



LAO PEOPLE'S DEMOCRATIC REPUBLIC
Peace Independence Democracy Unity Prosperity

Prime Minister's Office

No. 228/PM
Vientiane Capital, dated 22 April 2010

Decree
on the Origin of Import and Export Goods

- Pursuant to the Law on the Government of the Lao PDR No. 02/NA, dated 6 May 2003;
- Pursuant to the Law on the Customs No. 05/NA, dated 20 May 2005;
- Referencing the proposal of the Minister of Industry and Commerce No. 0603/MOIC.DIMEX, dated 24 March 2010.

The Prime Minister of Lao PDR decrees:

Chapter I
General Provisions

Article 1. Objectives

This Decree stipulates the principles and rules on the origin of import and export goods aiming at promoting both domestic and foreign trade and investment, benefiting from trade preferences, [and] protecting the environment, which will contribute to the strengthened development and growth of the national economy and improved livelihoods of the people.

Article 2. Origin of goods

The origin of goods is where the goods is produced or undergone production process in accordance with the provisions set forth in this Decree.

Article 3. Interpretation of Terms

The terms used in this Decree shall be interpreted as follows:

1. Preferential rules of origin means the rules used to determine the origin of a good under a free trade agreement between two or more countries, which the good originating from the contracting countries of the agreement shall receive import duty exemption or reduction;
2. Non-preferential rules of origin means the rules used to determine the origin of import goods for the purpose of the application of most-favored-nation treatment, anti-dumping and countervailing duties, safeguard measures, quantitative restrictions, government procurement, and collection of trade statistics;
3. Substantial transformation means that a good is changed through a manufacturing process into a new one with the tariff heading, form, function, fundamental characteristic or end use different from that of the input used in the production of the good;
4. Issuing authority or body means the competent authority of the Ministry of Industry and Commerce or its competent representative that is authorized to issue the certificate of origin of export goods;
5. Authority receiving and confirming the certificate of origin of import goods means the Customs authority;
6. Certificate of origin means a written document specifying that the good is originated or undergone production process, which is issued by a competent authority or body of the exporting country;
7. Goods means materials or products which are produced and have commercial value;
8. Material means raw materials, ingredients, parts, components, sub-assembly and/or goods that are physically incorporated into another good or are subject to a process in the production of another good.

Article 4. Scope of application

This Decree is applicable to the following parties:

1. Domestic and foreign business operator dealing with importation and exportation which needs the certificate of origin;
2. Authorities or bodies issuing the certificate of origin of export goods;
3. Authorities receiving and confirming the certificate of origin of import goods;
4. Competent authorities authorized to issue, certify and inspect the certificate of origin;
5. Persons, legal entities or organizations engaging in trade related activities.

Chapter II Preferential Rules of Origin

Article 5. Preferential rules of origin under international agreements

The determination of the origin of goods under preferences shall be made in accordance with the rules of origin under international agreements of which Lao PDR is a party.

Article 6. Preferential rules of origin under unilateral preferences

The determination of the origin of export goods under unilateral preferences shall be made in accordance with the rules of origin of importing countries.

Chapter III Non-preferential Rules of Origin

Article 7. Determination of origin of goods

The determination of the origin of goods shall be made under the following provisions:

1. Wholly obtained or produced goods

The following goods are to be considered as being wholly obtained or produced in one country:

- (1) Plant and plant products grown and harvested, picked or gathered in that country;
- (2) Live animals born and raised in that country;
- (3) Products obtained from live animals referred to in sub-paragraph (2) above;
- (4) Products obtained by hunting, trapping, fishing, aquaculture, gathering or capturing conducted in that country;
- (5) Minerals and other naturally occurring substances, not included in subparagraphs (1) to (4), extracted or taken from its soil, waters, seabed or beneath its seabed;
- (6) Products of sea-fishing and other marine products taken from the high sea by vessels registered in the country concerned and flying the flag of that country;
- (7) Products obtained or produced on board factory ships exclusively from products referred to in sub-paragraph (6) above, provided that such factory ships are registered in that country and fly its flag;

- (8) Products taken from the waters, seabed or beneath the seabed outside the territorial waters, provided that that country has the rights to exploit such waters, seabed and beneath the seabed in accordance with the international law;
- (9) Waste and scrap products derived from manufacturing operations and used articles, if they are collected therein and are fit only for the recovery of raw materials; and
- (10) Goods which are produced in that country exclusively from goods referred to in subparagraphs (1) to (9) above.

2. Substantial transformation criteria

Where many countries were involved in the production of goods, the country carrying out the last substantial transformation shall be regarded as the country of origin of that good.

The determination whether the last substantial transformation occurs as specified in clause above shall be only based on the change in tariff heading criteria.

Article 8. Minimal operations and processes

The good with the following minimal operations and processes shall be deemed not qualified for the origin of goods:

1. Operations to ensure the preservation of products in good condition for transportation or storage such as drying, chilling, adding salt, etc.;
2. Simple operations such as sifting, sorting, classifying or matching, washing, painting or cutting up;
3. Changes of packing and breaking up and assembling of consignment;
4. Simple slicing, cutting, and repacking or placing in bottle, flasks, bags, boxes and all other simple packing operations;
5. The affixing of marks, labels or other like distinguishing signs on products or their packaging;
6. Simple mixing of products;
7. Simple assembly of parts of products to constitute a complete product;
8. Combination of two or more operations specified in 1 to 7 above; and
9. Slaughter of animals.

Article 9. Indirect materials

When determining the origin of goods, indirect materials are not considered even though they might be used in the production process or not:

- Energy and fuel;
- Machine and tools;
- Plant, equipment, including safety equipment;
- Lubricants, greases and compounding materials;
- Gloves, glasses, footwear and clothing;
- Catalyst and solvents.

Article 10. Determination of origin of packaging, accessories, spare parts, tools and goods not yet assembled or dismantled

Packaging materials, accessories, spare parts, tools and instructional or other information materials which accompany goods are considered to have the same origin with such goods.

With respect to goods which have not yet been assembled or which are in a state of being dismantled and which are imported via a number of journeys due to transportation or manufacturing conditions, the origin of the goods on each journey shall be deemed to be the same origin.

**Chapter IV
Implementation Procedures of the Origin of Goods**

Article 11. Issuance of certificates of origin of export goods

Issuance of the certificate of origin of export goods shall be carried out as follows:

1. An exporter wishing to obtain the certificate of origin of export goods shall submit a valid application to the authority issuing such certificate;
2. The issuing authority shall carry out examination of the origin of export goods and shall issue the certificate of origin of goods within 3 working days as from the date of receipt of a complete and valid application. In cases where it is necessary to conduct an inspection of the production process [factory visit], such timeframe may be extended but shall not exceed 7 working days; the authority shall not issue the certificate of origin to the applicant if such submitted application is invalid or incomplete;
3. If the customs authority or other competent bodies of the country importing goods from Lao PDR or if the competent authority of Lao PDR request an inspection of the authenticity of country of origin of goods, the authority or body issuing the certificate of origin of goods shall be responsible to verify

the origin of such goods and to notify such verification to the related authority making the request.

4. The certificate of origin issued by the issuing body shall be in a specified format.

Article 12. Customs Declaration and pre-determination of origin of import goods

Customs Declaration and pre-determination of origin of import goods shall be carried out as follows:

1. The importer shall present evidence on the origin of import goods on the basis of the criteria specified in Article 7 of this Decree.
2. The Customs authority of Lao PDR shall determine the origin of import goods at the time of customs clearance. The Customs authority may pre-determine the origin of import goods if the importer requests and files complete and valid application and documentation.

Article 13. Assessment of Origin of Import Goods

The request to assess the origin of goods shall be carried out as follows:

1. Any importer or other persons, with a justifiable cause, may request the Customs authority for an assessment of the origin of goods. The assessment should be carried out as soon as possible but no later than 150 days after a written request for such assessment has been submitted, provided that the request contains all necessary and complete information and evidence. The request for the assessment shall be approved before the trading of such goods or may be approved at any later point in time.
2. The decision on the origin of goods is valid for 3 years where the authenticity and criterion concerning the goods including the rules of origin used in that assessment remain unchanged;
3. The decision on the origin of goods will not be applicable when there is another decision that conflicts with the previous one and where the related agencies are informed;
4. The decision on the origin of goods shall be publicly accessed in accordance with the provisions of Article 16.2 of this Decree.

Article 13. Presentation of the certificate of origin

The importer shall present the certificate of origin of import goods to the Customs authority at the time of customs clearance in the following cases:

1. If the importer wishes to avail of tariff preferences under the laws of Lao PDR or international agreements of which Lao PDR is a party;

2. If the import goods originate from a country to which Lao PDR grants preferences under a bilateral agreement;
3. If the import goods are in the list of controlled goods under the laws and regulations of Lao PDR or international agreements of which Lao PDR is a party;
4. If the import goods are in the list of controlled goods that Lao PDR or international organizations announce as dangerous goods which may cause harm to the safety of the society, [and] human, animal or plant health and the environment, and need to be controlled;
5. If the goods are imported from the country which Lao PDR is applying anti-dumping or countervailing duties, safeguard measures, or quantitative import restrictions.

Article 15. Review of decision on determination of origin

Any importer who has grievances with respect to the decision on the determination of origin may request the Customs authority for a review, or alternatively may bring the matter to the higher authority of the Ministry of Finance for a satisfactory solution, who may modify or reverse the determination. In cases where the importers are still not satisfied with such solution, the importers may seek recourse to the court in accordance with the laws and regulations of Lao PDR.

Article 16. Record keeping requirements

The record keeping shall be carried as follows:

1. The exporter applying for the certificate of origin and the issuing authority shall keep its supporting documentation for application of the certificate of origin for not less than three (3) years from the date of issuance of the certificate of origin;
2. All information and data that are by nature confidential or that are provided on a confidential basis in the determination of the origin of goods shall be kept confidential by the relevant authorities. Without a permission of the person or relevant authorities providing such information they shall not be disclosed, except in the context of court proceedings.

Chapter V

Administration and Inspection Origin of Goods

Article 17. Administration agencies

The government administers activities on the origin of goods centrally and uniformly across the country under the purview of the Ministry of Industry and Commerce and the Ministry of Finance in collaboration with other relevant agencies.

Article 18. Rights and duties of the Ministry of Industry and Commerce

In administering and inspecting the origin of goods, the Ministry of Industry and Commerce has the following rights and duties:

1. To formulate and adopt regulations, decisions, instructions, guidelines and notifications according to its roles;
2. To issue the certificate of origin of export goods or authorize the provincial and Vientiane Capital Industry and Commerce departments or the Chamber of Commerce and Industry to issue such certificate;
3. To supervise the implementation of activities on the origin of goods across the country;
4. To publish and disseminate all regulations and information on origin of goods through newspapers or other medias including its website to enable access by business operators, related government agencies, private sector and individuals;
5. To issue, suspend or withdraw the certificate of origin;
6. To consider and address all request on origin of export goods;
7. To build the capacity on origin of goods for government officials;
8. To engage in international coordination and cooperation related to the origin of goods activities;
9. To report to the government on origin of goods activities on a regular basis in accordance with the scope of its right and duties;
10. To follow other rights and duties as set out in the laws and regulations.

Article 19. Rights and duties of the Ministry of Finance

In administering and inspecting the origin of goods, the Ministry of Finance has the following rights and duties:

1. To formulate and adopt regulations, decisions, instructions, guidelines and notifications according to its roles;
2. To implement rules on the inspection of the origin of import goods;

3. To publish and disseminate all regulations and information on origin of goods through newspapers or other medias including its website to enable access by business operators, related government agencies, private sector and individuals;
4. To establish an information network system, reporting system on the origin of goods in order to provide service and facilitate the relevant authorities on the inspection of the origin of import goods;
5. To consider in the grant or refusal of eligibility for import duty reduction or exemption in accordance with the rules of origin;
6. To consider and address all request on the origin of import goods;
7. To build the capacity on origin of goods for government officials;
8. To engage in international coordination and cooperation related to the origin of goods activities;
9. To report to the government on origin of goods activities on a regular basis in accordance with the scope of its right and duties;
10. To follow other rights and duties related to origin of goods activities as set out in the laws and regulations.

Article 20. Inspection Agencies on origin of goods

Inspection agencies on origin of goods consist of:

1. Internal inspection agency which is the same the agency that administers the origin of goods as stipulated in Article 17 of this Decree.
2. External inspection agency such as the State Inspection Authority.

Article 21. Subject matter of inspection

The subject matter of inspection the origin of goods is as follows:

1. Implementation on the regulations on origin of goods activities;
2. Production process to ensure compliance with relevant laws and regulations;
3. Compliance of documentation on the application of the certificate of origin;
4. Authorization and provision by the laws and regulations.

Article 22. Types of Inspection

The types of the inspection of the origin of goods consist of regular inspection, inspection out of schedule with pre-notice, and urgent inspection.

Regular inspection is the inspection according to the schedule on a regular basis in a certain timeframe;

Inspection out of schedule with pre-notice is the inspection out of the schedule where it is considered necessary which those being inspected shall be informed in advance.

Urgent inspection is the inspection in an urgent manner without any advance notice to those being inspected.

Chapter VI Awards and Sanctions

Article 23. Awards

Any persons, legal entities or organizations with outstanding performance according to this Decree shall receive the appropriate awards and other benefits.

Article 24. Sanctions

Any importer and exporter violating this Decree such as: forging, altering or trading the certificate of origin shall be subject to measures such as: warning, education, suspension or cancellation of license of international trade according to the seriousness of the circumstances. Where the circumstances are serious enough such as a criminal offense, the Criminal Laws and proceeding will be applied.

Any authorities or officials violating this Decree and other related law and regulations shall be sanctioned by different measures such as: warning, removal of duties, retire or dismissals depending on the serious or non-serious category of the offence. Where the violation is a crime, the Criminal law procedure of Lao PDR will be applied.

Chapter VII Final Provisions

Article 25. Implementation

The Ministry of Industry and Commerce and the Ministry of Finance shall implement this decree in accordance with their roles.

Ministries, Ministry equivalent agencies, local authorities and other relevant sectors shall be informed and strictly implement this Decree.

Article 26. Effectiveness

This Decree enters into force 90 days after its signatory. This Decree supersedes the Decree on the Administration of Certificates of Origin No. 97/PO dated 8 December 1992.

Any regulations or provisions in contradiction of this Decree shall be abolished.

Prime Minister of Lao PDR

[signed and sealed]

Bouasone Bouphavanh