

**KINGDOM OF CAMBODIA**

**Nation Religion King**

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**Ministry of Economy and Finance**

**No. 116 MEF. BRK**

**Phnom Penh, 15 February 2008**

**PRAKAS**

**on**

**Customs Bonded Warehouse**

**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.-**

To establish procedures for the establishment, licensing and operation of Customs Bonded Warehouses in accordance with the provisions of Article 44, 45, 46 and 49 of the Law on Customs.

A customs bonded warehouse is a building, place or an area that is authorized to store goods for a specified period of time under customs control. Imported goods and domestic goods destined for export may be placed in a customs bonded warehouse.

#### **Praka 2.-**

While goods are stored in a customs bonded warehouse, duties and taxes are suspended. Any restrictions and prohibitions on the goods may be waived up to the time the goods are released for Cambodian domestic consumption, or are exported.

#### **Praka 3:**

There are three types of customs bonded warehouses:

- Type **A**: Public Bonded Warehouses are customs bonded warehouses that are authorized by the Ministry of Economy and Finance and may be operated by government agencies or by any approved person. Any person who has the legal right to goods may store their goods in a Public Bonded Warehouse; including importers, a person to whom the goods have been sold while in the warehouse, or any other person having the legal right to dispose of the goods;
- Type **B**: Private Bonded Warehouses are customs bonded warehouses that are authorized by the Director of Customs and to be solely used by authorized persons for storage of specific goods for their own use, including operators of duty-free shops;
- Type **C**: Special Bonded Warehouses are customs bonded warehouses that are authorized by the Director of Customs and that are used for the storage of hazardous goods, goods that could affect the quality of other goods or goods that require special storage facilities. Such warehouses may be private or public.

#### **Praka 4.-**

Licenses issued for customs bonded warehouses shall establish the terms of the contract and business operation between customs and the customs bonded warehouse operator. The business contract will establish:

- the rights, duties and obligations of each party;
- the location of the bonded warehouse;
- period of time of operation and possibility of any extension;
- an approved building and site plan;
- the form and amount of security;
- management procedures;
- transportation in transit formalities;
- goods authorized to be stored in the bonded warehouse, and
- other conditions as may be required by customs.

**Praka 5.-**

Any person who wishes to apply for a customs bonded warehouse license shall submit a completed application to the Director of Customs in a prescribed form, together with a detailed plan of construction and location of the proposed customs bonded warehouse.

The license may be issued if:

- the applicant provides a “letter of non-conviction” issued by a competent judicial authority;
- the applicant has sufficient financial resources to enable him to provide the facilities, equipment, personnel and services required to operate the customs bonded warehouse;
- the applicant does not have a record of non-compliance with fiscal obligations;
- customs determines that the proposed operation has economic efficiency;
- the site of the proposed customs bonded warehouse is within a reasonable distance from major transportation routes and a customs office;
- the proposed customs bonded warehouse contains adequate space for the secure storage of imported and exported goods;
- the structure of the proposed facility will be suitable for the operation of a customs bonded warehouse; and
- customs is able to provide services with respect to the proposed customs bonded warehouse.

The licence may be amended by the Minister of Economy and Finance to:

- change restrictions or conditions specified in the licence regarding the goods that may be received in the customs bonded warehouse, or to specify such restrictions and conditions; or

- change the name of the licensee, where the name of the licensee is changed.

The licence may be cancelled by the Ministry of Economy and Finance if the licensee:

- no longer owns or leases the place that is licensed as a customs bonded warehouse;
- requests the Minister of Economy and Finance in writing to cancel the licence; or
- is legally bankrupt.

The licence may be suspended or cancelled by the Minister of Economy and Finance where the licensee:

- is the subject of a receivership in respect of his debts;
- has not met the requirements of the provisions of this Prakas;
- fails to comply with the provisions of any existing law or regulation respecting the importation or exportation of goods;
- has dishonestly acted in his business dealings with customs brokers, importers, carriers or the Royal Government's institutions, or
- has been incompetent in the operation of the customs bonded warehouse;
- where the volume of goods being received in the warehouse is no longer sufficient to warrant continuation of the bonded warehouse,
- where the customs administration is no longer able to provide service to the bonded warehouse.

When a license is suspended, the customs bonded warehouse is not allowed to operate and customs may lock and seal the bonded warehouse and keep it locked during the period of suspension.

#### **Praka 6.-**

Every operator of a customs bonded warehouse shall pay to the government an annual license fee equal to 1% of the average monthly duties and taxes outstanding on goods stored in the warehouse. This annual license fee is to be paid at the end of the fiscal year. If the license is issued after July 1, the license fee for that fiscal year shall be half the annual fee.

#### **Praka 7.-**

Operators of customs bonded warehouses shall provide security to customs in an amount equal to 5% of the yearly duties and taxes outstanding on goods stored in the bonded warehouses. The form of security shall be in accordance with the provisions of Article 41 of the Law on Customs and related regulations.

For the first year of operation, the Director of Customs shall fix the amount of security.

Customs shall verify that the amount of security is sufficient to meet the requirements in the paragraph one above, and may adjust this amount if necessary.

**Praka 8:**

The customs bonded warehouse operator is responsible for all expenses for the operation, maintenance and repair of the warehouse. The operator must provide and maintain, at his expense, adequate office space and facilities for the use of customs staff, including adequate space for inspection of goods by customs.

The operator must provide personnel and equipment required to ensure that goods can properly be inspected by customs, and must have sufficient staff to control the warehouse, to maintain records, and to provide records to customs when required.

The customs bonded warehouse must be secured with adequate locks on doors and windows. Goods must be securely stored and adequate procedures must be in place to maintain security. Access to the bonded warehouse shall be restricted to designated persons as determined by customs.

**Praka 9.-**

The bonded warehouse operator must maintain records of all goods stored in the bonded warehouse in accordance with customs' requirements, and must ensure proper controls are in place to prevent loss of goods.

The operator's records must be able to track the movement of all goods under customs' control in the bonded warehouse, including:

- the movement of goods into the warehouse;
- the movement while stored in the warehouse;
- transfers of goods to and from other licensed bonded warehouses;
- records of manipulation, unpacking, packing, alteration or combination with other goods in warehouse; and
- the removal of goods from the bonded warehouse.

Customs will conduct periodic verifications of records and physical inventory to monitor compliance.

Failure to keep adequate records will result in the application of penalties in accordance with the existing law. In the case of continued non-compliance, the operator may be subject to possible suspension or cancellation of the bonded warehouse license.

**Praka 10.-**

Goods may be stored in the customs bonded warehouse for up to 2 years from the date of registration of the customs declaration. Before its expiry date, owners of the goods may request an extension of this time limit for storage of goods of up to twelve months if the goods are still in good condition.

**Praka 11.-**

While stored in customs bonded warehouse, goods can be sold or transferred. The importer or owner of the goods is to inform customs in writing of this transfer of ownership.

Goods stored in a customs bonded warehouse can be transferred to another licensed customs bonded warehouse under customs control. Transfer documents shall be submitted to customs for all such transfers.

**Praka 12.-**

Goods removed for export shall be subject to submission of a customs export declaration, and no import or export duties and taxes shall be charged, except domestic goods which may be subject to export duty.

Applicable duties and taxes on goods removed for home use shall be charged according to the customs tariff and the rates of duties and taxes in effect on the date of registration of the customs declaration for removal of the goods from the bonded warehouse.

**Praka 13.-**

Owners of goods in customs bonded warehouses shall be allowed by customs to have access to their goods, to inspect, take samples and carry out necessary operations to preserve the those goods provided that those actions do not change the essential character of the goods. Those operations can be fumigating, drying, cleaning, testing, and normal handling operations such as breaking bulk, repackaging, sorting and grading, marking, labeling or tagging and so on.

**Praka 14.-**

In a specific circumstance, the Ministry of Economy and Finance may issue licenses for the operation of customs manufacturing bonded warehouses in accordance with the licensing provisions in this Prakas.

Licensed customs manufacturing bonded warehouse operators are authorized to carry out processing and manufacturing of approved products under control of customs. Operators of such warehouses are allowed to import certain types of dutiable raw materials/components, and machinery and equipment, whose payment of duties and taxes are suspended, to be directly used in the manufacture or processing of goods.

The license issued for the operation of the customs manufacturing bonded warehouse shall specify the list of raw materials/components and machinery and equipment that may be imported with suspended payment of duties and taxes.

Imported goods that are removed from the customs manufacturing bonded warehouse for domestic consumption shall be subject to the duties and taxes payable in accordance with Article 49 of the Law on Customs.

Finished products removed from customs manufacturing bonded warehouses for domestic consumption are subject to the payment of duties and taxes on the value of imported raw materials used in their manufacture upon which duties and taxes have been suspended.

Duties and taxes shall be charged according to the customs tariff and the rates of duties and taxes in effect on the date of the registration of the customs declaration for admission of the goods to the warehouse.

**Praka 15.-**

The Minister of Economy and Finance may issue licenses for the operation of customs manufacturing bonded warehouses for the purpose of processing or refining of crude petroleum or bituminous minerals to obtain petroleum products in accordance with the licensing provisions of this Prakas.

Such licenses shall establish the terms and conditions for operating of such customs manufacturing bonded warehouses.

Duties and taxes on imports of crude petroleum or bituminous minerals for processing for export shall be suspended in accordance with Article 49 of the Law on Customs.

**Praka 16.-**

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

**Praka 17.-**

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.

	<b>Senior Minister,</b>
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	<b>Minister of Economy and Finance</b> Signature
<b>C.C.:</b>	<b>Keat Chhon</b>

- 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 17
- Cambodia Chamber of Commerce “For publicized cooperation and implementation”
- Official Journal
- Document – Archive