



Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity

Prime Minister's Office

No 192/PM
Date: 7 July, 2005

DECREE
on the Compensation and Resettlement of the Development Project

- Pursuant to the provisions of the law on the government of the Lao Peoples Democratic Republic number 02/NA dated 6th May 2003.
- Pursuant to the proposal of the Minister to the Prime Minister's Office, President of the Science Technology and Environmental Agency number 1116/STE-PMO dated June 2, 2005,

The Prime Minister issues the decree as follows:

PART I
GENERAL PROVISIONS

Article 1 Objectives

This decree defines principles, rules, and measures to mitigate adverse social impacts and to compensate damages that result from involuntary acquisition or repossession of land and fixed or movable assets, including change in land use, restriction of access to community or natural resources affecting community livelihood and income sources. This decree aims to ensure that project affected people are compensated and assisted to improve or maintain their pre-project incomes and living standards, and are not worse off than they would have been without the project.

Article 2 Scope of Application

This decree applies to all development projects including government and domestic or foreign private development projects that require acquisition of land or land use rights or rights to possess fixed or immovable assets, change in land use or restriction of the use of resources that affect the livelihood or income of the people.

Article 3 Definitions

(a) **Project owners** mean individuals, entities or organizations that have approvals to undertake study, survey, design, construct or operate development projects. Project owners could be public or private sector or joint venture between the government and private sector.

(b) **Compensation** means payment in cash or in kind for an asset to be acquired or affected by projects at replacement cost.

(c) **Replacement Cost** is the amount in cash or in kind needed to replace lands, houses, infrastructure or assets on the lands (crops, trees) and other assets (income) affected by the development projects.

(d) **Project commencement date** means the date when project owners undertake a census to identify affected people within the project boundaries, and when the project owners inform the project affected people 30 days prior to the registration as affected people. People who are not registered as affected people shall not be entitled to compensation or other rights.

(e) **Project Affected People** includes any person or entity or organization affected by a project, who in the context of acquisition of assets or change in land use before the project commencement date, would have their:

- i) Standard of living adversely affected;
- ii) Right, title or interest in all or any part of a house, land (including residential, commercial, agricultural, plantations, forest and grazing land) water resources or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily adversely affected;
- iii) Business, occupation, place of work or residence areas adversely affected with or without displacement; or
- iv) Community resources adversely affected.

(f) **Rehabilitation** means assistance provided to seriously affected people due to the loss of productive assets, incomes, employment or sources of living that require to be compensated in order to improve, or at least achieve full restoration of living standards to pre-project level.

(g) **Resettlement** refers to all measures taken by the Project owner to mitigate adverse social impacts of a project, fully or partially, on the APs, including compensation for lost assets and incomes and the provision of other entitlements, income restoration assistance, and relocation, as needed.

(h) **Social Impact Assessment (SIA).** SIA is a framework for incorporating social analysis and participatory process in project design and implementation.

(i) **Vulnerable group.** These are distinct groups of people who might suffer disproportionately from the loss of fixed and movable assets, other assets and production

base or face the risk of being marginalized from the effects of resettlement and specifically include:

- (i) divorced or widowed female headed households with dependents and low income,
- (ii) households with disabled or invalid persons,
- (iii) households with persons falling under the generally accepted indicator for poverty as defined by the Ministry of Labor and Social Welfare, or the landless;
- (iv) elderly households with no means of support.

Article 4 Obligations of Project Owners to Address Adverse Social Impacts

When development projects have potential to cause adverse socio-economic impacts, project owners have the responsibility as follows:

- (a) In collaboration with the concerned local governmental authorities and concerned organizations, carry out necessary surveys and field investigations, identify affected communities, prepare inventory of impacts by types and degree, determine entitlement to mitigation measures including compensation for affected assets. Project owners must provide appropriate funding to assist, support, relocate APs and to implement income rehabilitation measures and to prepare necessary plans in an efficient and timely manner and approved by the concerned agencies to ensure the improvement of their socio-economic situation;
- (b) Make every attempt so that displacement and other direct adverse impacts on peoples' assets and income are avoided or, if unavoidable, minimized by examining all design options available to the project;
- (c) Be responsible for the timely provision of adequate budget for all aspects of planning, implementing, monitoring and evaluating all resettlement and compensation activities;
- (c) Pay particular attention to the needs of the poorest affected people, and vulnerable groups that may be at high risk of impoverishment. Appropriate assistance must be provided to help them improve their socio-economic status; and
- (e) Ensure that the resettlement process is carried out through a meaningful involvement of project-affected communities, and their existing social and cultural institutions are supported to the greatest extent feasible.

PART II ELIGIBILITY

Article 5 Eligibility for Compensation, Resettlement and Rehabilitation Assistance

1. All individuals and entities residing or making a living within the area to be acquired for a project as of the formally recognized cut-off date would be considered as project affected persons (APs) for purposes of entitlements to compensation, resettlement and rehabilitation assistance.
2. People who are not living within the project areas, but have land and buildings in the project areas, are also entitled to compensation, resettlement and rehabilitation assistance.

PART III Compensation

Article 6 Compensation Principles

1. Project owners shall compensate project affected people for their lost rights to use land and for their lost assets (structures, crops, trees and other fixed assets) affected in full or in part, at replacement cost.
2. Where significantly large or entire land holding is affected by a project namely agriculture, residential or commercial land, the compensation shall be through provision of "land for land" arrangements of equivalent size and productivity and be acceptable to APs and project owners.
3. If the house or structure is only partially affected by the Project and the remaining structure is unviable for continued use or the remaining area is less than the minimum house size, the AP shall be entitled to be compensated for the entire structure at replacement cost without depreciation or deduction for salvaged materials. In case the remaining structure is viable for continued use, project owners shall provide compensation for the lost portion and assistance in cash or material for restoration of the remaining structure.
4. APs whose land or assets are temporarily taken by the works under the project shall be fully compensated for their net loss of income, damaged assets, crops and trees, as the case may be. The project owners shall also ensure that the land or assets are returned in its pre-project state.
5. Tenants, who have leased a house / structures for any purpose and are affected by the project, shall be compensated for their lost assets in the amount equivalent to three months rental allowance, and shall be assisted in finding alternative rental accommodation.
6. APs who are living in rural or remote areas, who do not have any legal Land Use Certificate or any other acceptable proof indicating land use right to the affected land and assets they occupy shall be compensated for their lost rights to use land and for their other assets at replacement cost and provided additional assistance to ensure that they are not worse-off due to the project. APs in urban areas, who do

not have any legal Land Use Certificate or any other acceptable proof indicating land use right to the affected land and assets they occupy and who have no land at other places will be compensated for their lost rights to use land and for their other assets at replacement cost and other additional assistance to ensure they are not worse off due to the project.

7. All APs, regardless of land use right, will be entitled to compensation for lost assets (structures, crops, trees) at replacement cost, and provided with other assistance during the transition period, and economic rehabilitation assistance to ensure that they are not worse off due to the project.
8. All previous claims and unresolved issues related to tenure status and ownership of land and other assets affected by the sub-project or components shall be resolved prior to initiating any new land acquisition measures on the respective sub-project or component.
9. Before provision of compensation, project owners shall establish a joint committee, with representatives from all stakeholders, to assess the loss to APs.
10. Prior to the commencement of project construction, APs shall be fully compensated and resettled and rehabilitations measures shall be in place, although not necessarily completed yet.

Article 7 Assistance during Relocation and Transition Period

APs displaced and/or affected due to the loss of income and livelihood shall be provided with the following assistance until their income levels and living conditions can be stabilized:

- (a) Transport allowance or assistance in kind to transfer to the resettlement site or their choice of relocation;
- (b) Food allowance, in cash or in kind to compensate for income lost, during the transition period;
- (c) Suitable development assistance after displacement during the transition period until they are able to restore their incomes and living standards or reach the targeted level of household incomes on a sustainable basis.

Article 8 Economic Rehabilitation

1. All APs severely affected by the project due to loss of 20% or more of productive income generating assets (loss of agricultural, industrial or commercial land), means of livelihood, employment or business and access to community resources shall be entitled to sustainable income restoration measures in addition to their entitlement for compensation and other allowances enabling them to attain at a minimum pre-project livelihood levels.
2. For displaced persons whose land-based livelihoods are affected due to the project, preference shall be given to land-based resettlement strategies, or where land is not available, options built around opportunities for employment or self-employment.

3. For displaced persons whose businesses are affected due to the project, in addition to compensation for lost land, structures, and income, assistance shall be given to finding replacement sites for business as appropriate.
4. These rehabilitation measures shall specifically focus on vulnerable groups. Adequate assistance, in addition to compensation for affected assets and other allowances, shall be provided to enable such APs to achieve household income targets set above the national poverty line.

Article 9 Restoration and Repair

1. Project owners shall restore or repair community facilities and infrastructure that are damaged due to the project, at no cost to the community.
2. Any impact or restriction on access to resources managed by affected community as a common property shall be mitigated by arrangements ensuring access to improved or at least equivalent resources on a continuing basis. Attention shall also be paid to directly APs if their benefits are affected due to the loss of access to common property resources.

Article 10 Resettlement Site Development

1. All persons relocating to group resettlement sites shall be provided with suitable housing or developed housing lots, shop lots if businesses are affected, agricultural sites of equivalent size, with productive potential and locational advantages better or at least equivalent to the old site. Replacement land, house/business plot shall be as close as possible to the land that was lost and/or acceptable to the APs. Group resettlement sites shall be developed with water supply, sanitation, drainage, with internal and access roads, and access to electricity. When it is necessary they may be provided other form of assistance from project owners such as public health and education.
2. All replacement land for agriculture, residential and businesses shall be provided with secured land titles and certificates and without any additional cost, sales taxes, fee, and surcharge to the APs at the time of transfer. Construction lands shall be allocated in accordance to regulations and standard procedures in urban planning.
3. Project owners shall take responsibility to develop resettlement sites in order to avoid or mitigate adverse social and environmental impacts to the surrounding areas.
4. Where relocation to a group resettlement site is considered necessary, project owners shall mitigate the adverse impacts on host community and shall provide appropriate compensation (to damaged assets) and assistance to host community similar to the project affected persons.

Part IV
Fundamental Components Of Compensation And Resettlement

Article 11 Local Culture & Practices

1. During planning, construction and operation periods, project owners shall consider local cultural and religious properties, practices and beliefs.
2. Where local communities or individuals elect to make voluntary contribution of affected land without compensation, this shall be acceptable only if the impacts on their assets are marginal (affecting less than 20% of productive income generating assets) and do not result in displacement; incomes, employment and businesses are not affected; such communities or individuals are fully aware of their entitlements.
3. Project owners shall define mitigation measures and socio-economic benefits to improve status of ethnic communities and shall be in harmony with their cultural preferences and shall be decided in consultation with affected communities.

Article 12 Public Participation and Consultation

1. The project owners shall implement the resettlement program in a participatory manner ensuring that APs, local authorities and other stakeholder are fully informed and consulted and their concerns are taken into account at all stages of the project cycle, particularly during the planning and implementation phases of the land acquisition, valuation and resettlement process.
2. Project owners shall make concerted efforts for an effective public dissemination of information about the objectives of the project, the compensatory package that is part of the resettlement process, through the mass media such as newspapers, radio, TV or public meeting and other means to inform local authorities at provincial, district and village levels and mass organizations, APs and other concerned people as necessary.

Article 13 Grievance Redress Mechanism

1. Project owners shall establish an effective mechanism for hearing and grievance redress during the resettlement planning and implementation in a project.
2. Project owners in consultation with concerned government authorities, shall establish a Grievance Redress Committee to address complaints and grievances pertaining to land acquisition, compensation and resettlement due to the project.
3. Grievances related to any aspect of the project or sub-project shall be handled through consultations conducted in a transparent manner and aimed at resolving matters through consensus at the project level before complainants forward these to higher level and ultimately to the court of law. The responsible agency shall record the complaints (or put in written form the oral report) by the APs;

4. APs will be exempted from all administrative and legal fees incurred pursuant to the grievance redress procedures. In case the complaints are forwarded to the court of law, all costs for pursuing such cases in the court of law must be borne by the project.

Article 14 Resettlement Cost and Budget

1. Project owners shall prepare the Resettlement Plan with detailed cost estimates for compensation and other resettlement entitlements and relocation of APs. The cost estimates shall be provided with a breakdown by category of APs by type and degree of impacts. The cost estimates will also include the cost of monitoring and evaluation; management and administration; and other cost related to the project impacts; and adequate provisions for contingencies.
2. Total estimated cost of RPs shall be included in the cost of the project. In the case of cost overruns due to unforeseen circumstances or delays, the project authorities/owners shall allocate additional funds as may be necessary.

Article 15 Reporting and Documentation

1. The project owners shall provide reports and documents to responsible government authorities to consider. Those reports and documents should have description of the project and shall include:
 - (a) Name of project owners
 - (b) Project type;
 - (c) Project scale and location;
 - (d) Project objectives;
 - (e) Number and sources of labor that will be used during construction and operation period;
 - (f) Estimate number of people will be affected by the project and types of impacts;
 - (g) Estimate social costs and benefits of the project;
 - (h) Impact mitigation measures.
2. The project owner shall implement correctly the recommendations made by responsible government authorities. After screening of the project reports and documents and it seems that the project will cause adverse social impacts, the project owners shall carry out necessary studies and field investigations including census, inventory of lost assets and socio-economic baseline surveys, and prepare the following reports and documents on social impacts and submit to concerned government authorities for approval:
 - (a) Initial Social Assessment (ISA) / Land and assets Acquisition Assessment
 - (b) Social (Impact) Assessment
 - (c) Land Acquisition and Compensation Report
 - (d) Resettlement Plan (RP)

(e) Ethnic Minority Development Plan (EMDP)

3. The procedure and methodology on social impact assessment will be defined in detailed regulations and guidelines on compensation and resettlement.
4. In submitting the reports and documents, project owners shall:
 - (a) When the project is a government-financed project, the project owners shall present the document to the Science, Technology and Environment Agency at central level for review and approval;
 - (b) When the project is domestic or foreign privately owned or joint venture between the government and private sector, the documents shall be sent first to the concerned ministry and local authority to consider and then the ministry shall forward the documents to the Science, Technology and Environment Agency for final review and approval.

Article 16 Monitoring

1. Project owners shall make adequate arrangements for monitoring of the implementation of the compensation, resettlement and rehabilitation measures.
2. In projects with major resettlement component where the impacts are severe, the project owners shall contract an experienced and independent monitoring agency for monitoring and evaluation of the implementation of the compensation, resettlement and rehabilitation measures.
3. The project owners shall make provisions for post-evaluation six months to one year after completion of the implementation of resettlement and rehabilitation measures, to check whether the economic rehabilitation and the livelihood objectives of the resettlement plan have been achieved.
4. If the evaluation indicates that the APs have not been able to achieve the stated objectives and income targets, project owners shall make arrangements for provision of additional assistance to meet the stated objectives.

Part V REWARDS AND SANCTIONS

Article 17 Rewards and Sanctions

Ministries and government agencies concerned have responsibilities to consider appropriate rewards to those who have high achievement in the implementation of compensation, resettlement, and rehabilitation programs, or to impose sanctions like warning, fine, and punishment on those who do not comply with this decree and concerned regulations.

PART VI FINAL PROVISIONS

Article 18 Implementation

1. Ministries, ministerial equivalent agencies, and the Science Technology and Environment Agency have mandate to issue decisions, order, instructions, or notification on the implementation of this decree;
2. Ministries, ministerial equivalent agencies, and local authorities who have responsibility for the supervision of development projects shall recognize and strictly comply with this Decree in accordance with their roles and mandate;
3. The Science, Technology and Environment Agency is assigned to provide guidance and coordinate with concerned sectors and local authority in the implementation of this decree.

Article 19 Effectiveness

This Decree is effective from the date of signature and any previously issued regulations, guidelines, etc., which are in contradiction with this Decree are hereby annulled.

Signed and Sealed

Prime Minister of Lao PDR