



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Ministry of Finance

No. 3269 /MoF
Vientiane Capital, Date: 26 July 2021

Implementing Instruction on the law on customs

- Pursuant to the law on customs, No.81/NA, dated 29 June 2020;
- Pursuant to the Prime Minister's Decree on Organization and Operation of Ministry of Finance, No.144/PM, dated 08 May 2017; and
- Pursuant to a suggestion by the Customs Department, No. 03084 /CD, dated 26 July 2021.

Minister of Finance has issued this Instruction:

Article 1 Objective

This Instruction defines principles, regulations, means and measures to further elaborate some articles as provided for in the law on customs, No.81/NA, dated 29 June 2020 with an aim to enable the Customs Administration that conducts customs offense proceedings, and natural or legal persons or organizations that undertake an importation, exportation, movement, storage or transshipment of goods, border-crossing of vehicles or passengers through customs border checkpoints to have the better knowledge and understanding of the law in order to ensure its proper, strict and uniform implementation nation-wide.

Article 2 Definitions

Terminologies used are defined as follows:

1. **Other fiscal obligations** mean excise tax, Value Added Tax (VAT), income tax, fees, charges and other levies as provided for in relevant regulations;
2. **Electronic customs declaration** means an automated customs declaration via a periodically developed and introduced modern electronic system for the purpose of supervising the customs declaration;
3. **Electronic data collecting system** means the introduced system managed by the Customs Administration to apply customs formalities, and establish an interface and exchange of data on imports or exports with other stakeholders' systems;
4. **Electronic customs clearance system** means a system that facilitates an accurate, complete, prompt and accountable customs clearance as provided for in a relevant regulation;
5. **Specific inspection** means an inspection of imported or exported goods in terms of quality, hygiene, sanitary and phytosanitary, culture, or hazardous material as provided for in the law;
6. **Specific route** means a route prescribed by the Customs Administration for the purpose of importation, exportation, or domestic movement of goods;

7. **Transshipment of means of transport** means a change from an inbound means of transports to another or a change of a vehicle or a trailer under the control of customs officers;
8. **Single-trip security** means a security per a single trip in order to control a border-crossing, or a single importation for re-exportation of goods, which a single-trip security value is the total of customs duties, taxes and/or other fiscal obligations;
9. **Multiple-trip security** means one-time security for multiple trips in order to control a border-crossing, or an importation for re-exportation of goods, which a maximum validity of such a security is not more than 1 year;
10. **Costs** mean actual expenses incurred from auctions to dispose commercial or non-commercial goods, or unclaimed goods at warehouses, or customs offense proceedings;
11. **Customs declaration form** means a form periodically designed, approved and introduced by the Customs Administration;
12. **Customs documents** mean documents used by the Customs Administration for the purpose of supervising, controlling and carrying out customs formalities. Such documents include forms prescribed by the Customs Administration such as a notice, official letter, permit, detailed customs declaration form, undertaking entered with the customs administration, and preferential duty rate certificate;
13. **Cash** means a bank note or coin under different currencies;
14. **Valuable effects** mean silver or gold bars, accessory silvers or golds, diamonds, gems or others with values or internationally recognized effects as payment instruments;
15. **Financial instrument** means Bearer Negotiable Instrument-BNI including Cash, Cheque, Bill of Exchange, Promissory Note, Traveler's Cheque, Bearer Bond, Money Order or Postal Order and others that can represent cash;
16. **Heavy machinery** means a machinery used in industries such as construction, mining, hoisting for a transshipment purpose, wood crushing, concrete production, flooring, tar paving, demolition, agricultural production, processing industry, building and public work maintenance, urban cleaning among others. Such a machinery includes a loader, excavator, bulldozer, lifter, crane, grader, drum roller, vehicle-trailer, dump truck, water carrier truck, traffic rescue truck, fire engine, freezer truck, hazardous material carrier truck (such as fuel, gas, or chemical carrier) among others;
17. **Risk stamp** means a stamp used by the Customs Administration to indicate risk levels while processing a detailed customs declaration.

Article 3 Customs Modernization

Pertaining to an encouragement of natural or legal persons, or organizations to invest and participate in the development and use of technologies for the purpose of modernizing customs management to be more effective and efficient as provided for in article 7 of the law on customs, the following shall be observed,

1. A project feasibility study shall be undertaken and presented to the Customs Department, Ministry of Finance, for consideration;
2. The proposed system to be developed shall be in line with the modernization plan of Ministry of Finance;
3. The to-be system shall be subject to a procurement process as provided for in the law on public procurement;
4. A winner is to enter a system development, operation and maintenance contract with the customs department, Ministry of Finance.

Article 4 Customs Valuation

A declarant is responsible to declare a customs value in person after completing a customs valuation of goods or non-commercial goods based on reliable information and supporting documents such as, an invoice, sale contract, bank settlement document or other documents relating to the actual purchase of such goods in compliance with the law on customs and its relevant regulation.

Customs officers are responsible to check a customs valuation to ensure the compliance with the law on customs and its relevant regulation. The oversight of customs valuation examination shall be based on the risk-based approach, and clear labor division among different levels of the Customs Administration with an aim to further enhance trade facilitation as well as to ensure an accuracy of customs valuation that is deemed as a key factor to ensure an accurate, complete and timely revenue collection for the state budget.

1. Customs Valuation for Export:

Customs valuation for export as provided for in article 15 of the law on customs shall be based upon the actual value of goods or non-commercial goods including a freight cost, insurance cost (if any) and other costs incurred within the territory of Lao PDR such as warehouse fees, or costs relating to containers or packages, or loading and unloading costs prior to and upon arrival at a customs border checkpoint at which the goods are being exported.

- ❖ **Scenario 1:** A sale contract is Ex-Works (EXW); a declarant shall input other costs in the electronic customs clearance system in order for the system to determine a correct customs valuation for export as provided for in a relevant regulation.

Example: Adding other costs to a value of goods or non-commercial goods:

Company A, an iron ore mining enterprise located in Xiengkhoung province of Lao PDR, has a sale contract with Company B, a crude steel producer located in China PR. The sale contract is EXW (the iron ore mine in Xiengkhoung) at the price of USD230 per ton. Company B is responsible for freight and other costs incurred during a transportation of the goods from the iron ore mine to a customs border checkpoint at which the goods are being exported. Thus, Company B enters a contract with Company C, a freight forwarder, for the latter to transport the goods from the iron ore mine to Borten international customs border checkpoint (at which the goods are being exported) at the cost of USD50 per ton and insurance cost of USD300 per trip/means of transport.

The first batch of exports is to deliver 200 tons requiring 20 trucks to transport in one go.

- 1) Company A issues Company B the invoice for the sale of 200 ton of iron ore with the total value of $200 \times 230 = \text{USD}46,000$.
- 2) Company C issues the invoice for the freight and insurance as follows:
 - Freight $200 \times 50 = \text{USD}10,000$
 - Insurance $20 \times 300 = \text{USD}6,000$

In order to input the information for the purpose of customs valuation for export, a declarant shall observe the following:

- (1) Input EXW into field 20 of a detailed customs declaration form;

- (2) Input the value of 46,000 into field 22 of a detailed customs declaration form;
- (3) Input the freight cost of USD10,000 and the insurance cost of USD6,000 into a customs valuation form in the electronic customs clearance system;
- (4) In the event that the exchange rate is LAK9,300 per USD1 at the time of customs declaration, the electronic customs clearance system will compute as follows,

▪ Value of goods sold	= USD46,000 plus (+)	
▪ Freight cost	= USD10,000 plus (+)	
▪ Insurance cost	= USD6,000	

▪ Adjusted customs value = (46,000+10,000+6,000) x 9,300

= LAK 576,600,000

The electronic customs clearance system will display the automatically computed customs value of LAK 576,600,000 in field 45A.

- ❖ **Scenario 2:** A sale contract is Cost, Insurance and Freight (CIF). When lodging a customs valuation for export, a declarant is allowed to subtract other costs from the value of goods before determining customs value in the electronic customs clearance system.

Example: Subtracting other costs from a value of goods or non-commercial goods:

Company A, a coffee manufacturer located in Vientiane Capital of Lao PDR, has a sale contract for instant coffee with Company B, a trading company located in Thailand. The contract is CIF (Nongkhai customs border checkpoint) at the price of USD1,000 per ton. Company A is responsible for a transportation of the goods to warehouse in Nongkhai. Thus, Company A enters a contract with Company C, a freight forwarder, for the latter to transport the goods from the Friendship Bridge I (at which the goods are being exported) to Nongkhai customs border checkpoint at the cost of USD30 per ton, and the insurance cost of USD100 per trip/means of transport. In addition, Company A is responsible for unloading goods to the warehouse at the cost of USD15 per trip/means of transport.

The first batch of exports is to deliver 100 tons requiring 10 trucks to transport in one go.

- 1) Company A issues Company B the invoice for the sale of 100 ton of instant coffee with the total value of $100 \times 1,000 = \text{USD}100,000$.
- 2) Company C issues the invoice for the freight and insurance as follows:
 - Freight $100 \times 30 = \text{USD}3,000$
 - Insurance $10 \times 100 = \text{USD}1,000$
- 3) The warehouse operator issues the invoice for its services $10 \times 15 = \text{USD}150$

In order to input the information for the purpose of customs valuation for export, a declarant shall observe the following:

Manually subtracting post-exportation costs incurred by himself/herself as follow:

▪ Value of goods sold	= USD100,000 less (-)	
▪ Post-exportation freight cost	= USD3,000 less (-)	
▪ Post-exportation insurance cost	= USD1,000 less (-)	

- Post-exportation unloading cost = USD150
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- Adjusted customs value = USD95,850

This nature of customs valuation for export is to convert from CIF value (Nongkhai customs border checkpoint) to FOB value (Friendship Bridge I customs border checkpoint).

- 1) Input FOB in field 20 of a detailed customs declaration form;
- 2) Input the value of 95,850 into field 22 of a detailed customs declaration form;
- 3) In the event that the exchange rate is LAK9,500 per USD1 at the time of the customs declaration, the electronic customs clearance system will display the adjusted value of $95,850 \times 9,500 = \text{LAK}910,575,000$ in field 45A.

2. Customs Valuation for Import:

Customs valuation for import as provided for in article 16 of the law on customs shall be determined by observing 6 principles namely, determination of customs value by using the transaction value, determination of customs value by using the transaction value of identical goods, determination of customs value by using the transaction value of similar goods, determination of customs value by using the deductive value method, determination of customs value by using the computed value method, and determination of customs value by using the fall-back method as defined in details in the periodically issued Minister of Finance's Instruction on Customs Valuation for Import in compliance with article 7 of the General Agreement on Tariffs and Trade (GATT 1994) of the World Trade Organization.

Customs valuation for import primarily shall observe the first principle, determination of customs value by using the transaction value including freight and/or insurance and other relevant costs (if any) incurred for a transportation of goods arriving at a customs border checkpoint or a designated area at which goods are being imported. In the event that the first principle is not applicable, the second to sixth principle is to be observed in a sequential manner. Other costs include commission fees, middleman fees, container costs, packaging costs, loading and unloading costs, copy right costs for instance.

Customs valuation for import is to be adjusted by either adding or subtracting other costs as provided for in Inco-terms of a sale contract.

- ❖ **Scenario 1:** A sale contract is Ex-Works (EXW) up to a customs border checkpoint (at which goods are being imported); a declarant shall input other costs in the electronic customs clearance system in order for the system to determine a correct customs valuation for import as provided for in a relevant regulation.

Example: Adding other costs to a value of goods or non-commercial goods:

Company A, a car manufacturer in Japan, has a sale contract with Company B, a vehicle importer in Lao PDR, to sell pickup trucks. The sale contract is CIF (Laem Chabang port, Thailand) at the price of USD25,000 per truck. Company B is responsible for freight and other costs incurred during the transportation of the goods from Laem Chabang port to its warehouse in Vientiane Capital. Thus, Company B enters a contract with Company C, a freight forwarder, for the latter to transport the goods from Laem Chabang port to Friendship Bridge I border checkpoint (at which the goods are being imported) at the cost

of USD500 per truck and insurance cost of USD1,000 per means of transport. In addition, Company B is responsible for uploading costs of goods onto a means of transport at the price of USD50 per truck.

The first batch of imports has 1 pickup truck:

- 1) Company A issues Company B the invoice for a sale of 1 pickup truck at the value of USD25,000.
- 2) Company C issues the invoice for the freight and insurance costs as follows:

- Freight cost	USD500
- Insurance cost	USD1,000
Total	USD1,500
- 3) The warehouse operator issues an invoice for the uploading cost of goods onto a means of transport at USD50.

In order to apply for a customs clearance, a declarant shall observe the following,

- (1) Input CIF into field 20 of a detailed customs declaration form;
- (2) Input the value of 25,000 into field 22 of a detailed customs declaration form;
- (3) Input the freight cost of USD500, the insurance cost of USD1,000 and the uploading cost of USD50 into a customs valuation form within the electronic customs clearance system;
- (4) In the event that the exchange rate is LAK9,300 per USD1 at the time of the customs declaration, the electronic customs clearance system will compute as follow:

▪ Values of goods	= USD25,000 plus (+)
▪ Freight cost	= USD500 plus (+)
▪ Insurance cost	= USD1,000 plus (+)
▪ Uploading cost	= USD50
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▪ Adjusted customs value	= (25,000+500+1,000+50) x 9,300 = LAK 246,915,000 This value is a conversion of CIF (Laem Chabang port) to CIF (Friendship Bridge I customs border checkpoint).

- (5) The electronic customs clearance system will show the automatically adjusted value of LAK 246,915,000 in field 45A.

❖ **Scenario 2:** A sale contract is Cost, Insurance and Freight (CIF). When lodging a customs valuation for import, a declarant is allowed to subtract other costs from the value of goods before determining customs value in the electronic customs clearance system.

Example: Subtracting other costs from a value of goods or non-commercial goods:

Company A, a car manufacturer in Japan, has a sale contract for Sport Utility Vehicle (SUV) with Company B, a vehicle importer in Lao PDR. The contract is Delivered at Place – DAP at the price of USD75,000 per vehicle. Company A is responsible for freight and insurance costs to deliver the goods to Company B’s warehouse in Vientiane Capital. Company B is responsible for import duties and the unloading cost of goods to its warehouse. Company A enters a freight contract with Company C in order for the latter to transport the goods from Friendship Bridge I customs border checkpoint (at which the goods are being imported to Company B’s warehouse at the price of USD200 per vehicle, and the insurance cost of USD100 per vehicle.

The first batch of imports has 1 vehicle:

- 1) Company A issues Company B the invoice for a sale of 1 SUV at the value of USD75,000.
- 2) Company C issues the invoice for the freight and insurance costs as follows:

- Freight cost	USD200
- Insurance cost	USD100
Total	USD300

In order to input the information for the purpose of customs valuation for import, a declarant shall observe the following:

- (1) Manually subtracting post-importation costs incurred by himself/herself as follow:

▪ Value of goods bought	= USD75,000 less (-)
▪ Post-importation freight cost	= USD200 less (-)
▪ Post-importation insurance cost	= USD100 less (-)
▪ CIF customs valuation for import (Friendship Bridge I customs border checkpoint) = USD74,700	

This value is a result of a conversion from DAP value (Company B’s warehouse) to CIF value (Friendship Bridge I customs border checkpoint).
- (2) Input CIF to field 20 of a detailed customs declaration form;
- (3) Input the value of 74,700 into field 22 of a detailed customs declaration form;
- (4) In the event that the exchange rate is LAK9,500 per USD1 at the time of the customs declaration, the electronic customs clearance system will compute $74,700 \times 9500$ and display the adjusted value of LAK709,650,000 in field 45A:

3. Customs Valuation Auditing Principles:

The Customs Administration shall control and audit a customs valuation in accordance with the following procedure:

- 1) Introducing a database of values of goods to serve a risk management purpose.
 The Customs Administration may research, collect, compile and analyze values of goods sold locally and internationally in order to develop a database of values of goods for the purpose of calibrating a risk score on values of goods in the electronic customs clearance system. Such a database is a reference for customs officers to conduct a

customs valuation audit in order to prevent an evasion of customs duties. The Customs Department is to introduce a centralized database of values of goods, and inform each level of the Customs Administration to uniformly observe. Such a database is for the internal use of the Customs Administration to compare values of goods.

2) Auditing customs valuation at the time of detailed customs declaration.

After a detailed customs declaration form is assessed by a risk assessment system, the system will flag a risk level whether it is a moderate or high as well as a customs duty evasion risk. A customs officer at a customs border checkpoint or a customs office at which goods are being imported or exported shall observe the following:

- Examine information in supporting documents accompanying a detailed customs declaration form such as, an invoice, a packing list and compare such information against the one in the filed customs declaration form and the database of values of goods;
- In the event that a customs declaration value is less than a value in the database, a customs officer shall ask a declarant to provide additional information and documentary evidence such as a sale contract, a bank transaction arrangement. If the customs officer is satisfied, he/she may authorize with a completion of a customs valuation guarantee as per the prescribed form CV.01/2021 by the Customs Administration. In the event that there is no value of concerning goods in the database available for a comparison, the customs officer shall primarily examine the customs declaration value and additional documentary evidence;
- In the event of an incorrect determination of customs value, for instance a customs declaration value in a detailed customs declaration form does not match with a value on a bank transaction, or a sale contract, or a declarant fails to add other relevant costs to a customs declaration value, the declarant shall make a correction in accordance with supporting documents and supplementary evidence. Such an error is subject to measures as provided for in the law;
- In the event that a customs officer and a declarant do not agree on a determined customs value, the customs officer shall issue a customs valuation guarantee as per the prescribed form CV.01/2021 by the Customs Administration and proceed with a release of goods in accordance with a relevant regulation;
- After being satisfied with additional documentary evidence, the Customs Administration at which a customs clearance is being undertaken shall approve the customs clearance and submit all documents to a post-clearance auditor for the purpose of detailed post-clearance auditing as provided for in article 52 of this instruction.

3) Post-clearance audit

An examination and acceptance of a customs declaration value for import at a customs border checkpoint is a preliminary acceptance in order to facilitate a customs clearance.

The Customs Administration has an authority and duty to undertake a post-clearance audit within three (3) years as provided for in the law on customs.

4) Updating the database of values of goods

The Customs Department shall research and regularly update the database of values of goods based on the actual customs valuation for import and export, a post-clearance audit findings and other customs valuation-related intelligence such as local selling prices, or prices of goods on websites in order to make the database of values of goods relevant with actual price movement of goods in both local and foreign markets.

Article 5 Classification of Goods or Non-commercial goods

A classification of goods or non-commercial goods as provided for in article 17 of the law on customs is a responsibility of a declarant to ensure a correct codification of goods or non-commercial goods defined in the periodically updated and introduced Tariff Nomenclature and duty rates of Lao PDR. Imported or exported goods or non-commercial goods can be under the same heading but detailed codes must be entered to ensure a correct customs valuation in accordance with a relevant regulation.

Article 6 Examination of the Origin of Goods

An examination of the origin of goods as provided for in article 19 of the law on customs shall be conducted as follows:

1. **Imported goods:** In the event that a declarant fails to present an original copy of a certificate of origin at the time of a detailed customs declaration in order to enjoy a preferential tariff as provided for in a free trade agreement, a customs officer at a customs border checkpoint at which goods are being imported may use his/her discretion to grant an importation of such goods under the free trade agreement by taking into account the declarant's creditability, and historical importation records of the goods. The declarant shall complete a customs valuation guarantee as per the prescribed form by the Customs Administration, and deposit cash as a security for the customs duty difference between the normal and reduced custom duty rates. Such a cash security is to be deposited to a cash security account at the National Treasury (NT) or the NT's cash security account opened at a commercial bank. The cash security's validity is to be set for thirty (30) days as provided for in article 41 of the law on customs. Under any circumstances shall the declarant fail to present the original copy of the certificate of origin within that validity period, the cash security is to be immediately paid into the state budget in accordance with a relevant law and regulation given an authorization by a head of the concerned customs border checkpoint.
2. **In the event of a doubt over the origin of goods,** a customs officer at a customs border checkpoint at which the goods are being imported may observe the practice described above then shall report and submit all supporting documents to the Customs Department within seven (7) days in order for the latter to task a responsible division, the rules of origin facilitator, to free trade agreements to which Lao PDR is a state party to, to examine a compliance with procedures and rules as provided for in such free trade agreements.
3. A certificate of the origin of goods is subject to a one time off preferential tariff within 1 year from the date of its issuance;

4. An electronic certification of the origin of goods via the ASEAN Single Window with dialogue partners shall observe a specific regulation.

Article 7 Packages and Containers

Packages and containers used for a commercial purpose as provided for in article 20 of the law on customs shall be labeled in Lao prior to or during an importation, in particular for the following goods that pose risks to a life, health and safety of a consumer:

1. Consumer goods such as packaged foods, instant foods, nutritional supplements, energy drinks, medicines;
2. Cosmetics, tobaccos, liquors, beers, or alcoholic beverages;
3. A product label's contents are as follows:
 - Name of a packaged product;
 - Name and location of a factory or a company, manufacturer, a packager, an importer or a distributor;
 - Date, month, year of manufacturing;
 - Expiry date, month, year;
 - Use and storage instructions;
 - Amount, definite quantity, volume;
 - Ingredient compositions;
 - Warnings and precautions.

Article 8 Management of Packages and Containers

A temporarily importation or exportation of packages and containers through the territory of Lao PDR shall observe the following:

1. Present information on packages and containers at a customs border checkpoint at which the goods are being imported or exported by completing a form prescribed by the Customs Administration;
2. In the event that containers are cargo containers, a letter of guarantee by the Lao International Freight Forwarders Association (LIFFA) or a security in form of cash is required;
3. A re-exportation of such cargo containers shall be undertaken within thirty (30) days which may be extended on one occasion for a further period not exceeding thirty (30) days at a customs border checkpoint or a place designated by the Customs Administration at which such containers are being imported or exported in compliance with the Customs Convention on Containers. A breach of such a period, a fine of LAK1,000,000 per container per period shall be applied.
4. An unauthorized local distribution by customs officers is the second level of a minor offense as provided for in article 141 of the law on customs and subject to a customs duty payment and fines as provided for in article 175 clause 2.

Article 9 Management of Inbound or Outbound Passenger and Goods Transportation by Railway

Inbound or outbound traveling passengers or a movement, storage or a transit of imported or exported goods or non-commercial goods by railway shall be subject to the customs control, inspection, and customs formalities.

The Customs Department is to issue the regulation on a management of inbound or outbound passenger and goods transportation by railway.

Article 10 Customs Formalities, Customs Control and Completion of Customs Control

Customs formalities, customs control and completion of customs control as provided for in article 14, 22 and 23 of the law on customs are an implementation of formalities, procedures, methods and measures by the Customs Administration in order to control an importation, exportation, transit, storage, transshipment, and movement of goods, border-crossing of means of transport or passengers through a customs border checkpoint within the customs territory. Such an implementation is as follows:

1. **Customs clearance procedures** are to be conducted in accordance with customs formalities and procedures as provided for in part II of the law on customs. There are 3 procedures for an importation of goods namely, a cargo declaration procedure, a detailed customs declaration and a procedure for a release of goods or non-commercial goods from a customs warehouse or checkpoint. There are 2 procedures for an exportation of goods namely, a detailed customs declaration procedure, and a procedure for a release of goods or non-commercial goods from a customs warehouse or checkpoint.

Upon receiving documents, a customs officer shall examine such documents against the electronic customs clearance system. During a detailed customs declaration, the electronic customs clearance system's risk analysis module may rate risks into 3 levels namely, low risk (green), moderate risk (amber), and high risk (red). A customs clearance procedure is subject to a periodic revision to make it more streamlined and in line with the local regulations, and the international customs formalities.

2. **Method:** a declarant shall declare a correct and full value of goods or non-commercial goods in a detailed customs declaration form in accordance with the customs formalities. In the event of moving goods or non-commercial goods from a customs warehouse or checkpoint prior to undertaking a detailed customs declaration, a declarant shall complete a security application form introduced by the Customs Administration. A security may be in form of cash, a bank guarantee or a letter of guarantee by a legal person.
3. **Formalities and measures.** In addition to a completion of the procedures and method described in clause 1 and 2 above for the control purposes by customs officers, the customs control shall be undertaken for restrictive and prohibited goods, warehouses and movement of goods within a customs warehouse regime, a general or temporally importation or exportation of goods, customs duty exemption or suspension, transit, transshipment and storage of goods, and border crossing of means of transports or passengers.

In the event that a declarant fails to comply with the customs formalities, procedures, method and measures for the control purposes of an importation or exportation, transit, movement, storage, or transshipment of goods, border crossing of means of transport or

passengers through a customs border checkpoint within the customs territory, he/she shall be subject to legal measures.

During a post-clearance audit and/or customs offense proceedings, the director general of the Customs Department, heads of provincial customs offices may apply administrative measures or issue an order to suspend or stop an importation or exportation, transit, or movement of goods or non-commercial goods in accordance with the law and relevant regulations.

Article 11 Customs Clearance

A customs clearance as provided for in article 24 of the law on customs has two types namely, a cargo declaration and a detailed customs declaration which can be made electronically or manually at a customs border checkpoint or at a place designated by the Customs Administration.

1. Cargo declaration is:

- the manual or electronic declaration of goods or non-commercial goods, and transportation document in advance or immediately upon the arrival of the goods in accordance with a form prescribed by the Customs Administration in order to form a basis to complete a detailed customs declaration under different customs formalities;
- the oral or electronic declaration of goods or non-commercial goods or purchase details in order to form a basis to complete a customs valuation in accordance with a form prescribed by the Customs Administration.

2. Detailed customs declaration:

A detailed customs declaration is a procedure to complete a declaration and customs declaration registration undertaken by a declarant, an examination and declaration acceptance by a customs officer, and a payment of customs duties and other fiscal obligations in the electronic customs clearance system i.e., an electronically full and complete declaration of goods or non-commercial goods being imported or exported, moved, or transited in accordance with ASEAN Customs Declaration Document-ACCDD under different customs formalities or manually undertaken in the event of disruptions such as the system failure, poor Internet connectivity, or power disruption.

A detailed customs declaration is a responsibility of a declarant as provided for in article 45 of the law on customs. In addition to a customs border checkpoint, a detailed customs declaration may be undertaken at a place designated by the Customs Administration or at an office location of an operator. A detailed customs declaration may also be completed online.

Article 12 Cargo Declaration

A cargo declaration as provided for in article 25 of the law on customs is a manual or electronic declaration of goods and a transportation document in advance or immediately upon the arrival of goods in accordance with a form prescribed by the Customs Administration in order to suffice an authorization by a customs officer to grant an unloading of goods or non-commercial goods from a means of transport to a customs warehouse or a place designated by the Customs Administration.

During a cargo declaration, in the event that custom officers detect electronic, plastic or hazardous industrial wastes by means of a document examination or physical inspection of goods, they shall

not grant a transshipment of goods or removing a container from a means of transport. In addition, they shall notify the Customs Department in order to collaborate with the Pollution Control and Monitoring Department, Ministry of Natural Resource and Environment and other concerned authorities, liaise with a customs administration in a country of origin, and encourage a freight forwarder or a declarant to immediately return such goods back to a country of export in accordance with the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal, dated 22 Mar 1989.

The Customs Department is to issue the instruction on cargo declaration.

Article 13 Detailed Customs Declaration

A detailed customs declaration as provided for in article 26 of the law on customs shall observe the following procedure:

1. Completing a detailed customs declaration document

A declarant is responsible for a correct completion of a detailed customs declaration document in particular, customs valuation per article 4, classification of goods per article 5, examination of the origin of goods per article 6 and exchange rate per article 15 of this instruction.

Field 31 of ACCD requires details and attributes of goods such as a type of goods, brand, quantity, package mark, dimension, capacity, model, color, engine displacement, engine number, chassis number for instance, 1) a type of goods: an air conditioner, brand: Samsung, capacity: 12,000 BTU, quantity: 120 units; a type of goods: an SUV, brand: Toyota Landcruiser, model: L300GXR, engine displacement: 4,500 cc, color: white, year of manufacturing: 2021, engine number: xxxxxx, chassis number xxxxxx, and 3: a type of goods: flooring tile, brand: Cotto, dimension: 30x30 cm, quantity: 3,000 boxes (10 tiles/box).

Before submitting ACCD, a declarant shall present a customs officer a customs clearance permit for an examination before proceeding with the customs formalities.

A declarant shall submit ACCD to a customs officer at a customs checkpoint within seven (7) days after completing ACCD, uploading scanned supporting documents, and completing a registration of such ACCD. In the event that the registered ACCD is not used, a customs officer shall be notified of a reason in order to cancel the customs clearance in accordance with a relevant regulation. Failure to do so or a breach of such a rule of a maximum three (3) times, a head of the Customs Administration at which a customs clearance is undertaken shall issue a warning record to a concerned declarant. In the event of a failure to comply with such a warning record, the Customs Department shall be recommended to suspend a concerned declarant's user ID in the electronic customs clearance system (ASYCUDA User ID). Where it is discovered that a concerned declarant intends to breach such a rule, he/she shall be subject to legal measures.

Regarding the use of the electronic customs clearance system in parallel with the manual customs detailed declaration, after completing ACCD, field 54 on the left side of the form must be signed by a director of a company that is undertaking the customs clearance for

the verification purpose. In the event that another person is authorized to sign on the director's behalf, the former shall be given a letter of authority in writing by the latter.

Where the electronic customs clearance system is fully functioning, a digital signature shall be used for the verification purpose of ACCD.

In the event that a declarant discovers his/her errors in a detailed customs declaration within thirty (30) days, he/she shall request in writing to the Customs Administration at which a customs clearance is undertaken accompanied by supporting documents and evidence in order to correct such errors. A head of the Customs Administration at which a customs clearance is undertaken shall consider the request accordingly. In the event that the request is valid, a permission to correct the errors within three (3) working days shall be granted. The declarant causing the errors is subject to administrative measures by means of being educated and warned by a head of the Customs Administration at which the customs clearance is undertaken. Besides, his/her customs risk profile is to be updated accordingly.

In the event that a declarant intends to cancel a customs clearance under the initial customs formalities and has a reason to switch to other customs formalities, he/she shall request in writing to the Customs Administration within ninety (90) days after filing a detailed customs declaration document. The decision on the request shall be made within fifteen (15) working days upon receiving the request. In the event of the successful request, and customs duties and other fiscal obligations being paid in the initial customs clearance effort, a repayment of such an amount shall be made within ten (10) working days as provided for in article 103 of the law on customs.

2. Receiving a detailed customs declaration document

After receiving a detailed customs declaration document and supporting documents, a customs officer shall examine a completeness of the documents such as an invoice, packing list, cargo declaration document, import or export permit (if any), certificate of origin (if any), certificate of preferential tariff (if any), certificate of sanitary and phytosanitary (if any), and approval letter for importation plan (if any). Then the customs officer proceeds with a selectivity assessment and stamps a 1.5x5 cm rectangular stamp with blue ink on the top right of the detailed customs declaration form based on the level of risk as follows:

- The one with the low-risk level (green) is to be stamped "NO INSPECTION" and initialed over the stamp mark, and then submitted to a deputy head of the Customs Administration for the purpose of verification and acceptance;
- The one with the moderate-risk level (amber) is to be stamped "DOCUMENTARY CHECK", and then submitted to a customs officer in charge in order to conduct a documentary check immediately;
- The one with the high-risk level (red) is to be stamped "FULL INSPECTION", and then submitted to a customs officer in charge in order to conduct a full inspection immediately.

After a declarant completes a detailed declaration form accompanied by supporting documents, applies a digital signature, and proceeds with a lodgment of declaration in the

fully functioning electronic customs clearance system, the system only recognizes a successful lodgment provided that the information is correct and complete. If the system detects any incorrect or incomplete information, it automatically rejects such a lodgment of declaration.

In the event that a customs officer detects any incorrect information such as incorrect or incomplete information found in data fields of a detailed customs declaration form, an absence of the customs declarant's signature, traces of white-outs, cross-outs and/or stains, supporting documents not corresponding with the detailed customs declaration document, use of incorrect form, incomplete supporting documents, or unacceptable and inconsistent with policies on goods management or custom duty or tax collection, he/she shall refuse such a lodgment of declaration together with ground(s) of refusal and return the documents to the declarant as provided for in article 30 of the law on customs.

The Customs Department is to issue the regulation on a detailed customs declaration.

Article 14 Inspection, Declaration Acceptance, and Release of Goods or Non-commercial Goods from Warehouse or Customs Checkpoint

All types of goods or non-commercial goods including imported or exported goods that enjoy customs duty suspension or exemption, goods in transit, or imported or exported goods that are moved across customs border checkpoints or places designated by the Customs Administration are subject to documentary and physical inspections by customs officers in accordance with the customs risk management principles as provided for in article 34 of the law on customs. Inspections are to be carried out as follows:

1. Low-level risk (green):

- ❖ Declaration acceptance procedure: a designated deputy head of the Customs Administration at which the customs clearance is carried out shall undertake a documentary inspection as follows:
 - Valid declaration: a designated deputy head of the Customs Administration at which the customs clearance is carried out shall accept the declaration in the electronic customs clearance system. In addition, he/she shall sign and write down his/her full name at the bottom of field 22A. In the event that goods or non-commercial goods are subject to customs duties, taxes or other fiscal obligations, a declarant shall proceed with such payments in accordance with the procedure. After the customs duties, taxes or other fiscal obligations are fully paid, and the declaration is accepted, the designated deputy head of the Customs Administration at which the customs clearance is carried out shall stamp the bottom right field and sign accordingly.
 - In the event of having reliable intelligence, doubts or suspicions over a potential breach of the law or relevant regulations, a designated deputy head of the Customs Administration at which the customs clearance is carried out may proceed with the following: 1.) where the declaration information is incorrect, he/she shall grant an amendment and write reason(s) on an Inspection Act form together with his/her full name and sign at a space of a risk-level stamp mark, then has the document delivered to a customs officer in charge of an amendment to complete the amendment in accordance with suggestions by a customs officer in charge of a documentary inspection. After that, a new detailed customs declaration form shall be printed, signed and stamped. Then, the customs officer

in charge of an amendment shall stamp a 1.5x5 cm rectangular stamp with blue ink that reads “Amendment” on the top right of the newly printed detailed customs declaration form, sign on the stamp and submit the document to the designated deputy head of the Customs Administration at which the customs clearance is carried out for a final review and acceptance of the declaration. Or 2.) in the event of any doubt giving rise to the need to carry out a physical inspection of goods, he/she shall change a risk level to the high-risk level, record reason(s) on an Inspection Act form, his/her full name, sign at a space of a risk-level stamp mark, and have the document delivered to a customs officer in charge of a physical inspection to proceed accordingly.

- ❖ Goods release procedure: Once a customs declaration procedure is completed, before goods are released from a customs warehouse or checkpoint, such goods are subject to the customs control as provided for in article 22 of the law on customs. This procedure is to be carried out as the following:
 - A customs officer in charge of a customs warehouse management or physical inspection of goods is responsible to receive and examine a validity of a customs declaration document, verify type and quantity of goods, and a license plate of a means of transport, and manually record on an Inspection Act form as well as recognize such records in an Inspection Act form in the ASYCUDA system;
 - A customs officer in charge of a customs warehouse gatekeeper function is responsible to review verified records by his/her peers in charge of a customs warehouse management or physical inspection of goods, stamp a rectangular stamp indicating the date and time, and sign to recognize a release of goods from a warehouse’ gate and coordinate with other concerned parties for the purpose of goods control and inspection when the goods are unloaded to a private warehouse in accordance with a relevant regulation;

2. Moderate-level risk (amber):

- ❖ Documentary inspection procedure:
 - Valid declaration: a customs officer in charge of a documentary inspection shall change a risk level to the low-risk level, record results of the documentary inspection to an Inspection Act form, his/her full name, sign at a space of a risk-level stamp mark, and submit the document to a designated deputy head of the Customs Administration at which a customs clearance is carried out for a review and acceptance of such a declaration.
 - In the event of incorrect declaration information or a doubt over the declaration: a customs officer in charge of a documentary inspection shall change a risk level from the moderate-risk level in accordance with the following: 1.) where incorrect declaration information is detected, the customs officer shall change from the moderate-risk level to an amendment, record reason(s) of such a change into an Inspection Act form, his/her full name, sign at a space of a risk-level stamp mark, and submit the document to a custom officer in charge of an amendment to complete the amendment in accordance with his/her suggestions. After that, a new detailed customs declaration form shall be printed, signed and

stamped. Then, the customs officer in charge of an amendment shall stamp a 1.5x5 cm rectangular stamp with blue ink that reads “Amendment” on the top right of the newly printed detailed customs declaration form, sign on the stamp mark and submit the document to the designated deputy head of the Customs Administration at which the customs clearance is carried out for a final review and acceptance of the declaration. Or 2.) in the event of any doubt giving rise to the need to carry out a physical inspection of goods, a customs officer shall change a risk level to the high-risk level, record reason(s) on an Inspection Act form, his/her full name, sign at a space of a risk-level stamp mark, and submit the document to a customs officer in charge of a physical inspection to proceed accordingly.

- ❖ Declaration acceptance procedure: a designated deputy head of the Customs Administration at which the customs clearance is carried out shall undertake a documentary inspection as follows:
 - Valid declaration: he/she shall accept the declaration in the electronic customs clearance system, sign and write down his/her full name at the bottom of field 22A. In the event that goods or non-commercial goods are subject to customs duties, taxes or other fiscal obligations, a declarant shall proceed with such payments in accordance with the procedure. After the customs duties, taxes or other fiscal obligations are fully paid, and the declaration is accepted, the designated deputy head of the Customs Administration at which the customs clearance is carried out shall stamp the bottom right field and sign accordingly;
 - In the event of having reliable intelligence, doubts or suspicions over a potential breach of the law or relevant regulations, a designated deputy head of the Customs Administration at which the customs clearance is carried out may proceed with the following: 1.) where the declaration information is incorrect, he/she shall grant an amendment and write reason(s) on an Inspection Act form together with his/her full name and sign at a space of a risk-level stamp mark, then has the document delivered to a customs officer in charge of an amendment to complete the amendment in accordance with suggestions by a customs officer in charge of a documentary inspection. After that, a new detailed customs declaration form shall be printed, signed and stamped. Then, the customs officer in charge of an amendment shall stamp a 1.5x5 cm rectangular stamp with blue ink that reads “Amendment” on the top right of the newly printed detailed customs declaration form, sign on the stamp and submit the document to the designated deputy head of the Customs Administration at which the customs clearance is carried out for a final review and acceptance of the declaration. Or 2.) in the event of any doubt giving rise to the need to carry out a physical inspection of goods, he/she shall change a risk level to the high-risk level, record reason(s) on an Inspection Act form, his/her full name, sign at a space of a risk-level stamp mark, and have the document delivered to a customs officer in charge of a physical inspection to proceed accordingly.
- ❖ Goods release procedure: Once a customs declaration procedure is completed, before goods are released from a customs warehouse or checkpoint, such goods are subject to a customs

control as provided for in article 22 of the law on customs. This procedure is to be carried out as the following:

- A customs officer in charge of a customs warehouse management or physical inspection of goods is responsible to receive and examine a validity of a customs declaration document, verify type and quantity of goods, and a license plate of a means of transport, and manually record on an Inspection Act form as well as recognize such records in an Inspection Act form in the ASYCUDA system;
- A customs officer in charge of a customs warehouse gatekeeper function is responsible to review verified records by their peers in charge of a customs warehouse management or physical inspection of goods, stamp a rectangular stamp indicating the date and time, and sign to recognize a release of goods from a warehouse' gate and coordinate with other concerned parties for the purpose of goods control and inspection when the goods are unloaded to a private warehouse in accordance with a relevant regulation;

3. High-level risk (red)

❖ Procedure for a physical inspection of goods:

- Valid declaration: a customs officer in charge of a physical inspection of goods shall change a risk level to the low-risk level, record results of the physical inspection to an Inspection Act form, his/her full name, sign at a space of a risk-level stamp mark, and submit the document to a designated deputy head of the Customs Administration at which a customs clearance is carried out for a review and acceptance of such a declaration.
- In the event of incorrect declaration information: a customs officer in charge of a physical inspection of goods shall change a risk level from the high-risk level to Amendment, record reason(s) on an inspection act form, his/her full name and sign at a space of a risk-level stamp mark, and submit the document to a custom officer in charge of an amendment to complete the amendment in accordance with his/her suggestions. After that, a new detailed customs declaration form shall be printed, signed and stamped. Then, the customs officer in charge of an amendment shall stamp a 1.5x5 cm rectangular stamp with blue ink that reads "Amendment" on the top right of the newly printed detailed customs declaration form, sign on the stamp mark and submit the document to a designated deputy head of the Customs Administration at which the customs clearance is carried out for a final review and acceptance of the declaration.
- In the event that there is neither a cargo scanner nor a warehouse at a customs border checkpoint, customs officers shall apply a physical inspection of goods by opening a cargo canvas or a container to undertake a whole or partial count of goods on a case-by-case basis in order to ensure an accurate quantity of goods;
- In the event that there is a cargo scanner available at a customs border checkpoint, custom officers shall use such a machine for the purpose of an initial physical inspection of goods by inputting a reference number, date, month, year of a detailed customs declaration form into the machine, and undertake a

thorough analysis in accordance with the customs risk management principles. All costs relating to a physical inspection of goods or non-commercial goods such as, transportation, unloading and loading costs, among others are to be borne by a declarant.

- ❖ Customs declaration acceptance procedure: a designated deputy head of the Customs Administration at which a customs clearance is carried out shall observe the following:
 - Valid declaration: he/she shall accept the declaration in the electronic customs clearance system, sign and write down his/her full name at the bottom of field 22A. In the event that goods or non-commercial goods are subject to customs duties, taxes or other fiscal obligations, a declarant shall proceed with such payments in accordance with the procedure. After the customs duties, taxes or other fiscal obligations are fully paid, and the declaration is accepted, the designated deputy head of the Customs Administration at which the customs clearance is carried out shall stamp the bottom right field and sign accordingly;
 - Invalid declaration: this is subject to legal measures. A designated deputy head of the Customs Administration at which a customs clearance is carried out may change the risk level to Amendment, record reason(s) on an inspection act form, his/her full name and sign at a space of a risk-level stamp mark, and have the document delivered to a custom officer in charge of an amendment to complete the amendment in accordance with inspection findings by a custom officer in charge of a physical inspection of goods. After that, a new detailed customs declaration form shall be printed, signed and stamped. Then, the customs officer in charge of an amendment shall stamp a 1.5x5 cm rectangular stamp with blue ink that reads “Amendment” on the top right of the newly printed detailed customs declaration form, sign on the stamp mark and submit the document to the designated deputy head of the Customs Administration at which the customs clearance is carried out for a final review and acceptance of the declaration.

- ❖ Goods release procedure: Once a customs declaration procedure is completed, before goods are released from a customs warehouse or checkpoint, such goods are subject to a customs control as provided for in article 22 of the law on customs. This procedure is to be carried out as the following:
 - A custom officer in charge of a customs warehouse management or physical inspection of goods are responsible to receive and examine a validity of a customs declaration document, carry out a physical inspection of goods as provided for in article 36 of the law on customs by utilizing inspection techniques, cargo scanners, and scales, and record detailed findings in terms of type, quantity, weight, value, manufacturing country, means of transport, date and time, inspection location and other relevant information, and then sign and write down his/her full name on a detailed customs declaration form and/or recognize such records in an Inspection Act form in the ASYCUDA system;
 - A custom officer in charge of a customs warehouse gatekeeper function is responsible to review verified records by their peers in charge of a customs

warehouse management or physical inspection of goods, stamp a rectangular stamp indicating the date and time, and sign to recognize a release of goods from a warehouse' gate and coordinate with other concerned parties for the purpose of goods control and inspection when the goods are unloaded to a private warehouse in accordance with a relevant regulation;

Article 15 Exchange Rates

Exchange rates as provided for in article 33 of the law on customs enables a declarant to carry out a customs declaration in foreign exchange such as USD, EUR, KRW, JPY, VND, THB, CNY for a calculation of customs duties, taxes and other fiscal obligations in the currency of Lao PDR (LAK) based on the exchange rates announced by a periodic notice by the Customs Department, and published in the electronic customs clearance system. Such exchange rates are derived from the exchange rates between LAK and foreign currencies announced by the Bank of the Lao PDR. Nonetheless, such exchange rates shall not apply to some commodities such as fuel, or gas that the Government regulates currencies and exchange rates for a special customs declaration of such commodities.

Article 16 Method for Calculating Customs Duties, Taxes and Other fiscal obligations

When conducting a detailed customs declaration for importation or exportation, and resolving customs offenses as provided for in article 40, 101 and 175 of the law on customs, a calculation of taxes and other fiscal obligations (if any) shall be included into the calculation of customs duties as follows:

1. Determining a calculation base:

A calculation base for computing customs duties and taxes is a customs declaration value in a foreign currency multiplied by (x) a reference exchange rate in order to convert into LAK. For an ease of calculation, the base calculation for payable customs duties and taxes shall be rounded.

2. Calculation of customs duties or taxes:

Customs duties or taxes are calculated in form of a progressive multiplication based on the data received on the filing date of a detailed customs declaration multiplied by (x) customs duty rates for importation or exportation, or tax rates as provided for in the tariff nomenclature and duty rates, the law on customs, the law on excise tax, the law on value added tax, the law on income tax and other specific regulations.

3. Calculation of other fiscal obligations:

Other fiscal obligations consisting of fees and charges shall be calculated and collected in accordance with absolute or relative rates as provided for in specific regulations. In the event that other fiscal obligations are determined in relative rates, the calculation method mentioned in clause 1 above shall be observed.

Customs duties, taxes or other fiscal obligations shall be timely paid in correct and full amount in LAK in accordance with a relevant regulation.

4. A sample calculation in accordance with article 40 of the law on customs:

Example 1: General goods imported by a legal person

Company ABC files a customs clearance for an importation of 100 mobile phones under CIF with the value of CNY 41,040 (an exchange rate of CNY 1 is equal to LAK 1,462). The customs declaration value is LAK 60,000,000.

A mobile phone is subject to a normal customs duty rate of 10%, an Excise Tax (ET) rate of 10%, and a Value Added Tax (VAT) rate of 10%. A calculation of customs duties and taxes is as follows:

- | | | |
|---|--|---------------------------|
| a. Customs duty rate of 10% | $= \text{LAK } 60,000,000 \times 10\%$ | $=$ |
| | | LAK 6,000,000 |
| b. ET rate of 10% | $= (60,000,000 + 6,000,000) \times 10\%$ | $= \text{LAK } 6,600,000$ |
| c. VAT rate of 10% | $= (60,000,000 + 6,000,000 + 6,600,000)$ | $= \text{LAK } 7,260,000$ |
| Total of customs duties and taxes = a+b+c | | = LAK 19,860,000 |

Example 2: General goods imported by a natural person

Mr. A files a customs clearance for an importation of a 4-door pickup truck, a diesel engine with a displacement of 2500 cc at a value of THB 468,750 (an exchange rate of THB1 is equal to LAK 320). The customs declaration value is LAK 150,000,000. A 4-door pickup truck, a diesel engine with a displacement of 2500 cc is subject to a normal customs duty rate of 30%, an Excise Tax (ET) rate of 40%, a Value Added Tax (VAT) rate of 10%, and an Income Tax (IT) rate of 20%. A calculation of customs duties and taxes is as follows:

- | | | |
|-----------------------------|--|----------------------------|
| a. Customs duty rate of 30% | $= \text{LAK } 150,000,000 \times 30\%$ | $= \text{LAK } 45,000,000$ |
| b. ET rate of 40% | $= (150,000,000 + 45,000,000) \times 40\%$ | $= \text{LAK } 78,000,000$ |
| | (IT calculation base for the income tax rate, 15% = | |
| | $(150,000,000 + 45,000,000 + 78,000,000) \times 15\%$ | $= \text{LAK } 40,950,000$ |
| c. VAT rate of 10% | $= (150,000,000 + 45,000,000 + 78,000,000 + 40,950,000) \times 10\%$ | $= \text{LAK } 31,395,000$ |
| d. IT rate of 20% | $= 40,950,000 \times 20\%$ | $= \text{LAK } 8,190,000$ |

Total of customs duties and taxes = a+b+c+d **= LAK 162,585,000**

5. A sample calculation in accordance with article 101 of the law on customs:

Company ABC files a customs clearance for an exportation of construction stones with a quantity of 10,000 cubic meter under FOB with the value of USD 90,000 (an exchange rate of USD 1 is equal to LAK 10,000). The customs declaration value is LAK 900,000,000. A construction stone is subject to an export customs duty rate of 5% as provided for in the presidential decree. A calculation of customs duties and taxes is as follows:

- | | | |
|-----------------------------------|--|----------------------------|
| a. Export customs duty rate of 5% | $= \text{LAK } 900,000,000 \times 5\%$ | $= \text{LAK } 45,000,000$ |
|-----------------------------------|--|----------------------------|
-

Total customs duties = LAK 45,000,000

Article 17 Security Management and Measures

A security as provided for in article 41 of the law of customs shall be subjected to the following management and measures:

1. Management of security in form of cash:

In the event that a declarant provides a security in form of cash, a customs officer shall deposit such a security in a security account at the National Treasury (NT) or the NT's security account opened at a commercial bank. Such a security is strictly not allowed to be kept at the Customs Administration;

2. Management of security in form of cheque or bank guarantee:

Before accepting a declarant's security in form of a cheque or a bank guarantee issued by a financial institution or a commercial bank, a customs officer shall check a validity of such a security with the issuing financial institution or commercial bank. Upon being satisfied, then the customs officer may accept such a security, and shall record all the details for the purpose of reminding the declarant to complete such a security discharge within a period defined in a security undertaking.

3. Management of security in form of guarantee by a legal or natural person or an organization:

In the event that a declarant provides a security in form of guarantee by a legal or natural person or an organization, a customs officer may make a discrete decision based upon a guarantor's creditability, and valid identification document. Where such a security is accepted, the customs officer shall record all the details for the purpose of reminding the guarantor to complete such a security discharge within a period defined in a security undertaking.

4. Measures:

- **In the event of a security in form of cash**, a customs officer shall deposit such a security in a security account at the National Treasury (NT) or the NT's security account opened at a commercial bank. Such a security is strictly not allowed to be kept at any level of the Customs Administration office. A declarant shall file a detailed customs declaration within thirty (30) days from the date of moving goods or non-commercial goods from a customs warehouse or checkpoint or a place designated by the Customs Administration. Failure to do so is subject to a daily fine at a normal customs duty rate of 0.10% of the customs declaration value. However, the fine amount shall not exceed the due customs declaration value. A head of a customs border checkpoint, or a customs office based at a customs warehouse regime, a special economic zone or other economic zones is tasked to issue an official claim for the fine amount to the declarant directly or by a postal service, email or via the Customs Department's website. The official claim for a maximum period of fifteen (15) days may not be issued more than twice (2). When the second claim's period is exceeded, a head of a provincial customs office, or Vientiane Capital customs office shall submit a report together with supporting documentary evidence to the Customs Department in order for the latter to consider issuing an order to pay such a security into the state budget.

- **In the event of a security in form of a cheque or a bank guarantee**, a head of the concerned customs border checkpoint shall check a validity of such a security

with the issuing financial institution or commercial bank. Upon being satisfied, then the cheque or bank guarantee may be accepted, and all the details shall be recorded for the purpose of reminding a declarant to complete such a security discharge prior to the expiry date of the security within a period defined in a security undertaking. Where such a defined time period is exceeded, a declarant shall be subject to a daily fine at a normal customs duty rate of 0.10% of the customs declaration value. However, the fine amount shall not exceed the due customs declaration value. The head of the concerned customs border checkpoint is to issue an official claim for the fine amount to the declarant directly or by a postal service, email or via the Customs Department's website. The official claim for a maximum period of fifteen (15) days may not be issued more than twice. When the second claim's period is exceeded, a head of a provincial customs office, or Vientiane Capital customs office shall submit a report together with supporting documentary evidence to the Customs Department, fifteen (15) days before the expiry date of such a security, in order for the latter to consider issuing an order to pay such a security into the state budget.

- **In the event of a security in form of an importation plan under an investment promotion incentive scheme**, an approval date of an importation plan by a concerned authority shall be a determinant. Where a detailed customs declaration or a payment of customs duties and taxes is not completed within thirty (30) days, a declarant shall be subject to a daily fine at a normal customs duty rate of 0.10% of the customs declaration value. However, the fine amount shall not exceed the due customs declaration value. A head of the concerned customs border checkpoint is to issue an official claim for the fine amount to the declarant directly or by a postal service, email or via the Customs Department's website. The official claim for a maximum period of fifteen (15) days may not be issued more than twice. When the second claim's period is exceeded, the Customs Department shall be informed to issue an order to pay such a security into the state budget. In the event that a natural or legal person or an organization issues a guarantee for the purpose of an importation under an investment promotion incentive scheme fails to complete the customs clearance, such a person or an organization shall be subject to a warning, and a recording of their failure in the customs risks management system. In addition, such a person or an organization shall not enjoy any future facilitation of customs; and shall be subject to legal measures for any future violation.
- **A security provided by an Authorized Economic Operator (AEO)**: An AEO can provide a security in form of guarantee in order to move goods from a customs warehouse or checkpoint. Despite any incomplete document, an AEO shall complete a customs clearance and settle all payments within thirty (30) days from the date being authorized to move goods from a customs warehouse or checkpoint. Failure to do so, a head of the concerned customs border checkpoint is to issue an official claim to the declarant directly or by a postal service, email or via the Customs Department's website. The official claim for a maximum period of fifteen (15) days may not be issued more than twice. When the second claim's period is exceeded, the concerned AEO is subject to a daily fine at a normal customs duty

rate of 0.10% of the customs declaration value and legal measures, and shall not enjoy a customs and trade facilitation for the future customs clearance.

- **A security to release imported goods under grants or loans:** In order to discharge a guarantee by an enterprise, a project or an organization, such an entity shall file a detailed customs declaration form within thirty (30) days from the approval date of its annual importation plan or a concerned decision on exemption, suspension or reduction of customs duties and taxes or a final authorization by a concerned authority in accordance with the law and relevant regulations. Where such a time period is exceeded, a head of the concerned customs border checkpoint is to issue an official claim to such an entity directly or by a postal service, email or via the Customs Department's website. The official claim for a maximum period of fifteen (15) days may not be issued more than twice. When the second claim's period is exceeded, such an entity is subject to a warning, and a recording of its failure in the customs risks management system. In addition, such an entity shall not enjoy any future facilitation of customs; or shall be subject to legal measures.
- **A security to release non-commercial goods for the purpose of humanitarian or emergency relief support in the event of emergencies such as natural disasters or epidemics:** A customs officer shall issue an immediate guarantee based upon supporting documents, decisions or official letters by the central or provincial disaster management committee. In order to discharge such a guarantee, a detailed customs declaration form shall be filed within ninety (90) days. Where such a time period is exceeded, a head of the concerned customs border checkpoint shall report to the Director General of the Customs Department in order to propose to the Minister of Finance to issue a decision to discharge such a guarantee.
- ❖ In the event of a customs offense, which perishable goods or non-commercial goods, live animals, or means of transport pose challenges to a storage of such items, an owner of such items wishing to move such items from a customs warehouse that stores exhibits, or a customs border checkpoint shall observe the following rule on security:
 - 1) Providing a security in form of cash or bank guarantee equivalent to the payable customs duties, taxes and fines;
 - 2) After moving such items from the customs warehouse that stores exhibits, or customs border checkpoint, the owner shall get a security discharged within thirty (30) days;
 - 3) A failure to do so, a head of the Customs Administration shall report up its hierarchy to the Customs Department in order to carry out a payment of such a security amount into the state budget.

A head of the concerned customs border checkpoint shall issue a declarant whom has signed and stamped field 54 of a detailed customs declaration form a reminder to get a security discharged. Meanwhile a person with a letter of authority or a customs broker shall be liable within his/her restricted authority or subject to restricted liability as stipulated in a security undertaking.

Pertaining to a security to release imported goods or non-commercial goods for a domestic consumption, only the Customs Department may grant a security. The Director of Vientiane Capital or provincial customs office, or a head of a customs border checkpoint, customs office at a warehouse regime, special economic zone or other economic zones is not allowed to authorize a guarantee by a natural or legal person or an organization with the exemption of a guarantee by an AEO.

In the event of a technical issue with the electronic customs clearance system causing a failure to complete a detailed customs declaration process, a head of customs border checkpoint, customs office at a warehouse regime, special economic zone or other economic zones is to liaise with the Information Technology and Planning Division of the Customs Department in order to solve the technical issue within two (2) hours. Where a timely solution can not be reached, a head of the concerned Customs Administration is to issue a guarantee in accordance with a guarantee form prescribed by the Customs Administration in order to release goods or authorize a movement of goods from a customs warehouse or checkpoint. Once the system is back online, a detailed customs declaration in the system shall be resumed and completed, in particular a payment of customs duties and taxes into the state budget in accordance with a relevant regulation. This scenario shall only be allowed where there is a technical issue with the electronic customs clearance system.

For the purpose of discharging a security, an exchange rate, a customs duty rate or other information shall be subject to the rate or information made available on the day that a detailed customs declaration form is filed.

Article 18 Control and Inspection of Personal Effects

Inbound or outbound passengers with their personal effects passing through a customs border checkpoint are subject to a control and inspection by customs officers as provided for in article 19 and 51 of the law on customs. Such a control and inspection shall observe the following:

1. The Customs Administration introduces high-tech risk management equipment in order to analyze information relating to passengers and their personal effects for the purpose of profiling and selecting targets for an inspection;
2. The Customs Administration makes use of the green and red channels to process passengers. Passengers without dutiable goods to declare are to go through the green channel while those with dutiable goods to declare are to go through the red channel;
3. A passenger with dutiable goods to declare may undertake an oral declaration or present a filled form prescribed by the Customs Administration in person. In the event that he/she is unable to make a declaration in person owing to such goods are yet to arrive, he/she may authorize his/her representative with a letter of authority in order to enable the latter to undertake a declaration on his/her behalf later;
4. In the event of a passenger's personal effects not being allowed to be imported; he/she may re-export such items or surrender such items to a customs officer for a destruction purpose later on;
5. Before aircrafts arrive or leave Lao PDR, information regarding inbound or outbound air passengers will be electronically sent via Advance Passenger Information/Passenger Name

Record (API/PNR) to the Customs Department's air passenger management system for the purpose of profiling and selecting targets for inspections. Information relating to travel routes, passports, ticket purchase arrangements, among others forms an analytical basis. The Customs Administration shall periodically update risk values relating to air passengers in its system;

6. Before trains arrive or leave Lao PDR, information relating to inbound or outbound railway passengers will be electronically sent to the Customs Department's railway passenger management system for the purpose of profiling and selecting targets for inspections. Information relating to travel routes, passports, ticket purchase arrangements, among others forms an analytical basis.
7. Behaviors of inbound or outbound passengers travelling by road or waterway are to be analyzed in accordance with the risk management approach in order to profile and select targets for inspections.

Article 19 Management and Measures Relating to Cash, Valuable Effects and Bearer Negotiable Instruments

A passenger entering and leaving Lao PDR with cash, valuable effects or Bearer Negotiable Instruments (BNIs) worth more than LAK 100,000,000 or equivalent value as provided for in article 51 of the law on customs shall be subject to a permission by the Bank of Lao PDR, and declare to custom officers at a customs border checkpoint as follows:

1. A passenger shall declare cash, valuable effects or Bearer Negotiable Instruments (BNIs) by completing a form prescribed by the Customs Administration at a customs border checkpoint. A passenger travelling with family members may jointly declare cash, valuable effects or BNIs by completing a single form;
2. A customs officer at a customs border checkpoint has a duty to verify a cash, valuable effect or BNI declaration by an inbound or outbound passenger crossing a customs border checkpoint.
3. In the event of an incorrect declaration, the customs officer shall produce a record, take photos, and deposit such a declared item at a security account of the National Treasury or the NT's security account opened at a commercial bank till a completion of a customs offense proceeding;
4. In the event that a customs officer at a customs border checkpoint finds, detects or suspects that undeclared or falsely declared cash, valuable effects or BNIs may be associated with a money laundering or financing of terrorism, he/she shall immediately seize or restrain such items, then submit a report to the Anti-Money Laundering Intelligence Office (AMLIO), and open an investigation in order to determine the origin of such cash, valuable effects or BNIs. Where the investigation by customs officers produces solid evidence capable of proving all elements of a money laundering or financing of terrorism crime, such customs officers shall prepare a case file and submit it to the Office of People's Prosecutor for legal proceedings in accordance with a relevant law of Lao PDR.

In the event that there is an incorrect or incomplete declaration, a failure to declare or a false declaration on cash, valuable effects or BNIs by a passenger entering or leaving Lao PDR; and such a declaration is not associated with a money laundering or a financing of terrorism, a fine as provided for in the law on customs shall be applied. The remaining amount from the fine shall be returned to its owner.

5. A passenger carrying cash in a foreign exchange or in LAK, valuable effects or BNIs in the amount above the established threshold who fails to declare such an amount to a customs officer at a customs border checkpoint or has no authorization by the Bank of Lao PDR is to be fined at fifty percent (50%) of the excess amount for the first offense. A repetitive offense is subject to a double fine of the last fine amount;
6. A customs officer at a customs border checkpoint shall submit a prescribed report on a violation of a threshold on cash, valuable effects or BNIs being carried into or out of Lao PDR, and a prescribed update on legal proceedings to the AMLIO within fifteen (15) working days, or file such a report in the AMLIO's Cross Border Report (CBR) system.

Article 20 Declaration of Goods or Non-commercial Goods Delivered by Postal Service or Traded Online or Other Intermediary Means

A declaration of goods or non-commercial goods delivered by postal service or traded online or other intermediary means as provided for in article 52 of the law on customs requires a national or foreign natural or legal person having parcels, mailbags, or online or other intermediary mean traded goods that are being imported-exported or in transit to declare such items to a customs officer and observe the following procedure:

1. Declaration of Goods or Non-Commercial Goods Delivered by Postal Service

- Goods or non-commercial goods delivered by the international postal service including postal packages, parcels, or logistics post shall be subject to a customs declaration at a postal service office, the international postal exchange terminal or other places designated by the Customs Administration for the purpose of customs declaration;
- A legal person operating a business to deliver goods or non-commercial goods via the postal service is responsible for a customs declaration by completing a form prescribed by the Universal Postal Union as follows: CN22 is for a customs declaration of a postal package with a weight no more than 2 kg per package or envelop, CN23 or CP72 for a parcel with a weight in the range of 2.01 to 30 kg/parcel, or express mail service with a weight in the range of 50 g to 30 kg/parcel, logistics post may use either CN22 or CN23 on a case-by-case basis. Once the Customs Declaration System (CSD) developed by the World Customs Organization in partnership with the Universal Postal Union is introduced, a customs declaration in accordance with the forms mentioned above shall be carried out in the introduced system;
- Goods subject to a payment of customs duties, taxes and other fiscal obligations are to observe a detailed customs declaration process as provided for in article 26 of the law on customs. A legal person operating a business to deliver goods or non-commercial goods via the postal service may carry out a detailed customs declaration on behalf of the owner of the goods or non-commercial goods by complying with article 44 and 45 of the law on customs. Only when a customs declaration process is completed, a delivery or distribution of such goods or non-commercial goods may is allowed;
- A legal person operating a business of delivering goods or non-commercial goods via the postal service shall install and use a high-tech equipment such as an X-ray machine in order to inspect postal packages, parcels and logistics postal items that are imported, exported, or in transit, a means of transport with a mark "Logo",

ensure a transportation safety, and introduce an electronic information management system for the purpose of controlling and exchanging data on goods or non-commercial goods with the Customs Administration's;

- A business that delivers goods or non-commercial goods via the postal service for the purpose of importation, exportation or international transit of goods shall be subject to a licensing by the postal service authority and an approval by the Customs Administration.

❖ **Clearance of Goods or Non-Commercial Goods Retained in Postal Warehouse**

- In the event that imported goods or non-commercial goods via the postal service cannot be delivered or distributed within a time period stipulated in a relevant regulation owing to a rejection by a recipient or an absence of a recipient, a postal service provider shall collaborate with a delivery service provider in a country of origin in order to return such items. Where a re-exportation of such items is not possible, they shall be surrendered to the Customs Administration for the purpose of clearance as provided for in the law on customs;
- In the event that exported goods or non-commercial goods via the postal service from Lao PDR to another country are rejected and returned, a postal service provider shall collaborate with the Customs Administration to carry out both document examination and physical inspection of such goods. Where no contrabands are discovered, such goods may be returned in accordance with a relevant regulation. Where contrabands are discovered, measures as provided for in the law on customs and other relevant laws shall be applied;
- International transit of goods or non-commercial goods delivered by the postal service from a country of origin in transit in Lao PDR to a country of destination is subject to a customs declaration in accordance with provisions on the international transit of goods as provided for in article 61 to 67 of the law on customs. Where such items can neither be delivered to a country of destination nor returned to a country of origin, they must be surrendered to the Customs Administration for a purpose of clearance as provided for in the law on customs.

2. Declaration of Goods or Non-Commercial Goods Delivered by Express Couriers

- Such goods or non-commercial goods are subject to the customs formalities at an office or a place designated by the Customs Administration;
- A legal person operating this business is responsible for a customs declaration by completing its prescribed form;
- Goods subject to a payment of customs duties, taxes and other fiscal obligations are to observe a detailed customs declaration process in the same manner as clause 1 above;
- A legal person operating as an express courier of goods or non-commercial goods shall comply with the international standards, relevant laws and regulations;
- An express courier business for the purpose of importation, exportation or international transit of goods shall be subject to a licensing by the postal service authority and an approval by the Customs Administration.

Any importation, exportation or international transit of goods via the postal service or an express courier is subject to a control and monitoring by customs officers. In the event of reliable intelligence or information, customs officers may carry out a physical inspection in the presence of a delivery service provider's management, an owner of goods, a person with a letter of authority or officers of relevant authorities in accordance with the law and relevant regulations. Where a physical inspection of goods is carried out in the absence of an owner of goods or a management of a postal service provider or an express courier as provided for in article 39 of the law on customs, a customs officer shall confirm such an inspection on the inspected parcel of goods.

The Customs Department shall issue the instruction on declaration of goods or non-commercial goods delivered by postal service or traded online or other intermediary means.

Article 21 Control of Personal Vehicle and Means of Transport Passing Through Customs Border Checkpoints

Any person who intends to bring a temporarily authorized personal vehicle or means of transport into and out of Lao PDR for the purpose of leisure or business trip shall comply with the following:

1. Presentation of proof that the vehicle has been registered;
2. Such a temporarily authorized vehicle shall be subject to a customs control;
3. A permission by a relevant authority shall determine a staying period, travel boundary, and entry or exit customs border checkpoint for such a temporarily authorized vehicle.
4. A driver or an owner of such a temporarily authorized vehicle passing through the international customs border checkpoint shall manually or electronically present his/her border pass or a passport in person to a customs officer for the purpose of establishing a staying period, travelling boundary, and entry or exit customs border checkpoint as determined by a relevant authority's permission;
5. Once completing an authorization procedure for an inbound vehicle, a customs officer shall issue a sticker B53 to be stuck on the windshield on the front passenger side, and advise a user of such a vehicle to keep the sticker safe, free from dirt, tear and any tampering attempt for the purpose of customs monitoring;
6. Any temporarily authorized vehicle failing to comply with the determined staying period, travel boundary, and entry or exit customs border checkpoint shall be subject to a fine as follows:
 - A violation without a valid ground is subject to a daily fine of LAK 100,000 but not more than LAK 10,000,000 in maximum;
 - A violation with a valid ground such as being involved in an accident causing a damage to the vehicle or an injury to its driver is subject to no fine. However, the driver needs to provide proofs in form of traffic accident record or confirmation letter by traffic police, repair records by a garage, or a medical certificate. Based on such proofs, a head of the concerned customs border checkpoint is mandated to produce a written decision accordingly;
 - A failure to make an entry or exit at the designated international customs border checkpoint is subject to a fine of LAK2,000,000 per violation;
 - A failure to remain within the determined travel boundary is subject to a fine of LAK2,000,000 per violation;
 - Where a customs officer discovers that the sticker B53 is absent on the vehicle, or used on another vehicle, lost, dirty, torn, tampered, a fine of LAK 1,000,000 per violation is applied;
7. An extension of the permission to use the vehicle in Lao PDR is allowed only once where there is a valid ground to ask for such an extension. In order to complete the extension

and payment of fees in accordance with a relevant regulation, the requisite documents and the vehicle together with its driver's border pass or passport shall be presented at the international customs border checkpoint, a provincial or Vientiane Capital customs border checkpoint or the nearest Customs office. In the event of emergencies such as, a border closure, epidemic, or riot making it impossible to bring the temporarily authorized vehicle back to the driver's home country, the driver may apply for a multiple extension and pay fees in accordance with a relevant regulation;

8. The driver shall exit with the vehicle within the period authorized by customs officers. The driver is not allowed to leave without the temporarily authorized vehicle. A failure to do so is subject to measures as provided for in a relevant law of Lao PDR. Customs officers in partnership with the immigration police at the concerned customs border checkpoint shall carry out an investigation in accordance with a relevant law;
9. Any natural or legal person or an organization fails to exit with the temporarily authorized vehicle within the prescribed period shall be subject to customs offense proceeding as provided for in the law on customs and relevant regulations. In addition, the Customs Administration may not grant an authorization for a future vehicle entry application.

In the event of the temporarily authorized vehicles for a leisure trip failing to exit within the prescribed period, a head of the concerned customs border checkpoint shall produce a monthly list of such vehicles in order to share with the Customs Investigation and Suppression Division, a provincial or Vientiane Capital customs office for further monitoring and actions.

The Customs Department shall issue the instruction on control of personal vehicle and means of transport passing through customs border checkpoints

Article 22 Restricted Goods or Non-commercial Goods

Restricted goods or non-commercial goods that can be imported-exported, stored or moved as provided for in article 57 of the law on customs are under the control of the Customs Administration. Such goods are types of goods that pose risks to the social security, national security, environment, sanitation, sanitary and phytosanitary, but not limited to goods containing contaminants above the standard level, print publications that offend the national culture, timbers, minerals, Non-Timber Forest Products (NTFPs), goods covered by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), pornographic materials deemed harmful to the national tradition and culture, hazardous chemicals, medicines, plants, vegetables, fresh or frozen foods containing contaminants above the standard level.

In addition to the types of goods mentioned above, any customs cases involving vehicles, fuel, lubricant, cash, valuable effects or BNIs that are not associated with money laundering or financing of terrorism, and other types of goods subject to the Government's control in terms of import quota, distribution and other requirements, the Customs Administration at each level may resolve such customs cases and apply fines as provided for in the law.

Article 23 Customs Transit Principles

Customs transit as provided for in article 61 clause B of the law on customs consists of 5 modes namely, road, waterway, air, rail and multimodal transports in accordance with the international conventions and agreements to which Lao PDR is a state party to:

1. ASEAN Customs Transit System-ACTS

- It is a movement of goods, means of transports and containers applicable to ten ASEAN member states by using a standard form, Transit Accompanying Document (TAD), managed by the ACTS;

- This arrangement defines routes, a number of means of transport, reservation list of goods, and specific customs border checkpoints for passing, and movement of goods in accordance with a periodic agreement in place. At the present the arrangement allows up to 500 means of transport to pass through 6 international customs border checkpoints namely: Friendship Bridge I, II, IV, Namphao, Daensavanh and Nokkhien. Reservation list of goods consists of all types of tobacco, alcoholic beverages, beers, all types of vehicles, fuel, gas, energy drinks, live animals and fresh fruits.

A customs declaration process under ACTS is to observe the following:

- Where Lao PDR is a country of origin or an exporting country, a declarant shall complete a detailed customs declaration form for export, the ASEAN Customs Declaration Document (ACDD), and the Transit Accompanying Document (TAD) in order to determine a transportation of goods from Lao PDR to a country of destination;
- Where Lao PDR is a country of destination or an importing country, a customs officer shall examine the TAD, and carry out a verification in the ACTS. After that, a declarant shall complete a detailed customs declaration form, the ACDD.
- Where Lao PDR is a country of transit, a customs officer shall examine the information in the ACTS to compare such information against the information in the TAD, inspect the overall conditions of containers and customs seals, and carry out a verification in the ACTS in order to direct a transportation of goods from a customs border checkpoint of origin to a customs border checkpoint of destination in Lao PDR en route to a country of destination.

2. Greater Mekong Subregion-Cross Border Transport Agreement (GSM-CBTA)

- It is a movement of goods, means of transports and containers applicable to GMS countries by using a specific form, Temporary Admission Document (TAD), means of transport, goods and containers managed by the Single Stop Inspection (SSI), Single Window Inspection (SWI) in the Common Control Area (CCA) as agreed by member states;
- This arrangement defines routes, a number of means of transport, and specific customs border checkpoints for passing, and movement of goods in accordance with a periodic agreement in place. At the present the arrangement allows up to 500 means of transport to pass through route R3, 9 and NR13 and 6 international customs border checkpoints namely: Friendship Bridge I, II, IV, Borten, Daensavanh and Nokkhien.

3. International Customs Transit under Bilateral or Multilateral Arrangement

- It is a movement of goods, means of transport and containers for member states;
- This arrangement defines routes, a number of means of transport, reservation list of goods, and specific customs border checkpoints for passing, and movement of goods in accordance with a periodic agreement among member states.

Article 24 Security Required for International Transit of Goods

The international transit of goods as provided for in article 65 of the law on customs is subject to a security in form of cash, cheque or guarantee issued by a bank or a financial institution, or a guarantee by a natural or legal person (LIFFA). There are two types of security namely: a single-trip security and a multi-trip security to be granted on a case-by-case basis as the following:

1. A security in form of cash or cheque is only allowed for a natural person to provide such a security at a customs border checkpoint at which goods are being imported in the same manner as a security to release goods from a warehouse or a customs

checkpoint as provided for in article 41 of the law on customs. The amount of the security shall be equal to the amount of the customs duties and taxes payable by a declarant. The security of this nature is a single-trip security;

2. A security in form of a bank guarantee, or a guarantee issued by a bank or a financial institution is only allowed for a legal person, its representative, a customs broker that is a member of the Lao International Freight Forwarders Association (LIFFA) to provide such a security. A declarant, a transport operator or a customs broker shall present such a security to a customs officer at a customs border checkpoint at which goods are being imported. The security of this nature can be either a single-trip or multi-trip security;
3. A security is terminated when the goods are moved from the territory of Lao PDR and there is a confirmation by a customs officer at a customs border checkpoint at which the goods are exported and/or a country of destination. A security in form of cash shall be returned to its owner while a guarantee is terminated.

A provision of a security required for the international transit of goods under different agreements is subject to specific regulations.

Article 25 Control of International Transit of Goods or Non-commercial Goods

The control of international transit of goods or non-commercial goods as provided for in article 65, 66 and 67 of the law on customs observes the following:

1. Requirements on International Transit of Goods or Non-commercial Goods

- A transport operator shall have a transport business operating license registered in another state party to an agreement to which Lao PDR is also a state party to or a signatory. Such an operator shall comply with the laws of Lao PDR, and requirements provided in the agreement or international transportation regulations;
- The transport operator shall enter a security undertaking with the Customs Administration, or comply with the agreement in place between the Customs Department and LIFFA in relation to goods, non-commercial goods, means of transport, containers, and the law on customs and other relevant regulations;
- Goods or non-commercial goods that are prohibited by the Government, infringement of the intellectual property rights, covered by the CITES appendices, or industrial wastes deemed harmful to the environment or under a restricted list shall not be allowed for the international transit unless there is a permission from a competent authority. The international transit of goods is also not allowed for other types of goods prohibited by the regional or international regulation.

2. Customs Formalities and Monitoring

- Goods or non-commercial goods subject to the international transit are subject to the customs duty exemption when they are imported to the territory of Lao PDR. Such goods are to satisfy the packaging standard and be stored in containers in accordance with the requirements;
- A detailed customs declaration and a provision of a security required for such goods are to be carried out at a customs border checkpoint at which such goods are being imported;

- Fees and charges are to be paid when submitting a detailed customs declaration form at a customs border checkpoint at which such goods are being imported;
- A customs officer at a customs border checkpoint at which such goods are being imported shall conduct a risk assessment, inspect a customs seal, and produce a physical inspection record in accordance with a relevant regulation;
- Once such goods arrive at a customs border checkpoint of destination at which the goods are being exported, a transport operator or a declarant shall present the customs declaration form completed at a customs border checkpoint of origin to a head of the Customs Administration at the customs border checkpoint of destination for the purpose of document examination and physical inspection of goods in accordance with a relevant regulation. Once such an action is completed, it is deemed to satisfy the security undertaking required for the international transit of goods;
- In the event of irregular conditions relating to a container or its specific mark or reliable intelligence indicating incorrect goods or non-commercial goods, a customs officer may carry out a physical inspection of the international goods in transit in the presence of a transport operator or a person with a letter of authority;
- A transport operator transporting goods in transit provides a security for both goods or non-commercial goods and their containers to a customs officer at a customs border checkpoint at which such goods are being imported. The containers shall be re-exported within thirty (30) days. Where such containers are to be used locally, they are subject to customs duty and tax payment in accordance with the law.

3. Control of Means of Transport by Road or Waterway

- International freight transport operation permits and valid insurances of state parties to an agreement on freight transport and passenger facilitation are required;
- In the absence of the international freight transport operation permit, a temporary admission pass for means of transport and a departure declaration document approved by a customs officer of the last transit country, and a valid technical inspection certificate and insurance are required;
- A change of means of transport from an inbound means of transport to an outbound means of transport or a transshipment of means of transport is subject to Lao customs control, and such a change in the territory of Lao PDR shall not be more than twice;
- Vessels transporting goods or non-commercial goods in transit along the border rivers shall declare the established vessel-related documents to customs officers for the purpose of examination in accordance with a relevant regulation;
- Vessels transporting goods or non-commercial goods in transit are not allowed to carry out a transshipment of such goods or non-commercial goods;
- Charges relating to a declaration of documents relating to goods or non-commercial goods in transit are to be paid when docking a vessel at a customs border checkpoint or a place designated by the Customs Administration;

In the event of an accident or a force majeure, a customs officer at the nearest customs office shall be informed in order to supervise a transshipment of goods or non-commercial goods. Where there is a violation of the law on customs and relevant regulations of Lao PDR such as means of transport

failed to travel along the prescribed route, a customs seal or a customs E-seal found to be tampered or goods or non-commercial goods discovered to be unloaded or loaded from means of transport without the permission of customs officers, this shall lead to a legal proceeding in accordance with the relevant laws and regulations of Lao PDR.

Article 26 Transshipment of International Goods in Transit

A transshipment of international goods in transit as provided for in article 66 of the law on customs shall observe the following:

1. An arrival of goods or non-commercial goods in transit at a port or an airport, a transport operator or a person with a letter of authority shall present a transportation document and a transshipment note to a customs officer at a customs border checkpoint of arrival prior to conducting a transshipment of such goods from one vessel to another or from one aircraft to another;
2. An arrival of goods or non-commercial goods in transit by road to pass through the territory of Lao PDR to the third country, a transport operator or a person with a letter of authority shall present a transportation document and customs declaration form to a customs officer at a customs border checkpoint or a customs office of arrival. Goods in transit by road are allowed to undertake a transshipment of containers, means of transport, vehicles and trailers up to two times within a bilateral or trilateral agreement. A transshipment of goods in transit under AFAFGIT and GMS-CBTA shall comply with regulations under such frameworks.
3. A transshipment of goods or non-commercial goods in transit under a multimodal transport is allowed only once each at a customs border checkpoint of arrival and departure. A transport operator or a person with a letter of authority shall present a transportation document, transshipment note, and customs declaration form to a customs officer at a customs border checkpoint or a customs office of arrival.

Article 27 Management of Imported Goods or Non-commercial Goods for Re-exportation

An importation of goods for a re-exportation is to bring in goods or non-commercial goods into Lao PDR in order to improve or package such goods, perform a transshipment of such goods or temporarily store such goods awaiting a re-exportation to another country. Such an act is subject to the control of the Customs Administration. An operator shall have a place or a private warehouse or rent the Customs Administration's approved warehouse as provided for in article 72 of the law on customs for the purpose of a temporary storage of goods, and comply with a prescribed period for re-exportation of goods. A re-exportation of goods shall observe the route prescribed by the Customs Administration, pass through only the international customs border checkpoint or a place designated by the Customs Administration.

Goods or non-commercial goods enjoying the importation for re-exportation arrangement are subject to other fiscal obligations in accordance with a relevant regulation.

An import-reexport operator shall be licensed by the industry and commerce authority, and enter an undertaking with the Customs Department or the delegated Customs Administration before it is allowed to undertake such an operation.

A storage period of goods for such a purpose is three (3) months. Each extension of such a period is allowed to a maximum period of three (3) months by a head of the Customs Administration where a warehouse is located. The maximum extension of such a period shall not exceed one (1) year.

Article 28 Control of Imported Goods for Re-exportation

An import-reexport operator that violates the customs control provision as provided for in article 22 of the law of customs is subject to the following measures:

1. In the event of an incorrect declaration, the operator is subject to a fine at 10% of the value of goods or non-commercial goods;
2. In the event of a failure to re-export within the time period prescribed by the Customs Administration, the operator is subject to a fine of a LAK 3,000,000 per each failure, and enter a security undertaking for a re-exportation in accordance with a relevant regulation. If there is a repetitive failure to re-export, the operator is subject to legal measures;
3. In the event of a failure to re-export at the prescribed customs border checkpoint or the place designated by the Customs Administration, the operator is subject to a fine of LAK 2,000,000 per each failure;
4. Customs officers shall periodically inspect a warehouse that stores goods to be re-exported. In the event of missing or incomplete inventories, such goods are deemed as being smuggled for a domestic distribution, and the operator is subject to the customs offense proceedings;
5. In the event of such goods being smuggled for a domestic distribution, the operator is subject to the customs offense proceedings, and suspension of his/her business for three (3) months. If such goods have a value of LAK 100,000,000 or more, the operator is subject to a legal proceeding in accordance with the penal code.

Article 29 Management of Movement of Goods or Non-commercial Goods within the Customs Territory

After a declarant pays the correct and full customs duties, taxes and other fiscal obligations as provided for in article 68 of the law on customs for the goods or non-commercial being imported into Lao PDR, he/she may move such goods to other provinces without being required to obtain a movement permission for such a purpose. However, he/she needs to have a transportation document or a paper approved by the Tax Department, and a copy of the approved detailed customs declaration form for import to accompany such goods in order to present to other officers upon being stopped for an inspection.

In addition to the above, the following goods or non-commercial goods are subject to a movement permission:

1. Goods or non-commercial goods that are imported under the warehouse regime as provided for in article 72 of the law on customs, and moved within the warehouse regime;
2. Goods or non-commercial goods that are imported under the investment promotion incentive schemes as provided for in article 88 of the law on customs;
3. Goods or non-commercial goods that are imported under a customs duty exemption scheme granted by the Government;
4. Goods or non-commercial goods that are imported for duty-free shops and duty-free zones;
5. Imported goods or non-commercial goods that are moved from customs border checkpoints to special economic zones or other economic zones, or from warehouses to customs border checkpoints of exportation.

In order to move goods or non-commercial goods as described in clause 1 to 5 above, a declarant shall apply for a movement permission to the Customs Administration where a warehouse is located by completing a form as prescribed by the Customs Administration. A declarant wishing

to move goods or non-commercial goods within the customs territory shall have such goods moved along the route prescribed by the Customs Administration. Upon arriving at the destination, the declarant shall present such a movement permit to a custom officer at a customs office for further processing in accordance with a relevant regulation.

A movement of goods managed by the electronic system shall observe a specific regulation.

Article 30 Customs Warehouse

A customs warehouse as provided for in article 72 of the law on customs is a place built or rented by an operator to use to temporarily store raw materials, goods, or non-commercial goods awaiting for a completion of the customs formalities. Such as warehouse is subject to a permission by a concerned authority, an approval to be established as such by the Minister of Finance, and a control by the Customs Administration at each level.

The customs warehouse regime comprises of 5 types of warehouses with their specific codes in form of 4 English alphabets, which a declarant shall input a correct code into field 30 of a detailed customs declaration form when carrying out each customs declaration. Such specific codes are as follows:

1. Temporary Storage Warehouse with a code TCWH;
2. Industry Warehouse with a code ICWH;
3. Specific Warehouse with a code SCWH;
4. Bonded Warehouse with a code BCWH;
5. Private Warehouse with a code PCWH.

Besides the warehouse types defined above, there is specific warehouse for customs operation with a code CWPE 149, Customs Warehouse for Preservation of Evidence, to serve the purpose of storing exhibits of customs cases, as provided for in article 149 of the law on customs.

As for a coding convention of each type of a warehouse, the Customs Department will issue a specific instruction by designating 12 alphanumeric characters namely: the first 2 characters for a country code, the next 3 characters for a provincial code, the next 4 characters for a type of warehouse, and the last 3 numerals are for the name and other details of a warehouse.

For example, LA CTE TCWH 001 is a temporary storage warehouse of a Company A, located in Vientiane Capital.

A business operator, a natural or legal person wishing to establish a warehouse shall express a clear intention by submitting a warehouse establishment application to the Customs Department for an intended type of warehouse: a temporary customs warehouse, an industry warehouse, a specific warehouse, a bonded warehouse or a private warehouse or another type of warehouse for the usage and management purposes in accordance with the law on customs.

Article 31 Temporary Storage Warehouse

A temporary storage warehouse with the TCWH code as provided for in article 73 of the law on customs is a place to store goods or non-commercial goods at a customs border checkpoint or a place designated by the Customs Administration such as a special economic zone, other economic zones or a dry port after completing a cargo declaration as provided for in article 25 of the law on customs. A declarant shall input the information on goods or non-commercial goods into field 30 of a detailed customs declaration form within fifteen (15) days, in which such a time period may be extended once for a maximum period of seven (7) days in order to get the goods or non-commercial goods released from a temporary storage warehouse. In the event that an owner of goods or non-commercial goods may not be able to complete a release of such goods within the

extended time period, and wishes to use another temporary storage warehouse, or removed such goods from the existing temporary storage warehouse shall submit a written request to the Customs Administration at which the warehouse is located prior to the extended time period comes to an end. The Customs Administration shall make a decision on the request within three (3) days, then inform the owner of goods or non-commercial goods accordingly. A failure to observe the aforementioned procedure is subject to the customs control as provided for in article 22 of the law on customs.

Article 32 Industry Warehouse

An industry warehouse with the ICWH code as provided for in article 74 of the law on customs is an indoor or outdoor space or a container yard located at a special economic zone, other economic zone, a duty-free zone, a logistics zone, a dry port or a place designated by Customs Administration to store temporarily imported raw materials, minerals, equipment, parts, or goods in order to be used for manufacturing, assembly, altering, repair, processing, packaging or separation for the purpose of re-exportation within one hundred and eighty (180) days. Such a time period is allowed to be extended once for a maximum period of one hundred and eighty (180) days.

A time period extension request shall be lodged at least ten (10) days prior to the existing time period comes to an end. A head of the Customs Administration at a warehouse regime shall make a decision on the request, and inform the warehouse owner and an owner of the goods accordingly within three (3) working days. Where the time period is exceeded, such goods and non-commercial goods shall be subject to the customs control as provided for in article 22 of the law on customs.

Article 33 Specific Warehouse

A specific warehouse with the with SCWH code as provided for in article 75 of the law on customs is a place located at a customs border checkpoint, a special economic zone, other economic zones, a logistics zone, a dry port or a rest area for cargo vehicles; such a place is under a specific supervision and specifically designed for storing restricted goods or non-commercial goods, a transshipment of means of transport or goods, or loading or unloading of goods awaiting for a completion of a customs declaration. This is to safeguard lives, health, assets, and an environment such as a warehouse storing flammables (fuel, gas), hazardous chemical, radioactive substances, explosives; an animal quarantine facility; a storage for plants-vegetables, fresh fruits, frozen and refrigerated foods, as well as medicines and vaccines. A time period allowed to store goods or non-commercial goods in such a warehouse is to comply with the laws and regulations issued by a relevant authority.

Article 34 Bonded Warehouse

A bonded warehouse with the BCWH code as provided for in article 76 of the law on customs is a place to store general goods in a logistics area, dry port or at a place designated by the Customs Administration awaiting a completion of customs formalities. General goods or non-commercial goods may be stored in such a warehouse for a maximum time period of one hundred and eighty (180) days. Such a time period may be extended once to a maximum period of one hundred and eighty (180) days. A time period extension request shall be lodged at least ten (10) days prior to the existing time period comes to an end. A head of the Customs Administration at a warehouse regime shall make a decision on the request, and inform the warehouse owner and an owner of the goods accordingly within three (3) working days. Where the time period is exceeded, such goods and non-commercial in the warehouse shall be subject to the customs control as provided for in article 22 of the law on customs.

A bonded warehouse operator shall deposit a security of LAK 1 billion (1,000,000,000) or USD 1 hundred Thousand (100,000) with a bank or a financial institution to secure for any potential damages or losses of goods or non-commercial goods that are stored in such a warehouse.

Article 35 Private Warehouse

A private warehouse with the PCWH code as provided for in article 77 of the law on customs is a place for storing goods, non-commercial goods, equipment or raw materials in order to serve or supply to specific natural or legal persons or projects but the general public. Such a warehouse may be established on a basis of a relevant authority's permission, and an approval of the Ministry of Finance, and is under a supervision of the Customs Administration at each level. A storage of equipment or raw materials in such a warehouse shall not exceed thirty (30) day time period which may be extended to a maximum period of thirty (30) days. A supervision of such a warehouse shall comply with a specific regulation.

Article 36 Responsibilities of Warehouse Operators

Operators of the warehouses as provided for in article 72 of the law on customs has the following responsibilities to:

1. provide warehouse services in order to ensure an orderly inventory management of goods or non-commercial goods, prevent damages or losses to the inventories, and be responsible for any incurred customs duties and taxes;
2. properly unload goods or non-commercial goods for an appropriate storage in accordance with their categories, monitor, and inspect goods or non-commercial goods in their warehouses;
3. provide a work space for customs officers' operation, a space for physical inspection of goods, and a storage space for seized, restraint or confiscated goods or non-commercial goods.
4. provide tools and equipment for the customs operations such as x-ray machines, computers, communication system, the Internet connectivity, CCTV, protective gears, tables, chairs, filing cabinets, and be responsible for the expenses of water supply, electricity, cleaning, and security guards.
5. introduce an electronic inventory management system endorsed by the Department of Accounting of the Ministry of Finance and a relevant authority that is interoperable with the Customs Administration's electronic system for the purpose of data exchange.
6. manually or electronically report on inventory statistics related to goods or non-commercial goods that enter, leave, remain in, or overstay in warehouses on a daily, weekly, monthly, quarterly, and annually basis to customs officers;
7. move goods or non-commercial goods from one warehouse type to another warehouse type such as from an industry warehouse to a bonded warehouse. Such a movement is subject to an authorization by customs officers and a movement document prescribed by the Customs Administration.
8. be prohibited to alter or forge information on the goods or non-commercial goods store in their warehouses such as to change a date receiving or releasing the goods, alter the goods' weight or quantity information, or the ownership information among others;
9. enter security undertakings with the Customs Administration and strictly comply with such undertakings' requirements after being granted a permission from the Ministry of Finance to operate warehouses.

Article 37 Management Measures on Goods in Customs Warehouse Regime

A storage of goods or non-commercials in a warehouse shall comply with a certain time period in accordance with the law. Such goods are subject to a customs duty suspension, and remain under the Customs Administration's control awaiting a completion of the customs formalities.

In the event that such a storage of the goods exceeds a certain time period that is established for a specific type of warehouse as provided for in the article, 73, 74, 75, 76 and 77 of the law on customs, and the goods are not moved to another type of warehouse, a daily fine of 0.10% of a normal customs duty and tax rate shall be applied. The maximum fine shall not exceed the payable custom duties and taxes.

Article 38 Expense Deduction from Customs Case Proceedings and Clearance of Goods or Non-Commercial Goods Retained in Customs Warehouses

In order to ensure an effective customs investigation and combatting of customs smuggling and illicit trade, better monitor and control customs evasion, and promptly manage the intelligence, any incurred expenses are allowed to be deducted from fines, customs case proceedings and proceeds from auctions to dispose goods or non-commercial goods retained in customs warehouses as provided for in article 81 of the law on customs. Such an expense deduction is to observe the following:

1. Actual expenses incurred from auctions such as costs relating to auction announcement via media channels, storage security, transportation or movement, manual labors, transshipment, evidence adjudication by means of forensics science, toxicity tests for plants-vegetables, fruits and fresh foods are allowed to be deducted at the rate of 15% of the final auction price;
2. Expenses relating to immediate administrative costs such as transportation or movement, manual labors, transshipment, or intelligence management are allowed to be deducted at the rate of 15% of the fines;
3. The remaining amount after deducting expenses relating to fines or auctions shall be paid to the State's budget in accordance with a relevant regulation.

A clearance of goods retained in customs warehouses by means of auction includes a clearance of goods retained in customs warehouses, and exhibit storing warehouses as provided for in article 72 and 149 of the law on customs respectively.

In the event that the Customs Administration at a place where a warehouse is located requests for a warehouse storage fee exemption for the confiscated goods, or other goods such as degradable, perishable, polluting or the intellectual property rights violating goods that are subject to a destruction as provided for in article 81 of the law on customs, an operator of such a warehouse shall oblige.

Article 39 Duty Free Zones

A local or foreign manufacturer, business operator, or investor who intends to establish a duty-free zone as provided for in article 85 of the law on customs shall submit an application together with required supporting documents such as a feasibility study, an environmental impact assessment, a construction plan, and an enterprise registration certificate needed for their business operation to the Ministry of Finance in order to seek an approval in principles in accordance with relevant laws and regulations.

Goods, non-commercial goods, equipment, or raw materials may be stored for one hundred and eighty (180) days in a duty free zone. Such a time period may be extended once a maximum period of one hundred and eighty (180) days by the Customs Administration at which the duty-free zone is located.

An establishment, management, and a termination of a duty-free zone are to observe specific regulations.

Article 40 Management of Temporary Importation of Goods

A temporary importation of goods, heavy machineries, tools, or equipment that are to be used by investment projects as provided for in article 86 of the law on customs shall be based on such projects' valid master plans, and agreements authorized by a relevant authority. Before such validities come to an end, any extension shall be obtained from the Customs Administration.

A temporary importation of a heavy machineries, tools or equipment is subject to entering a security undertaking with the Customs Administration with a time period of one (1) year. Where this is an intention to extend such a time period, a permission from a relevant authority is required. Upon a completion of an investment project, such temporarily imported items are to be re-exported in the same quantity. Where such items are to be consumed domestically, they are subject to customs duties, taxes and other fiscal obligations in accordance with the law and relevant regulations.

A visa extension for heavy machineries requires a presentation of such heavy machineries together with their accompanying documents, original detailed customs declaration forms (IM5) and valid temporarily importation permits by a relevant authority to the Customs Department to consider such an extension in accordance with a relevant regulation. Such a presentation shall take place within thirty (30) days prior to the expiration of a security undertaking. A provincial or Vientiane Capital customs office is tasked to inspect or certify heavy machineries or vehicles used in a project site located in a remote area, and then submit the relevant documents to the Customs Department for the purpose of a visa extension for such items. A customs border checkpoint of importation is to consider a one (1) year visa extension for temporarily imported tools or equipment per each application, in which a maximum extension shall not exceed a concerned project's period.

A declarant wishing to extend visa for temporarily imported mechanical materials, equipment, machines or tools shall present detailed customs declaration documents (IM5) of those items together with valid temporarily importation permits by a relevant authority to a head of customs border checkpoint for the purpose of such a visa extension in accordance with a relevant regulation. Such a presentation shall take place within thirty (30) days prior to the expiration of a security undertaking.

In the event that an existing project owner wishes to move such items to his/her other projects under new concession agreements with the Government, he/she shall comply with measures as provided for in article 140 of the law on customs, or a specific regulation before doing so.

Article 41 Importation of Goods or Non-Commercial Goods for Exhibition, Study or Experiment Purposes

A temporary importation of goods or non-commercial goods for exhibition, study, or experiment purposes shall comply with provisions in article 86, 89 and 90 of the law on customs. Such a temporary importation shall observe the following procedures:

1. An exhibition for the educational or experimental purposes:
 - A relevant authority shall provide a relevant document to confirm a temporary importation of non-commercial goods the educational or experimental purposes in order to support a detailed customs declaration;
 - Non-commercial Goods temporarily imported for educational and experimental purposes shall not have a commercial nature. The import volume shall be commensurate to the purpose of exhibition or experiment, and be re-exported in the same original quantity after the temporary importation time period comes to an end;
 - A large volume of temporarily imported non-commercial goods is subject to a security in the equivalent of the customs duties, taxes, and other fiscal obligations or a guarantee by a legal person or an exhibition organizer, and a re-exportation within a permitted temporary importation time period. A failure to do so is subject to a payment customs duties,

taxes, and other fiscal obligations into the state's budget in accordance with a relevant regulation;

- In the event that such items are to be consumed or sold domestically, they are subject to an accurate, full and timely payment of customs duties, taxes, or other fiscal obligations.

2. A trade exhibition for promotion and/or distribution purposes

- A decision on a trade exhibition organization by a trade exhibition organizer, a confirmation or a security provided by a relevant authority is required;

- A trade exhibition organizer shall enter a security undertaking with the Customs Administration;

- A confirmed list of participants is required;

- Types of goods or non-commercial goods to be exhibited shall be informed;

- Upon a conclusion of a trade exhibition, owners of goods or non-commercial goods, or a trade exhibition organizer shall produce a reconciliation list of an importation quantity with the remaining quantity of such goods, and submit such a list to customs officers. Such temporarily imported goods or non-commercial goods for a trade exhibition purpose shall be subject to a re-exportation in the same importation quantity and original state. In the event that such items are to be consumed or sold domestically, they are subject to an accurate, full and timely payment of customs duties, taxes, or other fiscal obligations.

Article 42 Management of Temporarily Imported Materials for Manufacturing, Processing, Assembly, Modification, Packaging or Repairing

An operator that temporarily imports materials for manufacturing, processing, assembly, modification, packaging or repairing for the purpose of re-exportation as provided for in article 87 of the law on customs is subject to a suspension of customs duties. However, such an operator shall strictly comply with relevant regulations as follows:

1. Such an operator shall enter a security undertaking with the Customs Administration to ensure that those temporarily imported materials, including their containers and packaging materials, for manufacturing, processing, assembly, modification or repairing observe its manufacturing plan, and are subject to a re-exportation within a permitted time period;

2. A temporary importation time period shall not exceed one hundred and eighty (180) days, and may be extended once to a maximum period of one hundred and eighty (180) days. Such an extension is subject to a security undertaking with the Customs Administration;

3. A failure to re-export within the the aforementioned time period, an owner of such goods or non-commercial goods shall justify with the Customs Administration and a relevant authority for further proceedings in accordance with the law and relevant regulations;

4. In the event that such temporarily imported materials including their containers and packaging materials do not match with the original importation list, or they are sold domestically without by customs officers' approval, an owner of such goods or non-commercial goods shall be liable in accordance with the law and relevant regulations;

5. Where such temporarily imported goods or non-commercial goods are to be consumed domestically, they are subject to an accurate, full and timely payment of customs duties, taxes, or other fiscal obligations.

6. Where such temporarily imported materials are to be moved from their owner's manufacturing facility to another facility, the owner of such items or person with a letter of authority shall have in place a joint manufacturing contract, and lodge a movement application with the Customs Administration in accordance with a form prescribed by the Customs Administration;

7. A failure to extend a security undertaking with the Customs Administration, an owner of such goods or commercial goods is subject to legal measures.

Article 43 Management of Importation Plan Under Investment Promotion Incentive Schemes

An importation plan management for goods, non-commercial goods or heavy machineries excluding vehicles for the administrative purposes as provided for in article 88 of the law on customs shall observe the following:

1. Importation Plan Management at the National Level

- The Customs Department's representative shall participate in a meeting to approve an investor's importation plan upon an invitation by a host authority such as the planning and investment, the agriculture and forestry, the energy and mines, or the public works and transport that regulates such an investor.

- After an importation plan for goods, non-commercial goods or heavy machineries excluding vehicles for the administrative purposes is approved by a relevant authority aforementioned, all information will be recorded into the Customs Department's importation plan implementation management system. Then the Customs Department shall issue a record verification document and the document delivery note to a customs border checkpoint of importation for the purposes of the importation plan monitoring and management.

2. Importation Plan Management at the Sub-national Level

- A provincial or Vientiane Capital customs department's representative shall participate in a meeting to approve an investor's importation plan upon an invitation by a host authority such as the planning and investment, the agriculture and forestry, the energy and mines, or the public works and transport that regulates such an investor.

- After an importation plan for goods, non-commercial goods or heavy machineries excluding vehicles for the administrative purposes is approved by a relevant authority aforementioned, all information will be recorded into the provincial or Vientiane Capital customs department's importation plan implementation management system. Then it shall issue a record verification document and the document delivery note to a customs border checkpoint of importation for the purposes of the importation plan monitoring and management.

3. The event that goods or non-commercial goods that are not subject to a relevant authority's approval, and the Customs Department, a customs office at a provincial or Vientiane Capital level has already recorded the importation plan in its importation plan management system, issued a record verification document and the document delivery note to a customs border checkpoint of importation, a customs border checkpoint of importation may process a detailed customs declaration for such items and delist them from the importation plan in accordance with a relevant regulation.

4. The event that goods or non-commercial goods that are subject to a relevant authority's approval such as heavy machineries, fuel or chemicals, such items are to be presented with a permit by the relevant authority such as, an import permit by the Industry and Commerce authority, a technical certificate among others before a customs border checkpoint of importation may process a detailed customs declaration for such items and delist them from the importation plan in accordance with a relevant regulation.

5. In the event that a sub-national investment project whose importation plan is approved by the provincial Investment Promotion Committee (IPC.P) or a special economic zone management committee wishes to import its goods or non-commercial goods through another province's customs border checkpoint where its project is not located, a provincial or Vientiane Capital customs office shall coordinate with and produce a written request together with a record verification document and other supporting documents to send to a customs office of a province, in which such goods or non-commercial goods are to be imported in order to proceed with a relevant regulation.

6. Where a province does not have a customs office, the Customs Department is to be a participant in a deliberation with a host authority to approve an importation plan and record such an importation plan in its importation plan management system.

7. An additional or urgent importation of materials for an enterprise operator's manufacturing to meet its additional values or volumes of actual manufacturing requires such an enterprise operator to provide a security at a customs border checkpoint of importation. A head of the concerned customs border checkpoint shall consider to issue a guarantee to grant such an additional or urgent importation of materials in accordance with a relevant authority's confirmation and the periodic guidelines issued by the National Investment Promotion and Management Committee.

8. Minerals or raw materials to be exported for the purposes of laboratory test, study, and research during a mining feasibility study as provided for in article 27 of the law on minerals No. 31/NA, dated 3 November 2017 is subject to a relevant authority's permission in terms of the mineral category, quantity, volume, and weight in accordance with the relevant law and regulations. A business operator shall submit such an exportation request to a customs border checkpoint of exportation, at which its head is to consider issuing a security and detailed customs declaration in accordance with a relevant regulation.

Byproducts generated from construction materials used in an investment project are subject to a declaration to the Customs Administration for the payment purposes of customs duties, taxes, and other fiscal obligations in accordance with the law and regulations before being auctioned off. A failure to do so is subject to legal measures.

An operator's annual importation plan shall disaggregate for an importation of materials for manufacturing finished or semi-finished products for the re-exportation purpose, and importation of finished or semi-finished products for domestic distribution purpose for the ease of importation plan approval, management and monitoring.

Article 44 Management of Importation of Equipment, Goods, or Non-Commercial Goods for Special Economic Zones and Other Economic Zones

An importation of equipment, goods, or non-commercial goods for the development purposes of special economic zones and other economic zones under the investment promotion incentive schemes as provided for in article 88 of the law on customs shall observe the following:

1. Importation of Equipment, Goods, or Non-Commercial Goods for Special Economic Zones

- A special economic zone management committee shall develop an annual importation plan for materials required for an infrastructure development in accordance with the special economic zone's feasibility study and its annual zone development plan as provided for in the law on investment promotion and the National Special Economic Zone Management Committee's regulations, then share with the Customs Administration at each level in order to facilitate such importation in accordance with the law and relevant regulations;

- Even though such imported equipment to a special economic zone is subject to the customs duty exemption or suspension, or preferential customs duties, taxes, and other fiscal obligations, they are subject to the customs control, monitoring, and inspection;

- An importation of heavy machineries to directly serve the manufacturing purposes in order to further develop a special economic zone is subject to the National Special Economic Zone Management Committee's approval in accordance with a relevant regulation.

2. Importation of Equipment, Goods, or Non-Commercial Goods for Other Economic Zones

- A management committee of other economic zones shall develop an importation plan for equipment, goods, or non-commercial goods for infrastructure construction in

accordance with their feasibility studies and annual zone development plans as provided for in the law on investment promotion and the National Special Economic Zone Management Committee's regulations, then share with the Customs Administration at each level in order to facilitate such importation in accordance with the law and relevant regulations;

- An importation of equipment, goods, or non-commercial goods for other economic zones is subject to customs duties exemption, suspension, or preferential customs duties, taxes, and other fiscal obligations, they are subject to the customs control, monitoring, and inspection;

- An importation of equipment, goods, or non-commercial goods for other economic zones shall comply with the law on investment promotion and any agreements signed with the Government.

Article 45 Temporary Exportation of Goods or Non-Commercial Goods

A temporary exportation of goods or non-commercial goods as provided for in article 89 of the law on customs shall observe the following:

1. A declarant shall inform an intention to undertake a detailed customs declaration process under an intended temporary exportation scheme at a customs border checkpoint of exportation or a place designated by the Customs Administration;

2. Supporting documents for such a detailed declaration include an exportation permit by a relevant authority (If any), and a detailed customs declaration form for an initial importation (if any) in order to enable a head of the concerned Customs Administration to consider an approval for a temporary exportation or re-exportation on a case-by-case basis;

3. Any alteration, repair, modification or augmentation being made to temporarily exported goods or non-commercial goods is subject to payment of customs duties and taxes when are re-imported. The cost of such a change shall constitute a calculation base for the payable customs duties and taxes as provided for in the law on customs;

4. Temporarily exported goods or non-commercial goods for the exhibition, experimentation, study, research purposes or others are subject to a detailed customs declaration by using a decision on exhibition organization by an exhibition organizing committee appointed by a relevant authority or a permission from a concerned authority as a supporting document for such a detailed customs declaration on a case-by-case basis. In the event that certain types of goods or non-commercial goods are subject to export customs duties as provided for in a specific regulation, an exporter of such goods shall enter a security undertaking with the Customs Administration at the exportation location.

Any temporary exportation or re-exportation not covered under clause 1 to 4 above is subject to an authorization by the Customs Department in accordance with relevant regulations.

Article 46 Customs Declaration Measures for Goods or Non-Commercial Goods to Be Used by Public Projects

A declarant shall lodge a detailed customs declaration within fifteen (15) working days from the date of a cargo declaration as provided for in article 28 of the law on customs. In the event of a declarant's inability to lodge a detailed customs declaration within the above time limit, he/she shall observe the following:

1. Lodge a detailed customs declaration within thirty (30) days from the date of a cargo declaration accompanied by a confirmation of the state authority owning such goods or non-commercial goods. The owner of the goods is subject to no fines if such goods are granted an exemption or suspension of customs duties, or temporarily imported.

2. If the time limit of thirty (30) days has passed, a head of a concerned international customs border checkpoint shall summon the declarant and/or the concerned state authority to provide justifications within twenty-one (21) days. In addition, the declarant shall not enjoy

the customs facilitation for its future importation or exportation. If the time limit of twenty-one (21) days has passed, the Customs Administration may apply administrative measure against the spending unit that is the project owner by fining or requesting the higher authority to deduct a budget allocation to that spending unit in the next fiscal year.

In the event that a declarant provides a security to release goods from a customs warehouse or checkpoint, and receives an official letter from the Customs Department, he/she or the state authority that is a project owner shall lodge a detailed customs declaration in order to get such a security discharged within thirty (30) days from the receipt date of the official letter. Where such time limit has passed, measures shall be applied in accordance with the law and relevant regulations.

Article 47 Exemption or Suspension of Customs Duties for Diplomatic Missions and International Organizations

Equipment or non-commercial goods for embassies, consulates, or international organizations as provided for in article 91 and 92 of the law on customs are subject to the exemption or suspension of customs duties, taxes, and other fiscal obligations given an approval by the Ministry of Foreign Affairs of Lao PDR in accordance with the Vienna Convention on Diplomatic Relations, dated 18 April 1961 and agreements in place between the Government of Lao PDR and international organizations such as non-commercial goods and vehicles for diplomatic missions or international organizations, personal effects including household non-commercial goods of diplomats, employees of international organizations, international experts and their family members.

A validity of a suspension of customs duties for an embassy and consulate is no more than three (3) years, and may be extended once to a maximum period of two (2) years in accordance with a confirmation from the Ministry of Foreign Affairs which such a validity for an international organization is no more than two (2) years, and may be extended once to a maximum period of two (2) years in accordance with a confirmation from the Ministry of Foreign Affairs. Once such a time period comes to an end or a mission in Lao PDR is completed, those items shall be re-exported in the same quantity and their actual conditions. Any handover or ownership transfer of such items shall be subject to an approval by the Ministry of Foreign Affairs, and a notification to the Customs Administration in order to enforce the law on customs and relevant authorities' regulations. Any sale or ownership transfer of such items to a natural person for a domestic consumption is subject to a payment of customs duties, taxes, and other fiscal obligations in accordance with the law on customs.

A visa extension for vehicles used by diplomats, or employees of consulates, or international organizations requires a presentation of such vehicles and their supporting documents at the Customs Department only. In the event that such vehicles are used in remote areas, Customs Offices at the Provincial and Vientiane Capital level are to carry out an examination and inspection, and submit documents to the Customs Department for the purpose visa extension in accordance with a relevant regulation.

Article 48 Exemption of Customs Duties, Taxes, and Other fiscal obligations

The exemption of customs duties, taxes and other fiscal obligations shall comply with provisions in article 94, 95, and 96 of the law on customs. There are also other goods or non-commercial subject to the exemption of customs duties, taxes and other fiscal obligations as follows:

1. Sanitary and disease-free foods or beverages carried by a passenger or tourist that are in necessary quantity for his/her consumption;

2. Personal accessories of a passenger, or one unit each of a camera, a video camera or a computer carried by him/her;
3. Non-commercial sample goods;
4. Fuel in a tank of a means of transport or passenger vehicle travelling from another country, not exceeding eighty (80) liters per vehicle per trip.

Article 49 Exemption of Customs Duties on Plant Varieties, Animal Breeds, Animal Semen, and Animal Vaccines

An importation of plant varieties, animal breeds, semen and vaccines, veterinary drugs, raw materials required for a feedstock production, agricultural laboratory equipment and tools that cannot be produced domestically, and are not for commercial-purposes as provided for in article 100 of the law on customs shall comply with the following:

1. A permission or confirmation in writing by a relevant sector in accordance with its decentralized authority is required;
2. A Family business or small and medium enterprise that is importing such goods is required to present its enterprise registration certificate or a confirmation from a relevant authority;
3. A Large business or a mega investment project importing such goods is subject to customs duty and tax incentive schemes as provided for in the law on investment promotion;
4. The aforementioned goods permitted to be imported shall not have the values exceeding LAK 10,000,000 per import per person;
5. An importation of such goods shall be subject to the customs formalities by completing a customs declaration form prescribed by the Customs Administration;

Article 50 Request for Repayment of Customs Duties

A repayment of customs duties as provided for in article 102 and article 103 of the law on customs is a repayment of customs duties, taxes, and other fiscal obligations initially paid by a declarant. Such a repayment shall observe the following:

1. A declarant wishing to obtain a repayment of customs duties shall submit a written request with documentary evidence to the Customs Administration at which an initial customs declaration for import or export was conducted. The request shall identify a form of repayment such as in cash or to be deducted from payable customs duties of future importation or exportation;
2. Customs officers shall review such a request by checking relevant information and documents, and comparing against the previous customs declaration information relating to past repayments of customs duties. Goods that were imported but then re-exported due to some reasons for instance, the goods were malfunction, could neither be repaired nor used. Where such goods have got the customs duties, taxes or other fiscal obligations paid, and been accepted by their exporter for their return, a head of the concerned Customs Administration that received the request for a repayment of customs duties shall report in writing to the Customs Department to consider issuing a decision on a timely repayment of customs duties, taxes or other fiscal obligations.
3. A repayment of customs duties and taxes may be made in cash, a bank transfer, a cheque or deducted from payable customs duties of future importation or exportation;
4. Customs officers processing a detailed customs declaration and inspecting goods for a release purpose are to immediately enter the customs duties and taxes paid during an advance customs declaration while concerned goods are yet to arrive or have arrived in parts into a record of goods inspection on the date that such goods are inspected before being released from a customs warehouse or checkpoint. The paid customs duties and taxes for such

goods shall be compared against that actual quantity of the goods in the warehouse's inventory records.

5. the customs officers where customs declaration is processed and goods release examiners to immediately make records of the examination result on the date goods are released from a warehouse or customs boarder checkpoints and base on the actual received goods per the warehouse log.

6. The Customs Department shall annually budget for potential repayment of customs duties in order to timely conduct a repayment of customs duties.

The Customs Department is to issue the instruction and introduce a management mechanism for repayment of customs duties.

Article 51 Deferred Payment of Customs Duties

A deferred payment of customs duties, taxes, or other fiscal obligations as provided for in article 104 of the law on customs only applies to AEOs authorized by the Customs Department. When filing a detailed customs declaration form, a AEO shall express its intention for a deferred payment in field 48 of the form. The payable customs duties, taxes or other fiscal obligations enjoying a deferred payment are based on a calculation base of customs duties, taxes or other fiscal obligations on the date that the detailed customs declaration is approved or goods are released from a customs warehouse or checkpoint. Such a deferred payment does not extend to a payment to get a security discharged as provided for in article 41 of the law on customs.

A payment of customs duties, taxes, or other fiscal obligations being deferred for the time limit of thirty-day (30) shall be paid through the electronic customs clearance system linked with a banking system. Such a payment is to be treated as a revenue of the Customs Administration at which a detailed customs declaration is conducted.

In the event of a failure to pay within the time limit of thirty (30) days , a fine of zero point ten percent (0.10%) of the payable customs duties based on the normal customs duty rate shall be applied per day to the outstanding amount. In addition, administrative measures such as, an operation suspension, an AEO permit withdrawal, and other legal measures may be applied.

A deferred payment may accommodate for several detailed customs declarations. However, the accumulated amount allowed for such a deferred payment shall not exceed LAK five billion (5,000,000,000). In the event, an AEO wishes to have such a threshold increased, the AEO shall present a required bank guarantee.

The Customs Department is to issue the instruction on deferred payment of customs duties and taxes.

Article 52 Post Clearance Audit

A post clearance audit as provided for from article 105 to 110 of the law on customs is a customs control mechanism on goods or non-commercial goods after such goods are authorized to be released from a customs warehouse or checkpoint a place designated by the Customs Administration by means of document examination or verification of customs declaration information in the electronic customs clearance system that can be conducted at a customs office or a business operator's office within three (3) years as provided for in article 106 of the law on customs.

A post clearance audit based upon a risk management approach shall focus on auditing commercial transaction data and documents such as accounts, information relating to sale contracts and

commercial correspondences, and bank account statements. Such a post clearance audit may be a real time or planned audit.

❖ **A post-clearance audit shall be conducted as follows:**

1. Identify post clearance audit targets based on a risk management approach such as operators' declaration declarations with guarantees that are shared by customs border checkpoints, high risk operators with historical records of violating the customs law and its regulations, or types of goods that are subject to high customs duty rates, excise tax, or restricted goods, among others.
2. A post clearance audit may be a real time audit after the ASYCUDA has verified or registered a detailed customs duty declaration, or a planned audit.
3. Develop a post clearance audit plan, appoint personnel, identify timelines and places for the purpose of post clearance audit.
4. Customs officers may request banking transaction data from relevant commercial banks without business operators' knowledge, and information from Customs Administrations of importing or exporting countries to support their post-clearance audit.

❖ **Places to conduct a post-clearance audit**

1. A post-clearance audit at a customs office such as the Post-Clearance Audit Division, or a provincial or Vientiane customs office shall be conducted as follows:
 - Audit information in the ASYCUDA's customs declaration forms based on the risk management approach;
 - In the event of errors being discovered, the Director of the Post-Clearance Audit Division or a head of a provincial or Vientiane Capital customs office shall inform a declarant as provided for in field 54 of a detailed declaration form to provide an invoice, bills of lading such as truck bill, airway bill, railway bill, seaway bill, or multi-modal bill of lading, a purchase order, a sale contract, a certificate of origin, a payment verification document, and other documents relating to the detailed customs declaration, as well as additional clarifications inquired by the Customs of Administration. A time limit for a declarant to provide such information is within five (5) working days from the date of being informed.
 - In the event that the Customs Administration is satisfied with additional data, documentary evidences, and clarifications provided by the declarant, it shall approve the post-clearance audit findings;
 - In the event that the such provided data, documentary evidences, and clarifications are found non-compliant with the law on customs and its regulations; the Customs Administration shall apply administrative measures and/or pursue legal proceedings;
 - The Customs Administration shall share the post-clearance audit findings with the declarant within fifteen (15) days upon a completion of its post-clearance audit.
2. A post-clearance audit at a business operator's office shall observe the following:
 - The Director of the Post-Clearance Audit Division or a head of a provincial or Vientiane Capital customs office shall appoint a post clearance audit committee comprising of at least 2 customs officers;
 - Prior to conducting a post-clearance audit at a business operator's office, the Customs Administration shall inform the operator in writing ten (10) days to prepare documents and information that are subject to the audit such as detailed declaration forms, customs declaration values, certificates of origin, information relating to goods classification, invoices, transportation documents, purchase orders and sale contracts, banking payment settlement documents, and other necessary documents. In the event that the business operator cannot accommodate the planned audit on the proposed dates and times, it shall respond with a reason within three (3) working days;

- A post-clearance audit undertaken at a business operator's office shall be completed with a conclusion of findings within a time limit of ten (10) days. Such a time limit may be extended once to a maximum period of 10 (ten) days.

- In the event that a post clearance audit committee is satisfied with information, documentary evidences, and clarifications provided by the declarant, the Customs Administration shall approve the post-clearance audit findings within fifteen (15) days;

- In the event that a post clearance audit committee is satisfied with information, documentary evidences, and clarifications provided by the declarant, the Customs Administration shall apply administrative measures or pursue legal proceedings;

❖ **Customs Post-Clearance Audit Authority Delegation:**

1. At the national level, the Post-Clearance Audit Division has the following responsibilities to audit:

- Business operators that import-export strategic goods, types of goods at high-risk of customs evasion such as vehicles, fuel, lubricant, valuable effects (gold, silver, diamond, gems), minerals and other types of goods;

- Importation-exportation of goods, and deferred payment of customs duties and taxes by AEOs;

- Importation of goods for re-exportation and transit.

Its post clearance audit procedure, methodology and measure shall comply with the law on customs and this Instruction.

2. At the sub-national level, a provincial or Vientiane Capital customs office has the following responsibilities to audit:

- Business operators that import-export goods through customs border checkpoints under its jurisdiction such as consumer goods, construction materials, electrical appliances, energy drinks, liquors, wine, alcoholic beverages, and other types of goods not mentioned in clause 1 above;

- Import-export operators that are registered and located within its jurisdiction;

- In the event that its post clearance audit findings indicate errors in customs declaration that affects a revenue collection of other provinces' customs border checkpoints, it shall submit a concerned written report the Customs Department.

Its post clearance audit procedure, methodology and measure shall comply with the law on customs and this Instruction.

Article 53 Customs Data and Statistics Database

Customs data and statistics database as provided for in article 114 to 118 of the law on customs are information used for the purpose of customs data compilation, storage, and administration, and information relating to the customs formalities, statistics reporting, customs risk management, customs clearance audit, and customs investigation and combatting of customs evasion. Customs data and statistics database include general data and internal data as follows:

1. General Data:

- Natural or legal persons, or organizations may access and use general data such as customs tariff nomenclature and duty rates, and trade statistics relating to an importation or exportation of goods, or goods in transit;

- The Customs Administration shall officially publish such general data through electronic means such as the Customs Department's website, the Ministry of Finance's website, trade portal, and other channels such as customs magazines, finance magazines, or economic-trade magazines;
- In the event that natural or legal persons, or organizations need additional information relating to published general data aforementioned, they may submit a written request or electronically communicate to the Customs Department, a provincial or Vientiane Capital customs office;
- The Customs Administration shall establish an Information Desk to review and provide customs statistics, legislation and information.

2. Internal Data

- Internal data includes customs revenue statistics, risk ratings, data/information relating to customs control and combatting of customs evasion, customs case proceedings, and individual operators which cannot be publicly disclosed;
- Natural or legal persons, or organizations that need the aforementioned internal data shall submit a written request to the Customs Department, a provincial or Vientiane Capital customs office to review and respond within ten (10) working days. Foreign customs administrations, or international organizations may electronically request to the Customs Administration, or communicate via a diplomatic channel;
- The Director General of the Customs Department is to authorize a release of the requested internal data based upon the concerned Customs Administration's review and suggestion;
- The Customs Administration may charge service fees on the requested internal data as provided for in the relevant Presidential Decree.

Article 54 Customs Territory

The customs territory as provided for in article 128 of the law on customs covers the entire geographical area of Lao PDR including airspace, river border territory, and borders with neighboring countries as recognized by the international memorandum of understandings to determine the scope the performance of customs roles and functions.

Customs officers of Lao PDR and customs officers of countries that are parties to Greater Mekong Subregion treaty, protocol, or agreement on cross-border goods and passenger transportation facilitation which allows for Single Stop Inspection (SSI) and Single Window Inspection (SWI) may perform their duties outside of their customs territories.

Article 55 Operations Inside and Outside Customs Zones

When undertaking customs operations for the purposes of customs control, monitoring, inspection, or patrol as provided for in article 129 and 130 of the law on customs, customs officers different levels shall observe the following:

1. The level of customs border checkpoints, customs office at customs warehouses, special economic zones, or other economic zones:
 - may operate within a thirty (30) kilometer radius of their offices to perform a customs control of importation or exportation of goods, goods in transit, intra-warehouse regime movement, storage, and transshipment of goods, in-bound and out-bound traveling of means of transport and passengers through customs border checkpoints and places designated by the Customs Administration;
 - In the event of necessity to operate outside of the aforementioned zone in order to successfully complete their customs control of intra-warehouse regime movement of goods,

monitoring and inspection, they are subject to a reporting mechanism and authority delegation by a head of the concerned Customs Administration on a case-by-case basis;

2. The level of the Customs Investigation and Suppression Division, Regional Customs Investigation and Suppression sections, or provincial Customs Inspection Sections or Vientiane Capital Customs Inspection Section:

- may operate within the zones of their deployment locations or offices to perform a customs control of importation or exportation of goods, goods in transit, intra-warehouse regime movement, storage, and transshipment of goods, in-bound and out-bound traveling of means of transport and passengers through customs border checkpoints and places designated by the Customs Administration in order to enforce the law on customs, and exercise all their customs investigation and suppression powers;

- In the event of necessity to operate outside of the aforementioned zone in order to successfully complete their customs control of movement of goods, monitoring, inspection and patrol at various sites, including customs operations at customs border checkpoints, customs offices at customs warehouses, special economic zones, or other economic zones, or within the entirety of the customs territory, they are subject to a reporting mechanism and authority delegation by the Director of the Customs Investigation and Suppression Division, heads of Regional Customs Investigation and Suppression sections, or provincial Customs Inspection Sections, or the head of Vientiane Capital Customs Inspection Section on a case-by-case basis.

Article 56 A Customs Case Proceeding against the Second Level of Serious Offenses

In the event that customs officers undertaking a customs investigation and suppression operation detect, or are witnesses to an ongoing offense, discover evidence from a search of premises, or any irregularity in a post clearance audit of normal customs duty rate-based declaration value of LAK 100,000,000 or over, or any infringement of the intellectual property rights, or falsified customs documents, signatures or stamps as provided for in article 144 of the law on customs, they shall observe the following:

1. produce a record of seizure or restraint of goods or non-commercial goods that are exhibits to customs cases in order to be used as evidence;
2. Calculate customs duties, taxes or other fiscal obligations that have been violated;
3. Report to the head of the investigation body of the Customs Administration at each level to consider issuing an order to open investigation;
4. Issue a summon or send invitation;
5. Request to the Office of the People's Prosecutors or the People's Court to issue a subpoena, a detention warrant, or an arrest warrant; unless they can apply preventive measures as provided for in the law on criminal procedure;
6. Undertake a customs offense investigation and obtain a statement from the accused;
7. Gather physical, documentary, and witness evidence as provided for in article 160 of the law on customs;
8. conclude the customs case investigation then report the Customs Administration to obtain guidance. In the event that all elements of crime are satisfied, submit the case file to the Office of People's Prosecutors for further proceedings in accordance with the relevant law.

In the event that the Customs Administration disagrees with the decision by the court of first instance, it shall collaborate with the Office of People's Prosecutors to submit an objection and appeal to the court of appeal within twenty (20) days from the date the court of first instance reads or passes its decision as provided for in article 214 of the law on criminal procedure. In the event that the Customs Administration still disagrees with the decision by the court of appeal, it may appeal to the court of

cassation or the final court within forty-five (45) days as provided for in article 226 of the law on criminal procedure.

Article 57 Storage of Exhibits

In order to store exhibits as provided for in article 149 of the law on customs, customs officers shall observe the following:

1. In the event that the Customs Administration has no storage facility for exhibits such hazardous chemicals, firearms, or narcotics, it may request an assistance from a relevant authority to store them in a secure place;
2. Customs officers may auction off unclaimed goods or non-commercial goods that are perishable or degradable, unfit for storage, subject to a storage at a certain temperature, about to expire, or restricted in accordance with a relevant authority's risk rating list of restricted goods for storage such as milk and dairy products, supplements, wines, energy drinks, vitamin infused drinks, drinking water, mineral drinking water, ice, canned food, eggs and egg products, fish and fish products (fresh, refrigerated, frozen), plants, vegetables, fruits (fresh, refrigerated, frozen), meat and meat products (fresh, refrigerated, frozen), live animals, flammables or other goods similar in nature, or any goods or non-commercial goods that have not got their customs duties, taxes or fines paid.

In the event that exhibits involved in a customs case proceeding depreciate over their lifetimes such as vehicles, or woods or timbers; their owners shall be informed. The Customs Administration shall recommend its higher authority to auction off such exhibits, then retain the proceeds until a conclusion of the customs case proceeding.

Customs officers shall deposit the proceeds from the auction of exhibits mentioned above in a security deposit account at the National Treasury or the NT's security deposit account at a commercial bank until a conclusion the customs case proceeding.

Article 58 Goods or Non-Commercial Goods Forfeited to the State

Goods or non-commercial goods to be forfeited to the State in accordance with the Minister of Finance's decision as provided for in part XIII and article 150 of the law on customs are as follows:

1. When customs officers detect restricted goods or non-commercial goods as provided for in article 22 of this Instruction such as timbers, minerals, Non-Timber Forest Products (NTFPs), or goods covered by the CITES appendices, pornographic materials that offend the national fine culture and traditions, hazardous chemicals, medicines, plants, vegetables, or fresh, refrigerated, or frozen food containing contaminants above the standard level; they shall seize those goods or non-commercial goods and immediately produce such a seizure record in accordance with the form prescribed by the Customs Administration. Then they shall report to the Customs Department, a provincial or Vientiane Capital customs office to consider a forfeiture of such items to the State.

Exhibits in form of goods or non-commercial goods that their owners fail to claim the ownership or meet a compromise resolution within a time limit, or relinquish their ownerships shall also be forfeited to the State.

2. A forfeiture of goods or non-commercial goods to State shall observe the following:
 - A provincial or Vientiane Capital customs office shall issue a decision based on a report and confirmation by a customs officer to forfeit goods or non-commercial goods with the values under LAK 50,000,000 to the State;

- The Customs Department shall issue a decision based on a report and confirmation by a provincial or Vientiane Capital customs office to forfeit goods or non-commercial goods with the values in the range of LAK 50,000,001 to LAK 100,000,000 to the State;
- The Minister of Finance shall issue a decision based on a report and confirmation by the Customs Department to forfeit goods or non-commercial goods with the values of LAK 100,000,001 or over, to the State.

Article 59 Compromise Resolution and Resolution of Customs Cases

Customs Officers may proceed with a compromise resolution in the event that an offender's offense is not a criminal offense as provided for in article 150 and 153 of the law on customs. A calculation basis for customs duties and taxes including a depreciation deduction relating to a customs case resolution concerning all types of vehicles that have been illegally imported, traded, or transferred of ownership shall observe the following:

1. The Public Works and Transport authority's regulation on vehicle depreciation (Schedule 7) is to be uniformly observed nation-wide by taking into account a manufacturing year and the current customs case resolution year as a depreciation calculation basis to ensure the correct depreciation calculation;
2. A depreciation calculation basis for a used vehicle of no more than four (4) years is based on its customs valuation in the ASYCUDA in order to complete a depreciation reduction in accordance with a relevant regulation;
3. A depreciation calculation basis for a used vehicle of more than four (4) years is based on a vehicle value base periodically introduced by the Customs Department in order to complete a depreciation reduction in accordance with a relevant regulation;
4. A depreciation calculation basis for a used vehicle of more than eight (8) years is subject to its actual customs valuation by customs officers in collaboration with the Public Works and Transport authority in accordance with a relevant regulation. In the event that a concerned vehicle does not satisfy the technical requirements of the Public Works and Transport authority, such a vehicle is not allowed to be used.

The Customs Department is to issue the Instruction on the customs valuation base for each period.

Article 60 Fines and Proceeds from Sale of Confiscated Assets

Fines and proceeds from sale of confiscated assets from a customs offense proceeding relating to general or restricted goods as provided for in article 154 of the law on customs shall be booked as the State's revenue generated by the Customs Administration at a concerned level in charge of the customs offense proceeding.

Upon completing an auction to dispose such assets, the Customs Administration shall prepare a calculation sheet, transfer order, and the auction-related documents for a winning bidder in accordance with a relevant regulation.

Upon a conclusion of the customs proceeding and the auction to dispose the confiscated vehicles, the Customs Administration shall prepare a detailed customs declaration document and the auction-related documents for a winning bidder in accordance with a relevant regulation.

Article 61 Seizure of Goods or Non-Commercial Goods

A seizure of goods or non-commercial goods whose ownership claims are absent or relinquished as provided for in article 162 clause 9 of the law on customs is to be carried out by the customs investigation body that runs an investigation operation and combat smuggling of goods and illicit trade by producing a record of such a seizure or restraint, or issuing an order to seize or restraint

goods, non-commercial goods, or means of transport, and storing exhibits from customs offenses as provided for in the law on customs and the Law on criminal procedures.

After an accused sign and thumbprint stamp a seizure record of goods or non-commercial goods for the purpose of being used as an evidence, he/she shall visit the Customs Administration at which the exhibits are stored within seven (7) days in order to pursue a customs case resolution. Where such a time period comes to an end, the Customs Administration shall post a notice or an announcement in front of the concerned customs office or through various media channels within forty-eight (48) hours in order for the accused to come in within twenty-one (21) days from the issuance date of such a notice or announcement. In the event that the 21-day period is passed, the goods or non-commercial goods shall be forfeited to the State by the Minister of Finance's decision. If such goods are restricted or prohibited goods, the accused is subject to a legal proceeding.

Article 62 Fines

A calculation of fines as provided for in article 175 of the law on customs, shall observe the following:

1. The third level minor offense by using means of transport, containers, or packaging materials or other materials that are found to have been altered or modified to disguise or conceal in order to intentionally evade the customs duties as provided for in article 142, clause 3 of the law on customs shall be subject to a fine of 100% of the total value of the evaded goods or non-commercial goods, and/or legal proceedings;

- Means of transport and containers with the value of no more than LAK 100,000,000 that are found to have been altered or modified to disguise or conceal in order to evade the custom duties are subject to fines. An owner of such items shall get them back to their original state before they are subject to a consideration for returning to the owner;

- Packaging materials or other materials used in committing an offense are subject to a forfeiture.

2. The words "a fine of 100%, 150%, and 200% of the customs value" in article 175, clause 2 and 3, shall mean a calculation of a fine of 100%, 150% or 200% of the custom duties only, excluding excise tax, value-added tax, income tax or other fees (if any);

3. A calculation of fines on taxes shall observe the Tax Department's relevant laws, by using applicable tax rates at the time of importation as a calculation base of such fines as follows:

- A fine rate on Excise tax (ET) = 50% as provided for in article 38, clause 6 of the Law on Excise Tax;

- A fine rate on Value-added tax (VAT) = 50% as provided for in article 60, clause 8 of the Law on Value Added Tax

- A fine rate on Income tax (IT) = 50% as provided for in article 73, clause 6 of the Law on Income Tax.

Example 1: A importation of general goods by a legal person (a fine of 100%)

Company ABC declares a custom valuation for import of 100 mobile phones at the CIF value of USD 12,000 or LAK 120,000,000. However, a physical inspection of goods indicates an excess quantity of the goods of 50 units at the CIF value of LAK 60,000,000. Therefore, Company ABC is found to have committed the second level minor offense as provided for in article 141, clause 2 of the law on customs. Since this is the first offense, the company is subject to a fine of 100% as provided for in article 175, clause 2.

Mobile phones are subject to a normal customs duty rate of 10%, Excise Tax rate of 10%, and Value-Added Tax rate of 10%. The total payable fine is calculated as follows:

A calculation base for fine includes:

- A. A normal custom duty rate of 10% = 60,000,000 x 10% = LAK 6,000,000
- B. Excise tax rate of 10% = (60,000,000+6,000,000) x 10% = LAK 6,600,000
- C. VAT of 10% = (60,000,000+6,000,000+6,600,000) x 10% = LAK 7,260,000

The total customs duties and taxes = A + B + C = LAK 19,860,000

- (1) a fine of 100% fine on the customs duty = 6,000,000 X 100% = LAK 6,000,000
- (2) a fine of 50% on the excise tax = 6,600,000 X 50% = LAK 3,300,000
- (3) a fine of 50% on the VAT = 7,260,000 X 50% = LAK 3,630,000

The total payable fine by Company ABC = (1) + (2) + (3) = LAK 12,930,000

**Therefore, the total payable amount for Company ABC = customs duties & taxes + fine
=19,860,000 + 12,930,000 = LAK 32,790,000**

Example 2: an importation by a natural person (a fine in the event of illegal importation of a vehicle)

Mr. A requests to pay customs duties and taxes for a used 4-door pick-up truck, a diesel engine with a displacement of 2500 cc at a condition of 85%, with a price valuation of USD 15,000 or LAK 150,000,000m without its accompanying detailed customs declaration documentation. Mr. A is found to have committed the third level minor offense as provided for in article 142, clause 4 of the law on customs. Since this is his first offense, he is subject to a fine of 150% as provided for in article 175, clause 3.

Such a 4-door pick-up truck, with an engine displacement of 2500 that is subject to a normal customs duty rate of 30%, excise tax rate of 40%, and VAT rate of 10% shall be subject to the following fine:

- Calculation base for the fine comprises of:
- A. A normal custom duty rate of 30% = 150,000,000 x 30% = LAK 45,000,000
- B. Excise tax rate of 40% = (150,000,000+45,000,000) x 40%
= LAK 78,000,000

(Income Tax calculation base, 15% = (150,000,000+45,000,000+78,000,000) x 15%
= LAK 40,950,000)

- C. VAT rate of 10% VAT = (150,000,000+45,000,000+78,000,000+40,950,000) x 10%
= LAK 31,395,000

- D. Income Tax rate of 20% income tax = 40,950,000 x 20% = LAK 8,190,000

Total customs duties & taxes = A + B + C + D = LAK 162,585,000

- (1) a fine of 150% on the payable customs duty = 45,000,000 x 150% =

	LAK 67,500,000
(2) a fine of 50% on the payable excise tax = 78,000,000 x 50%	= LAK39,000,000
(3) a fine of 50% on the payable VAT = 31,395,000 x 50%	= LAK 15,697,500
(4) a fine of 50% on the payable income tax = 8,190,000 x 50%	= LAK 4,095,000

The total payable fine by Mr. A is (1)+(2)+(3)+(4) = LAK 126,292,500

**Therefore, the total payable amount by Mr. A = customs duties & taxes + fine
= 162,585,000 + 126,292,500 = LAK 288,877,500**

4. A payment of a total fine shall be made to the Customs authority and then deposited in the state budget under the line item for fines in a centralized, accurate, complete and timely manner as provided for in the article 154 of the law on customs.

Article 63 Implementation

The Customs Department has a duty to issue detailed regulations to further implement this instruction and to disseminate them among customs staff members and officers, natural or legal persons, the State's organizations, and the society at large in order to enhance their knowledge and raise awareness for the effective implementation of this instruction.

Ministries, ministerial equivalent organizations, local administrations, departments under the Ministry of Finance, Provincial and Vientiane Capital Departments of Finance, and other stakeholders shall acknowledge, cooperate and strictly implement this instruction in accordance with their functions.

Article 63 Effectiveness

This Instruction replaces the Minister of Finance's Instruction No. 1559/MOF, dated 24th May 2016 and enters into force from the date of signing.

Minister

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