

Study to Address Issues Faced by Lao Trade Transiting through Thailand and Vietnam

for

**Department of Import and Export
Ministry of Industry and Commerce**



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Summary of Findings

Lao PDR and its neighbors are signatories to numerous international agreements regarding the transit of goods. These agreements, if fully implemented, would increase the speed and lower the cost of trade for Lao businesses. Implementation of these agreements has been hampered by several factors, the most significant of which is limited technical capacity within relevant government authorities. In addition, traders routinely encounter administrative and regulatory bottlenecks during the shipment of goods.

Our key research findings are detailed below:

- For all of the products that constituted the main focus of this study, three customs declarations and inspections are typically required at three points: 1) the Lao border; 2) the transit country border; and, 3) the exit port.
- During project team interviews, Lao traders reported that there were no transit issues in Thailand and Vietnam. Since they hire brokers from Thailand and Vietnam to handle transit procedures, they are generally unaware of any specific problems.
- Lao traders indicated that Thailand has banned the transit of palm oil. Another source stated that no such ban exists. Additional research is required to clarify this issue as the project team did not identify any Thai laws or regulations that specifically banned palm oil transit trade. During their research, the project team learned that there is significant government intervention in the palm oil sector in Thailand.
- Businesses reported that the transfer of import plan (Master List) approval from the Lao Ministry of Finance (MoF) to the Ministry of Planning and Investment (MPI) has increased waiting times significantly and emerged as a major administrative bottleneck for traders; however, this is not as significant an issue when goods are in transit.
- Due to the limited access of non-Thai trucks to Thailand's road transport services sector, Lao traders hire Thai trucking services to ship goods. Lao cassava shippers report that Thai trucks are authorized to remain in Lao territory for a maximum period of 3 days.
 - If a Lao cassava shipper has a large shipment, this 3-day limit amounts to a significant business impediment.
 - This time limit is also inconsistent with international agreements. The CBTA *Early Harvest* signed in 2018 allows authorized vehicles to remain in the country for up to 30 days; the project team's research indicated that this agreement has not yet been implemented.
- Lao cassava traders also reported problems with inconsistent rules and regulations regarding truck weights. They noted that in Thailand, the maximum weight limits for trucks are 25T for the cabin and attached container and 25T for the second container. In Lao PDR, the limits are 23T and 27T respectively. As a result, a vehicle of legal weight in Lao PDR would not be permitted to operate in Thailand and would therefore encounter problems at the border.
 - Existing international agreements include provisions for issues such as axle weights (i.e., *CBTA, Article 13: Technical Requirements*). Host country, not origin country, rules on weights apply.
 - No issues were reported regarding truck weight limits in Vietnam.
- The Bangkok port authorities do not permit cassava flour exports. Traders indicated that this ban was related to environmental concerns (i.e., excessive dust that impacted residential areas). Municipal authorities took steps to address the matter; however, the project team could not identify any municipal legislation related to the cassava flour dust issue. Instead of the Bangkok port, cassava exporters must now use the Lem Chabang port.
- In Thai ports, foreign vehicles are not permitted to enter warehouses. The project team could not obtain a copy of the applicable Thai regulation.

- Trucks that transport minerals for export have encountered delays of approximately 1 week at the Vietnam border. This is largely attributable to a lack of clarity and transparency regarding procedures, documentation requirements and fees.
- Provincial officials are often involved in transit trade. Provincial authorities may have specific rules and requirements at various border checkpoint (separate from national authorities) due to their annual provincial revenue collection plans and targets. These additional rules and requirements further increase the bureaucratic hassles encountered by traders as well as the likelihood of additional informal fee payments.
- Sealing procedures and local inspection of shipments are duplicated – once at the warehouse and subsequently at the border.
- Vietnam charges a foreign transport fee for certain products, such as minerals. This appears to violate non-discrimination principles in international agreements.
- Numerous sources reported that the road from Friendship Bridge 3 to the Naphao checkpoint (Khammuane province) impedes trade due to its poor condition. Additional infrastructural improvements such as an expanded area for truck parking are also required.
- Lao PDR imposes stringent health and sanitary requirements for animal transit trade, particularly for buffaloes and cows. The procedures are so burdensome that traders regard them as a *de facto* ban on animal transit trade; however, as a workaround, traders import the animals, pay the applicable import duties and subsequently re-export the animals. There is no ban in effect, but the difficult procedures enable provincial Customs authorities to earn revenue from a process that should normally be duty free.
- One trader reported that the Vietnam border is not operating as a one-stop service with joint inspection. Separate interactions with Customs, the Ministry of Transport, and other government authorities are still required.
- Lao traders have limited awareness or understanding of the laws and regulations in the countries where they regularly conduct transit trade.
- Lao, Thai and Vietnamese authorities often do not follow their own departmental laws and regulations related to transit trade or they arbitrarily create new regulations which invariably result in higher fees charged to traders
- Transporters and customs brokers are not fully transparent in their interaction with traders and they often take advantage of their lack of understanding of transit trade procedures by charging higher fees.
- Lao Customs suggested that it would be a good idea to place its staff at Thai ports in order to serve as a liaison between Lao traders and Thai authorities. There is a similar arrangement between Lao PDR and Vietnam at the Dansavan-Lao Bao border crossing, as per the CCA agreement between the two countries. The ACTS agreement also includes similar provisions.
- Lao Customs reported that in the near future, they plan to fully implement the GMS-CBTA and ASEAN trade transit system as mechanisms to further facilitate transit trade; however, Lao PDR will require considerable technical assistance to build its institutional capacity to implement these initiatives.

1. Introduction

Transit trade is a country's foreign trade that passes through one or more countries prior to reaching its final destination. The goods in transit, means of transport and operators are subject to country-specific laws and regulations, administrative requirements, commercial practices and technical standards. As goods cross the border from one country to another, differences in trade legal and regulatory regimes can result in impediments to trade.

Lao PDR is the sole land-locked country in Southeast Asia, sharing borders with Vietnam to the east, Cambodia to the south, Thailand to the west, and Myanmar and China to the north. As a small, landlocked country in a fast-growing region, Lao PDR's growth prospects depend, in part, on deeper economic integration, trade and investment with its neighbors. In order to take full advantage of opportunities presented by the region's growth and the ASEAN Economic Community, Lao PDR is striving to enhance connectivity with its principal trading partners through improved transport and trade facilitation.

Lowering costs, including compliance costs, and improving transparency and predictability are key trade facilitation priorities of the Lao PDR Government. Given the country's landlocked nature, products being shipped to and from Lao PDR must pass through one of its neighbors to access sea ports. Rules and restrictions imposed by these transit countries can increase costs disproportionately and influence the reliability and predictability of Lao trade; moreover, dependence on the transit country's transport facilities implies a relative lack of control over the development of infrastructure, transport management and policy, which are shaped by the transit country based on its own economic and social interests.

This report examines the issues facing Lao PDR's transit trade with two of its neighbors: Thailand and Vietnam. These two countries are the principal transit corridors for Lao PDR's third country trade. The project team reviewed Lao exports that transit through Thailand and Vietnam; Lao imports transiting through Thailand; and Thai exports to Vietnam that transit through Lao PDR. We also reviewed regulatory barriers and the practical aspects of transit trade to identify constraints and recommend actions to alleviate these constraints. A second follow-up report provides an action plan for the Lao PDR Government to improve transit trade.

2. Methodology

2.1 Scope

The primary objective of this assignment was to identify the various restrictions, discriminatory practices and controls that impact companies which transport goods that transit through Lao PDR, Vietnam and Thailand enroute to their final destinations.

The assignment has two main deliverables:

- Report on assessment of transit trade restrictions and controls.
- Action Plan for reducing transit trade restrictions and controls.

2.2 Phases

The project was implemented in four phases:



Phase 1: Document review and desk research

As a first step, EMC consulted with the DIMEX to confirm the approach, methodology, and logistical arrangements. Specific products and transit trade routes were chosen for the field research (Table 1).

Phase 2: Data collection

DIMEX staff assisted EMC with study logistics and participated in all meetings, both with the government and the private sector. The EMC project team interviewed customs officers to identify customs procedures as well as traders and freight forwarders to obtain insights on the key issues encountered in transit trade.

EMC also interviewed staff at the Customs Department in Vientiane to discuss bilateral and multilateral trade agreements.

Table 1: Primary data collection (23rd July to 10th August 2018)

Location	Date	Interviewees
Vientiane Capital, Friendship Bridge 1 Checkpoint/Thanaleng	23-24 July 2018	Customs officers, palm oil trader
Khammuane Province, Friendship Bridge 3 and Naphao Checkpoint	26-27 July 2018 6-7 August 2018	Customs officers; plant and animal quarantine staff; fruit trader; animal trader; mineral product company; and freight forwarder
Savannakhet Province, Dansavan Checkpoint	30-31 July 2018	Customs officers
Champasack Province, Vangtao Checkpoint	2-3 August 2018	Customs officers and cassava traders
Customs Department, Ministry of Finance	10 August 2018	Customs officers

In addition, the project team conducted a phone interview with a Vietnamese logistics company.

Phase 3: Data analysis and draft report

After the fieldwork was completed, the data was cleaned and analysed by the project team. The team leader and project advisor prepared a draft regulatory assessment report, based on the findings of the desk and field research.

Phase 4: Consultation meeting and final report

A consultation meeting was held in Vientiane to obtain feedback from key public and private sector stakeholders on the research findings in the draft report, as well as the draft action plan.

Based on the results of the consultation meetings, as well as additional feedback from the MoIC, the assessment report was finalized.

2.3 Supply chain approach

As detailed in the terms of reference, the study applies a supply chain approach to analyze transit issues. The Department of Import and Export requested that the research team examine four specific products and their transit routes, as detailed in Table 2 and Figure 2.

Figure 1: Transit supply chains examined in this study



Table 2: Examined Transit Routes – Lao PDR

Examined Transit Routes - Lao PDR	
Route	Product
Origin -Thailand Transit - Nong Khai-Thanaleng – Arrival Lao PDR	Palm oil imports
Origin Lao PDR - Vang Toa - Transit Thailand - Destination	Cassava exports
Origin Lao PDR - Dansavan - Transit Vietnam- Destination	Mineral exports
Origin Thailand - Takhek - NaPhao - Arrival Vietnam	Animal and fruit transit trade

3. Regulations, laws and agreements

This section briefly describes relevant international agreements and national laws and regulations that apply to transit trade. The annex to this report includes the text from the relevant sections of these agreements and laws.

3.1 Main trade agreements relevant to transit trade

Lao PDR has signed numerous bilateral and multilateral trade agreements with its trading partners. There are two major multilateral agreements that are particularly pertinent to transit trade:

- Greater Mekong Subregion Cross-Border Transport Agreement (GMS CBTA); and
- ASEAN Framework Agreement for the Facilitation of Goods in Transit (AFAFGIT).

These agreements include common general principles, such as nondiscrimination, transparency and simplification and harmonization of customs procedures.

CBTA

Despite the fact that it was signed in 1999 – nearly 20 years ago - CBTA implementation has been slow and incomplete due to a lack of political will; the inability of line ministries in signatory countries to cooperate and agree on details; and the different levels of implementation capacity across the region. As a result, bilateral and trilateral arrangements have been used by Lao PDR as an attempt to implement some of its provisions with specific countries (particularly Vietnam and Cambodia). Some of these are listed in Appendix I.

The CBTA has provisions for all aspects of cross-border trade, including the designation of specific border crossings and routes; specification of requirements for drivers licenses; licensing of operators; provision of border facilities; reduction of documentation requirements; removal of the duty for transit goods, etc.

There was some progress in CBTA implementation in 2018. The “Early Harvest” MoU was signed by ratifying countries in March 2018. The CBTA ‘Early Harvest’ takes effect from 1 June 2018 thru 31 May 2019. The MoU allows each GMS country to issue up to 500 GMS Road Transport Permits and Temporary Admission Documents (TADs) for goods and passenger vehicles registered, owned or operated in that country. Vehicles can travel on any of the routes and across any of the border crossings listed in CBTA Protocol 1. As part of this negotiated agreement, travel to and from Lao PDR is limited initially to the Boten, Huayxay, Dansavan and Savannakhet border crossings along national routes 3, 9 and 13. Vehicles must carry the original Permit and TAD issued by the competent authorities in their home country (i.e., the country in which their vehicle is registered) and can remain in any other participating GMS country for up to 30 days on each journey. Appendix 1.2.2 of this report contains more details on the Early Harvest provisions.

All five participating GMS countries - excluding Myanmar - were originally expected to begin issuing mutually recognized Permits and TADs by 1 June 2018; however, this date was later revised to 1 August 2018. As a result, during the fieldwork conducted for this study, there was no evidence of Early Harvest implementation at the visited checkpoints. Some traders report that trucks are only allowed to remain in Lao PDR for 3 days, but the legal basis for this policy is unclear.

AFAFGIT and ACTS

The AFAFGIT – like the CBTA - includes provisions for all aspects of cross-border trade. It designates specific border crossings and routes and specifies vehicle technical requirements, third-party insurance, SPS measures, etc.

In addition, the AFAFGIT aims to allow authorized trucks from any signatory country to apply for one of the limited number of permits to trade freely with the countries in the region. AFAFGIT specifies the type, quantity, and technical specifications of the trucks which qualify for international trucking permits and defines the obligatory third-party liability insurance requirements.

Although it has not yet been fully implemented in Lao PDR, Thailand and Vietnam, *Protocol 7: ASEAN Customs Transit System (ACTS)* is most relevant to this study. ACTS is a computerized Customs transit management system. The main difference between ACTS and the current system is that the goods to be transported by road from the point of departure to destination will be covered under a single transit regime instead of the current time-consuming and costly process which requires multiple national transit declarations.

The aim of ACTS is to maximize trade efficiency as follows:

- Simplifying procedures
- Applying common risk management techniques
- Providing mutual recognition by AMS of vehicle inspection certificates for trucks
- Eliminating movement restrictions on permitted vehicles and drivers

Phase I of ACTS has been implemented. It covers transit trade from Singapore via Malaysia to Thailand. A Vietnamese logistics interviewed for this study informed the project team that the implementation of Phase II (i.e., extending ACTS to Lao PDR, Cambodia, Vietnam and Myanmar) would be extremely beneficial to transit trade.

Under Protocol 3 of AFAFGIT, ASEAN Transport Ministers had authorized up to 500 trucks - issued with an 'ASEAN goods vehicle cross-border permit' by each ASEAN member country - to be allowed to transport goods across borders from the point of departure to destination, thereby eliminating the need to load goods onto a local truck at the border. Based on the project team's interviews with traders, this does not appear to be happening.

3.2 National laws

National laws in Lao PDR, Thailand and Vietnam that pertain to transit trade are summarized in this section. The appendices to this study include the relevant sections of these laws.

In general, each country's Customs law treats transit and import/export procedures in a similar manner. There are differences with regard to specific measures. For example, goods which transit through Lao PDR require a cash deposit or letter of guarantee issued by a financial institution; in addition, goods are required to be transported by specific routes. For imported goods, the cash deposit and letter of guarantee are only required for goods deemed to be sensitive, perishable or dangerous; moreover, an IM8 Declaration Form must be completed. Appendix 3 provides additional details.

Lao PDR

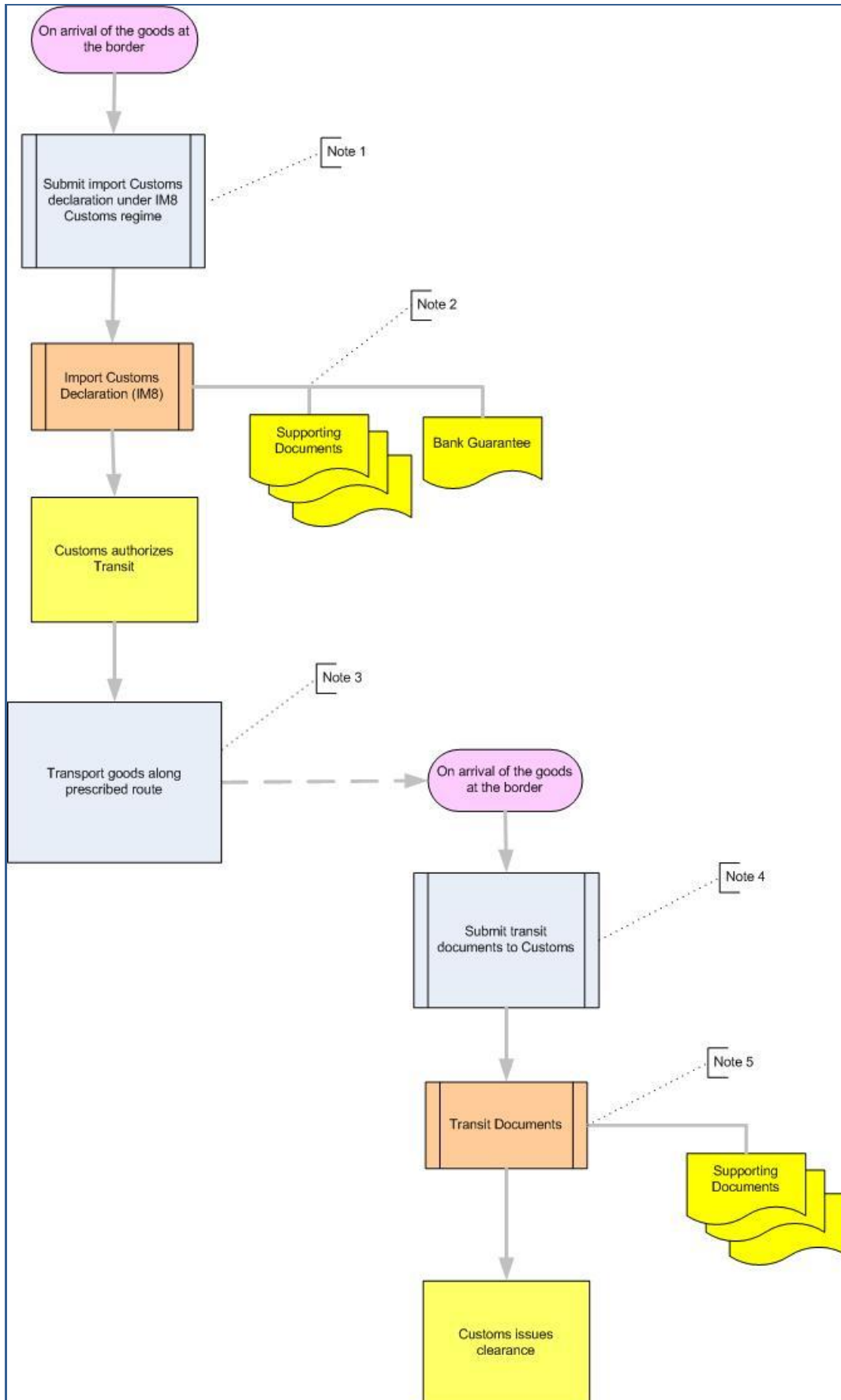
Lao PDR's Customs Law No. 04/NA (20 December 2011) and several other decisions and notifications include provisions for the transit of goods through Lao territory. The Customs law itself has very few details on transit specifically; this is not uncommon for Customs legislation in general. There are also decisions, notifications and decrees from the Ministry of Agriculture and Forestry (MAF) and the Ministry of Health (MoH) regarding transit of animals and food products. Appendices 2.1.2 and 2.1.3 provide additional details.

The general process for transit of goods through Lao PDR is detailed in Figure 3. Goods in transit are covered by the IM8 Customs regime. No duty is payable on transit goods, but the declarant must provide security in the form of a cheque or a letter of guarantee issued by a bank or financial institution in the amount equal to the Customs duty and other obligations.

Prior to arrival of the goods at the Lao inbound border, the trader must submit a Customs declaration (*Form ACDD*) under the IM8 regime registering the arrival of the goods. The standard procedures for importing goods are then followed.

Goods in transit must follow the procedures prescribed by Customs. Prior to arrival at the Lao outbound border, the trader must submit the transit documents to the outbound Customs border office. Transit documentation includes copies of the IM8 Customs declaration and accompanying documents.

Figure 2: Official transit procedures, Lao PDR



Source: Lao Trade Portal

The documents that must accompany a transit declaration include the standard documents required for an import declaration:

- Commercial Invoice or Contract of Sale
- Bill of Lading or Transport Waybill
- Packing List
- Any specific licenses or permits relevant to the goods being transported

In addition, a declarant must submit a cheque or letter of guarantee from a bank.

Lao PDR

Transit measures applied by the relevant authorities of Lao PDR are detailed below:

- When food products are imported under a transit regime, the importer must obtain a permit from the Food and Drug Department (Ministry of Health) or the Provincial Department of Health according to Article 22 of Decision 1166/MoH – and provide required supporting documentation listed in Article 23.
- To transit animals, animal products and/or animal-related items products through Lao PDR to a third country, it is necessary to obtain a permit from the Department of Livestock and Fishery, MAF or the Veterinary Inspection Unit at the border checkpoints.
- All animals which transit through the territory of Lao PDR to a third country shall be inspected by a Veterinary Officer at the border (MAF).
- Transit of plants and plant products (including fruit) requires an inspection and a permit from the Plant Quarantine Officer at the border (MAF)
- Transit of wildlife and aquatic resources requires a permit from the Department of Forestry (Ministry of Agriculture and Forestry)

Thailand

Thailand Customs law does not specifically reference international agreements. Appendix 3.1.1 provides additional details.

Thailand's Department of Agriculture periodically issues decrees or notifications regarding the transit of specific products (i.e., Lao tobacco). Examples of these are provided in Appendix 3.1.2. In general, they stipulate packaging and labelling requirements and the need for SPS certification.

Vietnam

Vietnam's Customs law specifically references international agreements. It notes that *"in case an international treaty to which the Socialist Republic of Vietnam has contracted or acceded contains provisions which are different from those of this Law, the provisions of such treaty shall prevail."* Thai Customs Law includes no such clause.

Vietnam's Commercial Law provides additional details, including specific goods. It also references international agreements: *"Transit procedures shall be resolved by the border gate customs, unless an international treaty to which the Socialist Republic of Vietnam is a member contains some other provision."*

There is generally no guidance for Vietnamese authorities on how to implement international treaties or which provisions of treaties require implementation; moreover, there is no established procedure on how courts and other bodies would interpret international agreements.

4. Transit trade in practice

Despite the existence of the aforementioned agreements to liberalize transit trade, there are national restrictions which continue to impede transit trade, as well as a slow pace of implementation. During the field research, the project team often could not determine definitively whether key issues were the result of national legal restrictions; local or provincial restrictions which contravened national legislation; or a general lack of transparency.

4.1 Palm oil imports via Thailand

Introduction

When a Lao trader seeks to import palm oil from Indonesia or Malaysia, the shipment must transit through Thailand. Overland imports from Malaysia via Thailand enter Lao PDR at Nong Khai-Thanaleng.

Trade processes

- a. If importers seek to import palm oil for refining or production in a factory with a duty and tax exemption, they are required to submit the importing plan (Master List) to the Ministry of Planning and Investment (MPI). This process takes 3 months, due to inadequate staff capacity at the MPI and time-consuming document verification procedures.

Supporting documentation includes the following:

- i. Enterprise Registration Certificate (ERC)
 - ii. Delivery order
 - iii. Invoice
 - iv. Packing list
 - v. Transport documentation from the Ministry of Transportation in Thailand
 - vi. Annual Production Plan issued by the Provincial Department of Industry and Commerce (PoIC)
- b. The importer requests the Customs Official Notice from the Department of Customs (MoF). Some imports are VAT exempt. This process takes 2 weeks.

Supporting documentation includes:

- i. Certification from MPI
- ii. Enterprise Registration Certificate

The Lao trader orders palm oil from a third country (Malaysia). The Malaysian exporter submits an invoice and packing list to the Lao trader, who subsequently hires a Thai transport company to ship the goods from the Malaysian border to Lao PDR via the FB1/Thanaleng checkpoint in Vientiane. The Thai truck obtains permission to enter Lao PDR and travel to the Thanaleng warehouse or the trader's warehouse. The Thai transport company is responsible for handling paperwork and formalities on the Thai side.

Fees are based on the *Presidential Decree on Fee and Service Charges No. 003/President*. Unfortunately, due to the absence of transit trade of palm oil at the present time, it is impossible to verify these figures; in addition, there is no data available from the Thai side.

In the case of importation without a plan, the importer can use Form D (Certificate of Origin) from the country of origin to receive preferential treatment on import tariffs, but other taxes and fees must be paid, including the Consumption Tax, VAT, and related charges, in accordance with the Lao tax law. These payments are collected by Customs officers at the border checkpoint.

According to traders, there are two main government agencies involved in palm oil importation from the Lao side: MPI and MOF (Department of Customs). The key Thai ministries involved are the Ministry of Commerce (Form D or CO), Ministry of Transportation (transport document) and Customs officers at the border checkpoint.

Restrictions, bottlenecks and issues

Lao traders reported that the Thai government does not permit the transit of palm oil through Thailand; currently, most palm oil in Lao PDR is imported from Thailand. However, Thai customs disputed this point, and there appears to be no legal basis for this restriction. It might simply be the case that the Lao traders were, for some reason, unable to locate a company to provide such transit services.

According to the traders interviewed by the project team, they imported palm oil from Malaysia through Thailand in 2014 by using Thai companies which transported the product from Malaysia directly to Lao PDR via the Friendship Bridge 1 checkpoint; however, these traders have indicated that new laws in Thailand now prohibit palm oil imports from third countries that transit through Thailand. All of their palm oil is now imported from Thailand only.

However, as previously mentioned, the project team has been informed by Thai Customs that there is no ban on the transit of palm oil through Thailand. In fact, Thai Customs officials have stated that exports of Malaysian palm oil are currently being shipped to Myanmar via Thailand (at the Sadao border crossing). Furthermore, palm oil is not mentioned in a 2016 decree (Appendix III) which lists products prohibited for transit. The project team has been unable to locate any of the laws or regulations referenced by the traders in official listings such as government gazettes, customs websites, or the national trade repository.

Palm oil is one of the agricultural products that Thailand has not liberalized. Palm oil policy in Thailand is politically sensitive. The Thai government has implemented a number of policies that are intended to protect its palm oil farmers from more efficient producers in Malaysia and Indonesia. There are minimum price guarantees for farmers, price controls and import quotas. Imports of palm oil into Thailand that are within quota are subject to a 20% tariff; however, out-of-quota imports are subject to a 143% tariff.

Lao traders have also reported increased bottlenecks in the import process since the Lao PDR government transferred operational oversight from the MoF to MPI in early 2018. The previous timeframe at MoF was one to two weeks; once oversight was transferred to MPI, the process took 3 months. A key contributing factor is inadequate staff capacity at MPI.

Key challenges in the palm oil import process on the Lao PDR side are cost and time, particularly the time-consuming procedures at MPI and the high informal fees at the Department of Customs. Traders have not recently encountered issues on the Thai side as all palm oil imports are from Thailand and the import process takes 2-3 days.

During interviews, traders indicated that they were generally unfamiliar with bilateral or multilateral agreements. They simply followed the steps and procedures that were provided to them by officials from Customs and related government entities. They generally lacked knowledge about the key government agencies that impact their business. For example, the only Thai authorities that they could identify as being important in the import of palm oil were the Ministries of Commerce and Transportation; they did not mention the Thai Ministry of Agriculture.

Palm Oil Imports from Thailand – Overview of Key Measures

Country	Measure	Summary	Legal and Regulatory Basis	Discretionary or Arbitrary Implementation
Lao PDR	Obtain duty exemption by submitting import plan (Master List) for approval to MPI	Process takes up to 3 months due to transfer of oversight authority from MoF to MPI and lack of institutional capacity within MPI	Yes	No
	Obtain official Notice from Customs	Process takes 2 weeks	Yes	No
	Payment of consumption tax, VAT and related fees and charges at border checkpoint without an import plan	Importer can obtain preferential treatment regarding the import tariff, but other taxes and fees must be paid	Yes	Yes

	Pay miscellaneous Customs fees	Traders have indicated that they are required to pay a significant number of informal fees to Lao PDR Customs	No	Yes
Thailand	Ban on palm oil transit trade	Traders indicated that Thailand has banned transit trade in palm oil, but Thai Customs has disputed this assertion	None; moreover, a 2016 Thai decree does not include palm oil among products subject to import ban	None

4.2 Cassava exports via Thailand

Introduction

Expanding agricultural exports – particularly cassava - and facilitating increased domestic and foreign investment in the sector are key priorities of the Lao PDR government. Most cassava plantations are located in the southern part of Lao PDR and most exports occur via Vangtao checkpoint to Thailand and Lem Chabang port to European Union (EU) countries.

Transit trade processes

The procedures for cassava exports to Thailand as well as transit trade procedures via Thailand to third countries are the same. The principal differences relate to certification requirements for product quality and supporting documentation such as a Certificate of Origin (CO) that is required for some countries.

- a. Once an order is received, traders prepare documents for export including:
 - i. Certificate of Origin (CO) from either the Provincial Department of Industry and Commerce, or the Department of Import and Export, MoIC, depending on the specific form needed. The process takes 1 day and the fee is 130,000 LAK.
 - ii. Phytosanitary certificate from the Provincial Department of Agriculture and Forestry. The process takes 1 day and the fee is 300,000 LAK.
 - iii. Certificate of Analysis (completed by trader/company).
 - iv. Invoice (completed by trader/company).
 - v. Packing list (completed by trader/company).
 - vi. Export insurance.
- b. Reserve the port and transport vehicle (container) from Thailand to load the product at the trader’s warehouse in Lao PDR.
- c. Customs declaration on the Lao PDR side (review all documents and physically check the product)
- d. Customs declaration on the Thailand side (review all documents and physically check the product seal)
- e. Customs declaration at the port and product loading on a ship.

Lao traders provided limited information regarding the documents and fees required by Thai authorities. This is because they hire a Thai transportation company to engage with Thai Customs and ship their product to the port.

Restrictions, bottlenecks and issues

Since Lao trucks (container vehicles) are not permitted to access Thailand, traders need to use Thai trucks. Lao authorities restrict Thai trucks to a 3-day stay in Lao PDR. There appears to be no regulation or other legal basis to support this practice.

Traders reported that the Bangkok port does not permit the export of cassava flour, although no official directive is in place. The stated reason for this policy – which was introduced by Bangkok municipal authorities – is the negative environmental impact (i.e., excessive dust in residential areas). Cassava flour can be exported via Lem Chabang port.

Thailand does not have a specific regulation on cassava flour transit trade with Lao PDR; however, it does have a policy that applies to cassava transit trade with Cambodia (*Notification of Department of Agriculture Re: Conditions for Bringing in Transit of Cassava from Kingdom of Cambodia B.E. 2553 (2010)*). This regulation covers only basic SPS requirements for a clean and properly-sealed container.

Traders also report that one of the key challenges in exporting cassava is the absence of a cassava exporters association that could more effectively advocate for their policy and regulatory priorities.

Informal fees are required from officials at all relevant government departments. The fees range from 100,000 to 300,000 LAK. This was identified by cassava traders as a major issue.

Cassava Exports via Thailand – Overview of Key Measures

Country	Measure	Summary	Legal and Regulatory Basis	Discretionary or Arbitrary Implementation
Lao PDR	3-day limit for Thai trucks in Lao PDR	LNCCI indicates that the 3-day rule applies only to trucks carrying empty containers. A document (U53) allows Thai trucks to remain in the country up to 30 days	Unclear	Unclear
	Disparity in truck weight requirements between Lao PDR and Thailand	Disparate weight requirements between Lao PDR and Thailand prevent trucks from crossing the border	Yes	No
	Informal fee payments	Excessive formal fees required by Lao government authorities. Provincial authorities are difficult to deal with and create additional bottlenecks for traders	No	Yes
Thailand	Disparity in truck weight requirements between Lao PDR and Thailand	Disparate weight requirements between Lao PDR and Thailand prevent trucks from crossing the border	Yes	No
	Ban on the export of cassava flour from Bangkok Port	Ban was imposed by Bangkok municipal authorities due to environmental impact in surrounding residential neighborhoods	Unclear – the applicable municipal directive could not be identified	No

4.3 Mineral exports via Vietnam

Introduction

There are several border checkpoints through which Lao mineral products are exported. This study focuses on transit trade through Vietnam via the Dansavan and Naphao checkpoints.

Transit trade processes

Mineral export procedures are detailed below.

- a. Request export quota from the Department of Mines Management in the Ministry of Energy and Mines (MEM). Required supporting documentation includes: mining excavation permit; mineral

processing permit; enterprise registration certificate. It takes 3 days to obtain the export quota certificate and it is valid for 1 year.

- b. For each export, traders must obtain an export permit from the Department of Mines Management (MEM). This process takes 3 days.
- c. Certification of the paid royalty fee is issued by the Department of State Asset Management.
- d. A Certificate of Origin (CO) is issued by the MoIC. The process takes 1 day.
- e. Product is loaded at the traders' facility. The following local government authorities are involved in the process: Ministry of Mines, MoIC, Ministry of Finance.
- f. Customs declaration and inspection at the border checkpoint on the Lao PDR side.
- g. Customs declaration and inspection at the border checkpoint on the Vietnam side.
- h. Customs declaration and inspection at the Vietnamese port.

Restrictions, bottlenecks and issues

Traders are required to pay multiple fees at the checkpoint, both formal and informal. The lack of transparency in terms of fee payments coupled with arbitrary changes to procedures and requirements often results in delays of 1 week or more for transport vehicles at the checkpoint.

Traders are also required to complete export procedures with local (provincial) authorities, even though they have already obtained an export permit at the national level. These duplicative procedures are time-consuming and costly as traders often must pay additional fees, both formal and informal.

There are also duplicative procedures for the installation of seals; for example, seals need to be installed on the transport vehicle at the point of product origin and again at the border checkpoint. It takes approximately 10-15 minutes per vehicle for product inspection at the checkpoint (without the use of an X-Ray machine).

Traders reported that they have not encountered any bottlenecks on the Vietnam side, as long as everything is in order on the Laos side. Vietnam's Customs Law (*Law on Customs no.54/2014/QH13*) requires traders to submit "on a case-by-case basis," the following materials:

- Goods purchase and sale contract
- Commercial invoice
- Bill of lading
- Certificate of origin of goods
- Import or export permit
- Notice of specialized inspection results or exemption from specialized inspection
- Documents related to goods as prescribed by relevant law provisions.

Mineral Exports via Vietnam – Overview of Key Measures

Country	Measure	Summary	Legal and Regulatory Basis	Discretionary or Arbitrary Implementation
Lao PDR	Provincial-level export procedures and fees	Although exporters obtain certification at the national level, they are required to duplicate procedures at the provincial level and pay additional informal fees	None	Yes
	Seal installation	Procedures for seal installation at point of origin and subsequently at the border checkpoint are duplicative	None	Yes
Vietnam	No specific measures identified for Vietnam	N/A	Law on Customs No. 54/24/QH13 is applied on case-by-case basis	No

4.4 Animal and fruit imports from Thailand to Vietnam transiting through Lao PDR

Transit trade processes

Fruit Transit

Thai traders/transport companies should provide the following documents to Lao traders/transport companies via email:

- Invoice
- Packing list
- Details of transport vehicle (truck number plate, tail number plate, etc.)

Lao traders/transport companies should prepare the following documents:

- Submit invoice and transport documents to warehouse authorities in order to register the warehouse number. The document declaration is entered into the ASYCUDA system. The Lao trader/transport company should request a signature from the Chief of Customs at the border.
- When the Thai trucks arrive at the Lao PDR checkpoint, traders need to submit the SPS document declaration in the plant quarantine office; once the plant quarantine office issues an authorization, the transport documents are submitted to customs authorities and the fee is paid. Traders need to check the transport vehicle number and container prior to obtaining the release letter at the warehouse. A plastic seal with a customs logo is installed on the container.
- When the truck arrives at the Vietnam border checkpoint (on the Lao PDR side), customs and plant quarantine officers check documents, scan the containers, and issue approval to release.

Costs and Fees at Lao PDR entry point

1. Formal fees:

- Transport fee: 165,000 LAK per vehicle
- Driver fee: 10,000 LAK per person
- Immigration police fee: 10,000 LAK per person
- Transiting fee: 350,000 LAK per container
- ASYCUDA fee: 100,000 LAK per shipment
- Plastic seal: 20,000 LAK

- Service fee for the Plant Quarantine Unit: 15.000 LAK per vehicle

2. Informal fees:

- Additional fee for transport: 50,000 LAK per vehicle
- Additional fee for transiting and ASYCUDA fee: 50,000 LAK per shipment
- Signature and stamp from the Chief of Customs at the border: 20,000 LAK per shipment
- Warehouse fee: 100,000 LAK per shipment
- Release letter: 50,000 LAK per shipment

Total costs (assuming 1 person, 1 vehicle): 670,000 LAK (formal) + 270,000 LAK (informal) = 940,000 LAK

Timeframe at Lao PDR entry point:

- Plant Quarantine: 1 minute
- Transport document registration: 3 minutes
- Transport document issuance: 2 minutes (if documents are already prepared)
- ASYCUDA system registration: 1 minute (5 minutes if documents are not already prepared)
- Document declaration: 3 minutes (check customs clearance)
- Chief of international checkpoint signs the document: 1 minute
- Check transport vehicle and container number: 2 minutes
- If all the documents are prepared, the process may take 30 minutes. If not, it may take 1 hour.

Total time: 42 – 77 minutes

Costs and Fees at Lao PDR exit point:

- X-ray: 50,000 LAK per vehicle.
- Informal fee: 100,000 LAK per vehicle.

Total costs (assuming 1 person, 1 vehicle): 50,000 LAK (formal) + 100,000 LAK (informal) = 150,000 LAK

Time at exit point Lao PDR:

- Authorities remove the plastic seal: 1 minute
- X-Ray process: 5 minutes

Total time: 6 minutes

Animal transit

According to traders, animal transit through Lao PDR is difficult. Since the requirements are so challenging, traders import the animals, pay the import duty, and then re-export the animals.

The applicable fees and procedures are similar to those for fruit; the principal difference is the absence of the 350,000 LAK transit fee; instead, there are the following duties: US\$15 per cow and US\$20 per buffalo. An animal health certificate from the country of origin is also required (i.e., a tag is attached to the animal's ear).

Restrictions, bottlenecks and issues

Fruit traders and transport companies did not report transit-related issues; they identified informal fee payments and delays as key challenges. According to traders, animal transit is more difficult in Lao PDR than in other countries.

Animal and Fruit Imports from Thailand to Vietnam transiting through Lao PDR – Overview of Key Measures

Country	Measure	Summary	Legal and Regulatory Basis	Discretionary or Arbitrary Implementation
Lao PDR	Fruit traders: Fee payments and formalities at the border	Informal fee payments and border delays are key issues	None	No
	Animal traders: De facto ban on transit of animals	Animal traders import animals, pay applicable duty and re-export as the process is far simpler	Unclear	Unclear
Thailand	N/A	N/A	N/A	N/A
Vietnam	N/A	N/A	N/A	N/A

5. Conclusions

There are two specific issues raised by this study that require urgent attention: the perceived Lao PDR ban on animal transit and the Thai ban on palm oil transit. Both issues were reported by traders but there appears to be no legal basis for either policy. If the bans are in fact official, this information should be disseminated to shippers, traders and border checkpoint officials. Existing platforms such as the Lao Trade Portal could be used as a mechanism to increase overall transparency and build private sector awareness of transit policies and procedures. Indeed, lack of transparency and limited knowledge by traders of key policies and procedures are important issues to address.

Other problems reported by traders – excessive informal and overtime fees, congestion and lengthy delays at checkpoints – are common in cross-border trade.

More broadly, regional trade agreements and protocols do not appear to require amendments; they require implementation. Solutions to most issues appear to exist within the CBTA and ACTS framework. It is not entirely clear whether implementation is being impeded by national laws or whether national laws are being incorrectly interpreted and implemented. In the case of Vietnam, its Custom law refers to international agreements and states that they take precedence over national laws when there is a conflict. Thailand's Custom law does not have a similar provision.

One trader interviewed by the project team believes that Lao PDR and its neighbors should recognize their respective drivers' licenses. This provision is already included in many agreements that Lao PDR and its neighbors have ratified; however, it requires full implementation.

6. Recommendations

A key recommendation, given the general lack of awareness by traders of import, export and transit-related information, would be to provide enquiry points in each government department so that traders could get timely responses to specific trade-related queries. This could help alleviate some of the uncertainties and misconceptions held by traders regarding domestic and international transit requirements. Their contact details should be well publicized on an easily accessible platform, such as the Lao Trade Portal. This is currently required under the TFA (Category A).

International logistics operators recommend that ASEAN trucks be granted access to ASEAN countries as soon as possible. Implementing Phase II of the ASEAN Customs Transit System (ACTS) will allow this - for a limited number of trucks at least.

A common (regional) insurance guarantee scheme would significantly improve transit trade as bilateral schemes are insufficient; they cannot provide a chain guarantee from country to country. ACTS would address this issue. In the absence of ACTS - or in the event of a delay - the Lao Government should seek to include an ACTS guarantee system into existing bilateral agreements where a gap currently exists.

Other potential changes to improve transit trade – which are already largely addressed by CBTA and/or ACTS – include:

- Harmonizing and simplifying cross-border transport procedures and documentation
- Eliminating the need for a Lao transit permit unless goods are prohibited or hazardous in nature
- Harmonizing customs control procedures
- Fostering inter-agency coordination between Lao PDR and its neighbors
- Developing inland infrastructure facilities and reducing congestion
- Improving handling equipment at the border
- Recognizing *trailer swapping* between countries under bilateral and trilateral agreements
- Signing Mutual Recognition Agreements with standards bodies (bilaterally or through ASEAN)
- Improving testing labs, accreditation, and mechanisms for certification
- Implementing a vehicle tracking systems (RFID)

The Lao PDR Government should take steps to prepare for, and implement, Phase II of ACTS. In 2017, ARISE organized a 3-day ACTS training workshop for the private sector in Bangkok. A similar workshop could be planned for Vientiane. Prior to scheduling this workshop, Lao Customs and other authorities would receive the following ACTS-related training:

- Advanced training courses on best practices in transport and supply chain management for top and middle management as well as staff responsible for day-to-day operations
- Advanced training courses on negotiation and commercial diplomacy for top management

The Lao PDR government should work with Thai authorities to develop a policy that permits Lao trucks to deliver goods further into Thailand and to pick up cargo in Thailand rather than return empty after delivering transit goods (possibly via a reciprocal arrangement). Alternatively, the Lao Government could offer to improve the road infrastructure connecting Thailand to Vietnam in return for improved access for Lao transport companies to the Thai market.

However, the Lao PDR Government should also be aware of possible obstacles to the implementation of transit reform as detailed below:

- In Lao PDR, only LIFFA members may be licensed to issue transit guarantees; therefore, they may resist liberalization efforts (such as ACTS) that would allow foreign freight forwarders access to the Lao market
- Specific industry assistance policies (e.g. Thai palm oil) may also impede implementation of transit reform

Previous studies have noted that LIFFA and the Department of Transport have identified the lack of suitable Lao transport companies, vehicles and qualified drivers as key reasons why they are not as proactive in advocating for change. The transport operators who might be interested in greater access to Thai markets are mostly non-members of LIFFA, not well-organized and generally unfamiliar with CBTA, ACTS and other agreements.

Therefore, a policy to modernize the Lao trucking industry might be required:

- Adoption of new regulations that encourage market entry of competent and financially capable operators. These might include reconsideration of the minimum company size in terms of fleet size and/or capitalization and vehicle safety standards
- Encourage the establishment of joint ventures between domestic and international companies

Appendix I: Agreements

This Appendix includes certain sections of some laws and agreements that are pertinent to third-country transit of goods.

1.1. Bilateral agreements

1.1.1 With Thailand:

1978 Agreement on transit trade

1991 Bilateral Trade Agreement –signed 20 June 1991

1999 Land Transportation Agreement but still difficulties in protocol implementation

1999 The Agreement on Road Transport signed on March 5, 1999

2017 Transit Customs Procedures Under the Road Transport Agreement Between the Government of the Kingdom of Thailand and the Government of the Lao People's Democratic Republic. November. (This is intended to align arrangements with the Barcelona Agreement).

1.1.2 With Vietnam:

1991 Agreement on transit trade

1996 Agreement on Road Transport

1999 Agreement on road transport

2000 Agreement on transit trade

2009 Lao-Vietnam Bilateral Trade Agreement

2015 Border Trade Agreement between Government of Lao People's Democratic Republic and Government of Socialist Republic of Vietnam dated 27 Jul 2015

2017 Protocol to amend the Agreement on Transit of Goods between the Government of Lao People's Democratic Republic and the Government of Socialist Republic of Vietnam

1.2 Regional / Multilateral agreements

Lao PDR, in July 1997, agreed to *the Agreement on the Recognition of Domestic Driving Licenses* issued by ASEAN countries as a condition of entering the Association of Southeast Asian Nations (ASEAN), recognized by Thailand and Vietnam. The vehicle must bear a current valid license issued in the country of registration. The driver must be a citizen of one of the two countries and must carry a valid driver license issued by his/her country of origin, plus a valid passport or laissez passer. There is no requirement for the vehicle or driver to be registered in the second country but are bound by all laws applicable to aliens; only goods shown on the transport document may be carried.

Protocol 4 of the **ASEAN Transit Traffic Agreement** was signed by the Ministers of Transport in December 1999.

MOU on Road Transport signed by Lao, Cambodia and Vietnam in 2013. Includes designated border crossings and transit routes. Refers to CBTA. Refers to Protocol 4, 5 and 8 (vehicle technical requirements, 3rd party vehicle insurance, and SPS measures) of ASEAN Framework Agreement on the Facilitation of Goods in Transit. Refers to 2009 Agreement between Lao and Vietnam on Facilitation for Cross Border Motor Vehicles.

1.2.1 GMS Cross-Border Transport Agreement (CBTA)

Starting as a trilateral agreement among Vietnam, Laos, and Thailand in 1999, the agreement, supported by the ADB, was then expanded with the participation of Cambodia, China and Myanmar. The full

implementation of GMS-CBTA is expected by 2019. MOU signed by Lao, Thailand, Vietnam 2007. Ratified 2015. Some important Articles, Annexes and Protocols of the CBTA are:

Article 13: Technical Requirements

Vehicles and containers traveling to the territory of other Contracting Parties shall satisfy the equipment safety and emissions standards in force in their Home Country. With respect to weights, axle loads, and dimensions, Vehicles traveling to the territory of other Contracting Parties must comply with the technical standards of the Host Country.

Article 14: Recognition of Technical Inspection Certificates

- (a) Vehicles traveling to the territory of other Contracting Parties shall be in good working order.
- (b) The Home Country is charged with the supervision of the roadworthiness of the Vehicles registered in its territory, based on which it will issue a technical inspection certificate.
- (c) The other Contracting Parties will recognize such technical inspection certificates.

Article 17: Driving Permits

The Contracting Parties shall recognize driving licenses issued by all other Contracting Parties in accordance with the Agreement on the Recognition of Domestic Driving Licenses issued by ASEAN Countries signed at Kuala Lumpur on 9 July 1985.

2002 amendment to Article 17:

The Contracting Parties to the Agreement hereby commit to amending Article 17 (Driving Permits) of the Agreement to the effect that: The Contracting Parties shall mutually recognize the driving licenses issued by their respective competent authorities in accordance with an additional Annex (to be formulated) to the Agreement.

[annex 16, criteria for driving licenses, was added 2004]

Article 21: Licensing of the Transport Operator (Access to the Profession)

- (a) Transport Operators shall be licensed for cross-border transport operations by their Home Country according to the criteria set out in Annex 9.
- (b) The operating license cannot be sold or transferred by the legal entity to which it is issued.
- (c) The Host Country will recognize the operating license issued by the Home Country.

Article 22: Market Access

- (a) Any Transport Operator properly licensed for cross-border transport operations in its Home Country according to the criteria set in Annex 9, shall be entitled to undertake cross-border transport operations under the Agreement.

Article 27: Border Crossing Facilities

The Contracting Parties undertake to build or upgrade the required infrastructure at the border crossing points and to staff them so as to assure speedy and efficient completion of frontier crossing formalities as specified in Annex 12.

Article 35: Documentation and Procedures

- (a) The Contracting Parties recognize that documentation and procedures represent important time and cost elements affecting the efficiency of transit operations and agree to keep these costs and delays to a minimum.
- (b) The Contracting Parties therefore undertake to:
 - (i) limit the number of documents and reduce to the extent possible, procedures and formalities required for cross-border traffic;

- (ii) provide English translation of all documents used for cross-border traffic;
- (iii) align their documents to the United Nations layout key for trade documents;
- (iv) harmonize, as far as possible, commodity codes and descriptions with those commonly used in cross-border trade, as set out in Annex 15;
- (v) review periodically the need for and usefulness of all documents and procedures required for cross-border traffic;
- (vi) eliminate any documents and formal requirements that are superfluous or do not serve any particular purpose;
- (vii) undertake to conform all measurements with SI Units (the International System of Modern Metric Units), by 2005; and
- (viii) give due advance notice to the other Contracting Parties of any additional requirement or modification in prescribed documentation and procedures to be introduced regarding cross-border traffic.

Annex 6: Transit and Inland Customs Clearance Regime

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.

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 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.

Annex 9: Criteria for Licensing of Transport Operators for Cross-Border Transport Operations

Annex 10: Conditions of Transport

Annex 12: Border Crossing and Transit Facilities and Services

Article 1: Availability of Required Services, Facilities, and Personnel

The Contracting Parties will see to it that the required services, facilities, and personnel for a smooth border crossing are available in the border crossings mentioned in Protocol 1 of the Agreement.

Article 6: Road and Border Crossing Infrastructure

The Contracting Parties will make arrangements for dual channel border crossing so as to allow priority border clearance of transport operations. Where required, the Contracting Parties will also build a traffic change-over lane.

Article 7: Future Equipment

The Contracting Parties will endeavor to keep up with technological developments and to implement at their earliest convenience modern and advanced border crossing techniques such as: machine reading of passports, X-ray machine for goods and container inspection, automatic vehicle identification (license plate readers), and bar code readers for other documents.

Annex 14: Container Customs Regime

Article 2: Exemption from Import Duties and Taxes

Subject to re-exportation and other conditions laid down in this Annex: (a) each Contracting Party shall grant temporary admission to its territory of containers originating from other Contracting Parties, where they are owned or operated by residents registered in the other Contracting Parties, without payment of import duties and taxes and free of other prohibitions and restrictions;

Article 4: Temporary Admission Document

(a) Containers imported temporarily into the Host Country territory shall carry a Temporary Admission Document,

Annex 16: Criteria for Driving Licenses

Article 1: Mutual Recognition of Domestic Driving Licenses

(a) The Contracting Parties shall mutually recognize the domestic driving licenses issued by the Competent Authorities of the Home Country ("Issuing Authorities"), except for learners', temporary/provisional, and probational driving licenses, and the like.

(b) Drivers of motor vehicles in cross-border transport operations shall hold a valid and appropriate driving license issued by their Home Country or one of the other Contracting Parties. (c) Upon entry in the Host Country the driving license shall have a remaining period of validity of at least two months.

Protocol 2: Charges Concerning Transit Traffic

Article 2: Nondiscrimination

(a) Without prejudice to existing bilateral agreements governing special border zones, which provide preferential treatment, the Host Country shall, with regard to the levying of charges, not discriminate: (i) among other grounds, on the basis of nationality of the transport operator, the place of registration of the vehicle, or the origin or destination of the transport operation; and (ii) in particular, between cross-border traffic and its domestic traffic. (b) However, the least developed Contracting Parties (determined on the basis of the United Nations' designation of least developed countries) may apply preferential toll rates and other charges to the vehicles registered within their territories, when undertaking domestic transport.

Article 6: Permissible Charges

(a) The Contracting Parties may levy the following charges on cross-border traffic, subject to the conditions set out in this Protocol: (i) Tolls: direct charges for the use of road sections, bridges, tunnels, and ferries; (ii) Charges for excess weight, where permissible under the national law and/or regulations of the Host Country; (iii) Charges for administrative expenses; (iv) Charges for the use of other facilities or services; (v) Taxes on fuel purchased in the Host Country; and (vi) Road maintenance charges (to the extent not included in the charges mentioned above). (b) The Contracting Parties shall refrain from levying any charges on cross-border traffic other than those listed above.

Protocol 3: Frequency and Capacity of Services and Issuance of Quotas and Permits

Article 5: Permit Issuance and Distribution Procedure

(c) For cargo transportation and for non-scheduled passenger transportation, each Contracting Party, shall be entitled to issue up to 500 permits. This arrangement shall be subject to annual review and modification by the Joint Committee.

Article 6: Period of Validity of Permits and Extensions

(a) A permit shall be valid for a period of one year as from the date of its issuance. Provided the permit was first used before the expiry of its validity period by entering the territory of a Contracting Party other than the operator's Home Country, it shall however remain valid until the completion of the transport operation by the return of the vehicle to its Home Country.

1.2.2 CBTA "Early Harvest"

The GMS Transport Ministers, as members of the 'Joint Committee' responsible for managing the CBTA, agreed in 2016 to launch the 'Early Harvest' implementation of the CBTA in 2018, and to complete the CBTA revision process by 2019. The 'Early Harvest' is based on a Memorandum of Understanding (MOU) signed by the 6 GMS countries in the period to March 2018.

The CBTA 'Early Harvest' is expected to operate from 1 June 2018 to 31 May 2019. All 5 participating GMS countries (excluding Myanmar) are expected to sign the MOU and start issuing mutually recognised Permits and TADs by 1 June 2018.

The MOU allows each GMS country to issue up to 500 GMS Road Transport Permits and Temporary Admission Documents (TADs) for goods and passenger vehicles registered, owned and/or operated in that country. Vehicles can travel on any of the routes and across any of the border crossings listed in CBTA Protocol 1. For Lao PDR, movements in and out of the country will be limited initially to the Boten, Huayxay, Dansavan and Savannakhet border crossings along national Routes 3, 9 and 13. Vehicles must carry with them the original Permit and TAD issued by the competent authorities in their Home country (i.e. the country the vehicle is registered in) and can remain in any other participating GMS country for up to 30 days on each journey. The TAD can be thought of as a vehicle 'passport' and must be stamped by the Customs department of each Host (i.e. the other GMS) country visited on entry and on exit, to ensure the 30-day time limit is observed. There is no limit to the number of cross-border journeys allowed. CBTA provisions for the transit transport of goods (with duty suspension under Customs control) is not included in the 'Early Harvest'. This means that although permitted vehicles can cross borders, without paying taxes and duties and without the need for a Customs bond or guarantee, the goods carried must follow current Customs procedures (i.e. standard import/export with payment of taxes and duties, duty drawback, or suspension of duties using

national transit regimes or other systems agreed bilaterally or plurilaterally between countries where these exist).

In order to obtain Permits and TADs, the vehicle operator must fulfil the conditions described in Articles 2, 3, 4, 5 and 6 of Annex 9 of the CBTA, i.e. the operator must be: a) a licensed crossborder transport operator in the Home country in which the Permit/TAD is issued, at least 51% owned and directed by citizens of this country; b) free from issuing country convictions or sanctions, with a clean legal record and no current and/or unresolved bankruptcy proceedings; c) professionally competent to operate (i.e. with respect to legality, operational management, knowledge of road safety and technical issues relevant to the road transport business in the countries in which it plans to operate); and d) financially solvent and insured for any operational and/or contractual liability.

As described in the main CBTA text and 'Early Harvest' MOU, operators must adhere to the main CBTA requirements for the admittance of road vehicles, i.e. Articles 11–18 of the main CBTA text, with respect to: a) vehicle registration; b) vehicle technical requirements; c) availability of technical inspection certificates; d) compulsory third party vehicle insurance; and e) driving permits.

Operators should note that vehicles must satisfy the equipment safety and emissions standards in their Home country, and **comply with the technical standards for vehicle weights, axle loads, and dimensions of the Host Country**. Cabotage (i.e. the transport of goods or passengers between two places inside a Host country by a transport operator from another GMS country) is not allowed. Permits and TADs will be issued free of charge in 2018. Charges thereafter will be set by the issuing authority(ies).

1.2.3 1998 ASEAN Framework Agreement on the Facilitation of Goods in Transit (AFAFGIT)

Selected Articles:

Article 10 Road Transport Permits

The Contracting Parties undertake to harmonize road transport permit requirements in order to facilitate transit transport

Article 13 Mutual Recognition of Driving Licenses

The Contracting Parties shall recognize domestic driving licenses issued by all other Contracting Parties in accordance with the Agreement on the Recognition of Domestic Driving Licenses Issued by ASEAN Countries signed at Kuala Lumpur on 9 July 1985.

Article 14 Motor Vehicle Third-Party Insurance Scheme

1. The road vehicle entering the territory of the other Contracting Party shall strictly comply with the laws and regulations related to third-party insurance covering for the insurance of their means of transport to cover third-party liability incurred in the course of transit transport.
2. The Contracting Parties undertake to harmonize or establish a common ASEAN scheme of compulsory motor vehicle third-party liability insurance to be specified in Protocol 5.
3. The ASEAN scheme of compulsory motor vehicle third-party liability insurance shall provide, at least, all the guarantees required by the laws and regulations governing compulsory motor vehicle third-party insurance in the Contracting Parties.

Article 18 Establishment of a Customs Transit System

1. The Contracting Parties shall establish a customs transit system for the purposes of facilitating the movement of goods in their territories.
2. The Contracting Parties agree to apply the customs transit system to be specified in Protocol 7.

Article 26 Compliance with National Laws

(b) neither of the Parties shall impose on persons or goods of the other Contracting Party requirements which are more restrictive than those applied by its national laws and regulations on its own means of transport.

Appendix II Lao PDR laws and decisions relevant to this Study

2.1 Transit

2.1.1 General transit

Title: Decision on the Transit of Controlled Goods through Lao PDR, No. 1238/MOIC.DIMEX, dated 23 June 2015

Type: Decision

Issuing Agency: Ministry of Industry and Commerce

Responsible Agency: Ministry of Industry and Commerce

Issuing Date: 23-06-2015

<https://www.laotradeportal.gov.la/index.php?r=site/display&id=877>

Controlled goods are those that require import or export permits. The Decision requires the shipment have a specified route, check point, timeframe, and amount.

Article 6 Document Requirements

Transit operator for controlled goods must submit all documents listed below:

1. Request letter for transit of controlled goods;
2. Buying-selling agreement between seller in the country of origin and buyer in the country of destination;
3. Enterprise registration certificate of transit operator;
4. Certificate of annual custom payment or other evidence of annual custom payment;
5. Invoice and packing list (signed by seller);
6. Certificate of transferred ownership right from the goods owner to the transit operator.
7. An agreement on advanced payment guarantee of transit-controlled goods with Lao Custom Department, Ministry of Finance.

Article 9 License Duration and Renewal

The license duration for transit of controlled goods remain in effect within 06 months. In case of modifying the contents of license, the transit operator must submit a request letter on the modification of license contents to the Administrative Authority of Controlled Goods in Transit.

For transit operators who cannot complete transit activities of controlled goods within the timeframe specified in the license, they can renew the license duration for additional one time as 03 months, which in total does not exceed 09 months.

Title: Notification on Transit Goods No. 0749/CD

Type: Notification

Issuing Agency: Ministry of Finance

Responsible Agency: Ministry of Finance

Issuing Date: 24-02-2007

<https://www.laotradeportal.gov.la/index.php?r=site/display&id=644>

1. Those who wish to operate the business of transit transportation services shall have a business license for transportation services issued by the Transportation Department, Ministry of Transportation, Post and Construction.

2. The Lao International Freight Forwarders Association (LIFFA) shall be the representative to insure against damage of goods during transit transportation towards the Customs Department on behalf of the company operating the transit transportation services. Such guarantee shall include goods, trucks, and containers in the transit transportation. Then, the Customs Department will consider approving the transit transportation. In addition to LIFFA, the Law on Customs shall be followed accordingly.
3. The detailed customs declaration (Bor 80) for the transit of goods (excluding goods subject to control and prohibition by the Government) shall be submitted at the border customs checkpoint where the goods are imported. Reference documents are:
 - (1) Copy of documents of the guarantee approval, issued by the Customs Department.
 - (2) The power of attorney for the transportation of goods from the representative of the transportation or the buyer (consignee) or seller (consignor).
 - (3) Copy of documents issued by the Customs Authority of the origin country (the exporting country).
 - (4) Invoice, packing list, and shipping documents.
 - (5) The license from the relevant authorities (for those goods subject to control and prohibition)
 - (6) In the case that there are many transit countries, there should be a copy of the transit documents of the last transited country.
 - (7) In the case that there is a violation of the regulations on transit transportation in Lao PDR, the enterprise operating the transportation services shall follow the Law on Customs strictly.
4. The customs declaration for the truck loading transit goods shall have the following documents:
 - For the contracting countries of the Cross-Border Transport Agreement, the logbook of international transportation approval and valid insurance shall be used.
 - With the exception of those contracting countries mentioned above without logbook of international transportation approval, document Bor 7 shall be used and the transit documents of the last transited country, technical inspection and valid insurance.

Title: Official Letter on International Transit of Goods No. 1242/CD

Type: Notification

Issuing Agency: Ministry of Finance

Responsible Agency: Ministry of Finance

Issuing Date: 06-04-2010

<https://www.laotradeportal.gov.la/index.php?r=site/display&id=647>

The Customs Department issued this official letter on international transit of goods as the follows:

1. At present, the Customs Department has signed a protocol on international transit of goods under the agreement among countries of Greater Mekong Sub-Region (GMS) which identifies road number 09 along the East-West Economic Corridor (EWEC); as for the road A3 it will be implemented in the same arrangement;
2. As for those roads that are not identified under the GMS, they shall be implemented as an import for re-export according to the agreement No. 0462/MOF dated 14 Mar 2003;
3. Goods transported under international transit of goods [agreement] must be packed following the set standard or loaded in containers according to the ministerial guideline of the Ministry of Finance No. 0491/MOF dated 12 Mar 2009;
4. Import-export companies are prohibited to providing services for the international transit of goods even though they may be authorized by buyers and sellers;

5. It is prohibited to re-load/transfer goods within the territory of Lao PDR more than one time, except for a change in trucker head or accident or unpredictable events;
6. For those companies that can transport through many roads, the Customs Department will issue a specific notification. For agreements that were already approved they shall be reviewed in accordance with the guidance of Minister of Finance No. 0491/MOF dated 12 Mar 2009;
7. For more details on regulations, conditions of the international transit of goods, and measures imposed on operators of the international transit of goods, the Customs Department will issue an additional notification to ensure that the international transit of goods will comply with the international practice and facilitate trade within the region to be speed up, simplify, and harmonize with the countries who are part of the GMS agreement.

Title: Customs Law No. 04/NA, dated 20 December 2011

Type: Law

Issuing Agency: Lao National Assembly

Responsible Agency: Ministry of Finance

Issuing Date: 20-12-2011

<https://www.laotradeportal.gov.la/index.php?r=site/display&id=247>

Whole law applies to all import, export and transit. No specifics on transit other than:

Article 35. (New) Movement of Goods outside the Customs Territory

In case goods cannot be moved within the customs territory, the Customs Administration may allow the movement of goods by using the territory of another country in accordance with the agreement of the transit country; such goods are exempted from export duties as well as export-import procedures.

The transportation of such goods shall be accompanied by the movement customs declaration form.

Article 36. (Revised) Transportation of Goods across International Borders

The transporter or declarant who transports goods across an international border and through the territory of the Lao PDR shall be approved by the relevant government authorities and the Customs Administration as follows:

1. The transporter shall provide a security in the form of check or a letter of guaranty issued by a bank or financial institution in the amount equal to the customs duties and other obligations;
2. The transporter of goods shall submit the relevant manifest to the Customs Administration;
3. The transportation vehicle shall follow a specified route and time frame determined by the Customs Administration;
4. Goods under international transit shall be under the control of the Customs Authorities and they are prohibited to be distributed;
5. In case of accidents or force majeure, the closest Customs Authority shall be informed; any unloading of goods shall be approved by the Customs Authority;
In case goods are damaged by accident and cannot be recovered or [goods that] affect the environment, the transporter shall be responsible for it according to the laws and regulations of Lao PDR;
6. Once goods are transported from Lao PDR territory across the international border, security ends and the Customs Authorities shall issue a certificate. Money or the Letter of Guaranty shall be returned to the issuer.

2.1.2 Animals transit

Title: Decree on the Control of the Movement of Animal and Animal Products No. 230/GoL

Type: Decree

Issuing Agency: Office of the Government

Responsible Agency: Ministry of Agriculture and Forestry

Issuing Date: 04-06-2012

<https://www.laotradeportal.gov.la/index.php?r=site/display&id=276#36>

Chapter 5

Animals and Animal Products in Transit

Article 36. Permit for Transit

Any natural or legal person intending to transit animals, animal products and/or animal related items through the territory of Lao PDR to a third country of destination, shall submit an application, a veterinary certificate issued by relevant competent authorities in the country of origin and other related documents in compliance with the import requirements of Lao PDR as defined in this Decree. The application shall be submitted to the Livestock and Veterinary Management Authority at central level or the entry checkpoint and pay service fees as prescribed in relevant regulations.

For the transit through the territory of Lao PDR to a third country of destination, the veterinary officer of the Livestock and Veterinary Management Authority at central level or at the entry checkpoint shall check the compliance of the documents and inspect animals, animal products and animal related items in order to either allow or refuse the transit as follows:

1. Where the transit does not pose a risk of the introduction or spread of disease, and the applicant otherwise meets the prescribed requirements of this Decree, the veterinary officer of the Livestock and Veterinary Management Authority at central level or at the exit checkpoint shall issue a transit permit and allow transit through the territory of Lao PDR. The applicant shall strictly follow the instructions on transit from the veterinary officer;
2. Where a disease is present in any transit countries before Lao PDR and in the country of origin, and the disease can be transmitted to animals and such disease do not exist in Lao PDR, the veterinary officer of the Livestock and Veterinary Management Authority and of the entry checkpoint can consider whether to allow or refuse such transit;
3. A transit permit may be modified, suspended or cancelled by the Head of the checkpoint where such transit poses the risk of the introduction or spread of disease in Lao PDR, and a written report stating the reasons for such modification, suspension or cancellation shall be submitted to the Livestock and Veterinary Management Authority at central level.

Article 37. Transit Procedures and Requirements

Any natural or legal person intending to transit an animal, animal product or animal related item through the territory of Lao PDR to a third country, shall submit a transit application, a veterinary certificate and any other relevant documents as prescribed in this Decree, to the entry checkpoint.

The veterinary officer at the entry checkpoint shall check the compliance of the documents and inspect the animal, animal product or animal related item except where vehicles or containers are sealed with lead or any other material, in which case only documentary inspection is required.

The carrier, owner or person in charge of the transit shall submit the relevant documents to the veterinary officer of the exit checkpoint. The veterinary officer shall inspect and confirm the completed transit through the territory of Lao PDR and the Head of the exit checkpoint shall send one copy of document regarding the shipment and confirmation of the transit to the entry checkpoint indicated in the documents.

Where the veterinary officer at the entry checkpoint has not received the confirmation of exit within seven days, he or she shall notify in writing the proposed exit checkpoint, as well as report in writing to the Livestock and Veterinary Management Authority at central level via the Provincial, Capital Livestock and Veterinary Management Authority.

The carrier, owner or person in charge of the transit shall strictly follow the requirements and conditions as prescribed in this Decree, the instructions of the veterinary officer and shall also ensure transport is carried out through transport routes as stipulated in the transit permit.

The Livestock and Veterinary Management Authority shall set out specific rules for transport of consignments by land, water and air.

See also

<https://www.laotradeportal.gov.la/index.php?r=searchMeasures/view&id=368>

<https://www.laotradeportal.gov.la/index.php?r=searchMeasures/view&id=366>

2.1.3 Food transit

Title: Decision on Export-Import and Transit of Food No 1166/MoH, dated 21 June 2018

Type: Decision

Issuing Agency: Ministry of Health

Responsible Agency: Ministry of Health

Issuing Date: 21-06-2018

<https://www.laotradeportal.gov.la/index.php?r=site/display&id=1441>

[no English version yet]

Title: Decision on the Control on Production, Exportation-Importation of Food No. 856/MoH

Type: Decision

Issuing Agency: Ministry of Health

Responsible Agency: Ministry of Health

Issuing Date: 12-05-2006

<https://www.laotradeportal.gov.la/index.php?r=site/display&id=215#20>

Article 20. Transit of Food

Food business handler, who has the purpose to transport food through Lao PDR, shall inform the Food and Drug authority and related institutions on the documents approved for export food from original country and approved document for import food of the third country.

Title: Decree On Implementing the Law on Plant Protection No. 229/GoL

Type: Decree

Issuing Agency: Office of the Government

Responsible Agency: Ministry of Agriculture and Forestry

Issuing Date: 31-05-2012

<https://www.laotradeportal.gov.la/index.php?r=site/display&id=254#c4>

Chapter 4

Consignments in Transit

Article 24. Consignments in transit

In elaboration of Article 22 of the Law, the transit of consignments of plants, plant products or regulated articles through Lao PDR shall require a written authorization from the plant protection officer at the entry checkpoint.

The owner or person in charge of the consignments shall submit the prescribed application form and pay such service fees as may be prescribed by regulation.

Any consignment in transit that is found to create a risk, or does not comply with the prescribed PPA requirements, may be denied transit through Lao PDR or may be subject to emergency phytosanitary action

to prevent the spread of regulated pests. Where such action has been taken, the PPA shall notify the country of origin and where appropriate, the country of destination.

Article 25. Phytosanitary action

In elaboration of Article 22 of the Law, phytosanitary action shall not apply to a consignment in transit through Lao PDR where the consignment:

1. has been packed so as not to create a risk of the spread of regulated pests that might be present in the consignment;
 2. complies with the phytosanitary requirements of the country of destination;
 3. is accompanied by the phytosanitary certificate of the country of origin.
- also

<https://www.laotradeportal.gov.la/index.php?r=searchMeasures/view&id=293>

<https://www.laotradeportal.gov.la/index.php?r=searchMeasures/view&id=362>

<https://www.laotradeportal.gov.la/index.php?r=searchMeasures/view&id=442>

2.1.4 Fruit transit

Title: Law on Plant Protection and Quarantine (Amended) No. 13/NA, dated 15 November 2016

Type: Law

Issuing Agency: Lao National Assembly

Responsible Agency: Ministry of Agriculture and Forestry

Issuing Date: 05-11-2016

<https://www.laotradeportal.gov.la/index.php?r=site/display&id=1167>

Chapter III

Plant Quarantine

Section 3

Transit

Article 41. (new) Phytosanitary measures for consignments in transit

The Ministry of Agriculture and Forestry shall establish phytosanitary measures for consignments in transit based on pest risk analysis.

The Plant Protection and Quarantine Administrative Authority shall apply the following phytosanitary measures to consignments in transit:

1. Take phytosanitary action in relation to consignments in transit that pose a significant risk to Lao PDR;
2. Implement an emergency action as prescribed in paragraph 2 of article 34 of this Law.
3. Prohibit the transit of the shipment that has no available risk management or does not comply with the phytosanitary requirements for import, established in article 30 of this Law.

Phytosanitary action shall not apply to a consignment in transit through Lao PDR where: the consignment has been packed so as not to create a risk of the spread of regulated pests that might be present in the consignment, the consignment complies with the phytosanitary requirements of the country of destination and the consignment is accompanied by the phytosanitary certificate of the country of origin.

Article 42. (amendment) Authorization for transit Any natural or legal person, or organization wishing to transport consignments through Lao PDR shall submit a prescribed application form to the plant quarantine inspector at the entry checkpoint.

The plant quarantine inspector at the entry checkpoint shall inspect the phytosanitary certificate, vehicle and consignment to verify its compliance with requirements and phytosanitary security.

Where such consignment is found to comply with the phytosanitary requirements of Lao PDR, the consignment shall be immediately allowed entry for transit, and where the consignment does not comply with phytosanitary requirements, such consignment shall be rejected for transit through Lao PDR and the transit consignee shall be notified in writing for the reasons for denial.

Where there is an irregularity or where there is information that the source of the consignment is from a pest outbreak area in the country of origin, inspections shall be carried out in accordance with the regulations. When a regulated pest is intercepted the provision of article 34(2) of this Law shall be applied.

Article 43. (amendment) Unpacking and loading

Any consignment in the course of transit may not be unpacked or unloaded from the vehicle without the approval of either a plant quarantine inspector at the border checkpoint or the Plant Protection and Quarantine Administrative Authority.

Chapter VIII

Administration and inspection of plant protection and quarantine

Section 1

Administration of plant protection and quarantine

Article 72. (amendment) Rights and duties of plant quarantine border check point

In the administration of plant protection and quarantine activities, plant quarantine border check points have the following rights and duties according to their areas of responsibility:

1. To implement policies, strategic plans, Laws and regulations on plant protection and quarantine;
2. To detect and prevent activities in any form that occur at the border checkpoint that break laws, rules and regulations on plant protection and to inform relevant sectors to prosecute violators in accordance with relevant laws and regulations;
3. To facilitate the import, export, re-export and transit of plants, plant products and other regulated articles in an efficient and transparent manner and in accordance with relevant laws and regulations;
4. To detain, isolate, send samples for identification, treatment, reship, destroy or to otherwise implement any other phytosanitary action on plants, plant products and other regulated articles infested with regulated pest;
5. To inspect and test plants, plant products or other regulated articles in accordance with phytosanitary import or transit requirements;
6. To issue phytosanitary certificates for export, re-export, transit authorisations and other documentation where designated to do so by the Ministry of Agriculture and Forestry;
7. To collect technical service charges and fees in line with the laws and regulations;
8. To coordinate with other relevant sectors within its level of responsibility to implement plant protection and quarantine activities;

9. To summarise and regularly report on the implementation of plant protection and quarantine activities to the Plant Protection and Quarantine Administrative Authority at upper level.
10. To implement other rights and duties as prescribed by Laws and regulations.

2.2 Export

2.2.1 Cassava exports to Thailand

Title: Plantation Department, Ministry of Agriculture and Forestry has issued a notification on Sanitary and Phytosanitary Measures (SPS) for Thailand, No. 1219/DoP

Type: Notification

Issuing Agency: Ministry of Agriculture and Forestry

Responsible Agency: Ministry of Agriculture and Forestry

Issuing Date: 12-08-2013

<https://www.laotradeportal.gov.la/index.php?r=site/display&id=476>

based on the **amended Plant Quarantine Law (No3) B.E. 2551 of Thailand**

Plants which are intended to be exported from Lao to Thailand or brought in transit through Thailand to a third country shall be inspected and certified by plant protection officials who are authorized under the Ministerial Order No. 153/MAF dated 31/05/2013 and comply with the instruction of Ministerial Order No 0837/MAF, dated 03/04/2013 and the guidance of Department of Agriculture No 1077/MAF, dated 30/09/2010. In addition, they shall comply with the phytosanitary requirements of Thailand which specify for regulated articles and plans as follows:

Cassava plant

Bringing in transit of prohibited articles through Thailand to third country shall comply with phytosanitary requirements as follows:

- The Transit shall be subjected to pest risk analysis carried out by the Department of Agriculture of Thailand.
- The Transit shall be accompanied by the transit permit issued by the Department of Agriculture of Thailand and the container of prohibited articles must be affixed with a tag issued by the Department of Agriculture of Thailand.
- The Transit of prohibited articles whether plant, carriers or pest shall fulfill all requirements stipulated by the Director General of the Department of Agriculture of Thailand.
- The Transit shall be accompanied by the phytosanitary certificate issued by the Competent Plant Protection Authority of Lao PDR.
- The consignment shall only be transited through a designed Plant Quarantine Station.

Cassava chip and meal [pest risk analysis already done]

- The importation shall be accompanied by the import permit issued by the Department of Agriculture of Thailand and fulfill the procedures and requirements stipulated by the Director General of the Department of Agriculture of Thailand.
- The importation shall be accompanied by the phytosanitary certification issued by the competent authority of Lao PDR and it must indicate detailed information according to the requirements specified in the import permit for the specific consignment.
- The importation shall be only made through a designed Plant Quarantine Station.

Appendix III Thailand and Vietnam relevant laws and decisions

3.1 Thailand

3.1.1 Thailand Customs Act 2017, 14th May

Thai Customs law doesn't explicitly say that transit goods do not pay duty. It just says imports and exports do, and that transit goods that then request to change to imports shall pay duty. It has very few specific provisions for transit, other than:

Section 4 In this Act:

“Transit” means a transportation of goods through the Kingdom from a customs house of entry to a customs house of exit under customs control where the beginning and the termination of such transportation are outside the Kingdom, with or without change of vehicle, storage, breaking bulk for a transportation purpose or change in a mode of transport. There shall be no use of goods in transit for any purpose or action with a commercial benefit in connection with such goods in the Kingdom;

“Transshipment” means a transfer of goods from an importing means of transport to an exporting means of transport under customs control within an area of one customs house where the beginning and the termination of such transportation are outside the Kingdom;

Section 99 Any person wishing to be an authorized agent of an importer, an exporter or a transit or transshipment operator in order to proceed any measure in connection with imported goods, exported goods, goods in transit or transshipment, as well as proceed any other measures as specified in this Act shall be granted a permission from the Director-General pursuant to the rules, procedures and conditions specified by him.

The authorized agent under paragraph one shall be deemed as an owner of the imported goods, the exported goods, the goods in transit or transshipment.

CHAPTER IV TRANSIT, TRANSSHIPMENT AND UN-CLEARANCE GOODS

Part 1 Transit and Transshipment

Section 102 Any person bringing in goods for transit or transshipment out of the Kingdom shall submit a declaration pursuant to the forms and follow the rules, procedures and conditions specified by the Director-General.

The goods under paragraph one are not subject to a duty payment if the terms prescribed in paragraph one are complied, and such goods are brought out of the Kingdom within thirty days from the date of their entry into the Kingdom.

A transit where a land frontier is crossed shall be allowed only when there is an international agreement.

Section 103 In case a person bringing in goods for transit or transshipment does not bring the goods out of the Kingdom within a period of time prescribed in Section 102 paragraph two; or had requested to change a customs formality to importation under the terms specified in this Act but did not pay a duty or did not comply with other laws related to a customs matter within such period of time, such goods shall become properties of the state.

Section 104 In case there is a reasonable doubt that goods brought in for transit or transshipment have one of the following characteristics, a customs officer shall have a power to inspect or search such goods without a warrant.

(1) Goods possessed to be used in terrorism or other matters in connection with the terrorism;

- (2) Types of goods, a transportation or transfer of such goods may affect international stability, peace or security;
- (3) Goods with false declaration of their origins;
- (4) Goods in violation of the laws related to transit and transshipment.

The inspection or the search under paragraph one shall be in accordance with the rules, procedures and conditions specified by the Director-General.

Section 105 In case there is clear evidence that goods have the characteristics as prescribed in Section 104, such goods shall be forfeitable, irrespective of whether or not there is a person inflicted with a punishment according to a judgment. The Director-General may order to destroy such goods with methods that are safe for human, animals, plants, properties and environment, order to immediately re-export such goods or to proceed any reasonable measure to disable the reuse of such goods or to make such goods to be used legally at the expense of a transporter of goods or a master of a means of transport.

Section 106 Prohibitions and restrictions of transit or transshipment under other related laws shall be applied to goods brought in for transit or transshipment with regards to public morality, public policy, public security, protection of life and health of humans, animals or plants and protection of national treasures possessing artistic, historical or archaeological value or protection of commercial or industrial property, including a compliance with any international agreement by which Thailand has been bounded.

Part 2 Common Control Area

Section 178 In this Part: “Common Control Area” means an area designated to be a common control area under the law on cross-border transport facilitation.

“Agreement” means the agreement between the Thai government and a foreign government related to facilitation of cross-border transport.

Fee for customs service on transit under Section 102: 2,000 baht/vehicle

3.1.2 Various Thai Department of Agriculture notifications for transit of specific products

These include Cambodian cassava (2013) Lao bananas (2013) and tobacco (2012). All these notifications say:

- Responsible office:
 - For Thailand is Department of Agriculture
 - For Laos is Ministry of Agriculture and Forestry, Department of Agriculture (MAF-DOA)
- Transit permit request: Should have Transit permit from Thai Department of Agriculture (Thailand)
- Transport method: Land transport (Truck vehicle) only
- Import requirement:
 - Packaging should new and clean
 - Goods should load into good container (not see through open truck)
 - Should put label on the “ฉลาก พ.ก. ๔-๒” to the container
 - Should have Original SPS certificate form MAF-DOA with every shipment

Occasionally a notification specifies more information, such as the following for Cambodian sugarcane (2010):

5. Phytosanitary import requirements

5.1 Sugarcane seed setts must free of roots and leaves.

5.2 Sugarcane seed setts must be cut into pieces which are approximately less than 50 centimetres in length.

5.3 The container of sugarcane seed setts must be clean, strong and tightly close. It must not be broken and must be assured to be able to protect sugarcane seed setts from spill during transportation through Kingdom of Thailand. It must be free from soil, sand and contaminating plant materials e.g. leaves, stem, plant debris or other potential carriers of quarantine pests. In case where sugarcane seed setts are loaded on a truck, the loading part must be clean to be free from soil, sand and contaminating plant materials e.g. leaves, stem, plant debris or other potential carriers of quarantine pests before loading. In addition, sugarcane seed setts must be completely covered with cloth to prevent from spilling during transportation through Kingdom of Thailand.

5.4 The container of sugarcane seed setts must be affixed with tag.

6. Phytosanitary certification

A Phytosanitary Certificate is required for bringing in transit of sugarcane seed setts from Kingdom of Cambodia through Kingdom of Thailand to Lao People's Democratic Republic. The original copy must accompany every consignment to Kingdom of Thailand.

3.1.3 2016 Thailand Ministry of Commerce "Notification of the Ministry of Commerce Re: Goods Prohibited from being brought in Transit through the Kingdom B.E. 2559 (2016)."

This lists 8 goods prohibited for transit:

- Goods bearing fake or imitation of trademarks of others
- Audio cassette tapes, compact discs, videotapes, computer programs, books or any other goods reproducing or modifying copyrighted works of others (by classification of goods)
- Baraku/Shisha/Water pipe tobacco and electronic Baraku/Shisha/Water pipe tobacco or electronic cigarettes
- Game machines in a complete set or with substantial characteristics as a complete set, or parts thereof
- Elephants
- Statues of god or deity and parts thereof, Buddha statues and parts thereof
- Antiques originating in a foreign country
- Caffeine

3.1.4 2008 "Notification of Department of Agriculture Re : Criteria, procedures and conditions for the importation or bringing in transit of prohibited, restricted and unprohibited articles B.E. 2551"

Based on Plant Quarantine Act B.E. 2007, amended by the Plant Quarantine Act (No. 2) B.E. 2542 and the Plant Quarantine Act (No. 3) B.E. 2551

Part 4 Bringing in transit of prohibited articles

Item 14 Any person who would like to bring in transit of prohibited articles shall submit an application for permit to bring in transit of prohibited articles to the Director-General at Office of Agricultural Regulation or Plant Quarantine Station or submit it through mail to Office of Agricultural Regulation, Department of Agriculture.

Item 15 Bringing in transit of prohibited articles must be subjected to the following rules.

- (1) They must be subjected to pest risk analysis in accordance with criteria, procedures and conditions stipulated by the Director-General.
- (2) They must be transited through the plant quarantine station and must be accompanied with the permit to bring in transit of prohibited articles as well as the phytosanitary certificate.
- (3) The container of prohibited articles must be affixed with tag.
- (4) Bringing in transit of prohibited articles, no matter it is plant, carrier or plant pest, must be completely complied with all the conditions stipulated by the Director General.
- (5) Upon arrival of the consignment for transit at the first entry point of plant quarantine station, the person who holds permit or authorized representative must declare in transit consignment to the plant quarantine official at the said plant quarantine station. Subsequently, after completion of all verifications, the plant quarantine official shall make a statement of import clearance on the bottom part of declaration form for bringing in transit so that the permit holder or representative can present the document to the plant quarantine official at the last plant quarantine station to transit the consignment out of the Kingdom.

Item 16 Permits to import prohibited articles for research, commercial and other purposes and a permit to bring in transit of prohibited articles can be used for one species of plant from one origin.

Part 5 Importation and bringing in transit of restricted and unprohibited articles

Item 17 The importation or bringing in transit of restricted articles must be subjected to the following rules.
(1) The consignment of restricted articles must be imported or brought in transit through a plant quarantine station and must be accompanied with a phytosanitary certificate issued by the authorized agency of the exporting country. The phytosanitary certificate must indicate pest-free status, disinfestation/disinfection or percentage of allowable tolerance level of plant pests to fulfil all requirements stipulated by the Director General.

(2) Upon arrival of the consignment at plant quarantine station, the importer or owner must declare it to plant quarantine official no matter how the importer or owner brings it by himself or other means. In case where the importer would like to re-export the consignment of restricted articles to other countries, he must inform to the plant quarantine official about reexport of this consignment.

(3) After the plant quarantine official is declared according to (1) and (2), the plant quarantine official at port of entry shall verify all documents and restricted articles in accordance with specified requirements.

(4) After the plant quarantine official finishes all verifications in (3), the consignment of restricted articles shall be granted clearance to import.

(5) While the plant quarantine official carries out plant pest diagnosis for import clearance, the plant quarantine official has the authority to seize or hold restricted and unprohibited articles at plant quarantine station or post-entry quarantine station or other places determined by the plant quarantine official.

If plant pest is detected, the plant quarantine official shall order the owner of consignment to carry out pest disinfestation/disinfection. In case where there is no available effective treatment, the consignments of restricted and unprohibited articles must be destroyed or sent out of the Kingdom.

Item 18 Bringing in transit of restricted articles:

Upon arrival of the consignment for transit at the first entry point of plant quarantine station, the owner or authorized representative must declare in transit consignment to the plant quarantine official at the said plant quarantine station. Subsequently, after completion of all verifications, the plant quarantine official shall make a statement of import clearance on the bottom part of declaration form for bringing in transit so that the owner or representative can present the document to the plant quarantine official at the last plant quarantine station to transit the consignment out of the Kingdom.

Item 19 Any person who imports or brings in transit of unprohibited articles must provide a phytosanitary certificate and declare the import or bringing in transit to the plant quarantine official.

3.2 Vietnam

3.2.1 Customs Law 2014

No. 12/2014/L-CTN 30 June 2014

The section of the Vietnam customs law that relates to calculating and charging duty makes no mention of transit goods. That is, it only applies to export and import, but does not explicitly state that it does not apply to transit goods.

Some relevant articles:

Article 38. Objects, methods and duration of customs supervision

4. Duration of customs supervision:

c) Goods in transit shall be subject to customs supervision from the time they arrive at the first border gate of importation until they are brought out of the last border gate of exportation;

Article 64. Customs procedures for goods transported under customs supervision

1. Goods transported under customs supervision include goods in transit and goods transported from one border gate to another.

2. When transporting goods subject to customs supervision, the customs declarant shall fill in goods transportation declaration forms; submit or produce the documents specified at point b, clause 1, Article 24 of this Law.

3. Customs shall receive goods transportation declaration forms, check documents and goods produced by the customs declarant to decide to permit the transportation of goods subject to customs supervision.

4. In the course of transporting goods under customs supervision, if the customs declarant wishes to transship, warehouse or divide shipments, change the transportation mode or perform other jobs, they shall notify to Customs and obtain their approval before implementation. Customs shall reply within two hours after receiving the notice of the customs declarant.

Article 65. Transportation routes and duration

1. Goods under customs supervision shall be transported along prescribed routes, through prescribed border gates and within prescribed time limit.

2. Routes for transportation of goods in transit are prescribed by the Minister of Transport.

3. Routes for transportation of goods from one border gate to another are registered by the customs declarant and accepted by the Customs that receives and processes customs files.

Article 68. Routes and duration subject to customs supervision for means of transport

1. Foreign commercial means of transport on entry, exit or in transit shall go along the prescribed routes, be subject to customs supervision from the time they arrive at areas of customs operations, during their movement and to the time they leave the Vietnamese territory.

Article 69. Customs procedures for means of Transport

2. Time limits for declaration and submission of customs declaration form and relevant documents are prescribed as follows:

a) For means of transport in transit, immediately after their arrival at the first entry border gate and before they go through the last border gate for exit;

Article 70. Transshipment, carriage transfer, carriage detachment, loading and unloading of goods and baggage aboard means of transport

The transshipment, carriage transfer, carriage detachment, loading and unloading of goods and baggage aboard means of transport which are subject to customs inspection and supervision may only be conducted when approval of Customs is obtained. Goods handled through transshipment, carriage transfer and carriage detachment shall have their packing, boxes and parcels kept intact.

3.2.2 Decree making detailed provisions for implementation of the Commercial Law with respect to international purchases and sales of goods; and agency for sale and purchase, processing and transit of goods involving foreign parties

No. 12-2006-ND-CP 23 January 2006

CHAPTER VII Transit of Goods Through Territory of Vietnam

Article 39 Business entities permitted to provide transshipment services

Business entities which have a business registration certificate for the lines of business being receipt and delivery of goods and carriage of goods shall be permitted to provide transshipment services via the territory of Vietnam for foreign goods owners.

Article 40 Transit of goods through the territory of Vietnam

1. All types of goods owned by foreign organizations and individuals shall be permitted to transit through the territory of Vietnam, except for weapons, ammunition, explosives, other highly dangerous goods, and goods on the lists of goods the import and export of which is prohibited or temporarily suspended. Transit procedures shall be resolved by the border gate customs, unless an international treaty to which the Socialist Republic of Vietnam is a member contains some other provision.

3. Goods on the lists of goods the import and export of which is prohibited or temporarily suspended, and goods on the lists of goods the import and export of which is subject to issuance of a permit shall be permitted to transit through the territory of Vietnam with permission from the Ministry of Trade, unless an international treaty to which the Socialist Republic of Vietnam is a member contains some other provision in which case such treaty shall apply.

4. Goods in transit through the territory of Vietnam shall be subject to supervision by the customs of Vietnam for the whole period during which they are circulating in the territory of Vietnam, and shall enter and exit Vietnam via the correct border gate and route as stipulated; the quantity of goods exported must be the same quantity which was imported, with the same packaging and container.

5. The owner of goods in transit must pay customs fees and other types of charges applicable to goods in transit pursuant to the current law of Vietnam.

6. Goods in transit shall not be permitted to be sold or consumed in the territory of Vietnam. In necessary cases of sale or consumption in Vietnam, application for permission must be made to the Ministry of Trade.

7. The Ministry of Trade shall provide guidelines for conducting transit of goods through the territory of Vietnam in the cases of Treaties which have provisions different to those stipulated in clauses 1, 2 and 3 of this article.

8. The Ministry of Finance shall provide guidelines on procedures for storage including open storage of goods in transit, procedures for ship to ship transshipment, for change of means of carriage of goods in transit, and for extension of duration of goods in transit.

9. The Ministry of Transport and Communications shall provide guidelines on transit routes.