

**REVIEW OF VIETNAM LEGAL  
FRAMEWORK AGAINST  
EVFTA COMMITMENTS ON  
SPECIALIZED INSPECTION  
ON EXPORTS AND IMPORTS  
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# OVERVIEW AND METHODOLOGY

1. *Analysis* commitments on specialized inspection.
2. *Citation* of related Vietnam provisions.
3. Assessment the compatibility between Vietnam legal framework (VLF) and EVFTA commitments: Totally compatible, Partly compatible, and Incompatible


# OVERVIEW AND METHODOLOGY

4. *Recommendations* including:

- With regard to “*Totally compatible*”: recommend to enhance implementation performance.
- With regard to “*Partly compatible*”: recommend to revise incompatible provisions.
- With regard to “*Incompatible*”: recommend to revise.

# Intepretation

1. Specialized inspection includes management and specialized inspection
2. “Customs Procedures” means customs formalities and related procedures.



**DETAILED ASSESSMENT ON  
PROVISIONS AND  
PROCEDURES;  
COMPARISON WITH EVFTA  
COMMITMENTS**

# 1. Commitments to cooperate với Parties trong specialized inspection (Article 1.1)

With regard to internationally cooperate in building technical standard/regulation, goods quality management, food safety, quarantine; mutual recognition..., it is clearly regulated được in specialized inspection legislations: Article 8 Law on standards and technical regulations, Article 6 Law on product and goods quality, Article 4 Law on food safety, Article 5 Law on phytosanitary, Article 11 Law on veterinary medicine and their guiding Decree, Circular.

# Assessment

Vietnam specialized inspection legislations are *fully compatible* with Commitments EVFTA.

**Recommendation:** The implementation of “mutual recognition” is unconsiderable because of the low technical ability of Vietnam.

To improve trade facilitation, propose to apply the solution of “active recognition” as provided under Resolution 19-2016/NQ-CP.

## **2. Commitments to ensure state control, and create trade facilitation (Article 1.1)**

### **Assessment:**

A principal issue of specialized inspection is not only to ensure state control, but also to create trade facilitation, protect consumers, forbid abuse of specialized inspection to create trade barrier of production and business. This principle is clearly provided under Article 5, Article 8 Law on product and goods quality, Article 9 Law on standards and technical regulations, Article 4 Law on veterinary medicine...



# Assessment

There are some provisions not for trade facilitation:

- Article 59 Decree 38/2015/NĐ-CP on deposit time of steel scrap;
- Conflict between Circular 41/2015/TT-BTNMT and QCVN 31:2010/BTNMT on allowing steel scrap pressed in the form of block;

# Assessment

- Article 11 Decree 60/2014/NĐ-CP on conditions of the owner of entity importing printer equipment;
- The overlap among regulations of specialized management ministries cause the circumstance where one item is regulated by many different legislations and inspection procedures...

**General assessment** on commitments to ensure state control, and create trade facilitation: specialized inspection legislations are *partly compatible* with Commitments EVFTA.

# Recommendation

- Supplement guiding details to create trade facilitation.
- Specialized management ministries cooperate to review list of specialized inspection goods to reduce circumstances where one item is regulated by different ministries, and by different specialized inspection legislations.

# Recommendation

- Revise Article 59 Decree 38/2015/NĐ-CP so that deposit could be made right after the issuance of bill of lading and before initiating custom procedures; revise Circular 41/2015/TT-BTNMT to annul the requirement to press scrap into; revise Article 11 Decree 60/2014/NĐ-CP so that this regulation does not apply on producer importing printer for good surface's decorations

### **3. Commitments on non-discrimination in specialized inspection (Article 1.2)**

#### **Assessment:**

Non-discrimination among groups of subject is a specific principle provided under Article 5 Law on product and goods quality, Article 6 and Article 40 Law on standards and technical regulations.

However, under Article 34 Law on product and goods quality, Article 38 Law on food safety and Circular 27/2012 on quality inspection, Circular 28/2012 on conformity, Circular 07/2012/TT-BCT về energy labelling certification, there are signs of discrimination.

# Assessment

Details: For domestic producing goods, these certifications have three-year validity; for imports, conformity certification has validity for each importers, labelling certification has validity for package. Goods quality, food safety inspection is required in some regulated cases of domestic producing goods, in all package of imports.

**General assessment:** specialized inspection legislations is *partly compatible* with Commitments EVFTA.

# Recommendation

Revise regulations, that one item produced by one foreign producer (if required to have specialized inspection) need conformity-announcement for only one time, for the the first importing package, and applying on all importers

## 4. Commitments to apply modern management (k.2 Article 1)

According to World Customs Organization (WCO), “modern management” means the methods based on the main processes: summarizing, information analysis, risk management and post-clearance checks.

**Assessment, Recommendation:** Vietnam legal framework on specialized inspection is *incompatible* with Commitments EVFTA (as detailed analysis under Article 5 and Article 7).



## 5. Commitments to effectively apply management method (Article 1.2)

**Assessment:** In general, specialized inspection legislations meet requirement of state control. This is reflected in the entire contents of the law, not some articles, please find the reference of some provisions brought remarkably effectiveness that can be measured:

- Circular 33/2014/TT-BNNPTNT: procedure with a few documents (2 – 3 kinds).
- Official letter 1950/BVTV-KD: No compulsory application on exports (reduce goods clearance for 10 ngày).

# Effective regulations

- Circular 52/2015/TT-BYT provides 1-step procedure in food safety inspection, reduce 1 from 2 procedures, and 1 from 2 “windows”.
- Decree 21/2012/NĐ-CP and Circular 54/2015/TT-BGTVT: Application electronic declaration for ship of imports and exports, reduce many kinds of documents, and time.
- procedure for registry of importing motor vehicles via NSW.

# Regulations with limited effect

- Article 47, 48 Law on standards and technical regulations lack of provision on imports, therefore, all importers have to do this costly procedure.
- Circular 28/2012/TT-BKHCHN provides that a conformity certification has three-year validity, therefore, one conforming item must retake the inspection after due-date.
- Article 34 Law on product and goods quality, Article 38 Law on food safety, Article 8 TT07/2012/TT-BCT provides that quality inspection, food safety/energy labelling certification are valid for each package, therefore, any importers have to do the procedure.

# Regulations with limited effect

- Article 3.15 Law on product and goods quality defines state inspection on quality is re-assessment the result of inspection organization, which adds one more step in the procedure, costly for enterprise.
- Decree 26/2011/NĐ-CP and TT40/2011/TT-BCT provides the receipt of imported chemicals declaration NK which is unnecessary, conflicts with law on chemicals, and costly for enterprise.
- Article 39 Law on energy provides 2-step procedure of energy labelling (inspection, and issuance of certification) which is unnecessary, costly for enterprise.

# Regulations with limited effect

- Article 7 Circular 07/2012/TT-BCT only recognize foreign "testing" result, not mentioning the recognition of foreign "energy labelling" testing result under law on energy, which cause the increase in the number cases applying labelling procedure
- the overlap of list of specialized inspection goods causes the case where one item is regulated by many different specialized inspection procedures, which is attributed to many difficulties, and enterprises' costly time and money.
- Comparison of fee and effectiveness: Every year, in whole country, enterprises have to pay at least 1 600 billion VND and 2,5 million working to do specialized inspection procedures, meanwhile the non-conforming package accounts for not exceeding 1%.

# General assessment

In general, specialized inspection legislations meet the requirement on enhancement of state control, meet the target on economy development, society, community protection, environment protection, deficit control, keeping and expanding exporting markets, fights against trade fraud and smuggle.

Ensure all specialized inspection sectors regulated by applicable law, to reduce confusion and arbitrary application, and facilitate trade in reasonable level.

In addition, there are many provisions which are not for trade facilitation.

**General assessment:** specialized inspection legislations is *partly compatible* with EVFTA commitments

# Recommendation

1. Supplement Article 47, 48 Law on standards and technical regulations and revise Circular 28/2012/TT-BKHCHN so that conformity announcement procedure is made once and for the first package.
2. Revise Article 34 Law on product and goods quality, Article 38 Law on food safety, Circular 27/2012/TT-BKHCHN and Circular của Specialized management ministries to apply risk management in specialized inspection.
3. Revise 15 Article 3 law on product and goods quality defining “quality inspection” as one-step procedure, inspection result has validity in goods clearance.
4. Revise Decree 26, Circular 40 to annul procedure “receipt of chemicals declaration”

# Recommendation

5. Revise Article 39 Law on energy to provide one-step procedure, inspection result is used for energy labelling.
6. Revise Circular 07/2012/TT-BCT to annul requirement of labelling before goods clearance, Certification has validity for each package.
7. Recommend MOIT to guide “the recognition of energy label of imported vehicles, and equipment”.



# Recommendation

8. Actively recognize the quality announcement of producers, famous brands, and results of foreign inspection organization .
9. Specialized management ministries cooperate to review list of specialized inspection goods so that one item is regulated by only one legislation and under control of only ministry, which would help to reduce the overlapping situation of legislations on specialized inspection

## 6. Compliance with “Convention HS” (Article 3)

### **Assessment:**

Vietnam legal framework on specialized inspection provides enough and clear list of forbidden importing and exporting goods, list of imports and exports under license, list of goods under specialized inspection, and that item must have HS code: Article 8 Decree 187/2013/NĐ-CP, Article 26 Law on customs, Circular 41/2015/TT-BCT, Decision 4758/QĐ-BNN-TY and 5481/QĐ-BNN-CN, Decision 2026/2015/QĐ-TTg, Resolution 19/NQ-CP...

**Assessment:** specialized inspection legislations is *fully compatible* EVFTA commitments.

# Recommendation

- There are some ministries have not yet issued HS code of their list of specialized inspection goods, recommend to implement this requirement.
- Recommend competent ministries to annul “others” code in their list of specialized inspection goods.
- Recommend competent ministries to timely update, and supplement their list of specialized inspection, whenever MOF update and supplementation happen

## 7. Review, Revise regulations, procedure (Article 3.2)

Usual review and revision related regulations and procedures provided under Article 170 Law on promulgation of legal documents, Article 19, 35 Law on standards and technical regulations, Article 25 Law on phytosanitary, Article 8 Decree 187/2013/NĐ-CP, Circular 52/2015/TT-BYT replaced Decision 23/2007/QĐ-BYT, Circular 41/2015/TT-BCT thay thế Circular 08/2012/TT-BCT...

**Assessment:** specialized inspection legislations are *fully compatible with* EVFTA commitments.

**Recommendation:** No Recommendation

# 8. Summary goods clearance (Article 4.1)

**Assessment:** specialized inspection legislations (TT12/2015/TT-BNNPTNT, TT 52/2015/TT-BYT...) and customs law have specific provision on good clearance period, so that good will be released as soon as possible (right after submission of full dossier or inspection result). In addition, the Government adopts three Resolution in three continuous year to regulate this issue (Resolution 19-2014/NQ-CP, Resolution 19-2015/NQ-CP, Resolution 19-2016/NQ-CP). The purpose is to meet the requirement of good clearance period as provided in the new-generation international agreements, such as TPP and EVFTA.

**General assessment:** specialized inspection legislations are *fully compatible with* EVFTA commitments. However, the period of specialized inspection procedure in some pronvices is quite long (from 13 to 19 working days)

**Recommendation:-** No recommendation

- Enhance performance.

## 9. Submission of electronic customs declaration (Article 4.2)

Electronic submission is provided in many legislation, e.g. Article 7, Article 8, Article 33 Decree 08/2015/NĐ-CP (NSW), Circular 89/2016/TTLT-BCT-BTC, Circular 52/2015/TT-BYT...

However, not much implementation.

**Assessment:** specialized inspection legislations are *fully compatible* with EVFTA commitments.

**Recommendation:**

- No recommendation
- Enhance performance.

# 10. Submit and handle customs declaration before goods arrival (Article 4.2)

Article 25 Law on customs provides that customs declarants could submit declaration before good arrivals which have valid within 15 days. In the sector of specialized inspection, submission of customs declaration is a customary, however, only MOH has official provision on this issue under Article 8 Circular 52/2015/TT-BYT.

**Assessment:** specialized inspection legislations are *fully compatible* with EVFTA commitments.

**Recommendation:** Specialized management ministries have official regulation allowing customs declaration before good arrival.

# 11. Simplify procedure (k.1 Article 5)

Customs simplification means that customs procedures shall have only a few steps, a few documents, and dossier is submitted and result is received in the most convenient way with less handling unites, less time, and less cost



# Assessment

:- With regard to application dossier: Only a few legislations provide simple application dossier, e.g. only one kind of declaration (Article 16 Circular 12/2012/TT-BNNPTNT); or 2 - 3 kind of declarations (Article 6 Circular 33/2014/TT-BNNPTNT), and almost the rest often requires multiple kind of documents (from 7 -10 kinds) ( Article 6 Circular 27/2012/TT – BKHCHN, Article 8 Circular 07/2012/TT-BCT...).

# Assessment

- With the document form: Multiple forms (Article 6 Circular 27/2012/TT – BKHCN, Article 9 Circular 28/2013/TT-BCT, Article 8 Circular 07/2012/TT-BCT, khoản 3 Article 16 Circular 48/2011/TT-BCT, Article 7 Circular 52/2015/TT-BYT...) are required to submit notarized copy, authenticated copy, including some commercial documents which could not be notarized or authenticated such as e-commercial transaction without hard signatory or seal (e.g. bill of lading, contract, detailed list,...)
- With regard to submission method: Almost is hard submission, directly or via post office.

# Assessment

- With regard to procedure: In general, not simple. For each importer, imported goods falling shall need conformity announcement certification. This kind of goods also need quality check for each imported package. Quality check includes two periods, 7 steps conducted by two different entities (Circular 27/2012/TT – BKHCN ). Accordingly, enterprise need to meet competent authorities on quality in three different.

# Assessment

- With regard to time:

Excepting the phytosanitary (quite short about 1-2 days) and summary procedure which only a few enterprises have right to use (two days under Article 8.2 Circular 52.2015/TT- BYT, 3 days under Article 8.2 Circular 27/2012/TT–BKHCN), other procedures such as quality check, food safety, energy performance need very long periods, not mentioning conformity announcement is very long (7 to 30 days under Article 4 Decree 38/2012/NĐ-CP).

# Assessment

**General assessment:** it is very hard to straightly determine whether the simplicity of current specialized inspection meets EVFTA requirements. However, if based on the targets of these commitment are to create trade facilitation, it could be said that specialized inspection procedures are *incompatible with* EVFTA commitments.

# Recommendation

Recommend to revise as following:

- Recommend to reduce kinds, number of submitting documents, and specialized inspection procedures, especially annul some document not containing good quality information such as bill of lading invoice, packing list... (good application of Circular 33/2014/TT-BNNPTNT.)
- Recommend to reduce the specialized inspection period under requirement of Resolution 19-2016/NQ-CP
- Recommend to apply electronic procedure in stead of hard procedure,.
- Limiting the requirement of notarized and authenticated documents.
- Reduce the circumstances where one job conducted by more than one authorities/organization by reducing and annulling quality check under Article 27.4 Law on product and goods quality (good application of Circular 52/2015/TT-BYT).

## **12. Simplified procedure (k.1 Article 5)**

An obvious procedures should have specific requirement on process, and order; kinds, forms and amount of submitting documents; receiving adress, and handling, completing time and receving results; cost; and under the law.

# Assessment: clear provisions

Under regulations under Article 35.1 Law on product and goods quality and Article 8 Circular 27/2012/TT – BKHCN on procedure, Article 4, Article 5 Decree 38/2012/NĐ-CP on conforming procedure hợp quy, Article 7, Article 8 Circular 52/2015/TT-BYT and Circular 12/2015/TT-BNNPTNT on food safety... in general, specialized inspection legislations meet EVFTA requirement.

However, there are some confused provisions, in two ways: first is conflict between higher legislation and its guiding legislations; and second is unclear in steps, and timing...



# Assessment: un-clear provisions

- Circular 37/2015/TT-BCT providing the amount of formaldehyt and perfume amin in textile products: No legal reference.
- Circular 15/2014/TT-BTTTT on MIC's specialized inspection list: Hundreds items do not fall in MIC's authority.
- Procedure "testing" in good quality inspection under Circular 48/2011/TT-BCT is not compliance with Law on product and goods quality (Article 27 Law on product and goods quality provides that only testin "when necessary", Circular 48 does not have the wording "when necessary", means all cases must be tested).

# Assessment: un-clear provisions

- Provisions on time for importing chemicals declaration, procedure of receipt importing chemicals declaration, and report mechanism for importing chemicals under Decree 26/2011/NĐ-CP and Circular 40/2011/TT-BCT are not in compliance with Law on chemicals.
- With regard to specialized inspection under Circular 09/2016/TT-BQP, it is not compliance with Law on customs, and authorities of Ministry of Defense
- Provisions on procedure “Assessment of certification” to issue certification energy labelling under Circular 07/2012/TT-BCT is not clear, and not under the law.

# Assessment: un-clear provisions

- Article 3 Decree 38/2012/NĐ on “*Conformity announcement and conformity announcement on food safety*” is not compatible with Law on food safety (which does not have this provision).
- Conflict between QCVN 31:2010/BTNMT and Circular 41/2015/TT-BTNMT on importing steel scrap.
- Code with "others" in the list of specialized inspection goods is unclear, and easily arbitrarily interpreted

**General assessment:** specialized inspection legislations are *partly compatible* with EVFTA commitments.

# Recommendation

- Recommend to annul Article 3.2 Decree 38/2012/NĐ-CP on conforming announcement on food safety.
- Recommend revision List of goods under Circular 15/2014/TT-BTTTT to annul all assigned items in 5 groups under MIC authority as provided under Decree 187/2013/NĐ-CP
- Recommend revision provides tại Article 12 Circular 09/2016/TT-BQP to annul the responsibility to examine dossier and imports and exports.
- Recommend to revise Circular 41/2015/TT-BTNMT by erasing the provision prohibiting pushing scrap into blocks, because scrap is huge, and block of package is space-saving, cost-saving, especially when using container.

# Recommendation

- Recommending MOIT:
  - + Revise Article 21.4 off Circular No. 48/2011 / TT-BCT with the tendency to supplement the phrase "when necessary" to be compatible with Law on product quality.
  - + Revise unclear provisions of Circular No. 07 / 2012 / TT-BCT, Supplement guidance of "recognizing the energy label of imported vehicle, equipment" pursuant to Paragraph 4 Article 39 of Law on energy.
- Recommending Ministries removing the code "others" in the list of specialized inspection goods.

# 13. Application of one-document procedure (Article 5.2)

Like **Assessment** in Article 5.1, specialized inspection procedure is currently manual with a considerable amount of paperwork.

**Assessment:** current specialized inspection procedure is *incompatible* with EVFTA Commitments.

# 14. Application of post-clearance check in specialized inspection (Article 5.3)

Specialized inspection legislations in all sector have not provided to apply this management mechanism.

**Assessment:** current specialized inspection legislations are *incompatible* with EVFTA Commitments.

## **Recommendation:**

Classifying the goods subject to specialized inspection into a certain number of goods before clearance (quarantine, food safety inspection with fresh food), other will be inspected after clearance (inspecting at the stage of circulation, or manufacture...). This is also the orientation of Resolution 19 / NQ-CP.

# 15. Application of technology, and electronic data exchange (Article 5.2 and 5.4)

The application of IT, data exchange has been stipulated in Decree 08/2015 / ND-CP (Article 7 and 8) on NSW, Decision 48/2011 / QD-TTg on the pilot NSW, ND21 / 2012 / ND (Article 62 and 63) on seagoing vessels procedure. Resolution 19/NQ-CP also stipulates this issue.

Currently there are 10 ministries participating in NSW with 36/100 specialized inspection procedure; the seagoing vessels procedure are entirely computerized.

Assessment: Regarding regulations, specialized inspection legislations are fully compatible with the Commitments. However, the implementation is limited.

Recommendation: the Government should issue an official Decision applying NSW, supplement assessment organizations which perform specialized inspection for participants.



## 16. cooperate resources to facilitate transit and transshipment (Article 6)

This matter has been regulated in Law on Customs (Article 35), Decree 08/2015/ND-CP (Article 33), Law on Phytosanitary (Article 7), Law on Veterinary medicine (Article 8). All documents above stipulate that competent agencies at the border must closely cooperate with each other to ensure State control and facilitate for import, export, transit, transport

**Assessment:** specialized inspection legislations are *fully compatible with EVFTA Commitments.*

# 17. Application of risk management (Article 7)

In this paragraph, Parties Commitments apply risk management principle, focus on inspecting key packages, and does not apply the inspecting each package method.

Current legislation does not stipulate risk management application in specialized inspection, the inspection is applied to all packages (article 34, Law on product and goods quality, Article 38 of Law on Food safety, all Circulars of Ministries of specialized inspection).

**Assessment:** specialized inspection legislations *are incompatible with* EVFTA Commitments.

**Recommendation:** Revising Article 34 of Law on product and goods quality, Article 38 of Law on food safety, Supplementing specialized inspection provisions with the tendency to apply risk management principle in specialized inspection.

This orientation is specified in Resolution No. 19/2016

## 18. Transparency(Article 8)

The content of Commitments related to specialized inspection here are provided, published on legal website of specialized inspection; maintaining

Nội dung Commitments liên quan specialized inspection ở đây là cung cấp, đăng tải trên website các văn bản pháp luật về specialized inspection; maintain a focal point to receive, respond to issues concerning specialized inspection legislations

The posting of legal documents (including specialized inspection legislations) is stipulated in Article 150 of Law on promulgation of legislative documents. Moreover, all Ministries and Departments have their own websites on which all specialized inspection documents are posted to receive, guide and answer all relevant inquiries.

**Assessment:** specialized inspection provisions are *fully compatible with* EVFTA Commitments.

# 19. Reasonable fee and charges (Article 10.1)

Commitments here are the level of fees, charges which must not exceed the expenditures of services and must not be calculated in accordance with the value

This matter is regulated in Article 12.15, Article 14.4, Article 37 of Law on product and goods quality; Article 9 of Circular 27/2012/TT-BKHCHN, Article 1.2 of Circular 231/2009/TT-BTC...

Circular 223/2012/TT-BTC stipulates the fee for inspection of imported plant quarantine drugs, food safety of ex-imported agricultural products is calculated with the percentage of the package value (with maximum and minimum limit)

# Assessment

- The fee specified as 150.000-300.000 is relatively low and compatible with EVFTA.
- The fee for assessment, inspection and certification of conformance/conformity, fee for plant quarantine inspection of big package is considered quite high, and it is difficult to know whether the fee is adequate with the service or not. The regulation on value-based calculation still remains.

General assessment: Basically, the regulations on fees and charges in the field of specialized inspection are compatible with EVFTA Commitments.

Recommendation: - Revising the fee calculation for inspection of plant protection drugs, fee for inspection of food safety of ex-imported agricultural products.

- Revising the calculation for inspection fee of plant quarantine drugs with the orientation of stipulating a maximum ceiling.

## 20. No requirement for consular legalization of commercial documents (Article 10.2)

In general, specialized inspection legislations do not have this requirement except for Article 5 (Dossier for conformity announcement), Article 6 (Dossier for food safety conformity announcement), Decree 38/2012/ND-CP

**Assessment:** specialized inspection legislations are *fully compatible with EVFTA* Commitments.

**Recommendation:** Revising Article 5, Article 6 of Decree 38 with the tendency to consular legalize a number of documents.

# 21. **Publicity about the fees and charges**

## **(Article 5.3)**

Commitments related to specialized inspection here are regulations on fees, charges for specialized inspection which must be published on media, official websites

This matter are stipulated in Article 150 of Law on promulgation of legislative documents: Article 6, Article 7, Article 8 and 9, Article 14 of Law on Fee and Charge, Article 12, 14, 19, 37 Law on product and goods quality; Article 46, 49, 56 Law on standards and technical regulations; Article 46, 48 Law on food safety; Điều 12 Law on phytosanitary; Article 12 Law on veterinary medicine; Circular 223/2012/TT-BTC

# Assessment, Recommendation

**Assessment:** Vietnamese law in general, specialized inspection law in particular are *fully compatible* with EVFTA Commitments.

**Recommendation:** None



## 22. Revise fees, charges (Article 10.4)

Commitments here are the changes on fees, charges which will only be applied after publicity.

Article 151 of Law on promulgation of legislative documents stipulates the moment at which a legal document takes effect is no sooner than 45 days since the signed date.

**Assessment:** Vietnamese law is *fully compatible with* EVFTA Commitments.

**Recommendation:** None.

## 23. Not applying imported goods inspection mechanism before loading (Article 13.1).

The content of Commitments related to specialized inspection here is that it is not allowed to apply the quality, volume inspection of imported goods at the gate.

**Assessment:** specialized inspection law is currently *compatible* with EVFTA

**Recommendation:** None

## **24. Private enterprises do not participate in the examination of imported goods (Article 13.1)**

Pursuant to Article 3.9 and 3.15, Article 25.5, Article 25.2.b of Law on product and goods quality; Article 3.5 Law on standards and technical regulations; Article 4.2 TT37/2015/TT-BCT; Article 3 Circular 52/2015/TT-BYT... it is not prohibited for private enterprises to participate in examination, inspection of State control as long as conditions and regulations are fully met.

# Assessment, Recommendation

**Assessment:** Law on specialized inspection is *incompatible with* EVFTA Commitments.

**Recommendation:** Revise Article 3.9 and 3.15, Article 25.2 of Law on product and goods quality, Article 3.5 of Law on standards and technical regulations, Article 3 in Circular 52/2015/TT-BYT with the tendency to stipulate State control with imported goods at the gate carried out by competent agencies.

## 25. Complaint procedure (Article 14)

In this Article, each Party of Commitments ensures legal provisions on complaint procedure with regulation, decisions of specialized inspection agencies which affects the import, export operations.

This matter is stipulated in Article 2.2, 2.5, 3.1, Article 4 Law on Complaint, Article 11, 64, 65 Law on product and goods quality; Article 47 Law on phytosanitary

**Assessment:** *specialized inspection legislations are fully compatible* with EVFTA Commitments.

**Recommendation:** In order to unify and synchronize legal documents, it is recommended to supplement this matter in Law on food safety or other specialized inspection documents.

## **26. Consultation, publishing... legal documents (Article 15)**

Commitments in Article 15 related to specialized inspection include: specialized inspection agencies must establish consultation mechanism for enterprises on legal projects and specialized inspection procedure; publicly publish new regulations, amendments, explanation of those regulations in a appropriate time; listen to the needs of enterprises, limit the barriers in commercial activities

# Assessment

- Issues related to publicly publishing new documents are analyzed above.
- Regarding enterprise consultation, Ministries' website all have a posting-page for consultation. The period for consultation often last for months. Law on standards and technical regulations has a specific regulation on this matter: Article 17, 32.

**Assessment:** specialized inspection legislations are fully *compatible with* EVFTA Commitments.

**Recommendation:** None

# Summary, Classifying the level of commitment of specialized inspection legislations with Commitments EVFTA

Total Commitments related to QCN: 26 contents, related to 11/16 Articles of V Chapter of EVFTA.

In which:

- *fully compatible: 16 Commitments.*
- *partly compatible: 04 Commitments.*
- *incompatible: 06 Commitments.*





# THANK YOU.

**The Center for WTO and Economic Integration  
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