

LAO PEOPLE'S DEMOCRATIC REPUBLIC

PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

Council of Ministers' Decree

No. 53/PCM

Council of Ministers' Decree No. 53/PCM dated September 7 1990
Governing the Management of Foreign Exchange and Precious Metals

- With reference to the Bank of the Lao PDR, Law No. 004/90/SPA, dated July 27 1990.
- In implementation of the policy of broadening the relations and co-operation with foreign countries; extending the monetisation of the domestic economy; aiming at the gradual development of a cash based economy and the financial markets whilst securing financial independence and sovereignty and gradually improving the purchasing power of the currency;
- For the purpose of managing on a unified basis the circulation of money and the safeguarding of the nation's wealth, the Council of Ministers hereby decrees:

Part I
General

Article 1

This decree covers all foreign exchange transactions of individuals or entities in respect of import/export of goods, international services, foreign debt, transfer of capital and interest on foreign investment and other forms of foreign exchange, deposits and the import and export of foreign currency to and from the Lao PDR.

Article 2

Foreign exchange means:

1. Bank notes, coins, travellers' cheques expressed in foreign currency.
2. Bills of exchange, all forms of bank cheques, forms of payment orders, promissory notes, letters of credit and other instruments having a value in foreign exchange, which are negotiable or otherwise used for the settlement of foreign debts.

Article 3

Precious metals means gold, silver, diamonds and other precious stones, etc.

Article 4

There are two categories of individuals and entities:

- a) Residents:
 1. Individuals and enterprises, either Lao or foreign, residing in the Lao PDR, conducting licensed and registered business therein in accordance with the law.
 2. Citizens of Lao who are residents in the Lao PDR.
 3. Lao citizens who have been working abroad continuously for less than one year.
 4. Diplomatic personnel of the Lao PDR assigned to overseas posts.
 5. Foreigners who have been working and living in the Lao PDR permanently.
 6. Employees and officials of foreign organisations operating in the Lao PDR for more than one year, other than diplomatic staff or staff of bilateral and international organisations.

- b) Non-residents:
 1. Individuals and enterprises that reside abroad.
 2. Embassies and international organisations and their personnel, including advisors, experts and their families.
 3. Students, academics, businessmen and other works from abroad living and working in the Lao PDR for less than one year.
 4. Tourists and other visitors who have stayed continuously in the Lao PDR for less than one year.

In case of difficulty in classifying a person or entity in accordance with the foregoing, reference should be made to the Bank of the Lao PDR for consideration.

Part II

Purchase and Sale of Foreign Exchange

Article 5

No individual or enterprise is authorised to use foreign exchange directly for transactions in the Lao PDR, except those authorised by the Bank of the Lao PDR. Holders of foreign currency shall present it to a bank or other authorised dealer for exchange into kip when needed for payments or transactions in domestic currency or may open foreign exchange accounts with authorised banks.

Article 6

The purchase and sale of foreign currency by individuals or entities shall be conducted through the commercial banks or other organisations authorised by the Bank of the Lao PDR:

1. Only those commercial banks, which are authorised to deal in foreign exchange, may both buy and sell items designated in Article 2(1) and 2(2) above.
2. The other authorised organisations, hereafter referred to as foreign exchange shops, shall buy from the members of the public only notes, coins and travellers cheques referred to in Article 2(1) above. These foreign exchange shops may sell the foreign currencies to the authorised commercial banks or the Bank of the Lao PDR at the daily rate of exchange announced by the Bank of the Lao PDR or may sell such foreign currencies to the general public subject to the authorisation of the Bank of the Lao PDR.

Article 7

Authorised commercial banks and foreign exchange shops may sell foreign currencies to their customers for the following purposes:

1. To pay for goods imported in accordance with the regulations of the state.
2. To pay for import/export related services, including transportation, insurance and warehousing charges.
3. To pay foreign debts incurred with the approval of the government or other relevant authority.
4. For the repatriation of capital and the transfer of profit and interest on foreign investments made in the Lao PDR under the investment law of the Lao PDR.
5. For capital investment abroad with government approval.
6. To pay the budgeted expenses of a Lao embassy or other Lao PDR representative abroad or other organisations' resident in the Lao PDR authorised by the government to operate abroad.
7. To pay for overseas travel on official business, for commercial purposes, on medical grounds, for vacation, visit, tourism, etc. to persons having an exit visa from the Ministry of Foreign Affairs or Ministry of Interior, or other relevant authority having the right to grant exit visas or temporary permits, within the limits expressed by the Bank of the Lao PDR or other relevant authority.
8. To pay the subsistence costs of Lao students and academics overseas who are duly authorised by the Ministry of Education, within the limits expressed by the Bank of the Lao PDR or other relevant authority.
9. To pay the travel expenses and to authorise the export of capital of residents immigrating to other countries within the limits expressed by the Bank of the Lao PDR.
10. Foreign non-residents may exchange kip for foreign currency, at the port of exit at a commercial bank bureau after completing immigration formalities, upon production of evidence of prior exchange of foreign currency at a bank during their stay in the Lao PDR.

Article 8

The authorised commercial banks and foreign exchange shops shall maintain daily records of the transactions for regular and complete reporting to the Bank of the Lao PDR in the required reporting format.

Article 9

The Bank of the Lao PDR shall determine the daily rate between the kip and the US dollar and other major currencies and currencies of some neighbouring countries, for application in transactions with authorised commercial banks and foreign exchange shops and other customers as specified under Section 29 of the Bank of the Lao PDR Act. On the basis of such exchange rate, authorised commercial banks and foreign exchange shops shall fix their won buying and selling rates to be applied to their customers daily with a spread not exceeding two percent of the buying rate.

Article 10

Authorised commercial banks shall maintain foreign exchange positions in accordance with the relevant regulation of the Bank of the Lao PDR.

Part III
Accounts

Article 11 Accounts in foreign exchange of residents

1. Resident individuals and legal persons having foreign exchange income may open a foreign exchange account with an authorised commercial bank as follows:
 - a) Proceeds of exports of goods and services
 - b) Transfers from abroad which do not result from export of goods or services
 - c) Transfers or payments from foreign currency accounts opened with commercial banks within the Lao PDR.
 - d) Foreign currency notes and coins.
- 1.1 In the case of residents operating in the Lao PDR and having revenue in foreign exchange such as proceeds of exports of goods and services or from foreign investment shall repatriate the foreign currency and deposit it with commercial banks in the Lao PDR. Such deposits may be denominated in foreign currency within the limit authorised by the Bank of the Lao PDR.

The deposits of such foreign currency shall be converted into kip for domestic expenditure or utilised in foreign currency directly for the purposes enumerated in Article 7 of this Decree, items 1 to 9.
- 1.2 As for deposits of foreign exchange in cash (notes and coins) the account holders may withdraw such deposits in cash for the entire amount.

Where domestic expenditure is involved, the amount shall be withdrawn in kip in accordance with Article 5 of this Decree.
2. Residents may not open convertible kip accounts with the banks.
3. Residents having income in foreign exchange from business and from employment may not open accounts with banks abroad. The Bank of the Lao PDR may authorise certain categories of residents having income in foreign exchange from employment and business in foreign countries, to open accounts abroad where deemed necessary. Authorised commercial banks may open accounts abroad to facilitate international payments for their customers.

Article 12 Foreign currency accounts and convertible kip accounts of non-residents

Non-residents are permitted to open foreign currency accounts and convertible kip accounts with authorised commercial banks as follows:

1. Foreign currency accounts shall be funded from the following sources:
 - 1.1 Remittances from abroad.
 - 1.2 Transfers from other non-resident and resident foreign currency accounts in the Lao PDR and subject to Article 7, or as authorised by the Bank of the Lao PDR.
 - 1.3 Foreign currency brought into the country by the account holder and duly declared upon arrival.
 - Non-residents are not authorised to accept deposits into their accounts for, foreign currency being the proceeds of exports of goods and services of residents except with the approval of the Bank of the Lao PDR.

Balances on non-resident accounts may be used for the following:

- a) Conversion into kip.
- b) Transfer into accounts in foreign currency of residents and non-residents maintained with an authorised commercial bank.
- c) Making kip payments into accounts of residents or non-residents.
- d) Transfers abroad.
- e) Payments for travel on business, tourism, medical treatment and other payments outside of the Lao PDR.

2. Convertible kip accounts shall be funded from the following sources:

2.1 From the sale of foreign currencies.

2.2 Transfers from other convertible kip accounts of holder of the same category.

- Non-residents are not permitted to deposit kip belonging to residents into their convertible kip accounts.

- The balance on these accounts may be used directly for the following:

- a) Making of kip payments.
- b) Conversion into foreign currency at the prevailing buying rate of the commercial bank concerned.

Article 13

Depositors of foreign currency with banks shall receive interest in accordance with the policy and regulation pertaining to foreign currency deposits of the banks concerned.

The balances on convertible kip accounts may earn interest in accordance with the scale of interest applicable to kip deposits of various maturities as set out by the commercial banks.

Article 14

The Bank of the Lao PDR shall accept and manage deposits in foreign currency from the commercial banks, the government and international organisations in accordance with Section 29 of the Bank of the Lao PDR Act.

Part IV

Import and Export of Foreign Currency and Precious Metals

Article 15

Persons entering the Lao PDR may bring unlimited amounts of precious metals and foreign currency but shall declare the amount thereof to the immigration officer at the port of entry. The commercial banks shall accept deposits from or convert the foreign currency for the concerned travellers in an efficient manner; provide adequate facilities for deposits, withdrawals, transfers, exchange, the payment of interest and other benefits, in accordance with the provisions of this regulation.

Article 16

Passport holders leaving the Lao PDR, before departure, may purchase foreign currency and export valuable personal objects as follows:

1. Residents

Residents travelling abroad may take out foreign currency and precious metals within the limit set from time to time by the Bank of the Lao PDR consistent with the general instructions of the Council of Ministers.

2. Non-residents

2.1 Are authorised to take out foreign currency up to the limit:

- Amount which was brought in and declared upon arrival.
- Amounts transferred into the Country through the banking system.
- Balance of foreign currency accounts maintained with commercial banks
- Application shall be made to the Bank of the Lao PDR for prior approval for the export of any additional amount, together with evidence in support thereof and the reason for the export.

2.2 Are authorised to take out precious metals up to the amount declared on arrival. In addition, they may take out precious metals purchased with the foreign currency, which they similarly declared on arrival in the Lao PDR. However, for purchases made at local shops, evidence of purchase shall be submitted and where the amount exceeds the authorised limits, they must obtain prior approval from the Bank of the Lao PDR and pay such tax as is indicated under the State Tax Regulation.

3. Importers and exporters of precious metals shall obtain the authorisation for the import or export of each consignment of precious metal from the Bank of the Lao PDR and payments shall be made through the banking system. Importers and exporters shall observe the regulations set out under Article 2 of the Council of Ministers' Decree #51/PCM, dated July 4 1989, e.g. - shall hold a business licence from the Bank of the Lao PDR, have a business registration, possess a specific amount of capital and maintain a bank account and lodge a monetary guarantee.

Article 17

All payments for imports and exports of goods and services, the repatriation of capital and the remittance of profits and income abroad require an application in accordance with the requirements and regulations of the Bank of the Lao PDR for each particular category which shall be the subject of a separate instruction.

Article 18

All imports and exports of foreign exchange and precious metals made by authorised commercial banks and financial institutions shall be in compliance with the regulations of the Bank of the Lao PDR.

Article 19

The export of kip from the Lao PDR shall be made in compliance with the regulations of the Bank of the Lao PDR.

Part V
Management of Borrowing and Grants from Foreign Countries
Or from International Agencies

Article 20

The Bank of the Lao PDR shall provide a service for payments relating to foreign loans and grants of the government from foreign countries, international organisations through accounts to be opened with the Bank of the Lao PDR for projects in respect of such foreign loans and grants.

Article 21

Individuals or entities engaging in business and receiving goods from abroad, on deferred payment terms, shall comply with the conditions laid down by the Ministry of Commerce or the authorities concerned and shall ensure that settlement shall be made through the banking system. Debt incurred on clearing accounts in the form of barter trade agreements shall comply with the principle that all agreements and statistics, including those statistics bearing evidence of importation through the customs and documentation through a bank, shall be centralised with the Ministry of Commerce.

Part VI
International Investment

Article 22

Residents wishing to transfer funds out of the Lao PDR for the purpose of investment, including the purchase of shares overseas shall:

- Be authorised by the government of the Lao PDR. On the basis of such authorisation, the Bank of the Lao PDR shall register the authority and pass the transaction to a commercial bank for implementation.

Article 23

All foreign investment in the Lao PDR shall be made as follows:

1. Foreign currency investments:
 - Shall be brought into the Lao PDR through the banking system.
 - Shall be deposited in an account maintained with a commercial bank within the Lao PDR and disbursements made therefrom.
2. Investments in kind:
 - Shall be imported in accordance with the commercial laws and regulations and those of the customs department of the Lao PDR. Investments in kind shall be valued correctly and be fully supported by appropriate technical justification. Both financial investments and investments in kind shall have the prior authorisation of the Investment Management Committee and be duly registered with the Committee. A copy of such registration shall be sent to the Bank of the Lao PDR for monitoring and to facilitate later repatriation, transfer of profits and interest and other transfers relating to foreign investment.

Foreign investors in the Lao PDR who are unable to produce adequate evidence of their investment, shall not be authorised by the Bank of the Lao PDR to repatriate funds from the Lao PDR.

3. Registration of foreign investment:
 - Registration requires the following details and documents:
 - a) Name and address of the investor.
 - b) Amount of money brought into the Lao PDR for investment.
 - c) Evidence of the opening of a bank account in the Lao PDR and of the deposit of the amount brought in.
 - d) Number of shares or securities purchased.
 - e) Evidence of business registration, document evidencing, joint venture and articles of association or statutes of the company recipient of the foreign investment.
 - f) Confirmed list of shareholders in the recipient company in accordance with Lao and International Law.

4. Repatriation or transfer to a third country:

Foreign investors and foreign employees having no permanent residence in the Lao PDR after payment of taxes due, may transfer foreign exchange and lawful personal assets back to their home country or to a third country as follows:

 1. Operating profit.
 2. Royalties, leasing and sale of technology and technical services.
 3. Principal and interest on loans or capital and dividends on shares purchased.
 4. Investments falling due or upon partial or total termination of the underlying activity, after settlement of all accounts.
 5. Remuneration after deduction of all expenses), of foreign employees working in a productive unit or an enterprise, recipient of foreign investment.
 6. Other transfers made in accordance with the investment agreements between countries.

The transfer of funds abroad shall be subject to the scrutiny of the Bank of the Lao PDR through the commercial banks. Transfers of large sums shall be made by instalments in accordance with a plan approved by the Bank of the Lao PDR.

Part VII Inspection and Penalty

Article 24

Commercial banks shall be responsible for the timely and regular, clear and comprehensive reporting of all transactions and shall not conceal or misrepresent in any way the nature and extent of their foreign exchange transactions and shall not conceal or misrepresent in any way the nature and extent of their foreign exchange transactions.

The Bank of the Lao PDR is empowered to assign its own officers or may appoint other agencies to inspect the commercial banks and foreign exchange shops on a regular or emergency basis when violations of the regulations are suspected.

Article 25

When the inspection of a commercial bank or foreign exchange shop reveals irregularities and operations in contravention of the present decree, then the Bank of the Lao PDR is empowered to reprimand, impose penalties, bring a case to court, depending on the severity of the case for which the Bank of the Lao PDR shall establish separate regulations.

Article 26

Any individuals or entities engaging in the buying and selling of foreign currencies and precious metal without prior authorisation from the Bank of the Lao PDR shall be considered as having violated the foreign exchange regulations of the state and shall be dealt with as follows:

- Upon first violation for an unintentional and innocent breach, the violator shall be admonished, the breach recorded and the amount of foreign exchange and precious metal involved shall be sold to a bank at the prevailing rate and price thereof.
- Upon a second violation, the penalty shall be 50% of the amount of the foreign exchange or precious metal involved.
- Upon a third violation, the penalty shall be confiscation of the foreign exchange or precious metal to be deposited into a special reserve account with the Bank of the Lao PDR and a fine of 100% of the value of the foreign exchange or precious metal involved. A case shall be filed against the offender and passed on to the courts for prosecution in accordance with the law. Admonishment, penalty, and/or prosecution shall be imposed on both buyer and seller of the foreign exchange in accordance with the severity of the case. All cases of penalties or admonishment shall be recorded and duly signed by the offenders in acknowledgement that the offence shall not be repeated. The penalty record shall be prepared in duplicate, one copy to be given to the offender and the other retained by the concerned officer.

Article 27

Bank officers, officers of the police and customs department, officials of the market administration and good citizens appointed by the Bank of the Lao PDR, who detect offenders where are violating the present regulation on foreign exchange and precious metal, shall be rewarded in accordance with the regulation to be established separately by the Bank of the Lao PDR.

Part VIII
Implementation

Article 28

The governor of the Bank of the Lao PDR shall be responsible for the strict implementation of this regulation in co-ordination with the ministries, state committees and authorities at various levels for the wide dissemination of this regulation to the people, tourists, businessmen, foreigners.

This Decree is effective from the date of signature and supersedes the previous foreign exchange regulation, dated July 24, 1976.

Vientiane, 7th September 1990 for the President of the Council of Ministers.

Vice President of the Council of Ministers

Khamtay Siphandone