Fedex, DHL, UPS ...), there will be no attached customs declaration when the goods reaching the recipient. The current regulations also do not mention that express delivery companies are responsible for providing declarations to the recipient. Does the company have to present the customs declaration in these cases when the customs authorities conduct inspection? How to present the declaration when required? Is a copy of CD provided by express delivery service company sufficient?	According to the rules of Circular No. 191/2015/TT-BTC, in the case of commodities shipped through express delivery firms, the express delivery agency selected may represent the cargo owners to make customs declaration, or the cargo owner can do that themselves, or a delegated person may do that in case the merchandise is a personal gift or present, or luggage sent before or after the trip of a person entering or leaving the country. All consignments sent through express delivery companies must come with a customs declaration form. In case the items being shipped are documents without commercial value, the express delivery agency may make declaration on a declaration form for documents, and for goods covered by current tax exemption schemes, waived from obtaining a permit, and not subject to specialist inspection, declaration will be made using a low-value declaration form. For the remaining merchandise, declaration may be done on a normal import/export customs declaration form. According to Article 3, Circular No. 38/2015/TT-BTC, declarants must retain the originals of the documents (unless the originals have been lodged with the customs office), except for documents in electronic forms, which are maintained in such electronic forms or may be transformed to a paper form as required by law on electronic transactions. In terms of the declaration form for items sent by

		express delivery services, the customs declaration form for statements/documents should be in paper form, whereas the declaration form for low-value goods and common import/export declaration form may be in an electronic form.
22	In case where there is already a Master contract between the two parties, will the Purchase Order (PO) be deemed equivalent to Purchase/Sale Contract for customs purpose? Considering that the exchange of agreements resulting in the issuance of POs between buyers and sellers is reasonable as an expression of the offer to enter into contracts in international trading in accordance with the prevailing regulations of Commercial Law. So in case there is no Master contract, is the PO (without signature confirmation) considered equivalent to Purchase/Sale Contract for customs purpose?	According to Article 24.1.b, Customs Law, *on a case-by-case basis, the declarant must submit or present a **purchase contract**, commercial invoice, bill of lading, certificate of origin, import/export permit, notice of specialist inspection outcomes or waiver of specialist inspection, and other documents relating to the merchandise in accordance with applicable laws.* As indicated in the above rule, depending on the specific event, the declarant must file or present to the customs authority a purchase contract. Furthermore, in accordance with Article 2.1, Circular No. 39/2015/TT-BTC, a *"purchase contract is an agreement to buy or sell goods, established in writing or other forms of equivalent validity, including telegram, telex, fax, or data message. In this process, the sellers is responsible to make the delivery, hand over the goods ownership to the buyer, and take the payment; and the buyer is responsible to pay the seller, take the delivery and goods ownership as agreed upon. The goods may be shipped from the seller to buyer through a border crossing, on the Vietnam border, or from a non-tariff zone to domestic markets, or from domestic markets to a non-tariff zone."* We therefore suggest that the inquiring firms make references to the transactions at hand vis-à-vis the aforementioned rules for application.
23	Under the current guidance of the Ministry of Finance (ruling No. 13959/BTC-TCHQ dated Oct 4, 2016) the deadline for submitting the originals of the Certificate of origins (C/O), except for the C/O form VK, is the time of registration of customs declarations (for paper declarations) and at the time of submission of customs dossiers (for electronic declarations) with extension of 30 days from customs registration for customs duty incentives; whereas, under the provisions of most Free Trade Agreements, the deadline for C/O submission is 12 months from the date of C/O issuance. Is it reasonable to require submitting the original C/O at the time of registration of the customs declaration and at the time of submission of the	• Current rules on when to file an original C/O to be entitled to special tax incentives can be described as follows: 1. C/O Form EAV: at the time of submitting paper-form documentary components of the customs declaration file (electronic declaration), or at the time of lodging the customs declaration form (paper-based declaration) (Official Correspondence No. 12003/TCHQ-GSQL, Dec. 23, 2016). 2. C/O Form KV/VK: within 01 year since the filing of the declaration form (paragraph 2.2, Official Correspondence No. 12802/BTC-TCHQ, Sep. 14, 2016). 3. Remaining C/O forms: within 30 days since the filing of the declaration form (paragraph 2, Official Correspondence No. 13959/BTC-TCHQ, Oct. 4, 2016).

	customs dossier? Is this favorable for enterprises implementing the regulation or not?	• The normative references for the aforementioned guidelines have been provided in details in paragraph 1, Official Correspondence No. 12802/BTC-TCHQ, Sep. 14, 2016.
24	According to the regulations, goods temporarily imported for re-exporting or temporarily exported for re-importing shall have to go through customs procedures at border-gate customs sub-department. However, EPEs must make declaration at the customs sub-department in charge of EPEs. Hence, EPEs can not carry out customs procedures for temporarily import for re-exporting, temporarily export for re-importing at the express mail customs sub-department, but rather the enterprise must use other modes of transportation to carry out this procedure even though there are some small shipments of less than 1kg. In these cases, can EPES make declarations for temporarily import for re-exporting, temporarily export for re-importing at the sub-department that is convenient for the company?	In response to your inquiry regarding the place of customs clearance for import processing goods and export processing goods at EPEs, GCD is duly noted of the concern and has revised/updated the regulations on the clearance location in Articles 50, 52, 54 and 55, revised version of the government Decree No. 08/2015/NĐ-CP, Jan. 21, 2015.
25	EPE purchases domestic goods as gifts for employees or customers. The supplier issues VAT invoices for EPE and EPE pays the sales price including 10% VAT. As stipulated in the regulations, we understand that in this case, EPE will be required to issue invoice for the value of the purchased goods described above. However, EPEs can not issue VAT invoice. What kind of invoice is required in this situation? Is is required to carry out customs procedureces for giving gifts to individuals and clients? if yes, how to do it?	• According to Article 74.2, Circular No. 38/2015/TT-BTC, goods purchased by EPEs from domestic markets or imported from other countries, for which all taxes have been paid and all related import/export controls have been adhered to, barters and trades of these goods domestically will not be subject to customs clearance. Accordingly, in case a domestic business has released a VAT invoice with a VAT rate of 10%, and the EPE involved has paid the taxes in full, customs clearance may be waived. • As invoice control is the responsibility of the General Department of Taxation, we suggest the inquiring firm contact the General Department of Taxation for details.
26	A Foreign-invested company operating in Vietnam, may import a good with HS code not included in the Investment certificates or business registration certificates of the Company. Can the Company import this commodity? How will it be fined in this case?	As established in Article 12.2, government Decree 23/2007/NĐ-CP, and Article 2, Circular No. 08/2013/TT-BCT, Apr. 22, 2013, of the Ministry of Industry and Trade, foreign-invested enterprises may only engage in the trade of goods and activities directly associated with the trade of goods as indicated in their

		Investment certificate, Business permit, and relevant laws and regulations. That means FDI businesses may not import goods not referred to in their Investment certificate or Business registration certificate. Imports that have taken place will be subject to a fine as specified in paragraphs 4.b and 12, Article 14, government Decree No. 127/2013/NĐ-CP, Oct. 15, 2013, which was revised and updated in Article 1.11, government's Decree No. 45/2016/NĐ-CP, May 26, 2016.
27	A number of enterprises imports goods subject to SCT and have fully paid the SCT amount at importation. When selling these imported goods in the Vietnamese market, the enterprises pay SCT on the selling prices of goods. In accordance with Article 1 of Circular No. 20/2017/TT-BTC (Amending and supplementing Clause 2, Article 8 of Circular No. 195/2015/TT-BTC), the amount of SCT payable at the import stage shall be deducted with SST payable upon the sale of goods domestically and shall only be deducted to the maximum equal to the amount of SCT at the stage of domestic sale. If after the goods have been sold, the customs authority conduct post-clearance inspection and re-determine the value of the imported goods, thus leading to higher payable import tax, VAT and SCT than the paid amounts. The additional SCT amount on this imposed import value is not higher than the SCT amount already paid on the domestically selling price. In this case, does the enterprise have to pay the additional SCT on the imposed value? If yes, will this tax amount be refunded? How to carry out the refund procedures?	Pursuant to the provisions of the Excise Tax Laws No. 27/2008/QH12; 70/2014/QH13; and 106/2016/QH13, goods subject to excise tax must have their excise tax paid on importation and when they are sold in domestic markets. Imported goods subject to excise tax will have their excise tax amounts paid offset when determining the amount of excise tax to be paid when they are sold domestically. According to Article 2.4, Circular No. 130/2016/TT-BTC, Aug. 12, 2016, of the Ministry of Finance, excise taxpayers for imported goods that are subject to excise tax may have the excise tax paid on importation offset when determining the excise tax to be paid when selling the goods domestically. The deductible excise tax amount equals the excise tax for the imported goods subject to excise tax when they are sold domestically, and no more than excise tax determined when they are sold domestically. In special cases where the excise tax is not fully offset due to external factors beyond control such as force majeure events, the taxpayer may account the remaining tax as business expenses when determining their corporate income tax. In case imported goods have had their excise tax paid with the customs, and the excise tax paid on importation has been offset when determining the excise tax to be paid when the goods are sold domestically, but after post-clearance audit, the customs levy a higher payable amount of excise tax than the excise tax paid on importation, the tax payer will need to pay the extra tax amount imposed to the customs. Refund/offset of excise tax upon domestic sales: We suggest that the inquiring firm refers to the aforementioned rules and contact the relevant tax authority for guidance, as excise tax on domestic sales is collected by the internal revenue service.

28	For liquidation/ tax refund/ non-collection dossiers of manufacturing/exporting enterprises (including EPEs) in the period from 2014 backwards, there is always issues on the difference in inventory of raw materials between the amount reported to the customs authority and the actual number recorded at the enterprise. In fact, the customs authority when conducting inspection usually rely on the norms that the enterprises register to calculate the difference. Nonetheless, as the norms are subject to frequent changes, and only some enterprises update this information with the customs authority, this leads to the differences when conducting inspection based on the initially registered norms. (The current regulations allow enterprises to set and manage their own norms without registration.) From business point of view, local customs authority should rely on the actual data recorded at the enterprises rather than on the registered norms. According to some guidance of the GDC, in case EPEs have the positive difference in raw materials (the number of raw materials inventory is larger than the number reported to the customs), and the inventory is still stored in the warehouse and has not been sold domestically, the EPEs shall not be subject to tax imposition (OL 6970/TCHQ-TXNK dated 24 July 2015 and OL 9376/TCHQ-TXNK dated 29 September 2016). So we understand that the positive difference in raw materials will not be subject to tax assessment? For enterprises that are not EPES but have manufacturing and exporting, export processing activities, will the positive difference in materials be applied similarly? In case of negative difference, in accordance with OL 9376/TCHQ-TXNK dated 29 September 2016, the EPEs that have a negative difference in raw materials inventory shall not be subject to tax imposition but only administrative penalty on the difference. Will this guidance apply to other cases?	According to Article 55.3, Circular No. 38/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, prior to initiation of production activities, subject organizations or individuals must have in place consumption norms and estimated wears and tears for every product item. If any changes occur during the production activity, the consumption norms will have to be revised, with documents and records relating to the norm change maintained. That means businesses are responsible to provide and present documents relating to the re-establishment of the norms as maintained by them and actual outputs (if any) to the customs authority. Tax policy: In respect of handling taxes for raw materials and supplies in stock with positive and negative differences, GCD has, through Official Correspondence No. 9376/TCHQ-TXNK, given guidance on how this is done. Accordingly: • Raw materials and supplies in stock with positive differences that are physically maintained in store are not subject to extra tax imposition, as they are still in stock and are nontaxable items. The customs will take stock of the raw materials and supplies with positive differences at the time of audit. The subject firm will submit a detailed report to the customs office on how the raw materials and supplies have been used, and how products are made using the raw materials and supplies with positive differences as mentioned above. • Negative differences at EPEs: If the customs, through inspection, does not find that the EPE in question has converted the subject goods for domestic sales, will apply an administrative fine on the negative differences in accordance with Article 1.5, government Decree No. 45/2016/NĐ-CP, May 26, 2016, revising and updating specific clauses of government Decree No. 127/2013/NĐ-CP, Oct. 15, 2013, providing on administrative penalization for "violation of regulations form management of raw materials, supplies, machineries, equipment, outsourcing products, export products, and export processing products, leading to missing inventory compared to accounting statements, accounting books and import/export goods dossiers, other than the events specified in d), dd), e) and g), Article 13.1 of this Decree". In case the customs find that the negative differences of the raw materials and supplies exist due to the subject firm selling the goods domestically, it will levy import duty and VAT, and apply administrative penalty for fraud and tax evasion in accordance with existing laws.

29	Company M conducts export processing activities for foreign partners. When the processing contract has been terminated and the liquidation of contract is being caried out, there are still some products that has not been exported and unfinished products remaining. The foreign company assigns company M to transfer the remaining finished and unfinished products to the subsequent processing contract. To our knowledge, there is currently no specific guidance on the handling and procedures for the transfer of finished or unfinished products to the next processing contract, but only guidance on how to handle and transfer raw materials to the next processing contract. In this case, can the company convert the finished and unfinished products into raw materials and then make export declaration transferring E54 to the new contract?	• Pursuant to Article 10, Decree No. 134/2016/NĐ-CP, Sep. 1, 2016: 1. Goods imported for outsourcing purposes and export outsourcing products under an outsourcing contract that are duty free as specified in Article 16.6, Duty and Tariff Law may include: a) Raw materials, intermediate goods and supplies (including inputs for packaging materials or packaging materials for export goods), directly imported components or parts that constitute export products or are directly involved in the making of export products, but not directly transformed to the goods themselves, including events where the outsourcing contractor imports the raw materials, supplies and components for use in the delivery of the outsourcing contract; … e) Goods imported for outsourcing purposes that may be destructed in Vietnam, and have in fact been destructed. In case of goods imported for outsourcing purposes are used as gifts or presents, tax exemption may apply in accordance with the provisions of Article 8 of this Decree. Upon expiry of the validity period of the outsourcing contract, any goods imported for outsourcing purposes shall be exported. Any of those goods not exported must be declared for tax payment as required by law. g) Export processing products: • Pursuant to Article 34.3, Decree 187/2013/NĐ-CP, "Machineries and equipment leased or loaned on a contractual basis; raw materials, supplies, redundant materials, waste products, waste materials and other wastes must be handled in accordance as agreed upon in the outsourcing contract, providing that existing Vietnamese laws are adhered to." • Pursuant to Article 64, Decree No. 38/2015/NĐ-CP, Mar. 25, 2015: "2. Handling methods Based on existing Vietnamese laws and the terms and conditions of the outsourcing agreement, redundant raw materials and supplies, waste materials, waste products, machineries and equipment leased or loaned for outsourcing purposes shall be handled as follows: … c) Transferred to another Vietnam-based outsourcing agreement; … Based on the aforementioned rules, in case an outsourcing contract expires and is

		up for disposition, where the outsourcing agreement itself or schedules to it have a clause that allows the employer to transfer any redundant raw materials, supplies, waste materials, or waste products from an existing outsourcing agreement to a new one, such unused raw materials, supplies, waste materials and waste products that are transferred to a new outsourcing agreement will be duty free in accordance with Article 10.1, Decree 134/20156/NĐ-CP.
30	A domestic company acts as a main contractor executing many contracts in supply purchase - design - construction for export processing enterprises in Vietnam. The tools, machineries and materials used for the construction were imported from overseas. The investor is the importer of record in the customs declarations and the buyer in the contract with the foreign suppliers. According to the contract, the main contractor will settle the payment for the whole contract. Under prevailing regulations, we understand that imports from overseas into export processing zone and only used in the export processing zone are exempted from import duty. Accordingly, the imported machineries and materials for the construction of export processing zone as explained is not subject to import duty and VAT, regardless of method of payment. We respectfully request GDC to confirm our understanding of regulations.	Based on Article 2.4, Duty and Tariff Law No. 107/2016/QH13, goods imported into a non-tariff zone and used solely within the non-tariff zone are duty free. And according to Article 5.20, VAT Law No. 13/2008/Qh12, goods and services purchased and sold between foreign parties and non-tariff zones, and among non-tariff zones are VAT nontaxable. Given the aforementioned rules, goods imported into export processing zones and used solely within the export processing zones are duty free and VAT nontaxable.
31	We, a FDI enterprise in Vietnam, leases equipment and tools from a company in Japan to support our business. We import these equipment and tools in the form of temporary import to re-export for the period of 5 years in accordance with the terms of the contract. At the moment, we have completed all procedures related to the temporary import of these equipment and tools. Since we do not need to use these equipment and tools any more, we plan to re-export them earlier than the leasing term to the Japanese company. After informing our plan for early re-export to the Japanese company, the Japanese company decided to sell these goods to another domestic company in Vietnam to reduce costs and shipping time. Accordingly, the Japanese company assigns us to deliver these equipment and tools to the domestic company instead of re-exporting to Japan. The conditions of delivery and receipt of goods in Vietnam shall be prescribed in details in	In reference to Article 35.1.c, government Decree 08/2015/NĐ-CP, Mar. 25, 2015, providing on goods purchased and sold between Vietnamese businesses and foreign organizations or individuals without presence in Vietnam, for which shipments are assigned by the foreign parties with another Vietnam-based firm, *in situ* importation/exportation procedures will apply. That means in case a Vietnamese business (Vietnamese firm B) purchases machineries and equipment from a foreign seller, and the latter designates delivery of the goods from a Vietnamese firm A, which has in its possession machineries and equipment of exporting processing type under lease contracts with the aforementioned foreign business, *in situ* importation/exportation procedures will apply in accordance with Article 86, Circular 38/2015/TT-BTC. In addition, when covering the importation procedures for the machineries and equipment, Company B will need to follow rules on imports control and tax policies applicable to import and export goods.

	the sales and delivery contract. In accordance with the regulations at: • Article 35, Chapter III, Section 5, Decree 08/2015/ND-CP, on-spot import, export goods include goods traded between Vietnamese entities and foreign organizations and individuals with no presence in Vietnam and assigned by the foreign trader to deliver to another entity in Vietnam • Clause 2, Article 86, Chapter IV, Section 1, Circular 38/2015/TT-BTC, customs procedures for on-spot import, export are implemented at the Customs sub-department convenient for the customs declarant and in accordance with the regulations for each import/export form. In light of the above regulations, we understand that: The re-exportation to return the equipment and tools to the Japanese company is implemented in the form of on-spot import, export to liquidate and terminate the Leasing contract with the Japanese company; the equipment and tools are transferred directly to the domestic company under the assignment of the Japanese company; the domestic buyer will implement on-spot import procedures for the equipment and tools purchased from the Japanese company in accordance with the sales contract between the two parties with deliver assignment from us; the domestic company shall pay corresponding taxes for the importation of these equipment and tools into Vietnam, is in accordance with prevailing regulations. However, the Ho Chi Minh City Customs authority requests us to: • Re-export the goods from Vietnam and then import them back; or • Re-export the goods to a bonded warehouse and then import. We see that the above request from Ho Chi Minh customs is unreasonable and costly in terms of time, cost and manpower for companies to execute, and still would not affect the payable taxes. We respectfully request GDC to confirm that our understanding and implementing as above complies	*The Customs Supervision and Control Administration has released OC No. 3188/GSQL-GQ2, Dec. 13, 2017, in reply to the inquiry.*

	with prevailing regulations.	
32	Tax refund for Ban Phuc Nikel	A dossier has been sent by the company to the Duty and Tariff Administration, which is examining and working on a direct written answer for the inquiring entity.
33	Nghi Son Oil Refinery and Petrochemical: • Appreciate GDC's help and support to determine the value of our crude oil, products and semi-finished products, as well as the current rules on allowable levels of losses for these commodities. • We are benefiting from the Government's guarantee for import duty exemption, however in order to be procactive in production we have temporarily paid $73million. The amount of tax expected to be refunded is $ 15 million. However, so far the company has been refunded 1.8 million. We have submitted petition to the Customs Authority to consider refunding for us. If the procedure for refunding lasts a long time, can we propose to the GDC? • Could GDC clarify that the time of delayed tax payment is the period timed from the end of the tax payment deadline given in the tax notice or timed from customs clearance?	• Requests for guidance on determining the customs value for crude oil and semi-crude oil products: Determining the customs valuation for imports and exports is done in accordance with the provisions of Decree No. 08/2015/NĐ-CP, Jan. 21, 2015, Article 25, Circular No. 38/2015/TT-BTC, Mar. 25, 2015, and Circular No. 39/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance. We suggest that the inquiring firm makes reference to the abovementioned regulations for application. • In respect of the query on "complementary declaration for official prices and provisional prices", the Duty and Tariff Administration will aggregate similar requests and work with local customs offices and businesses to find a viable answer. • Article 3.3, Law No. 106/2016/QH13 (effective from July 1, 2016), which revised and updated specific provisions of Article 106.1, Tax Administration Law, establishes that: *"1. Tax payers failing to pay taxes past the due date, rescheduled date, the date indicated in the notice of the revenue service, or the date indicated in the verdict of the revenue service, must pay in full the unpaid tax and arrears penalty at a progressive rate of 0.05% per day on the arrears amount".* • Paragraph 4.b, Circular No. 38/2015/TT-BTC, Mar. 25, 2015, of the Ministry of Finance, specifies that: *"b) The tax arrears days are timed from the next day of the last day of the tax payment timeframe, deadline of tax payment extension period, or deadline specified in a notice or ruling of the customs office, and tax-related ruling by a relevant authority, to the previous day of the day when the tax payer or tax collecting agency or organization, or guaranteeing organization pays the arrears to the state coffers."* According to the aforementioned rules, the timing of the tax payment delay will depend on the specific case *(delaying tax payments beyond the due dates, extended dates, dates stated in the revenue service's notices, or dates stated in the verdicts of the revenue service).* The inquiry requesting guidance, however, does

		not explicitly indicate which case of delay it falls under (delay in the guaranteed period or delay of levied tax payment, and so on). We therefore suggest that the inquiring firm gives insights on the specific case so that the General Department of Customs can provide the exact answer.
34	Toto Co., Ltd. imports parts and components for its manufacturing of bathroom fixtures. To update registration, 3 days are too short for company to update and was penalized for some so-called administrative misconducts. We proposed to extend to 5 working days. Also, do administrative misconducts result in being included in a risk management 'black list'? Prior HS code determination: The Customs Authority gave the answer in one official letter for a list of many commodities which were imported in different time. Could GDC give us one-by-one answers? Price of impoprted commodities is different in according to transportation by air or by sea or DE or DC products. We recommend giving explanations in writing for price database adjustments purposes, to save time, cost and efforts for both the customs and businesses?	In respect of complementary declaration, the draft revised Circular 38 has embraced the recommendations in that it has expanded the timeline for supplementary declaration of the vessel name to 03 business days. As infringement information is one of the criteria the customs office needs about businesses for rating purposes, we suggest that businesses strictly follow the law and avoid misconducts to the maximum. As for the concern on predetermination of the tax code, at the meeting, the Duty and Tariff Administration has instructed that determining taxpayer identification number in advance is subject to rule 2A on classification, and asked that businesses forward the full dossier for code predetermination to enable the authority to give guidance on. As response to the third question, Article 25, draft Circular 38, allows businesses to make one-time price reference for multiple contracts.