



**LAO PEOPLE'S DEMOCRATIC REPUBLIC**  
**PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY**

Government

No...../Gov

Vientiane Capital, dated.....

**(Draft)**

**Decree on Trade Management of Dual-Use Goods**

- Pursuant to the Law on the Government of Lao PDR (amended) No. 04/NA, dated 08 November 2016.
- Pursuant to the Proposal No.xxx/MOIC.DOIE, dated xx/xx/2019 of the Ministry of Industry and Commerce

Government Issued Decree:

**Chapter I**

**Article 1. Purpose**

This decree defines principals, regulations and measurement on the management of the exportation, importation, temporary exportation, importation for re-exporting, crossing border, transplantation, brokering, technical assistance, financial services for Dual-Use Goods and the relevant activities in order to ensure the safety of the trading environmental, contribute to the development and the stability of the social-economic of the nation and in compliance with the economic integration policy and stability, constancy of the domestic, regional and international in particular the implementation of the Resolution of the United Nations Security Council 1540 (2004) on Non-proliferation of weapons of mass destruction.

**Article 2. Management of the Dual-Use Goods**

Double Use Trade Commodities means things, material, equipment including software, and technology, technical information which is able to use for the purpose of the military and civilization, and including other goods which is able to use for non-explosion and to produce the weapons of mass destruction or other nuclear explosions.

Double Use Trade Commodities means the usage of the measure such as: the issuance of the permit, reporting, the registration of operator who conducts the Double Use Trade Commodities, **prohibition**, the definition of the list of goods, other certification relating to the implementation of Double Use Trade Commodities which will be or be able to facilitate the design, development or produce the controlled material or weapons of mass destruction.

**Article 3. Interpretation of Terms.**

The terms used in this Decree have the meaning as follows:

1. **Technology for Double Use Trade Commodities** means any information used for the design, development, production or usage of things for double use which includes

technical information, technical assistance and software, but not limit to fundamental technology for the installation, operation, maintenance and reparation of Dual-Use Goods in the approved transactions including the information that made public or fundamental science research.

2. **Technical information** includes printed style, **template**, diagram, model, **schedule**, standard criteria and design on engineering, handbook or instruction in the form of printed style or electronic.
3. **Weapons of mass destruction** means any weapons of mass destruction or weapon that designs or intend to cause death or serious physical injury through the release, diffusion, or the effects of toxic chemicals or its original chemicals, or any weapon relating to biologicals, poison or animals or insects that are the cause of disease, or any weapon that designs to emit radiation or radiation at a dangerous level to human life. These weapons include but not limit to: (a) nuclear and radiation explosive device; (b) chemicals listed in the schedule I, II and III of the Chemical Weapons Convention (CWC); and (c) biologicals and biologically derives substance that develop, design, revise, or amend by increasing its productivity to cause the death of human life and animal, deterioration of quality of equipment of damage of plants.
4. **Operator related to Dual-Use Goods** means individual or entity who conducts an exportation, importation, temporary exportation, importation for re-exporting, crossing border, transplantation, procurement services, technical assistances, financial services and other services relating to Dual-Use Goods .
5. **Exportation** means an exportation of Dual-Use Goods from Lao PDR.
6. **Importation for Re-Exporting** means an importation of Dual-Use Goods into Laos as temporary period prior re-exporting or exporting to third country by having an amendment or non-amendment including an importation of raw material or semi-finished goods for the purpose of processing before re-exporting or exporting to third country.
7. **Temporary exportation** means temporary exportation of Dual-Use Goods from Lao PDR to another country for some purpose such as: exhibition, experimentation, research, maintenance etc., then importing such goods into Lao PDR again.
8. **Crossing Border** means importation of Dual-Use Goods through territory of Lao PDR before forwarding to third country without transplantation of goods.
9. **Transplantation** means transportation of Dual-Use Goods to Laos' territory, then transplant to the same or new vehicles in order to export from Laos' territory.
10. **Procurement Services** means any activity that any individual operates on their own or be representative for others such as: (a) negotiation, supervise or facilitate for procurement, find out funding, transportation, sale or providing Dual-Use Goods ; or (b) buy, sell or provide Dual-Use Goods .
11. **Technical Assistance** means instruction, training, knowledge transferred or working skills or providing consultation in form of oral, writing, or electronic in relation to reparation, development, production, assembly, trial, maintenance of Dual-Use Goods to a final users outside of Lao PDR, which such assistance may be occurred in the country that have final usage or in Lao PDR.
12. **Financial Services** means the implementation direct or indirect to accumulate, procure, provide funding or assets in whole or partially in order to facilitate the trade that relating

to Dual-Use Goods or if this service is able to be a funding to proliferation of weapons of mass destruction or its material.

13. **Funding or Assets** means money or tangible or intangible assets, immovable or moveable assets and documents or all kind of financial instruments in form of electronic or digital, ownership license or benefits of such funding.
14. **Other services relating to Dual-Use Goods** means international activity concerning Dual-Use Goods for example: insurance, transportation.
15. **Specific License** means license issues to individual, entity, organization who operate trade or service concerning Dual-Use Goods to a **final user** as defined thereto. This license may be included one or many Dual-Use Goods .
16. **Overall License** means license issues to individual, entity, organization who operate trade or service concerning Dual-Use Goods in a form of any type or **category** in one or more user as defined thereto.
17. **Ownership License concerning activity of double user goods** means license to individual, entity, organization who operates activity relating to trade and service of Dual-Use Goods.

#### **Article 4. Government's Policy on Dual-Use Goods**

The state supports and promotes the management of Dual-Use Goods by having the policy and measure aiming to create the appropriated environmental and condition and to ensure that trading of Dual-Use Goods will not cause any affects and damages to human life, assets, peaceful and discipline of the domestic, regional and international.

The state provides budget, human resources, vehicles, material to the responsible organization with respect to the implementation of Dual-Use Goods to ensure the implementation of Dual-Use Goods effectively and quality.

#### **Article 5. Basic Principles of Dual-Use Goods**

The management of Dual-Use Goods shall implement by the following principles:

1. Trade Facilitation;
2. Domestic and International peaceful;
3. Non- discrimination;
4. Transparency; and
5. In compliance with the international conventions which Laos is one of the Party.

#### **Article 6. Scope of Applicability of the Decree**

This decree applies to individual or entity, domestic and international organization who conducts activity relating to Dual-Use Goods in Lao PDR, **including Lao citizen who provides procurement services, financial services and other activities relating to Dual-Use Goods in other country.**

#### **Article 7. International Cooperation**

The State promotes international cooperation with foreigner, regional and international in relation to the trade management of Dual-Use Goods by exchanging database, technic, technology, training and improve knowledge and competent of technical officials in order for

this task to be efficiently, in compliance with laws, regulations of Lao PDR, convention and treaty of the international organization that Laos is one of its Party.

## **Chapter II**

### **List of Dual-Use Goods**

#### **Article 8. Listed Items**

Listed Items means goods that approved by the Ministry of Industry and Commerce through the liaison of the relevant sectors.

Details of listed items defines in a specific regulation.

#### **Article 9. Non-Listed Items**

An exportation, temporary exportation, an importation for re-exporting, transit, transplantation, procurement services or technical assistance for non-listed items as defines in article 8 of this decree is required to have an approval if:

1. Individual, entity and organization who conducts the activities relating to weapons of mass destruction shall be informed the competent authority that list of goods or double use information may or may be used partially or wholly on the development, production, packing, operation, reparation, maintenance, monitoring, identification or publishing chemical weapons, biological weapons or nuclear weapons or explosive nuclear weapons or development, production, reparation or maintenance missiles that can send such weapons; or
2. If a purchased country or a destination country have been sanctioned on nuclear weapons by the Resolution of the United Nations Security Council, and if such entity has been informed by the competent authority that such list or technology may or may be used partially or wholly in military affairs; or
3. If such entity has been informed by competent authority that such list or technology in partial or in whole will be part or portion of military affairs which will be sent out from the Lao's territory without any approval or breaching any approval of a competent authority of Lao PDR or have an affect against a peaceful, security of public and human right.
4. If any entity acknowledges that goods that will be exported, temporary exported, imported for re-exporting, transit, transplantation, be a commissioner or provide technical assistance are Dual-Use Goods but non-listed items, but will be used partially or wholly in the target defined in paragraph one, such entity shall inform the Ministry of Industry and Commerce promptly, and the MOIC shall be decided as to whether such transaction must be applied for an approval or not.

## **Chapter III**

### **Approval on Dual-Use Goods**

#### **Article 10. Registration of the operator to conduct Dual-Use Goods**

Individual, entity organization for both domestic and foreigner who wish to conduct an activity with respect to Dual-Use Goods must register a Management System of Dual-Use Goods, the application forms is as below:

1. Copy of an operating license issued by the relevant state authority (in case a state enterprise);
2. Copy of passport of applicant;
3. Copy of Police Clearance letter;
4. A residential certificate;
5. Copy of an employer certificate issued by the relevant organization (in case an expert, teacher, mechanic or specific technical staff).

Management Organization of Dual-Use Goods shall consider the applications on the usage of the management system of Dual-Use Goods within 10 working days from the date of receipt of complete application. In case the registration has been rejected, applicant shall receive a written notice with reasonably response.

#### **Article 11. Consideration of establishment of Dual-Use Goods application**

Individual, entity organization of both domestic and foreigner who wish to conduct the activity shall be considered based on the following requirement:

1. Having a good background and not listed in the list of individual, entity, organization of both domestic and foreigner;
2. Don't have any lawsuit.

#### **Article 12. Approval**

Individual, entity organization of both domestic and foreigner that export, import, temporary export, import for re-exporting, procurement services and technical assistance of Dual-Use Goods in Lao PDR shall obtain an approval from the management sector of Dual-Use Goods.

#### **Article 13. Type of Approval**

License of the activity concerning Dual-Use Goods comprises as follow:

1. Individual license
2. Global License

#### **Article 14. Establishment Application**

Individual, entity organization of both domestic and foreigner who wish to establish the activity as defined in the article 2 of this Decree shall submit the establishment application to the management sector of Dual-Use Goods on a case defined below:

1. Exportation and temporary exportation
  - Copy of operating license on Dual-Use Goods ;
  - The end-user statement or original end-user certificate;
  - Documents on details of technic, attribute and guideline of Dual-Use Goods ;
  - Certified Document on resources of Dual-Use Goods such as: sale and purchase agreement, order document, invoice, list of goods or delivery record.

2. Importation, **importation for re-exporting**, crossing border and transplantation
  - Copy of operating license on Dual-Use Goods ;
  - The end-user statement or original end-user certificate;
  - Documents on details of technic, attribute and guideline of Dual-Use Goods ;
  - Certified Document on resources of Dual-Use Goods such as: sale and purchase agreement, order document, invoice, list of goods or delivery record.
3. **Technical assistance on Dual-Use Goods**
  - **Copy of operating license on Dual-Use Goods ;**
  - **Other certificates such as invitation or undertaking to attend meeting, seminar, publication, letter for providing service.**

#### **Article 15. Consideration of the issuance of a license**

After receiving the application on the establishment of Dual-Use Goods business. The management sector of Dual-Use Goods shall consider the application based on the following requirement:

1. Purpose of the end-user statement and risk that may be occurred from providing services to the end-user who didn't have a license;
2. Technical competence on the usage of Dual-Use Goods of the end-user;
3. National security or benefits on foreign policy of Lao PDR especially the obligation and undertaking over the international under sanctions of the United Nations Security Council or international convention and the concerned Non-Proliferation Treaty;
4. Maintain peaceful, safety and security of regional;
5. Situation of domestic tensions or military conflict in the destination country of exporting goods;
6. Terrorist or crime committed in the destination country;
7. Security of the allied nations of Lao PDR;
8. Applicant submits a forged document, false information or hide the essential facts in the application or document;
9. Over the past **5 years**, applicant hasn't breached regulations or laws concerning international trade management or provisions of the laws on state security;
10. Over the past **5 years**, applicant hasn't breached a punitive or sanction measures of the international trade which the Lao PDR is obliged to implement;
11. Application who hasn't been sentenced on criminal or civil cases in relation to the national security;
12. Goods that are submitting for the approval are in the process of the inspection of the officials of Public Security or are lodging in the court proceeding;
13. The security reason or foreign policy of the nation.

#### **Article 16. Internal Compliance Program – ICP**

Enterprise who wishes to submit the application for Global license shall indicate that such enterprise has been established and implemented the ICP as defined in the specific regulation of the Ministry of Industry and Commerce.

The ICP shall comprise process and procedure to prevent the usage of an approved transactions that contradicted with this decree.

Custom official including the relevant authority shall proceed the inspection on the implementation of ICP by an enterprise as required.

#### **Article 17. Process on Consideration of License**

After the Management Sector of Dual-Use Goods obtained the application as defined in the article 10, the Management Sector of Dual-Use Goods shall consider the application based on the requirement as defined in the article 11 as to whether a license has been approved or rejected after the formal application was lodged correctly and completely for no later than 15 working days. During the consideration process, a competent authority may request the applicant to provide information or additional documents. In case a license will not be able to issue, the Management Sector of Dual-Use Goods together with weapons of mass destruction will inform and provide reasons to application in writing.

In case a rejection of a license, application can submit an appeal application, provide comments and further documents as in the same process of the first application, in order for the Management Sector of Dual-Use Goods of the weapons of mass destruction will re-consider the application based on the additional documents provided by applicant.

All approval and rejection of exportation shall circulate to the custom official.

#### **Article 18. License, Termination, Amendment, Renewal**

Period of an individual license is 1 year. Period of global license is 2 years and can be renew.

An approved license shall be finished when the period of a license is due or all transaction defined in the license has been completed. When a license expired, the license's owner shall file a report to the Management Sector of Dual-Use Goods . The Ministry of Industry and Commerce will inform the relevant authority if required.

The competent authority is able to amend, revoke, terminate or withdraw a license when:

1. a license holder can't implement the provision of this decree
2. a license holder can't implement the requirement defined in the license
3. a license holder obtain a license by way of the incorrect or illegal or;
4. fundamental on consideration of a license such as: benefits and security of the nation and suspension of weapons of mass destruction has been changed.

If there is an amendment, revoke, suspend or withdraw a license, the competent authority shall inform the applicant within 05 working day by implementing in compliance with the confidential policy.

#### **Article 19. Fee and Service Charge**

Fee and service charge in relation to the consideration of license approval is defined in a specific regulation.

#### **Article 20. Informing**

Individual, Entity, organization of both domestic and international who provide services in relation to financing or other services relating to Listed Items in Lao PDR shall inform the Management Sector of Dual-Use Goods and shall inform through banking system.

#### **Article 21. Informing Procedures of Financing Services**

Individual, Entity, organization who provide financing services shall inform a commercial bank on information of transaction based on a form available from time to time after providing service or approve any transaction, such transaction shall relate a Listed items.

Commercial bank shall record information of financial transaction and deliver such information to the Bank of Lao PDR for monitoring and inspection, Bank of Lao PDR shall report to The Ministry of Industry and Commerce after providing any services or transactions.

The Bank of Lao PDR and other relevant sectors may draft a proposal to inform Individual, Entity, organization for providing further information if required.

#### **Article 22. Informing Procedures of other Services**

Individual, Entity, organization who provide financing services shall inform a commercial bank on information of transaction based on a form available from time to time after providing service or approve any transaction, such transaction shall relate a Listed items.

Commercial bank shall record information of financial transaction and deliver such information to the Bank of Lao PDR for monitoring and inspection, Bank of Lao PDR shall report to The Ministry of Industry and Commerce after providing any services or transactions.

The Bank of Lao PDR and other relevant sectors may draft a proposal to inform Individual, Entity, organization for providing further information if required.

#### **Article 23. Confidential**

Enterprise and the Management Sector of Dual-Use Goods who receive a license or report on the transactions relating to Dual-Use Goods concerning weapons of mass destruction shall maintain documents, information for the period of **five** years from the date of receipt of a license for both in the form of documentation or electronic of all relevant transaction, which is comprising the below:

1. details of Dual-Use Goods together concerning weapons of mass destruction and relevant services;
2. Number and amount of Dual-Use Goods concerning weapons of mass destruction;
3. Name and address of the contacting Parties;
4. Final usage and end-user statement;
5. Date that transaction or activity have been proceeded.

## **Chapter IV Management and Monitoring**

#### **Article 24. Management Sector of Dual-Use Goods**



The Management Sector of Dual-Use Goods is the authority who manage the importation and exportation, including but not limit to the following authority: Industry and Commerce, Healthcare, Science and technology, Defense-Public Security, Finance.

The Management Sector of Dual-Use Goods has the responsibility to define the scope of work of other relevant sectors.

#### **Article 25. Right and Duties of the Ministry of Industry and Commerce**

In the Management Sector of Dual-Use Goods , the Ministry of Industry and Commerce has the following right and duties:

1. Research, create policy, regulation and measure with respect to the management of Dual-Use Goods ;
2. Promote, publish policy, regulation and measure with respect to the management of Dual-Use Goods to the relevant sectors and public;
3. Approve, suspend, terminate, withdraw the registration of business relating to trade and service, license, the end-user certificate, the importation certificate and the delivery certificate concerning Dual-Use Goods ;
4. Define list of Dual-Use Goods which supervise for international trade;
5. Appoint and inform list of competent authority for managing of goods, category of goods or technology;
6. Supervise, amend, publish list of the end-user statement that the right has been limited and prohibited;
7. Obtain and consider a claim from enterprise to re-consider the activities defined in clause 3 above, in case the enterprise has been rejected from the consideration;
8. Collaborate with other concerned organizations on the implementation of this decree;
9. Report to the relevant sectors to request information on the implementation of this decree;
10. Conclude and report the implementation of trade and service of Dual-Use Goods to the higher authority regularly;
11. Implement other rights and duties as defined in the laws and regulations.

The Ministry of Industry and Commerce in the central sector in collaboration with other line Ministries in order to define and issue the following documents:

1. Provide the solution in case there is a dispute between many authorities in respect of the making decision on a license renewal. In the event there are many different decisions, the Ministry of Industry and Commerce shall be provided a final decision.
2. Collaborate with the Ministry of Foreign Affairs, to communicate with the Foreign Government sectors in the scope of the legislation and the need of its missions and maintain confidential of the nation of Lao PDR;
3. Record a claim that have been rejected, the issued license and report;
4. Inform and collaborate with applicant and custom official against the consideration and the issued license;
5. Inform and publish the implementation for the enterprise and the relevant authority to be used for the fundamental of the implementation.

The Management Sector of Dual-Use Goods concerned weapons of mass destruction shall report the implementation of this decree and the implementation of the management of Dual-Use Goods to the Trade Facilitation Committee for further implementation.

#### **Article 26. Rights and Duties of Custom officials**

In the management of Dual-Use Goods , custom officials have the following right and duties:

1. Monitor, inspect the importation, importation, temporary exportation, importation for re-exporting, crossing border, transplantation of Dual-Use Goods that occurred in the custom area as defined in the custom law.
2. Collaborate with the Management of Dual-Use Goods for both domestic and international for evaluating and controlling risks, inspect and certify the activities defined in the article 2 of this decree.
3. Capture, seize the goods and request a license holder provide further information or evidences in case there is a doubt or received any information.
4. Implement the Strategic Trade Control Enforcement Implementing Guideline issued by the World Customs Organization from time to time.
5. Report and provide statistic information on the exportation, importation, temporary exportation, importation for re-exporting, crossing border, transplantation of Dual-Use Goods to the Management Sector of Dual-Use Goods .
6. Fulfill other rights and duties as defined in the laws and regulations.

#### **Article 27. Rights and Duties of other sectors**

Other sectors have the rights and duties to promote, support, supervise, monitor and inspect the operation of Dual-Use Goods activity by collaborated, corporate with the Industry and Commerce Sectors based on its scope and responsibility.

Article 28. Monitoring's Content

Article 29. Form of Monitoring

## **Chapter V Prohibition**

#### **Article 30. Prohibitions of operator of Dual-Use Goods activity**

Prohibit an individual, entity and organization to do the following behaviors:

1. Proceed for the exportation, temporary exportation, importation for re-exporting, crossing border, transplantation, commissioner or provide technical assistance for the listed goods, goods for two purposes without approval;
2. Operate financial services to trade goods on the listed goods that can serve two purpose without informing the competent authority;
3. Attempt or conspiracy in preparation or commit an offense which is contradicted with this decree;
4. Provide incorrect, distort, false information to the authority;
5. Counterfeit or amend document or license without approval;

6. Create obstacles against the operation of the authority in relation the implementation of this decree;
7. Assist or protect the violators;
8. Be a mediator for giving and receiving bribes;
9. Having other behaviors that violate the Laws and regulations.

#### **Article 31. Prohibitions for operators of Dual-Use Goods .**

The relevant authorities are prohibited for the following behaviors:

1. Use power, position or occupation to facilitate the exportation, temporary exportation, importation for exporting, transit, transplantation, commissioner or provide technical assistance, financial services which is not compliance with this decree;
2. Force, menace or use violence against the operators of Dual-Use Goods activity;
3. Delay or prolong the time on the consideration of application;
4. Omits duties, lack of responsibilities or misrepresent the truth;
5. Hide, protect or corporate with the offender;
6. Forging documents or using the forged documents, disclose business's confidential without authorization of the relevant operators;
7. Claim for benefits;
8. Attempts or conspiracy in preparation or commit an offense which is defined above;
9. Have other illegal or violent the Laws and regulations.

### **Chapter V**

#### **Reward Policy toward outstanding person and sanction against violators**

##### **Article 32. Reward Policy toward outstanding person**

Individuals, entities and organizations that have outstanding performance in the implementation of this decree shall be rewarded or receive incentive policy according to the laws and regulations.

##### **Article 33. Sanction against violators**

Individual, entity who violate this decree especially prohibition of provision defined in this decree which is not serious and be a first violation and which is not a criminal offence, shall be subject to sanctions by mean of warning or re-education and record its offence.

##### **Article 34. Discipline Measures**

Officers and the relevant state employees who violate this decree especially prohibitions provision which is not a criminal offence shall be subject to discipline defined in the Laws.

##### **Article 35. Civil Measures**

Individual, entity, organization who violate this decree which cause damage to state's benefits, public or other person shall be reimbursed of such damage.

##### **Article 36. Penal Measures**

Any person who violate this decree which is a criminal offence shall be subject to penalties defined in the Criminal Code on case by case basis.

In accordance with the Law on Extradition and Convention on Extradition, a criminal offence related to Dual-Use Goods of Lao citizen whose were born outside of Lao territory which is contradicted with this decree, occurred due to a Lao citizen living in other country shall be deemed to be an offence.

### **Article 37. Additional Penalties Measures**

Apart from measures against violators as defined in the article 30 and 31 of this decree, offender shall have the following additional penalties measures:

Intentionally offence: suspend the right to operate the business relating Dual-Use Goods concerning temporary weapons of mass destruction, revoke the operating license in relation to Dual-Use Goods with weapons of mass destruction.

Money or assets of individual, entity or organization which define in a list relating to prefoliation of weapons of mass destruction and provide funding to such offence as defined in the regulation of the United Nations Security Council in each phrase shall be captured, seized immediately. In respect of the process and the responsible organization who implement the capture, seize of financial or assets as defined in paragraph 1 of this article shall be implemented by the specific regulations.

Money or assets of individual, entity or organization which is defined in the list of prefoliation of weapons of mass destruction and provide funding to such offence as defined in the regulation of the United Nations Security Council in each phrase shall be captured, seized immediately. In respect of the process and the responsible organization who implement the capture, seize of financial or assets shall be implemented by the specific regulations.

## **Chapter VII Final Provisions**

### **Article 38. Implementation**

The Ministry of Industry and Commerce is assigned to take lead in implementing this decree and collaborate with the line Ministries, equivalent Ministries and the relevant local authorities.

The Ministries, the equivalent Ministries, the relevant local authorities and other sectors shall be acknowledged, implement and publish this decree based on the scope and duties strictly.

### **Article 39. Effectiveness**

This Decree shall enter into force from the dated of its signature and published on the official gazettes website thirty days.

The Government of Lao PDR  
The Prime Minister