



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity
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Ministry of Finance
Customs Department

No. 0104/CD
Vientiane Capital, dated on 14 October 2009

**Instruction of the Director General of the Customs Department
on Rewarding for Contribution to Prevent and
Repress against Customs Law Offences**

- Pursuant to Customs Law No. 05/NA, dated on 25 May 2005
- Pursuant to the Prime Minister's Decree No. 362/PM, dated on 19 October 2007 on the implementation of Lao Customs Law (Article 89)
- Pursuant to the Finance Minister's Decision No. 2498/MOF, dated on 16 October 2007 on structure and management of the Customs Department,

To promote participation and contribution to prevent and repress against customs offences especially the violation of the Customs Law No. 05/NA, dated 20 May 2005 and the Prime Minister's Decree on Implementation of Customs Law No. 362/PM, dated 19 October 2007, and to enforce effective implementation of such laws,

**While waiting for the Decision of the Ministry of Finance, the Customs Department
issues the Instruction:**

1. The objectives of this instruction are to provide rules, methods and measures for rewarding customs officers, civil servants, soldiers, police and all general persons who directly or indirectly contribute to prevent and repress all kind of customs offences; to promote active participation of the public to customs affair and to enforce law implementation effectively.
2. Customs legal cases should proceed and be cleared by the customs administration as stipulated in Article 65 of the Customs Law No.05/NA, dated 20 May 2005.
 - 2.1 However, in the event that customs offences are found in a face-to-face situation, other authorities, civil servants, soldier or general persons have the right to restrain the suspect and hand him/her over to the nearest customs administration for further investigation in accordance with Article 61 of the Customs Law.
 - 2.2 The Customs Administration at each level, Customs Border Checkpoints, Regional Customs and all Divisions under the Customs Department reserve the right to proceed with settlement and clearance of customs offence cases without limitation on the value of the cases. In other words, the case should be settled and cleared at the place where it occurred. The settlement of customs cases shall be firmly compliant with the customs laws and other relevant regulations.
 - 2.3 In that case that the case cannot be resolved at the first stage, such case should be transferred to the Customs Department. For example, should the decision of the customs administration not be acceptable to the offender and the decision difficult to enforce. The concerned administration should submit the case to the Legal Division of the Customs Department to seek further advice from the General Director of the Customs Department. If the case cannot

be settled by the decision of the General Director, the case file should be submitted to the prosecutor for investigation and resolved through the procedure of the courts.

3. The rewards for participating in offence prevention activities shall be based on the fine and benefit from selling the seized goods after the case is cleared (after deduction of all expenses)
 - The benefit from selling seized wood products and minerals is not subject to dividend for reward;
 - If there are both a fine and a benefit from selling seized goods in one case, the reward can be calculated based on one of either source. The unselected source shall be transferred to the public revenue entirely. The source amount for reward should be deducted after all expenses imposed on investigation and restraint, and the remaining amount shall be the basis for reward calculation.

For example: Case A earned 5,000,000 kip from the fine and 6,000,000 kip from selling the seized goods while 350,000 was spent for clearance procedure.

In this case, if the benefit from selling seized goods (6,000,000 kip) is selected as the source for rewarding, the calculation basis should be $6,000,000 - 350,000 = 5,650,000$ Kip. 5,000,000 kip of fine shall be transferred to public revenue.

4. Civil servants, soldiers, police, customs officers and general public who contribute to prevent smuggling of prohibited goods include weapons, narcotic or others as specified in Article 57 of the customs law, would not receive the rewards in terms of money but in other forms such as official complimentary note, complimentary mark, victory marks and others as appropriate. The customs administration should recommend to the concerned authorities how to deliver such rewards.
5. Monetary rewards can be calculated based on the marginal benefit after deduction of all relevant expenses as specified in paragraph 3 of this instruction. 40% of the source benefit shall be granted to the persons contributing to the prevention activities and 60% shall be transferred to the public revenue as stipulated in Article 22 of the Prime Minister's Decree No.362/PM.

For example, with regard to Case A in paragraph 3 above (the basis of reward calculation is 5,650,000 kip) therefore:

- Public revenue (60%) = $5,650,000 \times 60\% = 3,390,000$ kip
- Reward (40%) = $5,650,000 \times 40\% = 2,260,000$ kip

6. The total reward shall be divided in accordance with the Decision of Finance Minister No. 266/MOF, dated 03 February 2000 as temporary guidance as follows:

6.1 In the case of seizure and processing by the customs administration:

6.1.1 Persons who provide source information should receive 25%

6.1.2 Persons who directly or indirectly seized, detected or reported the case should receive 35%

6.1.3 The remaining 40% should be used for customs administration support.

- If the case was settled at the local level one half of the dividend for customs administration support shall be given to the Customs Department and another half should be given to the administration handling the case.
- If there were no persons as sources of information, such dividend should be given to the administration handling the case

6.2 In the case of seizure by other authority/person but cleared by customs administration:

6.2.1 Case filing fee 20%

6.2.2 Rewards for persons seizing and persons providing source information 80%

Example 1 Dividend of rewards for division under the Customs Department

* Reward (40%) = 2,260,000 kip shall be treated as 100% of the calculation basis:

- The persons providing source information (25%) = $2,260,000 \times 25\% = 565,000$
- The persons seizing the goods (35%) = $2,260,000 \times 35\% = 791,000$
- For division maintenance (20%) = $2,260,000 \times 20\% = 452,000$
- For department maintenance (20%) = $2,260,000 \times 20\% = 452,000$

* If there were no persons as information sources, such dividend should be added to the division's maintenance so the total amount for division maintenance should be $2,260,000 \times 45\% = 1,017,000$ kip.

Example 2 Dividend of rewards for customs administration at local level

* Reward (40%) = 2,260,000 kip shall be treated as 100% of calculation basis:

- The persons providing source information (25%) = $2,260,000 \times 25\% = 565,000$
- The persons seizing the goods (35%) = $2,260,000 \times 35\% = 791,000$
- For maintenance of administration handling the case (20%) = $2,260,000 \times 20\% = 452,000$
- For department maintenance (20%) = $2,260,000 \times 20\% = 452,000$

* If there were no information source persons, such dividend should be added to the maintenance of the administration handling the case so the total amount for administration handling the case should be $2,260,000 \times 45\% = 1,017,000$ kip.

Example 3 Dividend of rewards for customs seizure by other authorities/persons

* Reward (40%) = 2,260,000 kip shall be treated as 100% of calculation basis:

- The persons seizing and persons providing source information 80% = $2,260,000 \times 80\% = 1,808,000$ kip
- Customs case filing fee (20%) = $2,260,000 \times 20\% = 452,000$

7. The maintenance fund received by customs border checkpoints, regional customs, division under the department and the customs department should be divided as follows:

7.1 Expense for case settlement	10%
7.2 Expense for seeking information source	10%
7.3 For incentive shared in accordance with Article 57 of the Customs Law	10%
7.4 For compensation	25%
7.5 For human resource development	25%
7.6 For technical task performance support	20%
7.7 Use of the fund	

- 7.7.1 Expense for case settlement is the expense of the customs officers dealing with the case until it is cleared (except for direct or indirect seizure)
- 7.7.2 Expense for seeking information source is for building ground network for information source and intelligence management about customs law offences.
- 7.7.3 Incentive stated in accordance with Article 57 of the Customs Law is the expense for purchasing any souvenir or the cost of processing complimentary gifts for the persons contributing to the prevention of the customs offence, smuggling of prohibited goods as stipulated in Article 57 of the Customs Law.
- 7.7.4 Compensation is the health care or hospital treatment of a customs officer:
- For officers who incurred an unexpected accident while performing the task of offence prevention.
 - For the officer who incurred an unexpected accident while performing other tasks.
- 7.7.5 The human resource development fund is used for supporting capacity building activities including technical training and workshops on disseminating laws and regulations.
- 7.7.6 Expense for technical task performance support is used for purchasing vehicles, equipment and tools that support the performance as well modernization of the enforcement business.
8. All customs administrations dealing with law case settlement should regularly report to senior management monthly, quarterly and annually. Immediate reports should be submitted for emergency or urgent matters by telephone or facsimile.
- 8.1 Regular reports (monthly, quarterly and annually) should, summarize in writing all case settlement such as number of cases, cases settled, cases under settlement procedure, value of cases and other useful information including difficulties, proposal for addressing issues. Furthermore, benefits earned from and expenses for cases settlement should be reported:
- 8.1.1 Benefits and expenses for case settlement: indicate duty and taxes, fines, sale of seized goods, relevant expenses and bonus.
- 8.1.2 Benefits and expenses for bonus: received from which cases? How much? How many dividends? How much was the expense, for what? What is the remainder?
- 8.1.3 Regular reports should be submitted to the legislation division for compilation. The vertical reporting line should be from the bottom up; i.e. the checkpoint reports to Regional Customs, the Regional Customs reports to Provincial Governor.
9. The divisions under the Customs Department, Regional Customs and Customs Border Checkpoint dealing with law case settlement should establish their own account at the nearest treasury or where it is found to be convenient for managing fund as stipulated in paragraph 10 of this instruction. After withdrawal is approved the funds should be mobilized and used in a timely manner. Transactions on such an account should be duly recorded for monitoring.
- Divisions under the Customs Department (Post Clearance Audit and Anti-Smuggling Division) should open a single account with the Customs Department.
10. Proposal for Expenditure
- 10.1 each division under the Customs Department, Regional Customs, Customs Border Checkpoints should consolidate and send all settled cases (case file, rewards calculation) to the Legislation Division for the purpose of withdrawing the rewards monthly.

- 10.2 The Legislation Division should verify all cases that have been settled. If they are correct consistent with the law the division should authenticate them. If the settlement is not in line with the law the division should proceed with further investigation with the concerned local administrations.
- 10.3 After verification of all cases the Legislation Division should recommend to the Direct General of Customs approval of disbursement of the monetary rewards. For cases in doubt, the rewards cannot be approved unless the cases are correctly cleared.
11. Disbursement Approval
- 11.1 Only the Director General or the authorized representative has the right to approve the disbursement of funds for rewards as per the proposal of the Legislation Division.
- 11.2 After approval the Legislation Division should inform the concerned administration by sending the case file that has been verified, a certificate of verification and the approval for disbursing the monetary reward. Such documents should be forwarded to the treasury for withdrawal with seven days.
12. The approval for using maintenance fund earned from case rewards should be managed as follows:
- 12.1 The Director General of Customs is responsible for approval of using maintenance funds earned from case rewards belonging to Regional Customs, Divisions under the department and the share of the Customs Department.
- 12.2 The Director of Regional Customs is responsible for approval of using maintenance funds earned from case rewards belonging to the Customs Border Checkpoints.
- 12.3 Customs Border Checkpoints, Regional Customs, Divisions under the Customs Department should establish an expenditure plan and proposals for utilizing the fund based on the actual need. The approval can be performed in accordance with above paragraph 12.1 and 12.2. If there is an urgent need to use the fund the proposal should be submitted as a special case. The proposal should be accompanied by all supporting document.
- 12.4 All expenditure of funds should be in line with the applicable regulations. There should be a monitoring mechanism for the purpose of transparency and audit ability.
13. This instruction should be applied by the customs administration in the implementation of the regulation and laws only. The Divisions under the Customs Department, Regional Customs and Customs Border Checkpoints should disseminate this instruction to their officers to ensure clear and uniform understanding for effective implementation.
14. This instruction shall become effective from the date of signing in form of a temporary recommendation until there is a replacement.

**Acting Director-General of Customs
Bounchom Oubonpaseuth**