

## **Annex 6: Transit and Inland Customs Clearance Regime**

To the Agreement between and among the Governments of the Kingdom of Cambodia, the People's Republic of China, the Lao People's Democratic Republic, the Union of Myanmar, the Kingdom of Thailand, and the Socialist Republic of Viet Nam for the Facilitation of Cross-Border Transport of Goods and People (hereinafter referred to as "the Annex")

The Governments of the Kingdom of Cambodia, the People's Republic of China, the Lao People's Democratic Republic, the Union of Myanmar, the Kingdom of Thailand, and the Socialist Republic of Viet Nam (hereinafter referred to as "the Contracting Parties"),

Referring to the Agreement between and among the Governments of the Lao People's Democratic Republic, the Kingdom of Thailand, and the Socialist Republic of Viet Nam for the Facilitation of Cross-Border Transport of Goods and People, originally signed at Vientiane on 26 November 1999, amended at Yangon on 29 November 2001, acceded to by the Kingdom of Cambodia at Yangon on 29 November 2001, acceded to by the People's Republic of China at Phnom Penh on 3 November 2002, and acceded to by the Union of Myanmar at Dali City on 19 September 2003, and amended at Phnom Penh on 30 April 2004 (hereinafter referred to as "the Agreement"),

Referring to Articles 3(b) and (n) of the Agreement to the effect that Annexes and Protocols contain technical details or time- and/or site-specific variable elements and that they form an integral part of the Agreement and are equally binding,

Referring to Article 36 of the Agreement, as amended, per which the Agreement may be signed and ratified or accepted and enter into force separately from the Annexes and Protocols,

Referring to the Ninth GMS Ministerial Conference held in Manila in January 2000, the 7th Subregional Transport Forum held in Ho Chi Minh City in August 2002, and the 11th GMS Ministerial Conference held in Phnom Penh in September 2002, where the Governments agreed to a work program to finalize the Agreement and its Annexes and Protocols by 2005,

Recalling the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) Resolution 48/11 on Road and Rail Transport Modes in Relation to Facilitation Measures, which calls for the accession to the Customs Convention on the International Transport of Goods Under the Cover of TIR Carnets (Geneva, 1975), and

Referring to Article 7 of the Agreement, calling for this Annex to provide technical details,

HAVE AGREED AS FOLLOWS:

Article 1: General Provisions

(a) Definitions

- (i) International Transit means the segment of the transport operation between two international border crossing points, where the cargo respectively enters and exits the territory of a Contracting Party.
- (ii) Inland (National) Transit means (a) the segment of the transport operation between the inland clearance point and the international border crossing point where the cargo exits the territory of a Contracting Party; or (b) the segment of the transport operation between the international border crossing point where the cargo enters the territory of a Contracting Party and the inland clearance point.
- (iii) Force Majeure means circumstances that could not be foreseen and avoided, and the consequences of which could not be prevented or controlled.
- (iv) Special Drawing Right (SDR) means a unit of account defined by the International Monetary Fund (IMF). Conversion of sums into national currencies shall be calculated in accordance with the method of valuation applied by the IMF.

(b) Scope of Application

- (i) The regime of this Annex shall apply to international and inland transit only in the course of international (i.e., cross-border) transport operations and performed along the routes and points of entry and exit designated in Protocol 1 to the Agreement.
- (ii) The regime of this Annex shall only apply to transport operations for reward.
- (iii) The regime of this Annex shall not apply to cargo loads under the cover of the same seal as referred to in Article 3(b)(i) of this Annex and the same Transit and Inland Customs Clearance Document as referred to in Article 4 of this Annex, if they consist of composite loads with multiple origins/destinations, which would entail partial discharge of the Transit and Inland Customs Clearance Document en route.
- (iv) The regime and procedures set out in this Annex are optional for the transport operator, who is entitled either to transit and inland customs clearance under the regime of this Annex or to comply with other customs transit and inland clearance rules and procedures of the Host Country, if any.
- (v) This Annex shall not preclude the application of national laws and regulations on prohibited and restricted goods for transit transport. The Contracting Parties shall disseminate the list of prohibited and/or restricted goods in transit.
- (vi) The Annex shall not preclude the application to the goods of national health/quarantine laws/regulations, compatible with Article 9 of the Agreement.
- (vii) When applied, the Customs Clearance regime of this Annex shall replace the national Customs Clearance regime for goods in transit (international and inland).
- (viii) Contracting Parties, where electronic customs clearance procedures are in force in accordance with Article 4(d) of the Agreement, Article 8 of Annex 4, and Article 7 of Annex 12 to the Agreement, shall take appropriate measures to facilitate transport operators' compliance with their electronic procedures.

## Article 2: Customs Transit Formalities

### (a) Exemption from Physical Inspection, Bond Deposit, and Escort

Subject to the conditions laid down below, the cargoes carried cross border under the regime of this Annex shall as a general rule be exempted from routine physical customs inspection en route, customs escorts in the national territory, and the deposit of a bond as guarantee for customs duties.

### (b) Document Check and External Inspection

The motor vehicle together with the cargo and the Transit and Inland Customs Clearance Document shall be presented to the Customs Authorities en route only for processing documentation and external inspection and control of the cargo compartment.

### (c) Exceptional Physical Customs Inspection

Customs Authorities may, however, by way of exception and in particular when they suspect irregularities, subject the cargo to a physical inspection en route.

### (d) Tracking of Vehicle/Cargo

Customs Authorities may apply appropriate measures (e.g., electronic means, Global Positioning System, information and communication technology) to monitor the cargo movement, without interference in, delay of, or any additional requirements for the transport operation.

## Article 3: Means of Transportation

### (a) Technical Standards and Approval

(i) Motor vehicles and containers used for the transport of goods under the regime of this Annex shall be constructed and equipped in such a manner that:

- any smuggling of goods by clandestine substitution, or removal from or introduction in the load compartment without leaving obvious traces of tampering or without breaking the Customs seal, is prevented;
- it allows the simple and efficient affixing of customs seals and tracking devices;
- it does not contain any concealed spaces where goods may be hidden; and
- all spaces capable of holding goods are readily accessible for Customs inspection.

(ii) The Host Country Customs Authorities may refuse movement of a vehicle under the regime of this Annex if it is not satisfied that its design and construction offer sufficient safeguard against smuggling of goods.

(iii) The Host Country Customs Authorities shall not be entitled to refuse a motor vehicle that was approved for transport under the regime of this Annex either individually or by design type (series of road vehicles) according to the motor vehicle technical standards set out in Attachment 1a to this Annex and established by a certificate issued by the Home Country technical inspection authority according to the model set out in Attachment 1b to this Annex.

(iv) The Host Country Customs Authorities shall not be entitled to refuse a container that was approved for carriage under the regime of this Annex either individually or by design type (series of containers) according to the procedure set out in Attachment 2a to this Annex and established by a certificate issued by the Home Country technical inspection authority according to the model set out in Attachment 2b to this Annex.

- (b) Sealing
- (i) The vehicle's cargo compartment or the container shall be sealed by the Customs Authority office of departure of the transport operation.
  - (ii) The Host Country Customs Authority shall accept the seals affixed by the other Contracting Party's Customs Authorities, provided they are intact, but if required for control purposes, they are entitled to affix an additional seal of their own upon entry into their territory.
  - (iii) If Customs Authorities have to break the seals in order to perform a physical inspection of the cargo en route or in case of change of vehicle in accordance with Article 8 (b), they shall affix new seals and record this action in the Transit and Inland Customs Clearance Document without any cost.
  - (iv) Heavy or bulky cargoes, which are because of their weight, size, or nature normally not carried in a closed compartment, may be carried by non-sealed vehicles, provided those goods can easily be identified by reference to the description (e.g., in packing lists, photographs, drawings) given, so as to prevent any substitution, removal, or addition of goods. Customs Authorities may apply appropriate monitoring measures so as to prevent substitution, removal, or addition of goods, without interference in, delay of, or any additional requirements for the transport operation.

#### Article 4: Transit and Inland Customs Clearance Documents

- (a) Transport operators shall carry a Transit and Inland Customs Clearance Document.
- (b) The Transit and Inland Customs Clearance Document shall be issued by the authorized issuing/guaranteeing organization/institution.
- (c) Through this document the authorized issuing/guaranteeing organization/institution shall guarantee the payment of customs duties, taxes, and interest, as per Article 10(a) of this Annex.
- (d) The Transit and Inland Customs Clearance Document shall consist of the following number of original copies:
  - (i) one for the issuing/guaranteeing organization/institution;
  - (ii) one for the transport operator;
  - (iii) two for the Country of Departure Customs Authority's office;
  - (iv) two for each Country of Transit Customs Authority through whose territory the carriage is to be performed; and
  - (v) two for the Country of Destination Customs Authority's office.
- (e) The Transit and Inland Customs Clearance Document shall include the following particulars in the English language without prejudice to the parallel use of national languages:
  - (i) the title: Transit and Inland Customs Clearance Document;
  - (ii) a reference to Article 7 and Annex 6 of the Agreement;
  - (iii) the name of the issuing/guaranteeing organization/institution and a box for signature and/or stamp;

- (iv) the name and address of the transport operator and a box for signature and/or stamp;
- (v) its validity:
  - countries of departure, transit, and destination,
  - the respective entry and exit point, and
  - period of validity and extension;
- (vi) the specification of the motor vehicle performing the carriage;
- (vii) the seals or identification marks applied;
- (viii) a box for recording the breaking of the seals and affixing new seals en route by Customs authorities;
- (ix) a box for recording a change of vehicle en route;
- (x) eight boxes: two for inland departure, four for transit, and two for inland destination:
  - Box 1 containing place and date of affixing the exportation seals by the Customs Authority office of departure,
  - Box 2 containing the exit endorsement of the Country of origin of the cargo,
  - Boxes 3–6 containing the entry and exit endorsements of the respective transit Countries,
  - Box 7 containing the entry endorsement of the Country of destination, and
  - Box 8 containing the place and date of removal of the seals at destination for domestic use clearance or for placing the goods under another customs regime by the Customs Authority office of destination; and
- (xi) a cargo manifest box, containing
  - the number and type of packages,
  - the description of the goods,
  - the gross weight of the goods in kilograms, and
  - the customs value.

The Joint Committee may modify the particulars to be included in the Transit and Inland Customs Clearance Document as appropriate.

- (f) The Joint Committee will determine the format, appearance, layout, and printing specifications of the Transit and Inland Customs Clearance Document form.
- (g) The document shall cover all cargo compartments under the same seal.
- (h) The document shall be valid for one journey only and shall specify its geographic scope and the points of entry and exit in accordance with Protocol 1 to the Agreement and its period of validity.
- (i) For goods involved in a commercial transaction, a copy of the invoice of the goods shall be attached to each copy of the Transit and Inland Customs Clearance Document.

#### Article 5: Evidence of Application of the Transit and Inland Customs Clearance

- (a) Evidence of a transport operation under the transit and inland customs clearance regime of this Annex shall flow from the possession of an original copy of the Transit and Inland Customs Clearance Documents, respectively signed by the transport operator and endorsed by the Customs Authorities.
- (b) Evidence of the entry of the cargo into the Host Country territory shall flow from the possession of an original copy of the Transit and Inland Customs Document,

respectively signed by the transport operator and endorsed by the Customs Authorities for entry.

- (c) Evidence of the exit of the cargo from the Host Country territory shall flow from the possession of an original copy of the Transit and Inland Customs Document, respectively signed by the transport operator and endorsed by the Customs Authorities for exit.
- (d) For lack of such original copy of the Transit and Inland Customs Clearance Document bearing the exit endorsement, the transport operator may provide alternative proof to satisfy the Customs Authority that the cargo has actually exited.

#### Article 6: Discharge of the Transit and Inland Customs Clearance Documents

The Transit and Inland Customs Clearance Documents shall be discharged pursuant either to

- (a) the exit endorsement entered in the Transit and Inland Customs Clearance Documents by the Transit Country's Customs Authority upon exit of the transit goods from its territory; or
- (b) the clearance for domestic use or the placing under another customs regime, upon arrival of the goods at the Customs Office of destination.

#### Article 7: Time Limits

- (a) The Transit and Inland Customs Clearance Document shall specify its period of validity with a minimum of six months commencing from the date of issuance. Provided it was first endorsed by the Customs Office of departure before the expiry of its validity period, a Transit and Inland Customs Clearance Document shall however remain valid until the completion of the transport operation for which it was issued.
- (b) The cross-border transport operation under the regime of this Annex shall be completed by the exit of the motor vehicle/container from the Host Country territory within 30 days, commencing from the date of entry in the territory of the Host Country.
- (c) In order to be timely, the Transit and Inland Customs Clearance Document shall be discharged within a period not exceeding three months commencing from the date of entering the territory of the Host Country.

#### Article 8: Incidents En Route

- (a) Loss, Destruction, or Shortage of the Cargo En Route
  - (i) In case of loss or destruction of the cargo, or damage to the customs seal, the transport operator shall promptly inform the Host Country Customs Authority.
  - (ii) The payment of duties and taxes normally due shall be waived for the goods specified in the Transit and Inland Customs Clearance Document, which are established to the satisfaction of the Customs Authority to have been destroyed or to have been irrecoverably lost by force majeure en route, or to be short by reason of their nature.
- (b) Change of Vehicle

In case the transport operator is compelled to change the vehicle en route, he/she shall forthwith inform the Host Country Customs Authority, who shall supervise the transfer of the goods, replace any broken seals, and record the action in the Transit

and Inland Customs Clearance Document. The substitute vehicle shall comply with the technical standards referred to in Article 3 of this Annex.

(c) Change of Itinerary

In case the transport operator is compelled to abandon the designated route due to circumstances beyond his/her will, he/she shall forthwith inform the Host Country Customs Authority, which shall inform any other Competent Authorities for the purpose of designating an alternative route.

(d) Extension of Time Limits

If the transport operator is unable to timely complete the transport operation under the regime of this Annex in the territory of the Host Country or to discharge the Transit Customs Document, due to force majeure or other reasonable cause, he/she is to file a request for extension with the Host Country Customs Authority before the expiry date. The Host Country Customs Authorities will grant such extension if they are satisfied that the timely completion of the transport operation and/or discharge of the Transit and Inland Customs Clearance Document was/were prevented by force majeure or other reasonable cause.

#### Article 9: Issuing and Guaranteeing Organizations/Institutions

- (a) Each Contracting Party shall authorize a national organization/institution to issue the Transit and Inland Customs Clearance Document and to guarantee vis-à-vis the Customs Authority of the Host Country the payment of export and import duties and taxes (including interest) in case the document was not duly or timely discharged or in case of other irregularity.
- (b) The Contracting Parties shall mutually recognize the authorized issuing/guaranteeing organizations/institutions.
- (c) For the purpose of payment of sums claimed by their Customs Authority, the Contracting Parties shall provide the authorized issuing/guaranteeing organization/institution with facilities for the transfer of currency.

#### Article 10: Liability of the Issuing/Guaranteeing Organization/Institution

- (a) The authorized issuing/guaranteeing organization/institution shall be jointly and severally liable with the transport operator, from whom the sums are directly due, to pay the import and export duties, taxes, and interest, under the customs laws and regulations in the Host Country in respect of the irregularity (e.g., breach of customs laws and regulations, lack of response, lack of timely discharge of the Transit and Inland Customs Clearance Document) in connection with a cross-border transport operation under the regime of this Annex.
- (b) The liability of the authorized issuing/guaranteeing organization shall cover not only the goods that are listed in the Transit and Inland Customs Clearance Document, but also any goods that, although not listed therein, may be contained in the sealed section of the road vehicle cargo compartment or be found on the load platform or among the enumerated goods in case of non-sealed heavy or bulky cargoes.
- (c) At their discretion, the Host Country Customs Authority may also claim the duties, taxes, fines, and interest from the transport operator who is directly liable for them.

- (d) After the Customs Authority of the Host Country establishes an irregularity, the authorized Home Country issuing/guaranteeing organization/institution is to deposit with or pay the duties, taxes, and interest due to the Customs Authority of the Host Country not later than 30 calendar days commencing from notification.
- (e) The Host Country Customs Authority shall refund to the authorized issuing/guaranteeing organization/institution the amount received upon the established absence of any irregularity, without delay, provided that the authorized issuing/guaranteeing organization/institution shall claim such refund within the period of time specified by national laws/regulations.
- (f) The authorized Home Country issuing/guaranteeing organization/institution is entitled to take recourse and claim reimbursement of the customs duties, taxes, and interest that were paid as a guarantor to the Host Country Customs Authority, from the transport operator from whom the sums are due.
- (g) The liability of the authorized issuing/guaranteeing organization/institution shall be limited to SDR 35,000 per Transit and Inland Customs Clearance Document issued.

#### Article 11: Guarantor Security to the Customs Authority

##### (a) General

In order to meet its guarantee obligation vis-à-vis the Host Country Customs Authority, the authorized issuing/guaranteeing organization/institution shall provide the Host Country Customs Authority with the security of the modality and monetary amount indicated in the following paragraphs (b) and (c).

##### (b) Modality

Among other modalities, the authorized issuing/guaranteeing organization/institution shall:

- (i) maintain assets in the Host Country, or
- (ii) make a cash deposit, or
- (iii) deposit a collective and continuous bond with the Host Country Customs Authority:
  - by arranging for a bank guarantee issued by a bank or financial institution established in the Host Country, or
  - by contracting a guarantee insurance with an insurance company established in the Host Country, or
- (iv) be represented by its counterpart organization in the Host Country, or
- (v) provide combinations of two or more of the above;

subject to approval by the Host Country Customs Authority.

##### (c) Monetary Amount

The amount of security to be provided according to this Article shall be a maximum of SDR 70,000. If the amount of security provided is partly or wholly consumed by an outstanding liability, it must be replenished up to the amount of SDR 70,000.

#### Article 12: Exclusion of Offenders

- (a) The Contracting Parties shall have the right to exclude temporarily or permanently from the application of this Annex any person(s)/entity(ies) guilty of a serious offense against their relevant customs laws/regulations applicable to international transport of goods.



- (b) The Customs Authority of the relevant Contracting Party shall notify this exclusion immediately to the Customs Authorities of all other Contracting Parties and to the authorized issuing/guaranteeing organization of the Home Country.

#### Article 13: Amendment

Any Contracting Party may propose amendments to the Annex via the Joint Committee. Such amendments shall be subject to the unanimous consent of the Contracting Parties.

#### Article 14: Ratification or Acceptance

The Annex is subject to ratification or acceptance of the Governments of the Contracting Parties. The same applies to an amendment to the Annex, if any.

#### Article 15: Entry into Force

The Annex will enter into force on the day that at least two Contracting Parties have ratified or accepted it, and will become effective only among the Contracting Parties that have ratified or accepted it. The same applies to an amendment to the Annex, if any.

#### Article 16: Conforming National Law

Where necessary, the Contracting Parties undertake to conform their relevant national legislation with the contents of the Annex.

#### Article 17: Reservations

No reservation to the Annex shall be permitted.

#### Article 18: Suspension of the Annex

- (a) Failure to deposit or pay within the time limit specified in Article 10(d) of this Annex, the duties, taxes, and interest to the Host Country Customs Authority by the authorized Home Country issuing/guaranteeing organization/institution in case of an established irregularity, entitles the Host Country Customs Authority to suspend the application of the present transit and inland customs clearance under the regime of this Annex vis-à-vis Transport Operators whose Home Country issuing/guaranteeing organization/institution defaults.
- (b) Each Contracting Party may temporarily suspend wholly or partly the application of the Annex with immediate effect in the case of emergencies affecting its national safety. The Contracting Party will inform as soon as possible the other Contracting Parties of such suspension, which will end as soon as the situation returns to normal.

#### Article 19: Relationship with the Agreement

As a measure to implement the principles laid down in the Agreement, the Annex cannot depart from or be contrary to these principles. In case of incompatibility between the Annex and the Agreement, the latter shall prevail. In case of incompatibility between the Annex and another annex or protocol, such incompatibility shall be interpreted in light of the Agreement.

Article 20: Relationship of the Attachments to the Annex

The attachments shall form an integral part of the Annex and shall be equally binding.

Article 21: Dispute Settlement

Any dispute between or among two or more Contracting Parties on the interpretation or application of the Annex shall be settled directly or by amicable negotiation in the Joint Committee.

Article 22: Denunciation

Once entered into force, the Annex cannot be denounced separately from the Agreement.

Annex 6 Attachment 1a: Motor Vehicle Technical Standards for the Purpose of the Customs Transit Regime

Annex 6 Attachment 1b: Motor Vehicle Technical Approval Certificate for the Purpose of the Customs Transit Regime

Annex 6 Attachment 2a: Container Technical Standards for the Purpose of the Customs Transit Regime

Annex 6 Attachment 2b: Container Technical Approval Certificate for the Purpose of the Customs Transit Regime

In witness whereof, the undersigned, being duly authorized, have signed this Annex.

Done at Beijing on 20 March 2007 in six originals in the English language.

Signed:

**For the Royal Government of Cambodia**

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(Signed) His Excellency Tram Iv Tek  
Secretary of State, Ministry of Public Works and Transport

**For the Government of the People's Republic of China**

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(Signed) His Excellency Weng Mengyong  
Vice Minister of Communications

**For the Government of the Lao People's Democratic Republic**

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(Signed) His Excellency Sommad Pholsena  
Minister of Communication, Transport, Post and Construction

**For the Government of the Union of Myanmar**

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(Signed) His Excellency Thura Thaung Lwin  
Deputy Minister of Rail Transportation

**For the Government of the Kingdom of Thailand**

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(Signed) His Excellency Sansern Wongcha-um  
Deputy Minister of Transport

**For the Government of the Socialist Republic of Viet Nam**

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(Signed) His Excellency Tran Doan Tho  
Vice Minister of Transport

Annex 6 Attachment 1a: Motor Vehicle Technical Standards for the  
Purpose of the Customs Transit Regime

Annex 6 Attachment 1b: Motor Vehicle Technical Approval Certificate for the Purpose of the Customs  
Transit Regime

Annex 6 Attachment 2a: Container Technical Standards for the  
Purpose of the Customs Transit Regime

Annex 6 Attachment 2b: Container Technical Approval Certificate for the Purpose of the Customs  
Transit Regime

The attachments can be downloaded from the ADB GMS Cross-Border Transport Facilitation Agreement website [www.adb.org/GMS/Cross-Border/default.asp](http://www.adb.org/GMS/Cross-Border/default.asp). They have not been included here because of their size and/or technical complexity.