

August 15, 2002

KINGDOM OF CAMBODIA
Nation-Religion-King

DRAFT
LAW ON CUSTOMS

CHAPTER I: PRELIMINARY

Article 1: Purpose

A. The purpose of this Law is;

- to provide for the assessment and collection of duties and taxes and fees on imported and exported goods,
- ~~and to provide for the regime for the necessary~~ control and regulation of the movement, storage and transit of such goods,
- and to promote the supp

1. The coastal zone extends from the coast to an outer limit located 20 km offshore.
2. The land zone extends;
 - at coastal borders between the coast and a line drawn 20 km inland from the

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

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Smuggling[definition from UNDP draft?] is the illegal import or export of goods outside customs houses, as well as all violations of provisions of law and regulations relating to the holding and transport of goods within the Customs Territory.

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Country of origin is the country in which goods have been produced or manufactured according to the criteria laid down for the purposes of application of the Customs Tariff, of quantitative restrictions or of any other matters related to trade
Conveyance ~~(also~~ " is any vessel, aircraft or vehicle, or other means, used to transport persons or goods.

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

Customs clearing agent/broker is a person authorized ~~who to~~ carry on the business of arranging for the customs clearance of goods and who deals directly with Customs for and on behalf of another person.

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

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

Customs control is the procedures imposed by Customs on the transport, movement and storage of all imported and exported goods, or goods about to be exported, up until the time of.

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

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

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

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

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

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

~~Customs operations~~ is the activities carried out by Customs officers to administer and enforce this law;

Declarant is a natural or legal person who makes a Customs declaration or in whose name a declaration is made.

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

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

without having undergone any change except normal depreciation due to the use made of them.

~~Transaction value...~~ [Chea Hak to provide]

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

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

Person is an natural or legal person.

CHAPTER II: GENERAL PROVISIONS

Article 6: Customs tariff

~~1.A.~~ All imported and exported goods are subject to the provisions of this law.

~~2.B.~~ Goods entering or leaving the customs territory are subject, as applicable, to import duties and taxes or export duties and taxes as specified in the Customs Tariff. The establishment of the Customs Tariff and its application shall be prescribed by *Anukret*.

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

Article 7: Preferential treatment

Preferential tariffs may be granted pursuant to international commitments, agreements, treaties or conventions entered into by the Royal Government of Cambodia.

Such preferential tariffs and their application are established by *Anukret*.

Article 8: Special measures

~~1.~~ The Royal Government may, by *anukret*:

~~a.A.~~ impose surtaxes of up to twice the duties recorded in the customs tariff or equal

D. take all emergency measures within its competence and appropriate to the circumstances in cases where the measures adopted by foreign countries are such that they hinder Cambodian trade.

Article 9: Prohibited, restricted and specially designated goods

~~1.A.~~ The Royal Government may by *anukret* prohibit or restrict subject to conditions, the import or export of certain goods, for any of the following purposes:

~~a.~~ National security;

~~b.~~ Public order and standards of decency and morality;

~~c.~~ The prevention of smuggling;

~~d.~~ The protection of human, animal or plant life or health;

~~e.~~ The protection of national treasures of artistic, historic or archaeological value;

~~f.~~ The conservation of natural resources;

~~g.~~ The fulfillment of obligations under the Charter of the United Nations;

h.-

~~2.A.~~ The Minister of Economy and Finance may by *Prakas* regulate the time, manner, documentation requirements, circumstances and exceptions with respect to the reporting of imported goods.

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Article 11: Obligation to report

~~1.A.~~ Goods shall be reported

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~~a.1.~~ in the case of goods in the actual possession of a person arriving in Cambodia, or that form part of personal baggage, by that person;

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~~b.2.~~ in the case of goods imported by courier or as mail, by the person who exported the goods to Cambodia;

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~~e.3.~~ in the case of goods, other than goods referred to in paragraphs (1) and (2), on board a conveyance arriving in Cambodia, by the person in charge of the conveyance, including ~~Royal Cambodian Navy Commanders~~ military conveyances; and

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~~d.4.~~ in any other case, by the person on behalf of whom the goods are imported.

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~~2.B.~~ Every person reporting goods under this Article shall:

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~~a.1.~~ answer truthfully any question asked by a Customs officer with respect to the goods; and

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2. where a Customs officer so requests, make the goods available for inspection by Customs in the manner prescribed by the Director of Customs.

Article 12: Emergencies

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

Article 13: Movement, storage and transportation

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

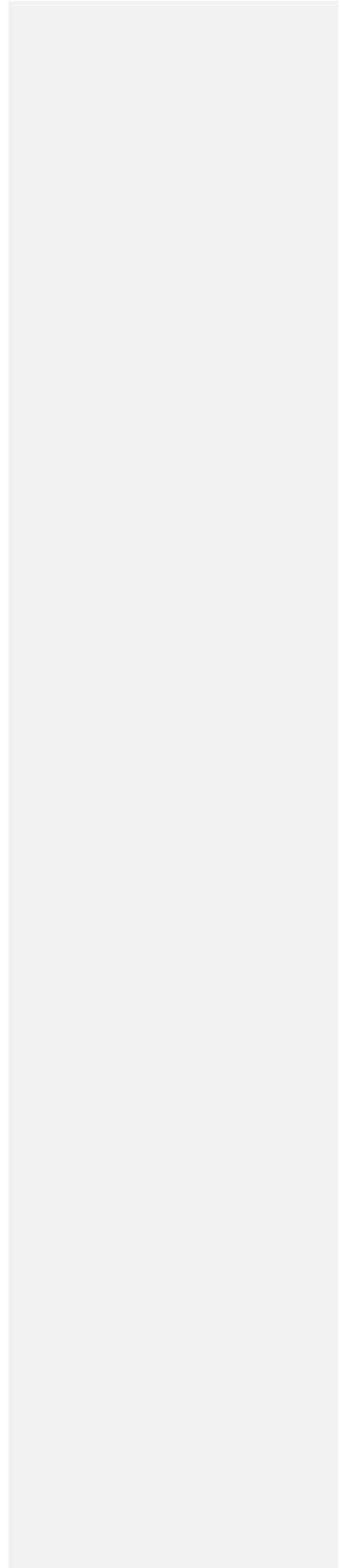
- temporary storage;
- bonded storage; or
- further transportation within or through the Customs territory, to a destination and along routing and within time limits approved by Customs,

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1.2.



- A. For the purposes of import and export, goods are classified and duty and tax calculated in accordance with the Customs Tariff, unless otherwise exempted by this Law or any other Law of the Kingdom of Cambodia.
- B. The Minister of Economy and Finance may prescribe by *Prakas* provisions in respect of the classification of goods.

Article 20: *Origin, proof of origin, country of provenance*

- ~~1.A.~~ For imports, applicable duties and taxes are collected according to the origin of the goods.
- ~~2.B.~~ The origin of natural products is the country where they were extracted from the soil or harvested.
- ~~3.C.~~ Goods manufactured in a single country, with no contribution from materials from another country, originate in the country where they are manufactured.
- ~~4.D.~~ The Minister of Economy and Finance may by *Prakas* establish the rules to be followed in determining the origin of goods produced in one country that use products harvested, extracted from the soil, or manufactured in another country.
- ~~5.E.~~ Imported goods benefit from the favorable treatment assigned to their origin only if the origin and direct transport of the goods from the country of origin to the importing country is properly demonstrated. *Prakas* issued by the Minister of Economy and Finance establish the conditions under which proof of origin must be submitted and cases where it is not required.
- ~~6.F.~~ The country of provenance is the country from which the goods were sent directly to the customs territory.

Article 21: *Value of imported goods*

- ~~A.~~ The Customs value of imported goods shall be the transaction value. That is, the price actually paid or payable for goods when sold for export to Cambodia, subject to the provisions contained in *Prakas* issued under (H) below determined in accordance with the provisions of Annex 1 to this Law. The sequential methods of customs valuation are as follows, in accordance with the provisions of Annex 1 to this
- B.

- D. If the customs value of imported goods cannot be determined under the provisions of (A), (B), and (C) above, the customs value of the imported goods shall be based on a deductive method.
- E. If the customs value of imported goods cannot be determined under the provisions of (A), (B), (C), and (D) above, the customs value of imported goods shall be based on a computed method.
- F. The order of application of (D) and (E) above may be reversed at the request of the importer.
- G. If the customs value of the imported goods cannot be based on the provisions of (A) to (E) above inclusive, the customs value shall be determined by using reasonable means consistent with the principles and the provisions as referred to in (A) to (E) on the basis of available data in the Customs Territory subject to certain limitations.
- H. All matters related to the determination of Customs value are regulated by Prakas of the Minister of Economy and Finance.

Article 22: Value of exported goods

- 1.A. The customs value of exported goods shall be the value of the goods at the point of exit.
- 2.B. This value is determined by adding to the price of the goods expenses for transport as well as all expenses needed to carry out the export operation up to the frontier, but excluding export taxes payable upon exit, domestic taxes and similar levies for which the exporter has been given a receipt.

Article 23: Exchange rate

- A. When the customs value is expressed in a currency other than that of the Kingdom of Cambodia, the exchange rate to be applied is the rate published by Customs.
- B. The exchange rate to be applied is the exchange rate for the date on which the customs declaration is registered.
- C. The customs value determined under the above conditions is declared in riels.

Article 24: Disputes

- 1.A. An importer or exporter may file an objection to any Customs determination or re-determination of tariff classification, origin, or value under the provisions of Article 18 (A) and (B) above, admissibility or other matter affecting the importation or exportation or to the duties or taxes applicable, in writing to the Director of Customs within 30 days of the declarant being informed of such determination or re-determination.

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2.B. The competent Customs officer may allow the release of the goods in question if appropriate security has been provided.

3.C. The Director of Customs shall make the decision on the objection, referred to in (A) above, within 60 days after the objection is received; otherwise, the objection shall be deemed as accepted and the security returned as appropriate.

4.D. Any person who objects to ~~any decision referred to in (1), including any decisions on objections made~~ ~~to~~ by the Director of Customs under (A) above may file a written appeal to a Customs Tariff Committee.

E. The establishment and operation of the Customs Tariff Committee shall be determined by *anukret*.

F. An importer or exporter has the right to appeal to the competent court against any decision of the Customs Tariff Committee within a period of thirty days after receiving notification of that decision.

CHAPTER V: EXEMPTIONS, RELIEF AND REFUND OF DUTIES AND TAXES

other samples of no commercial value; coffins containing human remains; other goods as determined by *Prakas* of the Minister of Economy and Finance.

2. Imported goods that, before release from customs, have been found short, defective, of inferior quality, or that are re-exported or destroyed under Customs' supervision;
3. Excess payment resulting from a decision of the competent appeal authority or of the court as described in Article 24.†

2-B. The Minister of Economy and Finance may by Prakas further regulate provisions* with respect to refunds as described above including time limits, and may grant refunds for reasons other than those stated above.

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CHAPTER VI: CUSTOMS DECLARATION AND LIABILITY FOR DUTIES AND TAXES

Article 29: *Requirement for Customs declaration*

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

Article 30: *Customs Declaration and Customs documentation*

The Minister of Economy and Finance may, by Prakas, determine provisions and procedures concerning;

- a. the form, contents and validity of the Customs Declaration and Customs* documentation,
- b. lodgment registration and verification of the Customs Declaration,
- c. amendment, additions to and cancellation of the Customs declaration and* Customs documentation, and
- d. distribution and administration of the Customs Declaration and Customs* documentation.

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Article 31: *Obligation to declare*

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

Article 32: *Customs ~~clearing agent~~brokers*

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

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

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

D.

Article 36: Liability for export duties and taxes

~~1.A.~~ The exporter or owner shall be liable for export duties and taxes.

~~2.B.~~ In cases where the exporter or owner cannot be located, the customs ~~clearing agent~~ broker shall be liable for the export duties and taxes.

~~3.C.~~ In the case of temporary or bonded storage, the operator of the Temporary or Bonded storage is liable for export duties and taxes.

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

Article 37: Payment of import and export duties and taxes

~~1.A.~~ Import and export duties and taxes, and any authorized fees, fines, interest or penalties, payable by virtue of this or any other Law of the Kingdom of Cambodia shall be paid ~~in accordance with law, or as at a place, in the manner and within the time limits at a place, in the manner, and within time limits prescribed by Prakas of the Minister of Economy and Finance in Prakas.~~

~~2.B.~~ Duties and taxes payable for each article in the same declaration are rounded off to the higher riel, in increments of one hundred (100).

~~3.~~ Duties and taxes resulting from a settlement with the Customs authorities as set out in Article ___ of this Law below are payable in cash or other method as stipulated by the Minister in Prakas

~~4.C.~~ Receipts are provided for all payments made.

Article 38: Interest

Any debts owed by virtue of this Law that have not been paid in whole or in part by the prescribed tim

| Security required by this law may be used once or continuously and may be in the
| form of cash, ~~bond notes~~ ~~bank~~ guarantees or other such instruments ~~in Prakas~~. The

| ~~1.A.~~ Goods may remain in Customs bonded warehouses for up to two years.

| ~~2.B.~~ Upon expiration of the time limits, goods must be immediately removed from the warehouses with the authorization of Customs. Otherwise, Customs authorities will issue a notification to request the courts to issue a summons to the warehouse operator requiring the removal of the goods. If the demand remains without effect for a month, the goods are considered unclaimed goods in accordance with Article 54 of this Law. Customs may collect duty and

- A. Operations that carry out the processing or refining of crude petroleum or bituminous minerals to obtain petroleum products must be placed under the ~~in-customs~~ manufacturing bonded warehouse ~~manufacturing~~ regime.
- B. The suspension from duties and taxes as prescribed in

Article 53: *Record-keeping requirements ~~may be regulated~~ by the Minister of Economy and Finance*

The specific requirements for documents, books, records and other information to be retained under the provisions of Article 51 above ~~may be further regulated~~ established by the Minister of Economy and Finance by Prakas.

CHAPTER X: UNCLAIMED GOODS

Article 5354: *Unclaimed goods, including abandoned goods*

~~1.A. The sale of Unclaimed goods shall be disposed of through by public auctions.~~

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~~B. The Minister-Director of Customs may assign a minimum price for goods to be auctioned. If the, and if the bidding price is lower than the minimum price goods are not sold at this price, the Director may assign a new minimum price, or the goods may be destroyed-disposed of or used for other purposes in the public interest as approved by the Minister of Economy and Finance, as determined by the Minister~~

~~C. Proceeds of the auction shall be applied to unpaid duties and taxes, other fees or charges and administrative costs of conducting the auction. Any remaining balance is available to be claimed by the owner within 90 days-six months of notification by customs, otherwise the proceeds become the property of the State. Such notification, and must be made within seven days of-after the auction.~~

CHAPTER XI: POWERS AND OBLIGATIONS

Section 1 – General Provisions

Article 56: Power of Customs officers

With respect to goods being imported or exported, customs officers may:

~~a. inspect the goods and open or cause to be opened any package or container of goods and take samples of these goods in reasonable amounts;~~

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~~b. stop, board, and inspect any conveyance and direct that the conveyance be removed to a customs office or other suitable place for any such examination;~~

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~~c. search persons arriving in Cambodia or about to leave Cambodia if the officer suspects on reasonable grounds that the person has secreted on or about his person anything that would afford evidence of a contravention of this Law or any other Law of the Kingdom of Cambodia.~~

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~~2. The costs of examinations referred to in 1.a and 1.b above are borne by the owner of the goods.~~

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~~3. Procedures related to the conduct of such inspections and searches are further regulated through Prakas of the Minister.~~

~~A. Customs officers exercise powers established under this law in the Area of Special Authority of Customs Zone. In the case of goods designated under Article 9 (B) of this Law, the powers of customs officers are exercised anywhere in the Customs Territory.~~

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

~~1. Inspect goods and open or cause to be opened any package or container of goods and take reasonable amounts of samples of those goods for examination or testing;~~

2. Stop, board and inspect any conveyance and direct that the conveyance be removed to a Customs office or other suitable place for examination; The cost of the examinations referred to in a. and b. above shall be borne by the owner or holder of the goods.

3. Where there are reasonable grounds to suspect that an offence has been committed, inspect private residences or businesses to gather evidence or seize goods in accordance with the laws of the Kingdom of Cambodia;

4. Check the identity of any person entering or leaving the customs territory, stop, question and search such a person if the officer believes suspects that the person has hidden any goods or other thing on, in, or about his or her body that would be evidence of the contravention of this Law or any other Laws of the Kingdom of Cambodia.

B.C. The cost of the examinations referred to in Paragraph (B) (1) and (2) above shall be borne by the owner or holder of the goods or conveyance.

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

Article 57:

A. Customs officer may, at any reasonable time, enter any premises or place where documents, records, or other information are kept pursuant to Article 51 of this Law and audit or examine those documents, records, or other information, either in relation to specific transactions or to the adequacy and integrity of the manual or electronic systems by which such records are created and stored.

B. Customs officers may inspect documents records, or other information or any property, process, or matter that the officer considers necessary or relevant for the

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- A. In respect of the prevention and suppression of customs offences, sworn customs officers have all the powers of judicial police officers.
- B. Customs officers must take an oath before the Court.
- C. The taking of the oath is recorded without charge in the Office of the Clerk of the Court. It is transcribed without charge on the employment commissions referred to in paragraph (D) below.
- D. In the exercise of their duties, customs officers must, unless otherwise directed by the Director of Customs, wear a uniform, badge and identification. They must also carry their employment commission indicating that they have taken the oath, and are required to show it on first demand.

Article ~~589~~59: Officers' right to bear arms

- A. ~~A~~ Customs officers ~~on duty~~ shall have the right to carry arms, and to use arms them in carrying out their duties in the following circumstances;
 - For legitimate defence, or ~~When they cannot otherwise impede the passage of a group of people suspected to be engaged in illegal activities who do not stop in response to warnings addressed to them, or~~
 - When they cannot otherwise halt conveyances involved in smuggling or other illegal activities whose operators do not obey the order to stop, or
 - For other reasons established by other Laws or regulations of the Kingdom of Cambodia.~~For other reasons established by other Laws of the Kingdom of Cambodia~~A Customs officers on duty shall have the right to carry and use bear arms, and to use such arms for~~The right to carry and use arms shall be in accordance with the Law and regulations.~~Any other use of firearms by customs officers in the execution of their duties, and the conditions of such usage, are to be established by Prakas of the Minister

Article ~~596~~60: Powers of detention

- A. Customs officers ~~qualified as Judicial police~~ ~~may arrest~~ shall have the right to detain for up to 48 hours an offender in order to file a report on the case to the competent court.
- B. The powers granted under (A) above are exercised in accordance with the Law on Criminal Procedures.~~Codepersons whom they have reasonable grounds to suspect have committed or are in the act of committing an offence under this Law or any other Law regulating the import or export of goods which customs has authority to enforce.~~
- C. The Minister of Economy and Finance shall establish by Prakas the offences in regard to which officers may use powers of detention, and the conditions and procedures for the use of this power.

Article ~~610~~61: Prohibition on obstructing customs officers

- 2.A. Customs officers have the right to seize temporarily goods and conveyances involved in violations of this law. Such goods and conveyances may be subject to confiscation by the competent court.
- B. Outside the Customs Zone, seizures may be carried out in customs houses, temporary storage facilities and customs bonded warehouses and other locations subject to the surveillance of customs.
- C. Goods designated under Article 9 (B) of this Law may be temporarily seized

seizure, and the legal provisions that may have been contravened. The seizing customs officer shall, without delay, ~~submit~~ write up a report ~~a-on~~ the seizure. The report shall include:

1. The date, time, and reason for the seizure, including the provisions of the Law that have been violated;
 2. Statement made to the accused by the seizing customs officer;
 3. Names, capacity, and address of those conducting the seizure and the person responsible for prosecution;
 4. The description, quantities and location of the goods seized;
 5. The presence of the accused during the description of the goods seized, and any statements made by the accused;
 6. Name and capacity of the custodian of the goods;
 7. The place and time where the report was written up;
 8. The location where the seized goods are stored. Any other relevant information regarding the seizure, report to the Director General of customs outlining the details of the suspected offence or contravention
- B. If the accused is present the report should indicate that it was read to him or her, that he or she was asked to read and sign it and was given a copy immediately.
- C. When the accused is not present the report is to be posted within 24 hours of its preparation at the nearest customs office, or the nearest municipal office if there is no local customs office.
- A.D. Further details regarding the contents and procedures for preparation and submission to the court of these statements report referred to in (A) above are determined by the Director of Customs.

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Article 69: Securing of vessels

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

Article 736870: Custody of goods seized at private residences

In the event of a seizure at a residence, non-prohibited goods are not moved, provided that the accused provides security in accordance with the provisions of Article 40 of this Law. If the accused does not provide security, or if prohibited goods are involved, the goods are transported to the closest customs house or entrusted to a third-party custodian, either where the seizure took place, or at some other location.

Article 7719: Appeals of seizures

- temporary storage facilities or bonded warehouses, or other places as required by this Law;
4. Removal of goods from a customs clearance area, a temporary storage facility, or a customs bonded warehouse without the authorization of Customs;
 5. Failure to submit a customs declaration in accordance with the provisions of Articles 29 of this Law;
 6. Failure to comply with the provisions of Article 30 of this Law;
 7. The unauthorized use, sale, transfer, diversion or disposal of goods imported exempt from duty and taxes under Articles 26 and 27 of this Law.
 8. Failure to comply with conditions imposed by Customs regarding goods entered under a duty or tax suspensive regime under the provisions of this Law.
 9. Making, assenting to, or participating in, the making of an inaccurate, false, or deceptive verbal or written statement or declaration in violation of this Law;
 10. Smuggling or attempting to smuggle;
 11. No person shall without authorization from Customs, possess, purchase, sell, transfer or otherwise acquire or dispose of any goods that were imported in violation of this Law.
- C. The following offences are subject to an administrative fine of 1,000,000 to 5,000,000 riels or to a judicial penalty of imprisonment of the offender for one to six months, or both.
1. Failure to comply with the provisions of Articles 51, 52, and 53 of this law regarding record keeping requirements.
 2. Any person who obstructs or impedes a customs officer in violation of Article 61 of this Law.
- D. Any person operating a conveyance that does not obey the orders of a customs officer under the provisions of Article 62 (A) of this Law.

Article 75: Repeat violations, aggravating circumstances

In cases of repeat violations of provisions ~~of~~ Article 75:

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