



LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

Ministry of Finance
Customs Department

No. 1456/CD
Vientiane Capital, Dated 26 May 2009

Instruction on
Management of Security for Temporary Importation

- Pursuant to the Customs Law No. 05/NA, dated 20 May 2005;
- Pursuant to the Prime Minister's Decree on Implementation of Customs Law No. 362/PM, dated 19 October 2007;
- Pursuant to the Finance Ministerial Instruction on Management of Security for Temporary Importation No.0153/MOF, dated 01 January 2009;
- Pursuant to the Agreement of the Board of Director of Customs Department.

The Director General of Customs hereby issue instruction as follow:

Article 1. Purpose

This instruction provides principles, rules and measures for implementation of the Finance Ministerial Instruction on Management of Security for Temporary Importation No. 0153/MOF, dated 29 January 2009 to ensure uniform practice on the management of security in line with laws and regulation.

Article 2. Bank Account Management

According to article 2 of the Finance Ministerial Instruction No. 0153/MOF, dated 29 January 2009, the Organization Administration and Training Division has established a special account of the Customs Department at the Lao Development Bank as the single account used across the country. The Account No. is 0320-00-2121300-01000012.

Article 3. Security Management

Security (retention money) specified in article 11 and 12 of the Prime Minister's Decree, No. 362/PM, dated 19 October 2007 and article 3 of Finance Ministerial Instruction No. 0153/MOF, dated 29 January 2009 shall be managed as following:

A. Rule on Depositing, Calculating, Refunding and Account Summary

1. The Duties of the Import-Export Control Division

- manage the bank account mentioned above; monitor deposit and withdrawal transaction, refund importers and summarize the account daily, weekly, monthly, quarterly and yearly; reconcile account with the bank;
- issue payment order of security for the importer;
- consider requests for refund from importer/exporter;
- issue refund order to withdraw the security from the account;
- clear the account after ending of the security agreement;

- deal with fines in accordance with applicable regulations;
 - propose to the Director General of Customs to deposit the security and fine into the revenue account in accordance with the applicable regulations on the security agreement.
2. The Duties of Customs Checkpoints where Goods are Imported
- customs officers at the checkpoint should check documents and goods for export; verify the detailed customs declaration documents (*bor 35*);
 - calculate amount of security clearance in case the importer intends to import goods for other new projects agreed by the government;
 - send detailed declaration documents including supporting document to the import checkpoint within seven days
 - provide advice to the importer/exported on how to make requests for withdrawing the security from the Customs Department
- B. Importer's Responsibility
1. Arranging a Contract for Depositing Security
- 1.1. When temporary importation proceeds in accordance with article 11 and 12 of the Prime Minister's Decree, No.362/PM, dated 19 October 2007 is expired and the importer had made a security agreement with the import checkpoint without depositing the retention money. In the case that such temporary imported goods cannot be exported within the time limit such as the importation of raw materials for manufacturing and export (six months), the importation of parts for assembling and export (sixty days), the importation of equipment for modification or repair and export (forty-five days), the importation of heavy machines (two years). The importer should inform the import-export control division to arrange the contract for depositing the security in the form of money in the amount determined in the declaration document. If the goods are imported under article 12, the amount shall be calculated based on the reducing rates specified in the table (A).
- 1.2. The importer shall duly deposit the duty and taxes determined in the customs declaration document and the retention money specified in the security contract signed with the import-export control division into the special account of the Customs Department.
- 1.3. The importer shall show the import-export control division, for monitoring purpose, the bank's receipt for depositing the retention money. After that the importer must present all declaration documents, supporting documents and the bank's receipt to the checkpoint where the goods were imported to proceed with the extension of the temporary import agreement.
2. Exportation
- 2.1. A detailed customs declaration (*bor 35*) should be prepared and submitted to the original import checkpoint or other checkpoints with the approval by the Customs Department;
- 2.2. Propose to the import checkpoint to withdraw the retention money within twenty-one days after re-exporting the goods. Such request should be attached with the original copy of the security contract, (*bor 50*), (*bor 35*), (*bor 52A-B*), receipt and other documents, if relevant.
- 2.3. In the case of using the goods for another new project, deposit money should be paid in the amount calculated by customs officers.
- 2.4. Pay for duty and taxes as calculated by customs officers for the temporary importation under article 13 of the Prime Minister's Decree, No.362/PM, dated 19 October 2007
- 2.5. Admit and comply with the provisions of applicable regulations.
- C. Example:
1. Security for importation of raw materials for manufacturing and export:

The importer declared the importation of raw materials for manufacturing on 1 January 2009 of a value of 200,000,000 KIP and was subject to duties and taxes of 42,000,000 KIP. Six months later the importer cannot export the finished products so he made a request for extension of the permit limit on 1 July 2009. On November 1, 2009, the importer exported goods costing 100,000,000 KIP (the cost of imported goods) and decided to sell the remaining goods in the domestic market. Such implementation should be carried out as follow:

1.1 The retention money is not required for the first stage of the temporary importation between 1 January 2009 and 30 June 2009. However the importer must sign a security contract stating that the imported goods must be exported within a time limit of six months (the contract is arranged at the checkpoints).

1.2 The importer proposed to extend the duration of the permit on 1 July 2009 because the goods cannot be exported within six months as mentioned above. The importer has to make a security contract and pay 42,000,000 KIP in duty and taxes as specified in the detailed declaration document. The money should be deposited into the special account of the Customs Department specified in article 11 of the Prime Minister's Decree No.362/PM, dated 19 October 2007 on Implementation of the Customs Law.

1.3 The importer decided to export goods costing 100,000,000 KIP and sell the remaining goods that cost 100,000,000 KIP

- The refund should be calculated as $(100,000,000 \times 100) / 200,000,000 = 50\%$ (refund proportion) therefore the refund should be: $42,000,000 \times 50\% = 21,000,000$ KIP that will be withdrawn from the special account of the Customs Department.
- The product that values 100,000,000 KIP sold to the domestic market will be charged 21,000,000 KIP in import duty and taxes
- The security contract was extended for three month, up to September 30th, but the importer exported goods on November 1st which is beyond the deadline of 30 days, thus they will be fined as following:
 - The fine for late export: $(21,000,000 \times 0.01\%) \times 30 = 63,000$ KIP
 - The fine for late declaration to sell the goods to the domestic market: $(21,000,000 \times 0.01\%) \times 30 = 63,000$ KIP
 - The fine for selling the temporary imported goods to the domestic market as provided in article 52 : $21,000,000 \times 1 \text{ time} = 21,000,000$ KIP
 - The total fine will be $63,000 + 63,000 + 21,000,000 = 21,126,000$ KIP
 - The sum of duty, taxes and fine will be $= 21,000,000 + 21,126,000 = 42,126,000$ KIP
 - Therefore the importer has to pay an additional amount of $42,126,000 - 42,000,000 = 126,000$ KIP.

2. Security for temporary importation of heavy machinery

The importer declared the import of some heavy machines that cost 500,000,000 KIP (transaction cost) on 1 January 2009. The duty and taxes for such importation is 105,000,000 KIP. The importer did not make any request to extend the security contract after the due date. On 1 March 2011 the importer made a request to the customs service to use such machines for a new project agreed by the government. The formal request asked customs to consider calculating the retention money in accordance with the reduction rates. Such case shall be treated as follows:

2.1 The retention money is not required for the first stage of the temporary importation between 1 January 2009 and 30 December 2010. However the importer has to sign the security contract stating the imported goods must be exported within a time limit of two years.

- 2.2 The importer requested an extension of the security contract of more than 18 months on 1 March 2011. The importer intended not to return the imported machinery as it will be used for another new project. The importer has to pay for a retention of 15% of the reduction rate (according to the table A) which equals $105,000,000 - (105,000,000 \times 15\%) = 89,250,000$ KIP (depositing into the special bank account of the Customs Department)
- 2.3 The importer was 60 days late informing of the contract extension which is subject to a fine of $(105,000,000 \times 0.01\%) \times 60 = 630,000$ KIP (depositing it into the revenue account); the fine for not returning the goods is in accordance with article 51 of the customs law and article 2 of the Prime Minister's Decision No. 326/PM, dated 19 October 2007, shall be 400,000 KIP. The total security will be $89,250,000 + 630,000 + 400,000 = 90,280,000$ KIP.
- 2.4 In the case that the importer declares to return the machinery within the time limit (on September 1, 2012) the security should be cleared as follows:
- The refund should be calculated based on the rates of table B : $89,250,000 \times 65\% = 58,012,500$ KIP (withdrawn from the special account of the Customs Department)
 - transfer the retention money to the state revenue in the amount of $89,250,000 - 58,012,500 = 31,237,500$ KIP
- 2.5 The case that the importer intends not to return the machinery and decides to sell them in the country, should be treated as follow:
- duty and taxes as stipulated in the rule: 31,237,500 KIP
 - fine under article 52: $31,237,500 \times 1 \text{ time} = 31,237,500$ KIP
 - total charge will be $31,237,500 + 31,237,500 = 62,475,000$ KIP
 - at the end of clearance the importer shall be refunded the amount of $89,250,000 - 62,477,000 = 26,775,000$ KIP

3. Security for temporary importation of vehicles equipped with fewer than 30 seats

The Importer made a detailed declaration to import 2 pick-up trucks (4 doors truck) on January 1, 2009. The first one costs 260,000,000 KIP (new truck) which is subject to pay duty and taxes of 156,000,000 KIP while the other costs 208,000,000 KIP (used truck) which is subject to duty and taxes of 124,800,000 KIP. At the end of the time limit, the importer declared returning the first truck but sold the other in the country without informing to the customs service in advance. Such case should be dealt as follow:

3.1 For the declaration to return the first truck, the importer shall be refunded $156,000,000 \times 70\% = 109,200,000$ KIP

3.2 For selling the second truck in the country, the retention money will be confiscated and a 1 time fine will be charged for violating the security contract. Thus the total fine will be $124,800,000 + 124,800,000 = 248,000,000 = 249,600,000$ KIP.

Article 4. Management of Duty and Taxes

- The importation of vehicles equipped with fewer than thirty seats as provided in article 13 of the Prime Minister's Decision No. 326/PM, dated 19 October 2007 means a vehicle to be used indirectly for manufacturing or administrative purpose in projects financed with a loan, grant or by foreign enterprises that the government has signed an agreement with and the importer has won the international competitive bidding for the concession, survey, design, constructing or development of such project.
- Vehicles equipped with fewer than thirty seats could be sedans, SUV, pick-up truck, van, minibus and others.
- The importation of vehicles equipped with fewer than thirty seats should be in consistence with the agreement signed by the government, the master plan for project development, size of capital, volume of work load, agreement with concerned sector

providing the definitive time frame and project activities. Pursuant to the law the temporary time limit should not exceed two years. The importation should proceed as follows:

- Once the vehicle has been shipped to the customs border checkpoint or the warehouse at the checkpoint, the importer should prepare a detailed customs declaration under the regime of temporary importation and attach the security contract and permits from other concerned agencies. After the Import-Export Control Division has verified the declaration, received approval from the Customs Department, full retention money for security should be paid into the special account of the Department. The importer should submit the declaration documents to customs checkpoints where the vehicles were imported. The vehicles shall be used for the right purpose within the time limit provided for in the security contract but not longer than two years from the date of lodgment of the declaration.

Article 5

- 5.1 After the security contract is expired (no longer than two years), when the vehicle is returned back to the exporting country, the refund of retention money will be calculated based on the duration and usage of such vehicle at the rates specified in table A and B of article 13 of the Prime Minister's Decision, No. 362/PM, dated 19 October 2007 on the implementation of the customs law.
- 5.2 Before ending the security contract
 - The Importer should declare the vehicle and submit the relevant documents to the custom checkpoint to make a detailed declaration for returning such vehicle. After customs officers verify that the vehicle has been taken out of Lao PDR, the importer should submit all relevant documents to the customs office to request withdrawal of the retention money within twenty-one days (excluding official holidays).
 - Once the customs checkpoint receives the request from the importer, the officer should calculate the refund based on table A and B in article 13 of the Prime Minister No. 362/PM, dated 19 October 2007. Then make a proposal for the Director General's approval for refund and depositing the charged money into the revenue account within seven days (excluding official holidays).
 - After receiving the request, the customs department should proceed with the refund within five days (excluding official holidays).
 - After the bank receives the request from the customs department, it should proceed with withdrawing the retention to refund the importer within five days (excluding official holidays).
- 5.3 In the case where the importer intends to continue using the vehicle in the country by changing the declaration regime from temporary import to domestic use, the importer should make a request to the customs department and the concerned public agencies within thirty days prior to the expiration of the security contract. After receiving approval from the concerned agencies, the customs department will change the importation declaration regime accordingly and return all documents to the importer. The importer will submit such documents to the checkpoint where the vehicle was imported or other checkpoints designated by the customs department to pay for full duty and taxes as calculated at the time of importation.
- 5.4 If the importer fails to return the vehicle within the time limit provided in the security contract or uses the vehicle for improper purposes such as change of possession, lease, pawn, or exchange without permission by the customs department, the retention money will not be refunded and the importer will be subject to a one time fine of the duty and taxes as mentioned in the declaration document in accordance with article 52 of the Customs Law, No. 05/NA, dated 20 May 2005 or other measures mandated in other relevant regulations.

Example:

The Importer made a detailed declaration to import 2 pick-up trucks (4 doors truck) on 1 January 2009. The first one costs 260,000,000 KIP (new truck) which was subject to duty and taxes of 156,000,000 KIP while the other costs 208,000,000 KIP (used truck) which was subject to duty and taxes of 124,800,000 KIP. At the end of the time limit, the importer declared returning the first truck but sold the other in the country without informing the customs service in advance. Such case should be treated as follows:

3.1 For the declaration to return the first truck, the importer shall be refunded $156,000,000 \times 70\% = 109,200,000$ KIP

3.2 For selling the second truck in the country, the retention money will be confiscated and a 1 time fine will be charged for violating the security contract. Thus the fine will be $124,800,000 \times 1 = 124,800,000$ KIP (the fine shall be transferred to the state revenue account)

Article 6. Implementation

Each division, regional customs, customs border checkpoints shall acknowledge, cooperate and facilitate in implementing this regulation.

Article 7. Effectiveness

This instruction shall be effective from 1 June 2009. Any prior issued regulations that contradict the provisions of this instruction shall be eliminated.

**Director-General of the Customs Department
(Signed and Sealed)
Santiphab Phomvihane**