Lao People’s Democratic Republic

Peace Independence Democracy Unity Prosperity

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| Ministry of Finance | No.1159/MOF |
|  | Vientiane Capital, date: 18 April 2019 |

**Instructions on the [Management of ]**

**Authoritzed Economic Operators**

* Pursuant to the Law on Customs No.04/NA, dated 20 December 2011;
* Pursuant to the Decree of the Prime Minister No.144/PM, dated 8 May 2017 on the Organization and Operations of the Ministry of Finance;
* Pursuant to the Report of the Customs Department No.01513/CD, dated 26 February 2019.

**The Minister of Finance issues an instruction:**

1. **Objectives**

This instruction defines principles, regulations, requirements, measures, mechanism and methods for the management of authorized economic operators to guarantee their rights, fairness and transparency to faciliate transactions on import and export of goods of authorized economic operators; secures safety for commercial transactions and aims at having proper and strict compliance with the laws and regulations.

1. **Scope of Application**

This instruction applies to the implementation of authorized economic operator program, [in which authorized economic operators] are allowed to operate transactions related to the import [and] export of goods, including importers, exporters, producers of goods, goods transport operators, shipping agents, warehouse operators, customs brokers and others may also apply to participate such program.

1. **Definition**
* **Economic Operator** refers to a company or an organization that operates business activities related to import and export of goods and international transit of goods, including importers, exporters, goods transport operators, shipping agents, warehouse operators, seaport operators, airport operators, customs brokers, producers of goods and distributors of goods.
* **Authorized Economic Operator (AEO)** refers to a business operator that is officially approved by the customs administrationto have privileges in the carrying out customs declaration and clearance procedures as defined in this Instruction.
* **Authorized Economic Operator Program** refers to a program that the customs administrationhas developed to support [and] promote business operators that have potential to participate in implementing such program by complying with principles, regulations, mechanism, procedures, requirements, criteria and methods as defined in this Instruction in a uniform basis.
* **AEO Contract** refers to [legal] biding made between the Customs Administration and Authorized Economic Operator (AEO) to establish rights, obligations, duties and responsibilities of each [contracting] party for the implementation of AEO program.
* **AEO Certificate** refers to a document that certifies AEO status issued by the Director General of the Customs Department.
1. **Principles**

The implementation of AEO program shall be complied with the following principles:

* Shall ensure compliance with relevant laws and regulations; enhance facilitating business operators who have [full] compliance and take strict actions against violators;
* Shall ensure compliance with international principles and methods, especially safety standards and WCO Framework of Standards, WTO Trade Facilitation Agreement and other international agreements to which Lao PDR is a party;
* Shall ensure compliance with principles for voluntary participation in AEO program by business operators who fuffill all requirements as defined in this regulation that may or may not apply for participation in such program;
* Shall create favorable conditions for promoting business operators who are qualified to participate in such program, aiming at improving cooperation between the customs administration and business operators in enhancing full compliance with the laws and regulations.
1. **Requirements and Criteria of Authorized Economic Operator**

Any business operator willing to participate in AEO program shall fulfill the following requirements and criteria:

1. Shall a business unit that has been registered for a business license and tax license according to the laws and regulations.
2. Shall have been in business operations related to import and export of goods for at least three years and have filed comprehensive customs declarations at least 250 (five hundred) sets per year. In case of a branch of a company or an agent of a foreign company whose headquarters is certified as AEO in foreign country should be considered as a specific case;
3. Shall have good history of compliance with the Law on Customs and other regulations related to customs declarations; shall have compliance rate of customs declarations for at least 98% (ninety five percent) of total customs declarations;
4. Shall not have been taken customs [legal] actions/punishment as a result of customs offenses at least three years before applying to participate AEO program;
5. Shall practice accounting system according to the law and regulations on accounting to record and store data and documents related to business operations, including import, export, storage, packaging, transporation; and proper, accurate and accountable customs declarations;
6. Shall be a business operator that practices accounting system under the value added tax system of the tax administration;
7. Shall have financial liquidity that is able to correctly, fully and timely pay customs duties and other obligations. There are no chronical [and] deferred debts that may affect the ability to pay customs duties and other obligations in the future.
8. There shall be firewall to protect company data from the third party or non-relevant [nor] unauthorized persons to access to/hack the company data. The business operator shall use information technology to record and store data safely. There shall be specific location to store documents related to customs declarations and is accessible only by authorized persons;
9. There shall be security protection system for goods and packaging of goods to ensure that packing goods in containers is properly handled and met safety standards. There shall be proper labelling and customs stamps, belts to lock container and tools for inspecting container shall be available (front, back, top and bottom sides);
10. There shall be safety system for protection of transportation of goods by using comprehensive vehicle inspection means to detect illegal objects that may be hidden in the shipment;
11. There shall be safety system to protect the buildings. The company buildings shall be built with quality [and] strong materials; there shall be strong protection of premises, especially fenses, gates and etc., security guards, tracking system of people and vehicles, CCTV, adequate lighting system, prohibited zones and warning system in case of attack;
12. There shall be safety system to protect employees. History of newly recruited employees shall be examined to be sure that such persons have never violated safety measures, committed customs or criminal offenses; there shall be issuance of employee cards with clear photos and identification numbers; determination of locations that are accessible by employees at each level; in case the employees moves out from the company, such cards shall be immediately cancelled;
13. There shall be safety guarantee system of trading partners. the AEO shall assess performance of safety measures of such trading partners, including suppliers of raw materials, suppliers of goods, suppliers of services and customers. A business contract shall clearly define safety measures and compliance monitoring mechanism shall be available;
14. There shall be a warning system and emergency relieve. A manual on how to respond to emergency cases such as fire, flooding and torrorism shall be developed. Trainings on how to evacuate people from the building in case of emergency shall be provided. There shall be installation of warning system and basic protection tools shall also be available.
15. **Responsibilities of Authomatic Economic Operators (AEO)**

A company that would participate in AEO program shall have the following responsibilities:

1. Shall ensure strict compliance with the law on customs, other laws, regulations, policy and other implementing regulations related to the import [and] export of goods;
2. Shall appoint personnel or a unit to be responsible for cooperation and coordination with the customs administration, especially providing information related to the company, goods, import [and] export of goods and others;
3. Shall organize trainings for company employees regarding to shipment process, risks that might occur during the shipment, transactions with trading partners, customs declaration and others;
4. Shall cooperate with the customs officials while performing theire duties at the company premises such as offices, warehouses, safety protection system and others;
5. Shall cooperate with the customs officials relating to providing information and documents to conduct the inspection of imports and exports.
6. **Rights of Authomatic Economic Operators (AEOs)**

The AEOs are allowed to request the customs administration to facilitate customs clearance in specific cases as follows:

1. To request the customs administration to inspect and approve customs declaration 7 days before arrival of goods at the checkpoint as defined in Article 29 of the Law on Customs;
2. To request the customs administration to carry out actual inspection in their warehouses to reduce control at the border.
3. To request the customs administration to perform their duties outside official working hours, if necessary [and] urgent.
4. To request the customs administration to improve procedures, mechanism and methods to enhance trade facilitation while comploying with the laws, internal and international regulations.
5. **Responsibilities of Customs Administration**

The customs administration shall facilitate AEO in specific cases as follows:

1. Shall prioritize clearance of AEO’s goods, through including set up specific windows for receiving documents and checking information and documents ahead of general customs declarations;
2. Shall define customs declaration risk of AEO at lower scores because it is to aim at minimum actual inspection of goods. In case it is necessary to conduct actual inspection of goods due to the risk management system indicates high risk, priority shall be given to the inspection of goods for AEO ahead of inspection for general business operators and allow to conduct actual inspection at the premises of AEO;
3. In case the AEO conducts advance customs declaration ahead of arrival of goods, the customs officials shall examine documents, approve the declaration and process customs duty payment and other payment before the goods arrive at the checkpoint. When goods arrive at the checkpoint, the clearance shall be made immediately;
4. In case the AEO has made a request for customs clearance outside official working hours, the customs administration shall consider the request based on the readiness of equipment and personnel to ensure effective performance;
5. Shall establish an AEO unit at the Customs Department to monitor, inspect and resolve problems regarding to customs declaration procedures for AEOs. Such unit shall be under direct supervision of the Director General of the Customs Department.
6. **Procedures on Applying for Authomatic Economic Operators (AEO) Certification**

A business operator willing to joint AEO program shall comply with the following procedures:

1. Shall carry out self-assessment based on the prescribed form of the Customs Department (such form could be downloaded from the Customs Department website). The business operator may ask for explanation from the Customs Department regarding how to fill in the form and any provisions related to participate in AEO program;
2. Submit a letter to the Director General of the Customs Department to express the company intention to voluntary become an AEO. A finding of self-assessment and relevant documents shall also be attached.
3. **Procedures for Examining Requirements and Criteria of Authomatic Economic Operators**
4. After receiving a letter from the business operator, the Customs Department shall finalize examination of information and all documents and notify in writing the business operator on results of examination within 5 working days:
* In case the business operator is qualified and fulfilled the criteria as defined in this regulation, the Customs Department shall notify the business operator in order to conduct actual inspection of premises within 5 working days after the date of issuing a notice.
* In case the business operator is not qualified and not fulfilled the criteria as defined in this regulation, the Customs Department shall notify such business operator requiring such business operator to improve the qualifications and criteria.
1. After completing actual inspection of premises, the Customs Department shall carry out the followings:
* In case results of actual inspection of premises indicate that business operator has fulfilled the requirements and criteria, the Customs Department shall issue a certificate to AEO within 5 working days after the completion of actual inspection of premises.
* In case results of actual inspection of premises indicate insufficiency, the Customs Department shall notify such company for further improvement.
1. After receiving notification, the qualified business operator shall come to the Customs Department to sign a contract within 5 working days after notification.
2. **Approval**

The Customs Department is responsible for the issuace of AEO certificates and such certificates are valid for 3 years. The Customs Department shall evaluate performance of AEO. In case the business operator has complied with the laws and regulations, the renewal of the certificate shall be considered.

1. **Signing AEO Contract**

 The AEO shall sign a guarantee contract with the Customs Department to ensure that their operations are consistent with the regulations. The prescribed Contract Form is attached in Annex 1.

1. **AEO Logo**

 The Customs Department is responsible for designing and using an AEO logo. AEO logo shall be expressed in nationalism, mondernization, standardization and international integration. The AEO may use such logo to advertise its business such as in the letterheads, business cards, stickers, brochures and others.

1. **Re-Inspection of Customs Declaration**

 The Customs Department shall create a plan and conduct re-inspection of customs declaration for AEO more than general business operators to ensure that the operations of AEO are consistent as defined in Chapter 1, Part X of the Law on Customs and implementing regulations.

1. **Confidentiality**

 All information related to transactions between the Customs administration and AEOs shall be confidential. In case the AEO wish to disclose information regarding to control measures and approval of Customs Administration, it shall be authorized by the Customs Department.

1. **Measures Agaist Violators**

 The Customs Department shall periodically [and] closely monitor and evaluate the performance of AEO. In case any violation of contract and regulation is found, the Customs Department shall take measures accordingly such as education, warning, temporary suspension, permanent closure and other measures according to the laws.

1. **Implementation**
* The Customs Department shall develop supplementary instruction to implement this instruction as well as to broadly disseminate to [customs] personnel, business operators and society to ensure its effective implementation.
* The implementation of AEO program shall be started by selecting existing import-export companies as an initual step. After one year of its implementation, evaluation shall conducted. If the findings indicate its effectiveness, this shall be expanded to foreign companies depending on actual conditions.
* This Instruction is effective after its signing and fifteen days after publication on the Official Gazette.

**Minister of Finance**

[signed and stamped]

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