

LAW ON CUSTOMS



NS/RKM/0707/017

PREAH REACH KRAM

WE

**PREAH BAT SAMDECH PREAH BAROMNEATH NORODOM SIHAMONI
SAMAN PHUM CHEAT SASNA RAKKHATIYA KHEMARAROATHREAST
PUTHITREA THOMREA MOHAKSATR KHEMARACHORNEA
SAMOHAPHEAS KAMPUCHEKREACH ROATHBORNSANTE
SOPHEAMONGKOLEA SEREIVIBOLEA KHEMERA SREYPIREAST
PREAHCHAO KRUNG KAMPUCHEA**

- *Having seen the Constitution of the Kingdom of Cambodia*
- *Having seen Reach Kret No. NS / RKT / 0704 / 124 dated 15 July 2004, on the Appointment of the Royal Government of Cambodia*
- *Having Seen Reach Kram No. 02 / NS / 94 dated 20 August 1994, promulgating the Law on the Organization and Functioning of the Council of Ministers*
- *Having seen Reach Kram No. NS / RKM / 0196 / 18 dated 24 January 1996, promulgating the Law on the Establishment of the Ministry of Economy and Finance*
- *Pursuant to the Proposal of the Prime Minister of the Royal Government of Cambodia and the Minister of Economy and Finance.*

HEREBY PROMULGATES

The Law on Customs, which was adopted by the National Assembly on the 22nd June 2007 during the sixth plenary session of its third legislature and ratified by the Senate as to its entire form and legality on the 10th July 2007 during the third plenary session of its second legislature, the whole meaning of which shall be as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1.-

The purpose of this Law is to;

- provide the right for the administration, control and collection of duties, taxes and fees on imported and exported goods,
- provide for the control and regulation of the movement, storage and transit of such goods,
- promote the prevention and suppression of fraud and smuggling,
- participate in implementing the international trade policy of the Royal Government of Cambodia,
- promote the application of international standards and best practices regarding customs control and trade facilitation.

The Customs and Excise Department is responsible for the administration and enforcement of the provisions of this Law. The Department operates under the direct supervision of the Ministry of Economy and Finance.

Article 2.-

The Customs Territory includes the land territory, territorial waters and airspace as well as offshore islands of the KINGDOM OF CAMBODIA. The Royal Government of Cambodia may establish Free Zones that are excluded from all or part of the customs procedures.

Article 3.-

This Law must be applied:

- equally throughout the customs territory;
- equally to all persons; and
- without any immunity or dispensation to goods imported or exported by the state or on its behalf.

Article 4.-

Customs operations are conducted throughout the customs territory, including a Customs Zone along land and coastal borders, under conditions prescribed in this law.

The Customs Zone includes a coastal zone and a land zone.

a. The coastal zone extends from the coast to an outer limit located twenty (20) Kilometers offshore.

b. The land zone extends:

- at coastal borders between the coast and a line drawn twenty (20) kilometers inland from the seashore and from the banks of rivers, streams and canals flowing to the sea as far as the first customs office located upstream, as well as in a twenty (20) kilometers radius around said customs office;

- at land borders, twenty (20) kilometers inland from the border.

To facilitate the repression of fraud, the Minister of Economy and Finance may by Prakas:

a. extend the land Customs Zone up to sixty (60) kilometers at specific locations and for specified periods of time;

b. extend the Customs Zone up to three (3) kilometers around Customs Offices that are not in the Customs Zone referred to in the first paragraph and the second paragraph, and sub-paragraph (a) of the third paragraph, of this Article.

Notwithstanding the provisions of the first paragraph of this Article, the Royal Government may by Anukret;

a. authorize customs officers to carry out their duties under this law outside the Customs Territory on a reciprocal basis and in accordance with international agreements, treaties or conventions entered into by the Kingdom of Cambodia,

b. allow customs officers of foreign countries to carry out their duties under their relevant laws respecting the import and export of goods in the Customs Territory on a reciprocal basis and in accordance with international agreements, treaties or conventions entered into by the Kingdom of Cambodia. Customs formalities are only carried out in Customs Offices unless otherwise stipulated by the Minister of Economy and Finance by Prakas.

The Minister of Economy and Finance may by Prakas determine the establishment, functions and elimination of Customs Offices.

Hours of operation of Customs Offices are determined by the Director of Customs. This determination must be affixed to each Customs Office.

Article 5.-

All imported and exported goods are subject to the provisions of this law.

Goods entering or leaving the customs territory are subject, as applicable, to import duties and taxes or export duties and taxes as specified in the Customs Tariff. The establishment and application of the Customs Tariff shall be prescribed by *Anukret*.

In matters concerning the national interest, including emergencies, the Royal Government may order the total or partial suspension of duties and taxes on goods essential to the needs of the population, or suspend the import or export of certain goods.

Article 6.-

Preferential tariffs may be granted pursuant to international commitments, agreements, treaties or conventions entered into by the Kingdom of Cambodia. Such preferential tariffs and their application are established by *Anukret*.

Article 7.-

The Royal Government may by *Anukret* take measures to protect Cambodian producers by raising tariffs when domestic producers are injured by an increase in imports, by subsidies provided by other governments to their countries' exports to Cambodia, or by goods that are dumped on Cambodia's markets.

Article 8.-

The Royal Government may by *Anukret* prohibit or restrict, subject to conditions, the import or export of certain goods for any of the following purposes:

- National security;
- Public order and standards of decency and morality;
- The protection of health and life of persons, animals or plants;
- The protection of national treasures of artistic, historic or archaeological value;
- The conservation of natural resources;
- The compliance with the provisions of any legislation of The Kingdom of Cambodia currently in force;
- The fulfillment of obligations under the Charter of the United Nations.

To combat smuggling and fraud, the Minister of Economy and Finance may by *Prakas* identify certain sensitive or highly taxed goods as specially designated goods for

the purposes of this Law, and may impose additional controls and restrictions on their transport, circulation, storage and possession.

Article 9.-

Unless the context demands otherwise, for the purposes of this law:

Ad valorem duty is duty calculated on the basis of the customs value.

Specific Duty is duty based on the unit of weight, volume, or quantity of goods.

Customs Bonded Warehouse is a building, place or an area that meets certain requirements determined by Customs that is used to store, to process, to display, to provide for sale, or for other related purposes, goods for which the import duties are deferred.

Conveyance is any vessel, aircraft or other means used to transport persons or goods.

Smuggling is the import or export of goods outside customs houses, as well as all violations of provisions of law or regulations relating to the import or export, holding and transport of goods within the Customs Territory.

Country of origin is the country in which goods have been produced or manufactured according to the criteria prescribed for the purposes of application of the Customs Tariff, of quantitative restrictions or of any other matters related to trade.

Customs or Customs Administration is the Customs and Excise Department of the Ministry of Economy and Finance, including customs officers, which is responsible for the administration and enforcement of the customs law, the collection of duties and taxes and fees, and which also has the responsibility for the application of other laws and regulations relating to the importation, exportation, movement and storage of goods.

Customs broker is a person authorized to carry on the business of arranging for the customs clearance of goods directly with Customs on behalf of another person.

Customs clearance is the accomplishment of the customs formalities necessary to allow goods to enter into home use, to be exported or placed under another customs procedure.

Customs clearance area is an area fully supervised by the Customs and Excise Department.

Customs control is the procedures imposed by Customs on the transport, movement and storage of imported and exported goods.

Customs declaration is a statement made for the purpose of importation or exportation in the form and manner as prescribed under the provisions of this Law.

Customs examination is the physical inspection of goods or documents by Customs to verify that the nature, origin, condition, quantity and value of the goods are in accordance with the customs declaration.

Customs formalities is all the operations that must be carried out by the concerned persons and by Customs in order to comply with this Law or other laws enforced or administered by Customs.

Customs manufacturing bonded warehouse is a factory under customs control for dealing with imported goods suspended from duties and taxes to be used in manufacturing processes.

Customs office is the customs administrative unit competent for the administration of customs formalities, and the buildings or other areas approved for that purpose under the provisions of this Law.

Customs officer is a person duly authorized to administer or enforce this Law.

Customs value or value, in relation to imported goods, means the Customs value of those goods determined in accordance with Article 21 of this Law.

Declarant is a person who makes a customs declaration on behalf of either themselves or another person.

Document is documents in any form, whether or not signed or initialed or otherwise authenticated by the maker, and includes:

- Any form of writing on material;
- Information recorded, transmitted, or stored by means such as tape recorder, computer, or other device, and material derived from such information;
- A label or other marking or writing that identifies anything to which it is attached or of which it forms part;
- A book, map, plan, graph, or drawing;
- A photograph, film, negative, tape, or other device in which visual images are embodied so as to be capable of being reproduced.

Duty is a duty, additional duty, tax, fee, or other charges imposed on goods in accordance with the provisions of this Law or other Laws and regulations enforced and administered by Customs.

Free Zones are areas established by the Royal Government where imported goods are not subject to duties and taxes under certain conditions.

Goods are all kinds of movable property.

Home use is the free circulation of imported goods within the Customs Territory after release by Customs.

Importer is a person who imports goods for themselves or on behalf of another person. Importer also includes the consignee of goods, and a person who is the owner or becomes the owner of the goods or becomes entitled to the possession of those goods, before they have ceased to be subject to Customs control.

Importation in relation to goods, means the arrival of goods in the Customs Territory in any manner whatever, whether lawfully or unlawfully, from a point or place outside the Customs Territory.

Release is the authorization by Customs to the concerned person to remove goods from customs control after completion of customs formalities.

Security is any financial guarantee, or other financial instrument used to secure the eventual payment of duties, taxes, and other fees under this law.

Specially designated goods are goods so designated by Prakas of the Minister of Economy and Finance under the provisions of the second paragraph of Article 8 of this Law.

Legal route is any road, railway, waterway and any other route that Customs directs must be used for the transportation of imported or exported goods under customs control.

Temporary admission is the customs procedures under which certain goods can be brought into the customs territory conditionally relieved totally or partially from payment of import duties and taxes. Such goods are imported for a specific purpose and are to be re-exported within a specified period and without having undergone any change except normal depreciation due to the use made of them.

Transit is the customs procedure under which goods are transported under Customs control from one customs office to another.

Transshipment is the customs procedure under which goods are transferred under Customs control from the importing means of transport to the exporting means of transport within the area of one customs office that is the office of both importation and exportation.

Direct Transport is the international transport of goods from the country of origin to the country of destination without passing through another country, unless this transit is necessitated by geographic or logistical reasons, and provided that the goods are not subject to trade or use and operations except loading, unloading or operations necessary to keep the goods in good condition while in the transit country.

Person is a natural or legal person.

CHAPTER II

IMPORT AND EXPORT

Section 1 – Imports

Article 10.-

All imported goods must be reported at a customs office or other location as determined by the Director of Customs.

The Minister of Economy and Finance may by Prakas determine the time, manner, documentation requirements, circumstances and exceptions with respect to the reporting of imported goods.

Article 11.-

All imported goods shall be reported at the nearest customs office through the legal route:

- a. in the case of goods in the actual possession of a person arriving in Cambodia, or that form part of personal baggage, by that person;
- b. in the case of goods imported by courier or as mail, by the person who exported the goods to Cambodia;
- c. in the case of goods, other than goods referred to in sub-paragraphs (a) and (b) of this paragraph, on board a conveyance arriving in Cambodia, by the person in charge of the conveyance, including military conveyances;
- d. in any other case, by the person on behalf of whom the goods are imported.

Every person reporting goods under this Article shall:

- a. answer truthfully any question asked by a customs officer with respect to the goods;
- b. where a Customs officer so requests, make the goods available for inspection by Customs in the manner determined by the Director of Customs.

Article 12.-

No person shall unload goods from a conveyance arriving in Cambodia until the goods have been reported to Customs in accordance with this Law, except where the safety of the conveyance, or the goods, or persons on the conveyance, or third parties may be threatened by emergency conditions as prescribed by the Minister of Economy and Finance by Prakas.

Article 13.-

Customs may authorize the removal of the goods referred to in Article 10 from the customs clearance area prior to the payment of duties and taxes and fees, under customs control and after the fulfillment of customs formalities, for the purposes of:

- placing in customs temporary storage;
- placing in customs bonded warehouse;
- further transportation within or through the Customs Territory to a destination and along routing and within time limits approved by Customs, including transit, transshipment or transportation to or from or between customs offices and customs bonded warehouses.

Article 14.-

The goods prescribed in Article 10 may be released by Customs after fulfillment of customs formalities, including the payment of any duties, taxes, or other fees and security deposit, for such goods to be:

- imported for home use;
- temporarily imported;
- used under duty-suspended conditions.

The Minister of Economy and Finance shall by Prakas determine conditions under which goods may be released prior to the payment of duties and taxes and fees.

Article 15.-

Imported goods may be released by Customs for temporary admission if at the time of importation it can be demonstrated that these goods will be re-exported.

Temporarily imported goods shall be under customs control until such time as the conditions of their temporary admission have been fulfilled.

The Minister of Economy and Finance may by Prakas prescribe provisions governing the temporary admission of goods, including the duration of the temporary admission, fees and other controls or restrictions.

Section 2- Exports

Article 16.-

All goods to be exported must be reported at a customs office or other location as determined by the Director of Customs.

The Minister of Economy and Finance may by Prakas determine the time, manner, documentation requirements, circumstances and exceptions with respect to the reporting, movement, storage and transportation of goods to be exported.

Every person reporting goods under this Article shall:

- a. answer truthfully any question asked by a customs officer with respect to the goods;
- b. where a customs officer so requests, make the goods available for inspection by Customs in the manner prescribed by the Director of Customs.

Article 17.-

The Minister of Economy and Finance may by Prakas determine the conditions under which Customs may authorize the temporary export of goods shipped outside the customs territory to be repaired, added to, or manufactured there, or for additional work, as well as the methods whereby these goods are subject to payment of import duties and taxes when they are re-imported.

CHAPTER III
TARIFF CLASSIFICATION, ORIGIN AND CUSTOMS VALUE

Article 18.-

Tariff classification, origin and customs value of imported goods specified on Customs declarations, shall be declared in accordance with the following rules.

(a) Tariff Classification and Origin

- Any person, importer or his agent, who completes a customs declaration of imported goods shall declare the tariff classification and origin of those goods for the calculation of duty and tax. Customs shall verify the tariff classification and origin of the imported goods.

- Any person, importer or his agent, who completes a customs declaration of imported goods, must comply with the provisions of Articles 51 and Article 52 of this Law.

- Customs may require from any person, importer or his agent, proof, by declaration or the production of necessary documents required by Law and existing regulations, of the correctness of the declaration, and may refuse to release the goods until such evidence is provided.

- Customs may, within 3 years of the date of registration of any customs declaration, following an audit, investigation, inspection or examination of the imported goods, re-determine the declared tariff classification or origin by issuing a Notice. This notice shall also state the reason for the re-determination of the tariff classification or origin.

- When an audit, investigation, inspection or examination undertaken under this Article finds any fraudulent activity, a Notice may be issued for the goods under investigation within a period no longer than 10 years from the original date of registration of the customs declaration.

- All additional duties and taxes and any other fees and penalties owed as a consequence of the Notice, shall be paid to Customs.

- Any refund of duty, taxes, fees and penalties overpaid by any person, importer or his agent as a consequence of the Notice shall be refunded by Customs.

(b) Customs Value

- Any person, importer or his agent, who completes a customs declaration shall declare the customs value of the imported goods as specified in the provisions of Article 21 of this Law, for the assessment of duty and tax. Customs shall verify the declared customs value of the imported goods.

- Any person, importer or his agent, who makes a registered declaration of imported goods must comply with the provisions of Article 51 and Article 52 of this Law.

- Any person, importer or his agent is responsible for declaration of the accurate customs value for the payment of duties and taxes and must disclose all information, invoices and other documentation to enable Customs to verify and accurately determine the customs value of the imported goods.

- Customs may require from any person, importer or his agent, proof, by declaration or the production of required documents required by Law and existing regulation, of the correctness of the declaration, and may refuse to release the goods until such evidence is provided.

- Customs may, within 3 years of the date of registration of any customs declaration, following an audit, investigation, inspection or examination of the imported goods, re-determine the declared customs value by issuing a Notice. This Notice shall also state the reason for the re-determination of the customs value.

- Customs may amend the declared customs value if the declared customs value is not consistent with the provision of Article 21 of this Law or the declared customs value is not correct for any other reason.

- When an audit, investigation, inspection or examination undertaken under this Article finds any fraudulent activity, the Notice may be issued for the goods under investigation, within a period no longer than 10 years from the original date of registration of the customs declaration.

(c) Voluntary declaration of additional duties and taxes or other fees payable

- A person, importer or his agent may make a voluntary declaration to Customs of additional duties, taxes or fees owing in respect of imported goods, without penalties

or fines if such a declaration is made to Customs within one year of the date of registration of the original customs declaration.

(d) Exporters and exported goods

The provisions of Paragraph (a) and Paragraph (c) of this Article apply also to exported goods.

Article 19.-

For the purposes of import and export, goods are classified and, unless otherwise exempted by this Law or any other Law of the Kingdom of Cambodia, duty and tax are calculated in accordance with the Customs Tariff.

The Minister of Economy and Finance shall by Prakas determine provisions in respect of the classification of goods.

Article 20.-

For imports, applicable duties and taxes are collected according to the origin of the goods.

The origin of natural products is the country where they were extracted from the soil or harvested.

Goods manufactured in a single country, with no contribution from materials from another country, originate in the country where they are manufactured.

The procedures that the Customs Administration follows in determining the origin of goods produced in one country that use products harvested, extracted from the soil, or manufactured in another country are determined by Prakas of the Minister of Economy and Finance.

Imported goods benefit from the favorable treatment assigned to their origin only if the origin and direct transport of the goods from the country of origin to the importing country is properly demonstrated. The Minister of Economy and Finance may issue the Prakas establishing the conditions under which proof of origin must be submitted and cases where it is not required.

The country of provenance is the country from which the goods were sent directly to the customs territory.

Article 21.-

The customs value of imported goods shall be determined in accordance with the following rules:

a. The customs value of imported goods shall be the transaction value. That is, the price actually paid or payable for goods when sold for export to Cambodia, subject to the provisions contained in Prakas issued under sub-paragraph (h) of this Article.

b. If the customs value of the imported goods cannot be determined under the provision of sub-paragraph (a) of this Article, the customs value shall be the transaction value of identical goods.

c. If the customs value of imported goods cannot be determined under the provisions of sub-paragraph (a) and sub-paragraph (b) of this Article, the customs value shall be the transaction value of similar goods.

d. If the customs value of imported goods cannot be determined under the provisions of sub-paragraph (a), sub-paragraph (b), and sub-paragraph (c) of this Article, the customs value of the imported goods shall be based on a deductive method.

e. If the customs value of imported goods cannot be determined under the provisions of sub-paragraph (a), sub-paragraph (b), sub-paragraph (c), and sub-paragraph (d) of this Article, the customs value of imported goods shall be based on a computed method.

f. The order of application of sub-paragraph (d) and sub-paragraph (e) of this Article may be reversed at the request of the importer.

g. If the customs value of the imported goods cannot be based on the provisions of sub-paragraph (a) sub-paragraph (b) sub-paragraph (c) sub-paragraph (d) and sub-paragraph (e) of this Article, the customs value shall be determined by using reasonable means consistent with the principles and the provisions as referred to in sub-paragraphs (a) (b) (c) (d) and (e) of this Article on the basis of available data in the Customs Territory subject to certain limitations.

h. The Minister of Economy and Finance shall issue a Prakas to determine all matters related to the determination of customs value..

Article 22.-

The customs value of exported goods shall be the value of the goods at the point of exit.

This customs value is determined by adding to the price of the goods, expenses for transport as well as all expenses needed to carry out the export operation up to the frontier, excluding export taxes payable upon exit, domestic taxes and similar levies, for which the exporter has been given a receipt.

Article 23.-

The customs value of imported and exported goods shall be declared in riel currency.

When an amount is expressed in a currency other than Cambodian currency, the exchange rate to be applied is the rate determined by the National Bank of Cambodia. When the exchange rate is not on the list of exchange rates of the National Bank of Cambodia, Customs may determine the rate.

The exchange rate to be applied is the exchange rate in use on the date the Customs declaration is registered.

Exchange rates are publicly displayed by Customs.

Article 24.-

Any person, importer or his agent, who is dissatisfied with the reasons for or the correctness of the re-determination of the tariff classification, origin or customs value as provided in the Notice issued under the provisions of sub-paragraph (a) or sub-paragraph (b) of Article 18 of this Law may object to the decision by writing to the Director of Customs within 30 days of the date the importer or his agent receives the Notices of the re-determination of the tariff classification, origin or the customs value.

In circumstances where the customs value is subject to appeal, the goods shall be released without the payment of duties and taxes when the importer provides sufficient security to cover the duties and taxes.

The Director of Customs shall make the decision on the objection referred to in the first paragraph of this Article within sixty (60) days after the objection is received; otherwise, the objection shall be deemed as accepted and the security returned as appropriate.

Any person who objects to any decisions made by the Director of Customs under the first paragraph of this Article may file a written appeal to the Customs Tariff Committee.

The organization and functioning of the Customs Tariff Committee shall be determined by Anukret.

An importer or exporter has the right to appeal to the competent court against any decision of the Customs Tariff Committee within a period of thirty (30) days from the date of receiving notification of that decision.

CHAPTER IV

EXEMPTIONS, PARTIAL EXEMPTIONS, AND REFUND OF DUTIES AND TAXES

Article 25.-

Import duties and taxes shall not be imposed on goods brought into the Customs Territory for transit or transshipment.

Article 26.-

Exemption of Import Duties and Taxes shall be granted with respect to the import of:

a. goods for foreign diplomatic or consular missions, international organizations and agencies of technical co-operation of other governments, for use in the exercise of their official function and when so certified by the Head of Mission and by the Ministry of Foreign Affairs and International Cooperation;

b. goods for the personal use of the official personnel of missions and organizations as stated in sub-paragraph (a) of the first paragraph of this Article. The implementation of this sub-paragraph and sub-paragraph (a) of the first paragraph of this Article shall be based on the principles of international law and the principle of reciprocity between governments concerned;

c. goods originating in the Cambodia or that have been previously duty and tax paid, that are exported and returning from abroad, and that have not been enhanced in value;

d. goods exempted under the provisions of any other Law of the Kingdom of Cambodia;

e. goods donated for charity, goods for research and scientific purposes, samples and goods for exhibition of no commercial value, coffins containing human remains and other goods as determined by Prakas of the Minister of Economy and Finance.

Goods imported exempt from duty and tax under the first paragraph of this Article may not be sold, transferred, diverted to non-authorized uses, or disposed of without the prior authorization of Customs.

Goods up to a certain value and quantity, as determined by Prakas of the Minister of Economy and Finance, brought by passengers, crews of conveyances, and border crossers are also exempt from import duties and taxes.

The Minister of Economy and Finance may by Prakas determine provisions related to the goods referred to in the sub paragraph (a), sub paragraph (b), sub paragraph (c), sub paragraph (d) and sub paragraph (e) of the first paragraph of this Article, including their sale, diversion, transfer and disposal under the second paragraph of this Article.

Article 27.-

Partial exemption of import duties and taxes may be granted with respect to the import of:

a. Goods and materials so specified under any other Law of the Kingdom of Cambodia;

b. Seeds and breeding animals for agriculture; goods expected to undergo repair, processing or testing; goods re-imported in the same state; goods imported by the Government for public purposes, goods for temporary admission and other goods determined by Prakas of the Minister of Economy and Finance.

Goods imported under the provisions of this article may not be sold, transferred, diverted to other non-authorized uses, or disposed of without the prior authorization of the Customs authorities.

The Minister of Economy and Finance may by Prakas determine provisions related to the goods referred to in the first paragraph of this Article, including their sale, diversion transfer and disposal under the second paragraph of this Article.

Article 28.-

The Customs Administration may provide a refund in whole or in part for import and export duties and taxes paid for:

- a. Any excess payment, including due to administrative error;
- b. Imported goods that, before release from customs, have been found short, defective, of inferior quality, and goods that are re-exported or destroyed under Customs' supervision even if already released from customs;
- c. Excess payment resulting from a decision of the appeal authority as described in Article 24 of this Law or of the competent court.

The Minister of Economy and Finance shall issue Prakas regarding refunds as described above, including time limits, and may grant refunds for other reasons.

CHAPTER V

CUSTOMS DECLARATION AND LIABILITY FOR DUTIES AND TAXES

Article 29.-

All imported or exported goods, whether or not exempt from duties and taxes, must be the subject of a Customs declaration.

Article 30.-

The Minister of Economy and Finance shall issue Prakas concerning;

- the form, contents and validity of the Customs Declaration and customs documentation,
- lodgment, verification, and registration of the Customs Declaration,
- amendment, additions to, and cancellation of or change to the Customs declaration and Customs documentation,
- distribution and administration of the Customs Declaration and customs documentation.

Article 31.-

Imported or exported goods must be declared by their owners or by persons authorized to act on the owners' behalf.

Article 32.-

The Minister of Economy and Finance may by Prakas grant or withdraw authorization to a person as a customs broker, and establish the locations for which the authorization is valid, and any conditions or qualifications for such authorization.

The Minister of Economy and Finance may establish a Committee to advise on such authorizations and other matters related to customs brokers.

Authorization as a customs broker is granted on a personal basis. When a company is involved, authorization must be obtained for the company and for anyone empowered to represent it.

In no case may the denial or temporary or permanent withdrawal of authorization to handle customs clearance create entitlement to compensation or damages.

Authorized customs brokers may be required to provide security in relation to their operations in such form and amount as determined by Prakas of the Minister of Economy and Finance.

Article 33.-

Any person may, without exercising the profession of customs broker, make customs declarations for their own business.

Such persons referred to in the first paragraph of this Article may obtain authorization to handle clearance for others. This authorization may be provided by the Minister of Economy and Finance on a temporary and revocable basis for operations involving specific goods.

Article 34.-

Import duties and taxes shall be calculated on the basis of the customs tariff or tax rate in effect on the date the customs declaration is registered.

Duty and taxes shall be calculated on the basis of *ad valorem* or specific rates

Article 35.-

The importer or owner of the goods shall be liable for import duties and taxes.

In cases where the importer or owner cannot be located, the customs broker shall be liable for the import duties and taxes.

In the case of customs temporary storage or customs bonded warehouse storage, the operators are liable for import duties and taxes and other fees, without

prejudice to penalties incurred, until such time as the goods have been cleared for re-export, temporary import, import for home use, moved to another authorized storage facility, or destroyed with the authorization of Customs.

In the case of Article 26 and Article 27 of this Law, where conditions of exemption of duty and taxes can no longer be fulfilled, the responsibility for import duties and taxes belongs to the person who obtained the exemption, if that person cannot be located, this responsibility belongs to the person who controls the goods.

Any person, including operators of conveyances, who controls imported goods at the time of entry of the conveyance into the Customs territory shall be liable for the import duties and taxes of the goods concerned.

Article 36.-

The exporter or owner shall be liable for export duties and taxes.

In cases where the exporter or owner cannot be located, the customs broker shall be liable for the export duties and taxes.

In the case of customs temporary storage and customs bonded warehouse, the operators are liable for export duties and taxes.

CHAPTER VI
PAYMENT OF IMPORT AND EXPORT DUTIES AND TAXES,
COLLECTION OF DEBTS, AND SECURITY

Article 37.-

Import and export duties and taxes, and any authorized fees, fines, interest or penalties, payable by virtue of this or any other Law of the Kingdom of Cambodia shall be paid at a place, in the manner, and within time limits prescribed by Prakas of the Minister of Economy and Finance .

Duties and taxes payable for each article in the same declaration are rounded off to the higher riel, in increments of one hundred

Receipts are provided for all payments made.

Article 38.-

Any debts owed by virtue of this Law that have not been paid in whole or in part by the prescribed time limit shall be subject to compound interest at a rate to be prescribed by the Minister of Economy and Finance by Prakas.

Article 39.-

Customs has privileged claim against goods and property owned by a debtor in respect of debts arising from the provisions of this Law.

Article 40.-

Collection procedures and write-offs for uncollectible debts will be based on prevailing regulations and laws.

Article 41.-

Security required by this law may be used once or continuously and may be in the form of cash, guarantees or other such instruments. The Minister of Economy and Finance may by Prakas further regulate provisions related to security.

Article 42.-

The Director of Customs may make the release of security guarantees for the export or re-export of certain goods contingent upon the provision of proof establishing at said goods have been actually exported or re-exported.

CHAPTER VII
CUSTOMS TEMPORARY STORAGE
AND CUSTOMS BONDED WAREHOUSES

Article 43.-

Customs temporary storage refers to the storage of goods under Customs control in approved premises pending the completion of Customs formalities.

Licenses for the operation of a customs temporary storage facility are approved by the Minister of Economy and Finance. Such licenses will determine conditions for owners and operators including location, construction and layout of premises, and procedures for the handling and control of goods.

All costs related to customs temporary storage facilities, including maintenance and repair, are to be borne by owners or operators.

Customs temporary storage facility owners or operators are responsible for providing appropriate facilities for customs officers to carry out their responsibilities under this Law, free of charge.

The Minister of Economy and Finance may by Prakas determine all matters concerning customs temporary storage, including procedures, security guarantees, information requirements, storage time limits, and the designation of goods that may be admitted to storage, and penalties related to exceeding storage time limits.

Article 44.-

Customs bonded warehouses are facilities where goods may be placed for a specified period of time under customs control.

Placing goods in customs bonded warehouses suspends the application of the duties, taxes and restrictions for which they are liable.

There are three categories of customs bonded warehouses:

a. Public warehouses, which are licensed by the Minister of Economy and Finance, may be operated by any agency of the Royal Government, or by any person. Public warehouses are open to any person who has the right to store the goods in the warehouse.

b. Private warehouses, which are licensed by the Director of Customs, are to be used solely by specified persons to store goods for their own specific uses, including operators of duty free shops.

c. Special warehouses, which are licensed by the Director of Customs, are a type of warehouse for goods which may present a hazard, or could affect the quality of other goods, or could require special storage facilities;

Licenses for customs bonded warehouses will determine conditions for owners and operators including location, construction and layout of premises, and procedures for the control and handling of goods.

All costs related to customs bonded warehouses, including maintenance and repair, are to be borne by owners or operators.

Customs bonded warehouse owners or operators are responsible for providing appropriate facilities for customs officers to carry out their responsibilities under this Law free of charge.

The Minister of Economy and Finance may by Prakas determine all matters concerning customs bonded warehouses, including procedures, security guarantees, , information requirements, period of storage, and designation of goods that may be admitted to storage.

Article 45.-

The customs bonded warehouse operator must pay the duties and taxes on goods placed in the warehouse in the event that quantity and quality differ from the customs warehouse declaration, without prejudice to penalties incurred. If the goods are prohibited for import, the warehouse operator must also pay a sum equal to their value without prejudice to penalties incurred.

The Director of Customs may, unless approved for export, authorize either the destruction of imported goods that are spoiled in customs warehouses provided that the duties and taxes relating to what remains from this destruction are paid; or pay the duty and tax based on the condition in which they are presented to Customs.

When it is proven that the loss of goods placed in customs bonded warehouses is due to a case of *force majeure* or causes relating to the nature of the goods, the warehouse operator is exempt from having to pay duties and taxes or, if the goods are prohibited, from payment of the sum representing the value of these goods.

Article 46.-

Goods may remain in customs bonded warehouses for up to two (2) years from the date of registration.

Upon expiration of the time limits as described in the first paragraph of this Article, goods must be removed from the warehouses with the authorization of Customs. Otherwise, Customs authorities will issue a notification to the warehouse operator requiring the removal of the goods. If the demand remains without effect for a month, the goods are considered as unclaimed goods in accordance with Article 54 of this Law. Customs may collect duty and tax owing from security placed by the operator of the warehouse, or those goods may be sold at public auction in accordance with Article 55 of this Law.

As an exception, and provided that the goods are in good condition, the time limits described by the first paragraph of this Article may be extended by up to twelve (12) months by Customs upon the request of the warehouse operator.

Article 47.-

Customs officers may carry out all necessary checks and inventories of goods in the warehouse. Operators must make goods available for such inspections.

Article 48.-

Duties and taxes applicable are those in effect on the date the customs declaration to remove the goods from the customs bonded warehouse is registered.

Article 49.-

In certain circumstances, the Minister of Economy and Finance may authorize the establishment of customs manufacturing bonded warehouses, for the purpose of processing or manufacturing of goods.

Goods accepted in customs manufacturing bonded warehouses are, unless otherwise provided by law, exempt from import duties and taxes.

Where goods are released for home use from a customs manufacturing bonded warehouse, the duties and taxes suspended under the second paragraph of this Article are assessed, based on the Customs Tariff and the rate of duties and taxes applicable as of the date of the registration of the customs declaration for admission of the goods to the warehouse.

The Minister of Economy and Finance may determine by Prakas all matters concerning customs manufacturing bonded warehouses.

Article 50.-

Operations that carry out the processing or refining of crude petroleum or bituminous minerals to obtain petroleum products must be placed under the customs manufacturing bonded warehouse regime.

The suspension from duties and taxes as prescribed in the second paragraph of Article 49 of this Law may be provided for the import of crude petroleum or bituminous minerals for processing for export.

Conditions for the implementation of the provisions of this Article are determined by Prakas of the Minister of Economy and Finance.

CHAPTER VIII
DOCUMENTS, BOOKS, RECORDS AND
OTHER INFORMATION ON EXPORTS AND IMPORTS

Article 51.-

All persons engaged or involved in the commercial or institutional import or export of goods must keep accurate documents books, records and other information, including information in electronic format, pertaining to import and export.

Included in the first paragraph of this Article are importers, exporters, customs brokers, operators of customs temporary storage facilities and customs bonded warehouses, transportation operators, and other concerned parties.

The documents, books, records and other information referred to in the first paragraph of this Article shall be kept for a period of ten (10) years at business premises in Cambodia

Article 52.-

At the request of Customs, persons referred to in the first paragraph of Article 51 of this Law are obliged to make available for examination documents, books, records and other information concerning imports and exports.

Where the persons referred to in the first paragraph of this Article are not present, their representatives are obliged to make available the documents, books, records and other information.

In case the customs office requires, every such person referred to in the above paragraphs of this article must:

- a. Provide documents as required by the customs officer;
- b. Answer any questions relevant to matters arising under this Law asked of them by a customs officer;
- c. Where information described in the above paragraphs of this article is recorded or stored by means of an electronic or other device, operate the device to provide the necessary information requested by the customs officer.

Article 53.-

The Minister of Economy and Finance may by Prakas determine specific requirements for documents, books, records and other information under the provisions of Article 51 of this Law.

**CHAPTER IX
UNCLAIMED GOODS**

Article 54.-

Unclaimed goods are:

- a. goods stored in customs temporary storage facilities or customs bonded warehouses that have exceeded the period allowed under this law;
- b. goods sent by mail which have been refused by the addressee or for which an addressee cannot be found and that cannot be returned to the sender;
- c. non-prohibited goods and means of transport that have been placed in customs clearance area and that the owner abandons in writing.

Where the owner of the goods has been determined, Customs must immediately notify owners of unclaimed goods that such goods will be sold at public auction in accordance with the provisions of Article 55 of this Law, if not claimed within a period of sixty (60) days from the date the notification was issued.

In the case where no owner can be found, a public notice shall be made in a time and manner determined by the Director of Customs to notify owners. Owners have sixty (60) days from the date of such notice to make a claim for their goods. If such period of time is exceeded, the goods will be sold at public auction in accordance with the provisions of Article 55 of this Law.

Within the period referred to in the second paragraph and and third paragraph of this Article, unclaimed goods may be released from Customs, provided appropriate duties, taxes and other fees and penalties have been paid, and any conditions of restricted use are met.

The Minister of Economy and Finance may by Prakas determine cases where, unclaimed goods that have a low value may be destroyed, auctioned immediately, otherwise disposed of or used for other purposes in the public interest, if written notification is given to the owners, or a public notice posted if no owner can be located.

Article 55.-

The sale of unclaimed goods shall be made by public auction.

The Director of Customs may assign a minimum price for goods to be auctioned. If the goods are not sold at this price, the Director may assign a new minimum price, or request approval from the Minister of Economy and Finance to dispose of or use the goods for other purposes in the public interest.

Proceeds of the auction shall be applied to unpaid duties and taxes, other fees or charges and costs of conducting the auction. Any remaining balance is available to be claimed by the owner within six (6) months of notification by customs,. Such notification must be made within seven (7) days after the auction. If there is no claim during this period the proceeds become the property of the State.

CHAPTER X
POWERS AND OBLIGATIONS

Article 56.-

Customs officers exercise powers as described in this law in the Customs Zone. In the case of goods designated under the second paragraph of Article 8 of this Law, the powers of customs officers are exercised anywhere in the Customs Territory.

With respect to goods being imported or exported, customs officers have the power to:

- a. Inspect goods and open or cause to be opened any package or container of goods and take reasonable amounts of samples of those goods for examination;
- b. Stop, halt, board, enter and inspect any conveyance and direct that the conveyance be removed to a customs office or other suitable place for examination;
- c. Where there are reasonable grounds to suspect that an offence has been committed, inspect private residences or businesses to gather evidence or seize goods in accordance with the laws of the Kingdom of Cambodia;
- d. Check the identity of any person entering or leaving the customs territory, stop, question and search such a person if the officer suspects that the person has hidden any goods or other thing on, in, and about his and her body that would be evidence of the contravention of this Law or any other Laws of the Kingdom of Cambodia.

The cost of the examinations described in sub-paragraph (a) and sub-paragraph (b) of the second paragraph of this Article shall be borne by the owner or holder of the goods or conveyance.

The Minister of Economy and Finance may by Prakas determine the procedures for such inspections and examinations.

Article 57.-

At any time, in accordance with the law, Customs officer may, enter any premises or place where documents, are kept in accordance with Article 51 of this Law and audit or examine those documents either in relation to specific transactions or to the accuracy and acceptability of the manual or electronic systems by which such records are created and stored.

Customs officers may inspect documents records, and other information or any property, process, or matter that the officer considers necessary and relevant for the purpose of collecting any duties and taxes under this Law, for the purpose of carrying out any other function of the officer, or for the purpose of collecting information required by this Law.

Customs officers shall have full access to all lands, buildings, and places and to all documents records and information, whether in the custody, or under the control of the licensee, importer, or exporter, or any other person.

The customs officer may, without charge, make extracts from or copies of any such records or documents, take possession of by providing a report, and retain any document as presented in connection with any declaration required under this Law

The customs officer shall, at the request of the person in possession of the document, provide that person with a true copy of the document or record certified by Customs.

Article 58.-

Sworn customs officers have all the powers of judicial police officers, when certified by the General Prosecutor of the Court of Appeals.

Customs officers qualified as judicial police have the right to prepare and sign an official report on a customs offence, in their assigned territory.

During the investigation, prevention and suppression of customs offences, customs officers shall carry an authorized mission letter, wear their uniform, insignia, hierarchical ranking badge, unless otherwise directed by the Director of Customs.

The official uniform, the insignia and the rank of the Customs officials shall be determined by Anukret.

Article 59.-

Customs officers shall have the right to carry arms, and to use them in carrying out their duties in the following circumstances;

- For legitimate defense,
- When they cannot otherwise detain, halt conveyances which are suspected to be involved in smuggling or other illegal activities whose operators do not obey the order to stop;
- For other reasons as described by other regulations and Laws of the Kingdom of Cambodia.

Arms used by customs officers in carrying out their duties must be provided and managed by the Ministry of the Interior.

Article 60.-

Sworn customs officers qualified as Judicial police may detain a person for up to forty-eight (48) hours in accordance with the Code on Criminal Procedures.

Article 61.-

All persons are prohibited from obstructing or impeding customs officers in the legitimate exercise of their powers under this law or any other laws of the Kingdom of Cambodia.

Article 62.-

Operators of conveyances, in moving their conveyances, must obey the orders of customs officers.

Customs officers may make use of all appropriate equipment to halt and detain conveyances when their operators do not stop when so ordered.

When requested, competent authorities, police and military are required to assist immediately customs officers in carrying out their duties under this Law.

Article 63.-

Customs officers may not engage in commercial activities in any way related to or in conflict with their official duties.

Any information obtained by customs officers in the administration or enforcement of this law may only be used for the purposes specified in this law, unless specifically authorized by Prakas of the Minister of Economy and Finance.

Article 64.-

Customs officers who commit any violation of any provision of this law and other regulations shall be punished in accordance with existing law.

Article 65.-

The Minister of Economy and Finance may by Prakas determine the conditions for providing rewards to customs officers who have high levels of performance, and to other competent authorities including the Royal Military armed forces, national police, local authorities, and to any other person, who participate in, cooperate with, and assist Customs in enforcing this Law.

Article 66.-

Customs officers have the right to seize temporarily goods and conveyances involved in violations of this law. Such goods and conveyances may be subject to confiscation by the competent court.

Outside the Customs Zone, seizures may be carried out in customs offices, customs temporary storage facilities, customs bonded warehouses and other locations subject to the surveillance of customs.

Goods designated under the second paragraph of Article 8 of this Law may be temporarily seized anywhere in the Customs Territory.

Temporary seizures may also be carried out anywhere in the Customs Territory in the event of pursuit in plain sight, or the unexpected discovery of goods which do not match statements made or documents in the possession of the person holding the goods.

Customs officers have the right to copy documents, or to seize documents or other things that are evidence of violations of this law.

The Minister of Economy and Finance may determine by Prakas procedures regarding the seizure of goods, conveyances, documents and other things, and the duplication of those documents.

Article 67.-

As circumstances allow, goods, conveyances or other things seized are taken to the customs office that is closest to the place of seizure. Where there are several customs offices in the same locality, the objects seized may be transported to any one of them. When they cannot be taken immediately to the customs office or when there is no customs office in the locality, the objects seized may be entrusted to the custody of the accused or a third party at the seizure location or some other location.

Where the goods seized are not prohibited, and where the goods, conveyances, documents, and other things seized are not required for evidence, they may be released to the owner upon providing security in accordance with the provisions of Article 41 of this Law.

When goods seized that are neither prohibited nor restricted, conveyances or other things used for concealment or transportation of such goods shall be returned to their owners after full payment of all duties, taxes, other charges and fines.

Article 68.-

The seizing customs officer shall, without delay, write up a record of the seizure.

If the offender is present the record should indicate that it was read to him or her, that he or she was asked to read and sign it and was given a copy immediately.

When the offender is not present the record is to be posted within twenty-four (24) hours after its preparation at nearest customs office, or the nearest local authority office if there is no local customs office.

Further details regarding the form, contents, procedures for preparation and submission to the court of the record referred to in the first paragraph of this Article are determined by joint Prakas of the Minister of Economy and Finance and the Minister of Justice.

Article 69.-

In cases where seizures are conducted on ships and decked vessels if unloading cannot be done immediately, those conducting the seizure shall affix the customs seals on the ship's panels and hatchways.

Article 70.-

In the event of a seizure at a residence, non-prohibited goods are not moved, provided that the accused provides security in accordance with the provisions of Article 41 of this Law. If the accused does not provide security, or if prohibited goods are involved, the goods are transported to the closest customs house or entrusted to a third-party custodian, either where the seizure took place, or at some other location.

Article 71.-

A person subject to a penalty or seizure of goods, conveyance, or other things may appeal in writing to the Director of Customs within thirty (30) days of receiving notification of the penalty or seizure, stating the reasons for the appeal, and depositing security in accordance with Article 41 of this Law.

The Director of Customs shall make a decision on the appeal within sixty (60) days after receipt of the appeal; otherwise, the appeal is granted.

The Minister of Economy and Finance may by Prakas determine procedures regarding this appeal process.

CHAPTER XI PENALTY PROVISIONS

Article 72.-

Any person who imports or exports goods, or attempts to import or export goods, in contravention of the Law or regulations shall be considered as committing a customs offence.

Any person who commits a customs offence may be punished by administrative fines imposed by Customs, and by judicial penalties imposed by the competent Court, or both.

Article 73.-

Any person who commits minor violations of regulations and provisions of this law, including inaccuracies, omissions or failure to complete any information required in a customs declaration and failure to meet requirements and obligations that have no impact on duties, taxes, prohibitions, or restrictions is subject to administrative fines of one hundred thousand (100,000) riels to five hundred thousand (500,000) riels when the irregularity is not more severely punished by this Law.

Article 74.-

Any person who commits violations of regulations and provisions of this law, including those violations contained in Article 73 of this law that involve the evasion of duty or taxes and where the goods are not prohibited or restricted, is subject to administrative fines of between one (1) time to three (3) times the duty and tax evaded, and to a judicial penalty of confiscation of the goods and of the conveyance and other things used to conceal smuggled goods, or imprisonment for one (1) month to one (1) year, or to one of the above.

Considered as offences referred in the first paragraph of this Article are:

- a. Failure to report goods to customs in accordance with Article 10 and Article 16 of this Law;
- b. Unloading of goods from a conveyance before reporting to customs in accordance with the provisions of Article 12 of this Law;
- c. Opening, unpacking, causing to be opened or unpacked, any package of imported goods that has not been released by customs, breaking or tampering with any seals that have been placed on goods, conveyances, customs temporary storage facilities, customs bonded warehouses, or other places as required by this Law;
- d. Removal of goods from a customs clearance area, a customs temporary storage facility, or a customs bonded warehouse without the authorization of Customs;
- e. Failure to submit a customs declaration in accordance with the provisions of Article 29 of this Law;
- f. Failure to comply with the provisions of Article 30 of this Law;
- g. The sale, transfer, diversion or disposal of goods imported exempt from duty and taxes under Article 26 and Article 27 of this Law without authorization by customs.
- h. Failure to comply with conditions imposed by Customs regarding goods entered under a duty or tax suspensive regime under the provisions of this Law.

- i. Making, assenting to, or participating in a verbal declaration or written statement which is inaccurate, false, or deceptive is a violation of this Law;
- j. Smuggling or attempting to smuggle;
- k. Possession, sale, purchase, transfer or otherwise acquiring of any goods that were imported in violation of this Law.

Any person who commits the following offences is subject to an administrative fine of one million (1.000.000) riels to five million (5.000.000) riels and to a judicial penalty of imprisonment for one (1) month to six (6) months, or one of the above.

a. Failure to comply with the provisions of Article 51, Article 52, and Article 53 of this law;

b. Any person who obstructs or impedes a customs officer under the provision of Article 61 of this Law;

c. Any person operating a conveyance that does not obey the orders of a customs officer under the provisions of the first paragraph of Article 62 of this Law.

Article 75.-

Any person who commits a violation of the provisions and regulations of Article 74 of this Law that involves goods that are prohibited or restricted under the provisions of the first paragraph of Article 8 of this Law, with the exception of violations under sub-paragraph (k) of the first paragraph of Article 74 of this Law, is subject to administrative fines of up to three (3) times the value of the goods or conveyance, and to judicial penalties of confiscation of the goods, conveyance, and other things used to conceal smuggled goods, or imprisonment of the offender for one (1) year to five (5) years, or to one of the above.

Article 76.-

In cases of repeat violations of provisions of this Law, administrative fines and judicial penalties are doubled.

Article 77.-

Customs is authorized to reach settlement with individuals prosecuted for customs offences. This right of settlement applies only to monetary fines. Where no settlement is reached Customs must submit the case to the competent court.

The settlement may occur before the decision of the competent court.

The conditions for exercising the right of settlement are determined by Prakas of the Minister of Economy and Finance.

CHAPTER XII
TRANSITIONAL PROVISIONS

Article 78.-

Implementation of provisions of Article 21 and Article 22 of this Law respecting the valuation of imported and exported goods may be delayed according to actual circumstances.

CHAPTER XIII
FINAL PROVISIONS

Article 79.-

Any provisions that contradict this Law shall be considered null and void.

Article 80.-

This Law shall be declared as urgent.

Done at the Royal Palace Phnom Penh, 20 July 2007

Royal Signature

Norodom Sihamoni

PRL.0707.310

Having submitted to

His Majesty the King for Royal Signatures

Prime Minister

Signature

Hun Sen

Having informed to Samdech Prime Minister

Senior Minister, Minister of Economy and Finance

Signature

Keat Chhon

No. 304 CL

For copy

Phnom Penh, 25 July 2007

Deputy Secretary General of the Royal Government

Signature

Khun Chunkein