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General Department of Customs strengthens border control to tackle fraud related to origin of goods

Vietnam - [IPMAX Law Firm](#)

- **The General Department of Vietnam Customs has issued Official Letter No 5189/TCHQ-GSQL, which requests that the customs departments verify the origin of goods and prevent acts of fraud**
- **The letter gives specific directions to customs departments and clarifies their responsibilities**
- **The letter also provides guidance for the inspection of specific categories of imported and exported goods**

Background

As countries in the region and around the world have made major changes to their trade policies, there has been an increase in the amount of goods originating from countries imposing high tax rates, such as China, being illegally transported into Vietnam and then exported to other markets to avoid trade defences. Recently, the General Department of Vietnam Customs has witnessed a growing number of methods and tricks of fraud, such as counterfeiting the origin of goods as emanating from Vietnam, illegal labelling, infringing IP rights and illegally transporting imported and exported goods.

In order to address these issues, on 13 August 2019 the General Department of Customs issued Official Letter No 5189/TCHQ-GSQL, which requests that the customs departments verify the origin of goods and prevent acts of fraud, such as counterfeiting the origin of goods, illegal labelling, infringing IP rights and illegal transportation.

Typical methods of fraud

Letter No 5189/TCHQ-GSQL analyses and summarises some typical methods of fraud and forgery, including the following:

- Labelling goods manufactured abroad and imported into Vietnam as “Made in Vietnam”, “Produced in/by Vietnam” or “Origin Vietnam”, or including information in Vietnamese or information relating to Vietnam on the goods and/or their packaging;
- Labelling imported goods as “made in foreign countries” or indicating no country of origin, but labelling such goods as “Made in Vietnam”, “Produced in/by Vietnam” or “Origin Vietnam” when circulating them domestically;
- Taking advantage of legal documents that do not require supplementary labels at the customs clearance stage in order to import goods, but change the labels and packaging of such goods when circulating them domestically;
- Importing counterfeit goods bearing trademarks that have been registered for protection; and

- Taking advantage of transit to transport counterfeit goods, goods infringing IP rights or goods with a counterfeit origin.

Directions to customs departments

Letter No 5189/TCHQ-GSQL gives specific directions to customs departments at both the central and provincial level to strictly inspect and control imported and exported goods. It also clarifies the responsibilities of customs departments and related organisations. Detailed information relating to imported goods and exported goods, especially information regarding the origin of the goods and trademarks, must be declared so they can be verified by Customs. Customs must check, among other details, the origin of the goods, the trademarks and labelling information contained in the customs declaration. More specifically, Letter No 5189/TCHQ-GSQL includes the following measures, among other:

- Imported goods - when checking the customs documents, the customs departments must verify the declaration of origin of the goods and the information contained in the certificate of origin, as well as other information relating to the imported goods, including the name of the goods and the trademarks. When inspecting the goods, the customs departments must compare the information on origin and the labelling with the information contained in the customs declaration and customs documents, verify the codes of the goods to identify the country of origin, and check that the labels on the goods or packaging are sufficient.
- Exported goods - when checking the customs documents, the customs departments must verify all declared information (ie, name of the goods, description, quantity, HS code and origin) and compare it with the information contained in the customs documents.

When inspecting the goods, the customs departments must compare the name of the goods and the labelling with the information contained in the customs declaration and customs documents. If there are signs of suspected fraud or forgery, the authorities must request the declarant to provide an explanation, as well as evidence. In addition, the customs department will compare the information on IP rights with the data on the system to verify whether the goods are infringing.

The letter also provides specific guidance for the inspection of specific categories of imported and exported goods, such as cosmetics, medicines and medicinal materials, foodstuff, cigarettes, alcoholic products and non-alcoholic beverages, and for determining the origin of the goods under various scenarios.

Comment

The issuance of Official Letter No 5189/TCHQ-GSQL is a defensive measure. It aims to help Vietnamese manufacturers to avoid damage, the loss of prestige on the international markets or restrictions when exporting to these markets. It represents a significant step in the strengthening of border control to prevent counterfeiting and the infringement of IP rights.

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TAGS

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