

KINGDOM OF CAMBODIA

Nation Religion King

Ministry of Economy and Finance

No : 115 MEF. BRK

Phnom Penh, 15 February 2008

PRAKAS

on

Establishment and Functioning of Customs Brokers

**Senior Minister,
Minister of Economy and Finance**

- Having Seen the Constitution of the Kingdom of Cambodia;
- Having Seen Reach Kram N° NS/RKT/0704/124 dated 15 July 2004 on the Appointment of the Royal Government;
- Having Seen Reach Kram N° 02/NS /94 dated 20 July 1994 promulgating the Law on the Establishment and Organization of the Council of Minister;
- Having Seen Reach Kram N° 02/NS/RKM/0196/18 Dated 24 January 1996 promulgating the Law on the Establishment of the Ministry of Economy and Finance;
- Having Seen Reach Kram N° NS/RKM/0707/017 dated 20 July 2007 promulgating the Law on Customs;
- Having Seen Anukret N° 04 ANKR.BK dated 20 January 2000 on the Establishment and Organization of the Ministry of Economy and Finance;
- Pursuant to the priority task of the Ministry of Economy and Finance

HEREBY DECIDES

Praka 1.-

The qualified persons to fulfill customs formalities are as follows:

- the importer, exporter, owners of goods or their authorized representatives may only declare goods for themselves, or
- persons authorized to act as qualified customs brokers by the Ministry of Economy and Finance as proposed by the Director General of Customs and Excise Department conforming with Praka 7 of this Prakas may declare goods to customs on behalf of others.

Praka 2.-

Legal or Natural Persons authorized as customs brokers are allowed to submit customs declarations and to fulfill customs formalities on behalf of others in accordance with the provisions of Article 32 of the Law on Customs and the conditions established in the license issued by the Minister of Economy and Finance .

Praka 3.-

Any person, including the owners and employees of a company or an organization, may fulfill customs formalities for themselves or for their own businesses or organizations and are not considered to be exercising the profession of customs broker.

Employees of importers or exporters who wish to make declarations on behalf of their businesses or organizations must provide competent customs with a written authorization from their businesses or organizations and as well as specimen signatures.

Importers or exporters who do not wish to directly conduct business with customs must use a licensed customs broker.

In circumstances, where the services of a licensed customs broker are not available, an importer, exporter or owner of the goods may propose to the Minister of Economy and Finance for a temporary and revocable authorization to allow persons who are not qualified customs brokers to fulfill customs formalities on their behalf. Such special authorizations will only be granted for a specific time limit and for operations involving some specific goods.

Praka 4.-

Any person wishing to carry out the business of customs broker must obtain a customs broker license from the Minister of Economy and Finance. An application, whose form and instructions are set by Customs and Excise Department, for a customs broker license must be submitted to the Director of Customs.

The application includes:

- name and address of the applicant. In the case of a company, names and address of the directors and officers must be mentioned;
- the locations where the customs broker business is to be conducted;
- name of qualified customs brokers and locations where they will operate;
- financial statements implying that the applicant has a sufficient financial resource to operate the business;
- a certificate of non-conviction issued by the competent judicial authority;

- a valid VAT registration certificate;
- other documents and information relating to law compliance.

Praka 5.-

An individual will be considered as a qualified customs broker under this Prakas if the person:

- is a citizen or resident of Cambodia;
- is at least eighteen (18) years of age;
- possesses a minimum of a high school certificate level;
- provides a “certificate of non-conviction” issued by the competent judicial authority;
- has sufficient financial resources to conduct the business;
- has successfully passed the Customs Broker Qualification Examination administered by the Customs and Excise Department; and
- has a good record of fiscal compliance.

Praka 6.-

A legal person will be considered as qualified customs broker under this Prakas if:

1. the company:

- is incorporated in Cambodia and has a Commercial Registration Certificate issued by the Ministry of Commerce;
- has sufficient financial resources to conduct its business;
- has a good record of fiscal compliance; and
- has a Value Added Tax Registration Certificate issued by the Tax Department.

2. all members of the board of directors of the company have a “certificate of non-conviction” issued by the competent judicial authority;

3. all members of the board of directors have a good record of fiscal compliance;

4. a majority of the members of the board of directors are citizens or residents of Cambodia; and

5. at least one employee of the company is a qualified customs broker in accordance with the provisions Praka 5 of this Prakas.

Praka 7.-

The Customs and Excise Department shall define minimum specialized

subjects relevant to customs broker profession and may organize training courses for persons who intend to take the Customs Broker Qualification Examination.

Praka 8.-

The Customs and Excise Department shall organize a Customs Broker Qualification Examination at least once every year and also issue a public notice, on date, place and requirements, of such examination at least 60 days before the date of the examination.

Praka 9.-

Customs broker licenses shall be issued on an individual basis to persons who are determined to be qualified customs. A legal person shall only be licensed as a customs broker if at least one employee of the company is a qualified person.

Praka 10.-

The customs broker license shall specify the customs offices where the broker is licensed to operate, as well as customs broker's compulsory terms and conditions. The license shall be granted for a fixed period of two years.

Praka 11.-

An application for a license may be denied if the applicant does not meet the qualifications. After being informed of the license denial, the applicant may, through furnishing additional supporting documents, request the Minister of Economy and Finance to review the decision.

Praka 12.-

Upon a request made by the Director General of Customs and Excise Department, the Ministry of Economy and Finance may cancel or suspend the license of a customs broker if the broker has:

- failed to comply with this Prakas;
- contravened the provisions of the Law on Customs or a regulation relating to the importation or exportation of goods;
- defrauded the Royal Government of Cambodia or a client;
- become insolvent or bankrupt;
- engaged in any dishonest conduct while conducting business;
- ceased to carry on business as a customs broker, or failed to carry out his duties and responsibilities as a customs broker in a competent manner;
- been no longer qualified under these Regulations.

The Director of Customs may recommend to the Minister of Economy and

Finance the cancellation or suspension of authorization to operate as a customs broker after carrying out an investigation of any allegations including receiving comments from the Customs Broker Committee.

Before a licence is cancelled or suspended, the Minister of Economy and Finance or a person designated by him shall give a 30 day notice of the proposed cancellation or suspension to the customs broker by providing reasons for this licence cancelation or suspension and also allowing the broker to respond or present the reasons relating to this case.

Praka 13.-

All licensed customs brokers must pay an annual license fee of 2,000,000 Riels to the Customs and Excise Department. This fee shall not be refunded.

Praka 14.-

Applications for renewal of licenses must be submitted to the Customs and Excise Department at least 30 days before the expiration of the license. License renewal applications shall be submitted as the form and with the attached documents in accordance with the provisions Praka 4 of this Prakas and shall be approved by the Minister of Economy and Finance.

Praka 15.-

Before commencing operations, a licensed customs broker must deposit security with the Customs and Excise Department sufficient to cover duty, taxes, and fees to be paid at any time for its customs clearance operations.

The form and amount of security shall be established by the Director of Customs in accordance with the provisions of the Prakas on Security issued by the Ministry of Economy and Finance.

Praka 16.-

An application for a new customs broker license must be submitted when the ownership of a business changes, regardless of whether the name of the company changes.

The licensed customs broker must notify the Director of Customs in writing of the proposed change, and submit a complete license application, including all documentation, and will be processed as a new application in accordance with the provisions of this Prakas.

Praka 17.-

No compensation or damages may be paid for a denial or temporary or

permanent revocation of authorization to operate as a customs broker.

Praka 18.-

Licensed customs brokers must provide Customs written authorizations from the importer, exporter or owner of the goods authorizing the customs broker to conduct customs clearance on their behalf. Such authorizations shall specify any time limit and the locations where the broker may carry out customs clearance, and may specify any other conditions set by the Customs and Excise Department.

Qualified customs brokers employed by licensed customs broker firms must provide customs a written authorization and a specimen signature from the concerned firms.

Praka 19.-

Authorized customs broker firms shall:

- only conduct business as a customs broker in locations where they are authorized to operate in their licenses;
- have a qualified customs broker located at each office where the firms conduct their businesses. The broker must display at every concerned customs office a name badge and license or a copy thereof;
- immediately notify the Director of Customs of any change in: the address of the company, the name of the company, the officers or directors of the company, the manager of the company, the ownership of the company, or a person who is the qualified customs broker for the firms;
- provide the importer or exporter the customs declaration and other relevant documents relating each transaction.

Praka 20.-

Every licensed customs broker shall retain:

- all records and books of accounts indicating all financial transactions made while transacting business as a customs broker;
- a copy of each customs declaration and all supporting documents;
- copies of all correspondence, bills, accounts, statements and other papers received or prepared by the customs broker that relate to the transaction of business as a customs broker.

Authorized customs brokers must retain all the above mentioned records and documents at their places of business in Cambodia for 10 years from the date of registration of the customs declaration, or from the end of the year in which the records,

correspondence, or other documents were produced or received. The information required above shall be kept in such a manner as to enable a customs officer to perform detailed audits and to obtain or verify the information.

Praka 21.-

Authorized customs brokers are responsible for operations under their managements. Customs brokers found to be committing offences under the customs law and other laws and regulations are liable to penalties under existing laws and regulations.

In cases where the importer, exporter or owner of goods cannot be located, the customs broker shall be liable for payment of duties, taxes and other charges in accordance with existing laws and regulations.

Praka 22.-

Any regulations contradict to this Prakas shall be null and void.

Praka 23.-

Delegate of the Royal Government in charge of Customs and Excise Department, Secretary General, Director of Cabinet, Director of the Department and involved units within the Ministry of Economy and Finance; including personnel and institutions concerned shall carry out the provisions of the s effectively from the signatory date.

Senior Minister,

Minister of Economy and Finance

Signature

Keat Chhon

C.C :

- Ministry of the Royal palace
- Secretariat General of the Senate
- Secretariat General of the National Assembly
- Cabinet of Samdech Akka Moha Sena Padei Techo **Hun Sen** Prime Minister of the Kingdom of Cambodia
- Council of Ministers
- "To be informed"
- Customs and Excise Department
- As Praka 23
- Cambodia Chamber of Commerce
- "For publicized cooperation and implementation"
- Official Journal
- Document - Archive