

Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Prime Minister Office

Ref: 162/PM

DECREE
on
Border Trade Zone at Boten, Louangnamtha Province

- Pursuant to the Law on the Government of the Lao PDR No. 01/95, dated 08 March 1995;
- Pursuant to the Business Law No. 03/94/NA, dated 18 July 1994;
- Pursuant to the Customs Law No.04/94, dated 18 July 1994;
- Pursuant to the Law on Promotion and Management of Foreign Investment in Lao PDR No. 01/94, dated 14 March 1994;
- Pursuant to the Law on Domestic Investment Promotion No. 03/95/NA, dated 14 October 1995;
- Pursuant to the Tax Law No. 04/95/NA, dated 14 October 1995;
- Pursuant to proposal of the Minister of Commerce no 0462/MOC.PSO, dated 22 April 2002.

The Prime Minister Decrees:

CHAPTER I
General Provisions

Article 1: Functions of the Decree

This Decree is issued to set out rules and policies on the establishment and management of Boten border trade zone, Louangnamtha Province, aiming at promoting investment, production of goods, exportation, importation, re-exportation, transit and services, employment and income generation that will contribute to the national socio-economic development.

Article 2: Boten border trade zone

Boten border trade zone, Louangnamtha Province, hereafter is referred to as "BBTZ" is a zone that promotes production, trade and services based on special management and various forms of special treatments provided by the government to approved businesses which are established and operated within the Boten border trade zone.

Article 3: Scope of Boten border trade zone

The area of Boten border trade zone starts from the borderline of Boten Laos-China along the road numbers 1 to Nateuy T-junction, which is 2 km wide from the center of the road to be used for Boten border trade zone. It can be divided into three main areas:

- Area for **trade and services**, located in area starting from Boten border checkpoint Laos-China to Nateuy T-junction 5 Km.
- Area for **industry and processing**, located in area starting from Km 5 to Km 15 from area for trade and service to Nateuy T-junction.
- Area for Boten border trade zone administration, office of customs authority, duties free warehouse and other government offices are located from Km 15 to Nateuy T-junction.

Article 4: Basic principles of the operation within the Boten border trade zone

All operations within the border trade zone shall be conducted in accordance with the rules set out in this Decree.

In case issue which is not stipulated in this Decree arises, the provisions of the relevant laws and regulations shall be applicable such as the Business Law, Domestic Investment Promotion Law, Foreign Investment Promotion Law, Law on Bank of Lao PDR, Customs Law, Tax Law, Labor Law including agreements and international treaties to which Lao PDR is a party.

Article 5: Allowed business and organizations

Business and organizations that are allowed to be established and operated in the border trade zone are composed of:

- Trading business such as department store, exhibition hall, import, export re-export and transit trade business;
- Production and processing business such as production for domestic consumption and export, production of handicrafts, processing, packaging and assembly industries.
- Services business such as transportation of goods, warehousing, insurance, banking, post and telecommunication, schools, hospitals, restaurants, sports, tourism, hotels and other activities specially approved by the government.
- Branches and representative offices of domestic and foreign business.

Article 6: Investors

The government of the Lao PDR encourages individuals and juristic entities that are Lao citizens including Laotians residing abroad, foreign residents, persons without nationality residing in Lao PDR and foreigners to invest in the Boten border trade zone in the business sectors specified in Article 5 above.

Article 7: Type, Method and Form of Investment

Investment in the border trade zone can be made in:

- Any state owned enterprises, co-operative enterprises, and private or mixed enterprises;
- Any form of individual enterprises or companies;
- Any partnership or limited company, public company.

These forms of business are stipulated in the Business Law of the Lao PDR.

Article 8: Establishment of basic infrastructure of the Boten border trade zone

The government of the Lao PDR encourages any form of economic investment, both domestic and foreign, in establishing basic infrastructure of the Boten border trade zone according to the design and plan approved by the government.

Article 9: Protection of rights and benefits to investors

Assets and investment including other benefits that is legally belong to the investors in the Boten border trade zone, are fully protected by the laws and regulations of the Lao PDR and the agreements and international treaties to which Lao PDR is a party.

Article 10: Validity term of investment

Investors operate their own business in the Boten border trade zone within the terms set out in their investment license.

CHAPTER II

Application for Investment, Rights and Obligations of Investors

Article 11: Application for investment

Any person wishing to establish and operate business or invest in the Boten border trade zone shall directly apply for a license to operate its business from the management committee of the Boten border trade zone.

The granting of license shall be done within a maximum of 10 days from the date of application for an investment license submitted.

Article 12: Rights and benefits of investors

Rights and benefits of investors in the Boten border trade zone are as follow:

- To lease land;
- To make use of services available in the Boten border trade zone;
- To export products produced, assembled or processed within the zone, import equipment, raw materials and (production) vehicles that are necessary to business;
- To recruit and employ labor pursuant to the Labor Law of Lao PDR;
- To transfer its capital or income back to its country or third country as stipulated in the Law on the Promotion and Management of Foreign Investment in the Lao PDR;
- To transfer ownership, management right and usage right as provided in the relevant laws of the Lao PDR;
- To receive incentives and other benefits as set out in this Decree.

Article 13: Obligations of investors

Investors in the Boten border trade zone have following obligations:

- To pay all duties, taxes and other obligations according to the laws;
- To cooperate with the Boten border trade zone management committee in carrying out its tasks.
- To open an account in kip and foreign currency in the allowed bank operating in the Boten border trade zone or other banks located in Lao PDR;
- To follow the accounting report system as stated in the Enterprise Accounting Law of the Lao PDR;
- To maintain peace and social order, ensure occupational health and safety, prevent fire accidents, and maintain sanitary and environment;
- To follow other rules and regulations set out by the Boten border trade zone management committee.

CHAPTER III

Incentives in the border trade zone

Article 14: General incentives

The government of the Lao PDR encourages and promotes investment in the Boten border trade zone by providing various forms of incentives as stated in the Law on Promotion and Management Foreign Investment and the Law on Promotion of Domestic Investment. In addition, there are other incentives as stipulated in this Decree.

Article 15: Tax incentives

Investors in the Boten border trade zone will receive various forms of tax exemptions or rebates as follow:

- Turnover tax exemption, except for certain cases as stated in this Decree;
- Profit tax exemption within consecutive 4-year period starting from the first year of having profit. After that, the following 4 years which is called “grace period”, investors shall pay profit tax at the rate of 50% of the normal rate according to the Tax Law of the Lao PDR. Regarding the payment of profit tax after the end of the grace period, there will be a separate regulation based on the conditions and situations in each period.

During the profit tax exemption period investors are exempted from payment of income tax derived from dividends but after the end of such period they shall pay at the normal rate.

Article 16: Customs incentives

Products or goods imported in or exported out of the Boten border trade zone directed to other countries shall be exempted from import, export duties, except for certain cases as stated in this Decree. A concession rate of duty will be provided to an importation of some products and goods originated in China through the Boten border trade zone into Lao PDR. The Lao Government will determine such concession rate of duty in each period.

Article 17: Selling goods produced, assembled and processed in the Boten border trade zone into domestic market

Products or goods that are produced, assembled and processed in the Boten border trade zone may be allowed to enter into the Lao domestic market provided that import duty has been paid at the rate of 10% of the normal rate for each type of goods.

As for the products and goods produced and processed with local content of more than 20% of the total value of the product, when they are allowed to enter into the domestic market, a concession rate of import duty will be provided. Such concession rate will be equal to the rate of such components used.

Article 18: Goods for exhibition or trade fair

Import duty exemption will be provided to products or goods imported in to the Boten border trade zone to be displayed in the exhibition or trade fair. However, when such products are sold in the Boten border trade zone, there shall be a requirement to pay a turnover tax of 20% of the normal rate according to the Tax Law of Lao PDR.

Article 19: Use of profit for reinvestment

The business of the Boten border trade zone that uses all of the profits received in each year to reinvest in any business in the Boten border trade zone for a period of more than 3 consecutive years shall receive back all the amount that were paid to the tax authority as payment for profit tax by deducting the profit tax of the following year.

Article 20: Measures to help investors

After the end of the exemption period from payment of profit tax as stated in Article 15 of this Decree if any business makes loss, such business can transfer the loss to be deducted from profit tax of the following year, however, such transfer shall not exceed 5 years from the first year of loss.

The tax authority shall certify the correctness of the amount of loss as mentioned in the paragraph above.

Article 21: Land lease fee

Investors in the Boten border trade zone shall receive an exemption from payment of land lease fee at the beginning for a period of consecutive 7 years from the day the land lease contract is signed. After that from the 8th year the investors shall pay for the land lease fee at the determined rate. This measure applies only to the Boten border trade zone.

Article 22: Profit repatriation

Foreign investors who run business and foreign residents who work in the Boten border trade zone can repatriate their profits or income derived from running business to their home or the third countries through the banks located in Lao PDR by using the exchange rate of the Bank of Lao PDR.

Article 23: Bonus or Incentive money

Any individual or organization that can raise capital, excluding capital from the state budget, to be invest in the socio- economic projects in the Boten border trade zone without capital withdrawal, shall be given bonus or incentive money according to the regulations concerned.

The Louangnamtha provincial administration and the management committee of the Boten border trade zone shall develop a regulation on the provision of bonus and incentive money to be proposed to Ministry of Finance for promulgation.

Article 24: Capital for the establishment of basic infrastructure of the Boten border trade zone

At the first 6 years period, the government shall provide budget for the establishment of basic infrastructure of the Boten border trade zone as set out in the plan. Such budget shall not be less than 50% of the actual source of annual income in such border trade zone, excluding volume of import and export transit of such international checkpoints.

The Administrative Authority of Louangnamtha Province shall manage and use such budget.

The Administrative Authority of Louangnamtha Province shall prepare the detailed annual expenditure plan for an establishment of basic infrastructure of the zone to be proposed to the Committee for Planning and Cooperation and Ministry of Finance for approval.

CHAPTER IV

Exportation, Importation, re-exportation and transit transaction

Article 25: Export and import

All types of merchandises, equipment, transport vehicles or means of production including personal belongings entering into and exiting from the Boten border trade zone shall be gone through the designated checkpoints and inspected by the customs authority.

All business in the Boten border trade zone can import or export all types of merchandises and accessories/effects relating to their business activities, except for those prohibited by the government.

Article 26: Sales of merchandises to the domestic market of the Lao PDR

Sales of merchandises in the Lao domestic market can be done provided that:

- A sale of merchandises that are categorized as raw material, equipment and means of production previously imported by the business in the Boten border trade zone from foreign markets to operate its business activities in the Boten border trade zone after the end of the projects or being underutilized or due to other reasons with the concerned government authority approval.

- A sale of merchandises that are over-used or depreciated with remaining value after their use for operating activities in the Boten border trade zone.
- The sale of various merchandises which are not mentioned above by requesting for permission before importing in domestic market. If permitted, laws and regulations related to the management of import-export, customs law, tax law and conditions stated in this Decree shall be applied.

For the sale of merchandises mentioned in the first two bullet points above, the relevant business will be facilitated in a quick and simplified manner.

Article 27: Re-exportation

The merchandises/commodities which are imported into the border trade zone or from the domestic market of Lao PDR can be re-export for sale in a third country.

Article 28: Transit transaction

The Lao customs law shall apply to goods being moved in or out via the territory of the Lao PDR.

Goods being moved via the zone of one another between the Boten border trade zone of Lao PDR and of China shall follow the agreement between the government of Lao PDR and the government of China including regulations on the zone management set out by each country.

Article 29: Prohibited categories of merchandises and effects

Any category of merchandises that government of Lao PDR forbids to import; export; process or circulate within the country, are also applied inside the Boten border trade zone.

Any category of merchandises are consisted in prohibition list of Lao PDR but are not in the prohibition list of China or other countries shall be able to import, export, produce, process, assembling or circulate or move through Boten border trade zone or through the territory of Lao PDR with Minister of Commerce approval.

Article 30: Effects under control

Some effects or goods will be under control in bringing in and taking out of the Boten border trade zone, include:

- Souvenirs or presents
- Personal belongings of the passengers
- Personal effects of the diplomats, staff of international organizations and other persons who have diplomatic privileges.

CHAPTER V

Entry and Exit Regulations of the Zone

Article 31: Entry and exit ports of the zone

The entry into and exit from the zone shall go through only the designated ports.

Article 32: Entry and exit of the Chinese people

Chinese people who live in the proximity provinces sharing border with Luangnamtha Province can enter into and exit from the zone by presenting their border-pass issued by the relevant Chinese Authority and stay in the zone not more than 7 days. In case they want to enter into other parts of Laos beyond the zone, the immigration regulation of Lao PDR shall be applied.

As for other Chinese citizens besides the ones mentioned above also can enter into the zone, but they have to show their border-pass or passports issued by the relevant Chinese authority. Those people can stay in the zone not more than 15 days. In case they want to enter into other parts of Laos beyond the zone, the immigration regulation of Lao PDR shall be applied.

Article 33: Entry and exit of the Laotian

All Laotian can regularly enter or exit the Boten border trade zone. In case, they want to pass beyond the border trade zone or through the territory of China, the immigration regulation of China shall be applied. If it is the transit journey to third country through Boten border trade zone the immigration regulation of China is applied.

Article 34: Entry/Exit, lodging of foreign investor, enterprise staff and workers

Foreign investors, as well as employees and workers of both foreign and Lao citizenships, who work in the Boten border trade zone, shall be able to regularly enter or exit from the Boten border trade zone by showing an entry/exit card or a permit which is issued by the immigration office in the zone. For the temporary and long period of stay inside the zone, the zone management authority shall issue detailed regulations.

Article 35: Entry and exit for the other foreigners

Other foreigners mean foreigners who are not investors as stated in the Article 6 of this Decree.

For enter and exit to/from the zone of the other foreigners, the permit shall be considered base on two characteristics:

- For enter and exit of the foreigners on the regular basis will be permitted multiple entries/exits by the Public Security Division of Luangnamtha Province. The length of stay and accommodation in each entry is to be considered and permitted by the Public Security Division of Luangnamtha Province.
- For enter and exit of the foreigners on the temporally basis shall be able to enter and exit by showing the passport. The length of the stay is not more than 15 days in each entry.
- For exit from the Boten border trade zone to the territory of Lao PDR of the foreigners mentioned in this Article, provincial authority together with Ministry of Interior shall issue detailed regulations.

Article 36: Rights of the immigration office at the zone

The immigration office at the Boten border trade zone has the right to issue entry and exit license to investors, employees and workers who work in the zone

CHAPTER VI

Financial and Accounting System

Article 37: Payment for customs duties, taxes and other obligations

The investors shall pay for customs duties, taxes and other obligations as stipulated in this Decree.

Article 38: Use of accounting system

The accounting system in use by the border trade zone registered enterprise or individual investor shall follow the system consisted in the Enterprise Accounting Law of the Lao PDR. However, other accounting system may be used, if they are authorized either by the Ministry of Finance or by the authorities assigned by the Ministry of Finance.

Article 39: Use of currency unit

Purchase/sale and payment transactions in the Boten border trade zone shall be made in Lao kip currency as a base unit, and may be made freely and legally in any foreign currency based on the market exchange rate.

Article 40: Circulation and utilization of foreign currencies

The revenues in foreign currencies received either from commodity sales or from services business activities, or from other business transactions of the border trade zone registered enterprise, have to be transferred into the enterprise account opened at the banks in Lao PDR.

For bringing of foreign currency either into or out of the border trade zone has to be undertaken in accordance with the legal provisions relating to the management of foreign currency circulation of the Lao PDR.

CHAPTER VII

Organization and Management of the Boten border trade zone

Article 41: Boten border trade zone management organization

The Boten border trade zone is under direct management of the Administrative Authority of Luangnamtha Province and the zone management Authority that have specific rights and duties as stipulated in this Decree.

Article 42: Rights and duties of the Administrative Authority of Luangnamtha Province

The Administrative Authority of Luangnamtha Province has the rights and duties to:

1. Actively coordinate with sectors concerned to organize and establish Boten border trade zone;
2. Form the Management authority of the Boten border trade zone;
3. Issue license to establish branch and representative office of foreign business units and permit to organize exhibition or trade fair inside the Boten border trade zone;
4. Direct the Management authority of the Boten border trade zone on the issuance of investment license and also make decision on investment project within the mandate given by the government base on the coordination with sectors concerned;
5. Create facilities to the Management authority of the Boten border trade zone to operate and function as stated in this Decree;
6. Actively coordinate, to provide guidance to concerned authorities, provincial authorities and committee of trade zone, to define the target and appropriate measures to facilitate activities in the zone, to security along the border, to promote and build up conditions to facilitate business sectors to operate freely-legally basis;
7. Coordinate and consult with the administrative authority for the BorHan zone of China on every matter of both sides for the harmonization of management regulations of border trade zone of Lao PDR and China and related regulations-laws of both countries in the spirit of true friendship and strategic partners;
8. Assist the zone management authority in the settlement of disputes;
9. Perform right and other duties as stated in this Decree.

Article 43: Rights and duties of the zone management authority

Rights and duties of the zone management authority are to:

1. Create rules on the operation and management inside the zone and ask for an approval from the administrative authority of Luangnamtha Province in order to promulgate;
2. Coordinate with the sectors concerned and the administrative authority of Luangnamtha Province to:
 - Create a complete set of development plan of the zone;
 - Create plan for investment and determine methods, advertising measures, to attract investment into the Boten border trade zone;
 - Set the rate for service fee and other charges in the zone;
 - Issue business operating license to investors;
 - Issue certificate of origin and other related documents;
 - Monitor, record and inspect all business activities within the Boten border trade zone and regularly report the situation to Luangnamtha provincial authority;
 - Appoint arbitrator and consider to have auditor be working at the zone;
 - Use measures to secure peace, social order, cleanness and protecting environment.
3. Coordinate with the BorHan trade zone management authority of China on the concerned issues to implement the two trade zones as stipulated in the contract between the two governments and agreement of these two provinces.

Article 44: Judicial status of the Boten border trade zone management authority

The Boten border trade zone management authority is a state administrative authority having the status of judicial person and possessing its own stamp for its official activities; it also has its currency account, and its legal rights/obligations either to make an accusation or to be accused before the court of justice, has its own expenditure's budget from the government contribution. All the income gained from the trade zone shall belong to the government and shall be transferred to national treasury as required by law.

The Boten border trade zone authority has judicial status from the date of the agreement establishing Boten border trade zone authority has been signed by the governor.

CHAPTER VIII

Settlement of Dispute and Measures against violator

Article 45: Settlement of dispute

Whenever a dispute arises during the business activities of production, trade and services in the Boten border trade zone, the parties concerned shall seek for ways to settle such dispute by taking into account a principle of mutual compromise.

Article 46: Arbitration and complaint

If the compromising type of dispute settlement fails, or a party in the dispute disagrees on the type of arbitration as mentioned in Article 45 above, those parties may either ask for an arbitration from the Management Authority of Boten border trade zone or the Administrative Authority of Luangnamtha Province or the Settlement of Economic Dispute Authority, or the party in question may lodge the complaint with a court of justice to proceed with the case in accordance with the Lao legislation and international conventions to which the Lao PDR is a party.

Article 47: Measure against violator

An individual or a judicial person found in violation inside/outside the Boten border trade zone shall be responsible for his violation in accordance with the laws and regulations of the Lao PDR.

CHAPTER IX

Final Provisions

Article 48: Implementation

The Administrative Authority of Luangnamtha Province shall actively coordinate with other parties or sectors concerned to successfully implement the Decree.

Article 49: Effectiveness

The Decree is effective from the date of its signature.

Vientiane, 08 October 2002

Prime Minister

Signed: Bounnhang VORACHITH