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LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

Ministry of Finance

No. 1639/MOF
Vientiane Capital, dated 31 May 2016

**Instruction
of Vice Prime Minister, Minister of Finance
on Administrative Appeals and Appeals Settlement in Customs Matters**

- Pursuant to the Law on Customs No. 04/NA, dated 20 December 2011 and the Amendment of the Law on Customs No. 57/NA, dated 24 December 2012;
- Pursuant to the Decree on Organization and Operation of Ministry of Finance No. 80/PM, dated 28 July 2007;
- Pursuant to the proposal of Customs Department No. 05119/CD, dated 11 April 2016;

**Vice Prime Minister, Minister of Finance hereby issues an instruction
as follow:**

Article 1: Purpose

This instruction sets out the principles, regulations, mechanism, procedures and measures with regard to the administrative appeal in customs matters and settlement of the such appeal to ensure rightful, impartial, legitimate beneficial of the government and economic operators in an effective manner, and consistent with national laws and regulations, uniformity and in conformity with international treaties as Lao PDR is a contracting party.

Article 2: Definition

1. **Appeal means the act by which a person who is directly affected by a decision or omission of the Customs and who considers himself/herself to be aggrieved thereby seeks redress before a competent authority.** An economic operator can file a formal appeal against Customs decision on valuation, classification and rules of origin, enclosing with documents, related details of evidence to Customs authority at each levels;
2. **Appeal Settlement Committee (ASC) means** the committee appointed by Minister of Finance could be a local appeal settlement committee at the international checkpoint or national settlement committee at the central level;
3. **The settlement of appeal means** a review and consideration of an appeal and documents, related details of evidence which were provided by the economic operators to the settlement committee at each levels to issue decision to the appellants in accordance with laws and regulations identified;

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4. **A decision means** the decision made by the appeal settlement committee with majority consensus of the appeal settlement committee at each level based on related details of evidence. The decision shall be inform to the appellants in accordance with laws and regulations identified;
5. **Customs expert means** a customs officer who is knowledgeable, competent and specifically professional on customs valuation, classification and rule of origin who has been assigned as a member of the appeal settlement committee at each level;
6. **Appellant means** the economic operator or his/her representative who is not satisfied with the decision made by customs concerning customs valuation, classification and rule of origin.

Article 3: Scope of Application

This instruction is specifically used for settlement of appeals, which were submitted to the appeal settlement committee regarding customs valuation, classification and rule of origin in conformity with laws and regulations.

The appeal shall not be consider during a economic operator is under conviction by the customs or court's prosecution.

Article 4: Principles of Settlement of Appeals

1. Conducting the review in consistent with the Law on Customs, and other laws and regulations relevant to customs matters;
2. Ensuring correction, justice, transparency and auditability;
3. Ensuring effectiveness based on the documents and relevant evidence;
4. conducting review in accordance with procedures in timely manner and in consistence with the international treaties which Lao PDR is a contracting party.

Article 5: Procedures of Appeal

- Submission of a request for appealing;
- examination of rights of appealing;
- Review of appealing;
- The appeal settlement committee studies and analyses documents and related detailed evidence;
- Notify the decision.

Article 6: Submission of a request for appealing

An economic operator who does not agree with a ruling or decision by customs authority regarding customs valuation, classification or rule of origin may lodge is his/her request for administrative review to the appeal settlement committee by using the request form provided by customs. The request should be attached with factual details, reliable evidence and relevant information for review and consideration of the appeal committee at each level accordance with Article 68 of the Law on Customs No. 04/NA, dated 20 December 2011.

Article 7: Rights of Appellant

An economic operator has rights as follows:

1. Submission of a request for appealing to the appeal settlement committee at the international checkpoints;

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2. Subsequent to the administrative review and appeal at the international checkpoints level, whenever the appellant maintains his/her disagreement to decisions made by these authorities after the first review, an application for administrative appeals should be lodge to the National Appeal Settlement Committee at the central level;
3. In the case of agreement to the decision made by the committee at the central level, the appellant has entire rights to submit appeals to the People's Court;
4. Providing documents and relevant evidence for the appeal settlement committee at different levels;
5. Receiving clarification and explanation from appeal settlement committee at different levels;
6. Accessing to information made available by Customs authority regarding administrative appeal specifically customs valuation, classification and rule of origin.

Article 8: Responsibilities of Appellant

1. The appellant shall be responsible for correctness, sufficiency and accuracy of the documents and other relevant evidence regarding request for appealing in general and electronic format. During reviewing process, if any further information enquired by Customs at each level, the appellants shall cooperate to provide such information in a timely manner. In the case the appellants provide insufficient information or delay to provide further information, the appeal settlement committee may made decision based on the existing information;
2. To clear the goods at the border checkpoints during the period of appealing or the process of review, appellants shall fulfil the obligation on duties, taxes and other charges or guarantee deposited with Customs. Appellants shall be responsible for any conditions imposed by customs until receiving a decision by the appeal settlement committee;
3. Supplying incorrect information or falsifying information may result in violation of the Law on Customs and shall be investigated according to the Law on Customs and other relevant laws;
4. Practicing rights and obligation regarding to administrative appeal as stipulated in the Law and relevant regulations.

Article 9: Appeal Settlement Committee

The appeal settlement committee shall be established by the Minister of Finance that includes two levels as follows:

1. The appeal settlement committee at the border checkpoints including the chief of international checkpoints as the chairperson, staffs from provincial and Vientiane Capital Department of Finance, relevant agencies and Customs experts at the international checkpoint as members;
2. The appeal settlement committee at the central level including Director General of Customs Department as a chairperson, relevant ministries and customs experts as members.

The appeal settlement Committee formally establish has full rights to appoint a subcommittee to assist in proceeding procedures in Article 5 of this instruction.

Article 10: Examination of Rights for appealing

The Appeal Settlement Committee at each level shall examine the rights of appellants based on the Law on Customs and other regulations.

Article 11: Rights of the Appeal Settlement Committee

In order to ensure the review is consistent with principles the Appeal Settlement Committee has the rights as follows:

1. Examine and consider the appeal;
2. Propose to establish sub-committee for assisting;
3. Invite appellants or relevant personals to clarify and supply relevant documents regarding appealing;
4. Notify appellants to provide documents and additional evidence if necessary;
5. Organize meetings, record interviews and opinions of the committee;
6. Notify a decision of the Committee according to regulations;
7. The Committee at the central level may invite the appeal settlement Committee at the international checkpoints to attend a meeting and provide details regarding the previous settlement in the case of the appellants do not agree with the decision of the committee at the international checkpoints;
8. Attend the consideration session of appealing at the People's Court as the appointment basis.

Article 12: Consideration of Appealing

The Appeal Settlement Committee has full rights for reviewing as follows:

1. Collect details of relevant import documents including:
 - Evidence of actual imports: sale contract, purchase order, transport documents, customs declaration, financial transaction documents, accounting and, sample of commodities (if possible) etc.
 - Conduct research on measures stipulated in laws and justification made by the customs officers on customs valuation, classification code and rule of origin.
2. The committee could invite appellants or related personals to explain or send documents and detailed evidence concerning re-appealing;
3. Record explanation of appellants and the Committee against documents and related evidence of appellants with explanation of disagreement upon the first decision.
Report to the upper management the decision of the committee including reference information and relevant laws which is being enforced

Article 13: Procedures of Review and settlement at each Level

1. The Chairperson of the Appeal Settlement Committee at each level propose to appoint the sub-committee in the period of five (5) working days from the date of receiving an appeal;
2. The committee at each levels organize a meeting, review and propose solution to the appeals based on the documents and relevant evidence. The decision on the review shall be informed to the appellant within the period of thirty (30) days. The decision should be made based on the majority votes of the committee members;
3. The sub-committee prepare the decision and submit to the Chairperson of Committee for consideration to endorse in the period of five (5) working days after the completion of a meeting;
4. Notify the decision to appellants in written form in a timely manner;
5. After notification of the decision to appellants, the Committee at each level shall report in written form to their upper management in the period of five (5) working days. The decision on customs valuation, classification, rule of origin could be publicized if necessary.

Article 14: Notification and Dissemination of the Review Decision

1. Send one copy of the official decision to appellants, one copy for the appeal settlement Committee and keep one copy in the file;
2. An appellant who is not satisfied with the orders has entire rights to forward to the People's Court, the Committee at central level has a right to supply information regarding their decision on settlement previously for the court to consider and the decision of the People's Court should be considered as the final decision on such appeal.
3. The decision of the review of the appeal settlement Committee shall be disseminated through internal circulation and made available on Internet.

Article 15: Recording and Filing Documents

1. There should be a detailed and transparent recording minutes of the committee's meetings or external specific experts' opinions by relying on documents and relevant evidence;
2. All records of the review by the committee at each level shall be filed within the Customs entities based on different levels of responsibilities upon the three (3) working days after the completion of the review;
3. After issuance of the decision the appeal settlement Committee at each level shall keep the documents and all relevant evidence as reference in the general or electronic format for ten years after issuing the decision.

Article 16: Decision on administrative appeal at each level

1. The decision of the appeal settlement Committee at the international checkpoints shall be implemented by relevant stakeholders and mainly by the appellants. In the case of the appellants do not agree with the decision the appellants have full rights to appeal against such decision to the appeal settlement Committee at central level within fifteen (15) working days from the date of receiving the official notification of the decision from the appeal settlement Committee at the international checkpoints;
2. The appeal settlement Committee at the international checkpoints and central level notify the decision to the appellants and send the copies to relevant stakeholders within the Committee to follow the implementation;
3. An appellant and relevant stakeholders shall execute the decision of the appeal settlement Committee at the central level in the period of five (5) working days;
4. In the case of appellants do not agree with the decision of the appeal settlement Committee at the central level, they could submit petitions to the People's Court as stated in Article 70 of the amendment of Law on Customs No. 57/NA, dated 24 December 2014 while waiting for the final decision from the People's Court, all relevant stakeholders shall follow the decision of the appeal settlement Committee at the central level.

Article 17: Rights to Gain Technical Comments from Specific Experts

1. The Chairperson of the appeal settlement Committee at each level has rights to seek opinion from the specialized experts to explain and clarify technical issues aiming to assist reviewing of the committee the experts shall provide, in written, comments or technical suggestions to the committee and responsible for their own inputs or suggestions;

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2. the appellants or relevant stakeholders shall be responsible for all actual costs imposed by the experts for his/her analysis and providing technical opinion

Article 18: Submission of Petitions to the People's Court

1. After receiving the decision from the appeal settlement Committee at the central level if an appellant do not agree with such decision, they shall, three (3) working days after receiving the official decision, notify the appeal settlement Committee at the central level to acknowledge as they are proceeding the petitions to the People's Court;
2. Submission of the petitions to the People's Court shall be consistent with the exercise of the Criminal Law, Civil Law with relevant documents and evidence attached.

Article 19: Implementation

Customs Department shall deploy, issue technical guidance, disseminate information, educate customs officers and economic operators to implement in a correct and consistent manner according to the details of this instruction.

Departments within Ministry of Finance, relevant stakeholders at central and local levels shall be aware and provide full cooperation in to implementation this instruction strictly.

Article 20: Effectiveness

This instruction shall be entry into force from the date of its signature.

Vice Prime Minister,
Minister of Finance

[Signed and sealed]

Somdy Douangdy