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PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

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DECREE  
ON ENVIRONMENTAL IMPACT ASSESSMENT

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



**Prime Minister's Office**

No. 112/PM.

Vientiane Capital, 16 February, 2010

**DECREE**  
**ON ENVIRONMENTAL IMPACT ASSESSMENT**

- Pursuant to the Law on Government of the Lao People's Democratic Republic, No. 02/NA, dated 06 May 2003.
- Pursuant to the Law on Environmental Protection, No. 02/99/NA, dated 03/04/1999.
- Based on a Request from the Minister to the Prime Minister's Office, Head of the Water Resources and Environment Administration, No. 2843/PMO.WREA, dated 21 December 2009.

**The Prime Minister decrees:**

**Part I**

**General Provisions**

**Article 1: Objectives**

This Decree has the following objectives:

To implement Article 8 of the Law on Environmental Protection, in relation to Environmental Impact Assessment;

To define principles and rules, and adopt measures on establishment, functions, management and monitoring of environmental impact assessment;

To ensure that all public and private investment projects, both domestic and foreign, operating in Lao PDR (hereafter called 'investment projects') which create or may create adverse environmental and social impacts, are designed with the correct and appropriate environmental and social impact prevention and mitigation measures or environmental

management and monitoring plans (EMMP) and social management and monitoring plans (SMMP);

To effectively prevent, minimise and resolve adverse environmental and social impacts derived from investment projects;

To contribute to and make national socio-economic development sustainable.

## **Article 2: Scope of Application**

This Decree is applicable to all investment projects which are divided into two categories, with the Water Resources and Environment Administration undertaking coordination with concerned agencies in identifying the list of projects periodically:

Category 1: small scale investment projects with minor environmental and social impacts, for which initial environmental examination is required;

Category 2: Large scale investment projects which are complicated or create significant environmental and social impacts, for which environmental impact assessment is required.

## **Article 3: Terminological Interpretation**

The terms used in this Decree have the following meanings:

**Initial environmental examination (IEE)** means studying, surveying, researching and analysing data to estimate initial environmental and social impacts, including impacts on health which may arise from investment projects in Category 1, as provided in Article 2 of this Decree, as well as identify measures to prevent and mitigate possible environmental and social impacts.

**Environmental impact assessment (EIA)** means studying, surveying, researching-analysing and estimating of possible positive and negative impacts on the environment and society, including short and long term impacts on health created by the investment projects classified in Category 2, Article 2 of this Decree, as well as offering appropriate alternatives, environmental management and monitoring plan (EMMP), and social management and monitoring plan (SMMP) to prevent and mitigate possible impacts which are likely to happen during construction and operation of the investment projects.

**Project screening** means study and analysis of data contained in an investment project (document) to determine whether the proposed investment project requires initial environmental examination or environmental impact assessment or not.

**Scoping of the study** means the process to determine the scope of the environmental impact assessment and the data needed to be collected and analysed, to assess the impacts of the investment project on the environment, in which, such study requires terms of reference (TOR) to prepare a report on environmental impact assessment.

**Terms of reference** means all works needed to be done when carrying out environmental impact assessment, in accordance with the scope of the study for assessing environmental impact.

**An environmental management and monitoring plan (EMMP)** means a plan formulated in a report on environmental impact assessment which defines main environmental activities, measures on prevention, minimisation and mitigation of environmental impacts, as well as organisational structures and responsibilities, schedule and sufficient budget for implementation of the environmental management and monitoring activities, during a project's construction, operation and termination period.

**A social management and monitoring plan (SMMP)** means a plan formulated in a report on environmental impact assessment which defines main social activities, measures on prevention, minimisation and mitigation of social impacts, as well as measures on compensation, resettlement and restoration of living conditions of the people who are (will be) affected by the investment project, organisational structures and responsibilities, schedule and sufficient budget for the implementation of social monitoring activities, during a project's construction, operation and termination period.

**A project developer** means any person, legal entity or organisation, from the public or private sector, who/which is licensed to undertake study, survey, design, construction and operation of an investment project.

**Stakeholders** mean any person, legal entity or organisation who/which are interested in, involved in or have interests in an investment project, in an activity or a matter (related to the project) because they are involved in or (are likely to be) affected by the investment project.

**Involvement** means process of consultation, dissemination of information on an investment project to collect comments from those who are likely to be affected by or gain benefits from the investment project, as well as from those who are interested in the investment project, to be used as references in preparing and deliberating a report on initial environmental examination or a report on environmental impact assessment, an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP). Involvement can be in the form of participation in all level meetings of the stakeholders, as well as of those who are (likely to be) affected by the investment project, during the project construction and operation period.

**The project affected people** means a natural person, legal entity, or organisation who/which are directly or indirectly affected by the investment project (or are likely to be affected) due to legally requisition of lands or real estate, changes of land category, and impacts on the ecological and environmental system in the their settlement areas.

**The host village** means a village which accepts migration of the project affected people by an investment project.

**Migration and restoration of living condition** means:

- Measures to minimise negative impacts on the society, as well as on the project affected people who are wholly or partially affected by the investment project, including payment of compensation to those who lose their property and incomes, by restoring rights, providing direct assistance in preparing (pioneering) 'new production areas basis' in the newly allocated settlement area.
- Assistance to those who are severely affected, due to the loss of assets, residences, cultivation land, incomes and jobs, required to be compensated those losses appropriately, including provision of facilities to further improve living standard, or at least, not worse than before the existence of the investment project.

**An environmental compliance certificate** means a legal document which approves a report on initial environmental examination or a report on environmental impact assessment, an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP).

**An ongoing project** refers to a project which is under construction or has commenced exploring, or commenced operating.

**A complicated project** refers to an investment project which has substantial impacts on the environment and society, including impacts beyond the border or accumulative impact on other investment projects, and in which complicated technology is applied.

#### Article 4: General Principles

In assessing the impact on the environment, ones must follow the following principles:

- (1) In relation to investment projects classified in Category 1 and Category 2, including projects provided in Article 6(2) of this Decree, the project developer must, first, obtain an environmental compliance certificate, **before signing any Concession Agreement, Mineral Exploration and Production Agreement(MEPA) or starting construction works, or before any operating permit can be issued;**
- (2) An initial environmental examination or an environmental impact assessment must be conducted only by a Consultant Firm or by a Consultant who is registered at the Water Resources and Environment Administration. The initial environmental examination or the environmental impact assessment must be designed with study of several options, so that the best option can be selected, study on impacts on antiquities, culture, and custom-tradition, planning to solve the negative impacts on environment and society, participation of the project affected people by the investment project and other stakeholders in discussion process at all levels, and in drawing up budget for those activities.
- (3) Ensuring the participation of the public and discussion with local administrations at all levels, with those project affected people by an investment project and other persons involved in preparation and review of a report on initial environmental examination or a report on environmental impact assessment;
- (4) An individual, legal entity or organisation who wishes to render environmental impact assessment services in Lao PDR must comply with the following procedures:
  - A domestic Consultant Firm must be licensed and registered at the Water Resources and Environment Administration;
  - A domestic Consultant must be registered as an Environmental Consultant at the Water Resources and Environment Administration;
  - A foreign Consultant Firm or foreign Consultant who has already got a license to render environmental services in a foreign country must register its business with the Water Resources and Environment Administration.
- (5) A project developer must be liable for:
  - The accuracy of the data and information contained in its report on initial environmental examination or report on environmental impact assessment;
  - Every expense incurred in the process of preparing and reviewing of a report on initial environmental examination, including preventive and mitigation measures on environmental and social impacts or a report on environmental impact assessment, an environmental management and monitoring plan, a social management and monitoring plan, as well as implementing and overseeing the implementation of measures to prevent and minimise the environmental and social impacts, or an environmental management and monitoring plan, and a social management and monitoring plan;

- In relation to a new investment project which is likely to affect other investment projects, there must be a cumulative impact assessment, in conjunction with the existing investment projects;
  - For an investment project which is likely to create impacts beyond the border, a trans-boundary environmental impact assessment must be conducted.
- (6) Any organisations involved in review of a report on initial environmental examination or a report on environmental impact assessment is obliged to monitor the outcomes of implementation of measures on prevention and minimisation of environmental and social impacts or of an environmental management and monitoring plan of the investment project, whereas local administrations have duties to monitor the implementation of the social management and monitoring plan.

## Part II

### Environmental Impact Assessment Procedure

#### Chapter 1

#### Environmental Impact Assessment Process and Investment Project Screening

##### Article 5: Environmental Impact Assessment Process

Procedure on initial environmental examination or environmental impact assessment, as well as procedure on deliberation of a report on initial environmental examination or a report on environmental impact assessment, must be in compliance with the project cycle of the investment project, and be in accordance with the laws of the concerned agencies.

##### Article 6: Investment Project Screening

In screening an investment project, one must comply with the following instructions:

A project developer must utilise the list of an investment project which is classified into Category 1 and Category 2, being basis for determining the category of the proposed project, and then conduct initial environmental examination or environmental impact assessment in accordance with the type and size of the investment project, either in Category 1 or Category 2, and be in accordance with the investment project approval procedure of the concerned agencies.

In relation to an investment project which is neither in Category 1 nor in Category 2, as mentioned in Article 6(1) above, but is likely to create environmental and social impact the project developer must submit an investment application to the Water Resources and Environment Administration (hereafter called WREA), so as to deliberate, as follows:

A new investment project which is neither in Category 1 nor in Category 2, but is estimated that it is likely to create severe environmental and social impacts or create cumulative or trans-boundary impacts;

An investment project which is allowed to operate, but later on expands and increases its production power or changes production process;

An investment project which is likely to create impacts on the protected areas, protection forest, and production forest, national biodiversity conservation areas or cultural heritage and historical preservation areas, and other prohibited areas.

The Water Resources and Environment Administration, in coordination with the concerned agencies, shall screen the investment project, as prescribed in Article 6(2) above, and informs the project developer in writing, within 15 public working days accordingly:

The investment project (project developer) must conduct an initial environmental examination;

The investment project (project developer) must conduct an environmental impact assessment;

The investment project does not require any initial environmental examination or environmental impact assessment at all.

## **Chapter 2 Involvement**

### **Article 7: Rights and duties of project affected people, and of other stakeholders**

The project affected people and other stakeholders have the following rights and duties:

To receive information on development plan of the investment project, the benefits that they will receive and environmental and social impacts which may arise from the investment project;

To provide information and data on local environment and society in the area of the project and in the nearby locations, to be used in preparing a report on initial environment assessment, consisting of measures to prevent and minimise the environmental and social impacts, or in preparing a report on environmental impact assessment, an environmental management and monitoring plan, and a social management and monitoring plan;

To receive information on (contained in) the report on initial environmental examination, including measures on prevention and minimisation of environmental and social impacts or the report on environmental impact assessment, the environmental management and monitoring plan (EMMP), and the social management and monitoring plan (SMMP), as well as the report on the progress in implementation of the measures to prevent and minimise the impacts of the investment project;

To participate in the consultation meetings at all levels to discuss the report on initial environmental examination or the report on environmental impact assessment, the environmental management and monitoring plan (EMMP), and the social management and monitoring plan (SMMP).

To participate in discussions on compensation, migration - resettlement, and restoration of the living condition of the project affected people by the investment project;

To participate in discussions on implementation of the environmental and social activities, as well as the environmental management and monitoring plan (EMMP), and the social management and monitoring plan (SMMP) of the investment project;

To make a written proposal to solve the environmental and social problems caused by the investment project to the local administrations, at each level, to solve the environment and social problems, or directly to the Water Resources and Environment Administration, in case the problems have not yet been solved.

### **Article 8: Participation Process**

The Water Resources and Environment Administration, local administrations, the development project responsible agencies, and a project developer have a joint responsibility to ensure the participation of the project affected people by an investment project, and other stakeholders, in accordance with the process of initial environmental examination or environmental impact assessment, as follows:

At the time of collecting information to prepare a report on the initial environmental examination or a report on environmental impact assessment, the local administration and the project developer must organise village dissemination meetings to inform the villagers, in various forms, of the development plan of the project and the possible environmental and social impacts as well as to collect opinions of the project affected people by the investment project;

During preparation and review of the report on initial environmental examination, including measures to prevent and minimise the environmental and social impacts or the report on the environmental impact assessment, the environmental management and monitoring plan (EMMP), and the social management and monitoring plan (SMMP), the Water Resources and Environment Administration, the local administration, the development project responsible agencies, and the project developer must organise consultation meetings at village, district, and province level, to use as a forum and give an opportunity to the project affected people and other stakeholders to share their opinions and give comments on the report and plans, from the first drafts until the final drafts.

During survey-exploration, construction and operation of the project, the project developer must inform the project affected people by the investment project and other stakeholders of the project activities which are likely to create environmental and social impact, such as clearing the ground surface, destroying rocks, transporting, using and storing of the dangerous chemical objects and substances, discharging of water from the reservoir, etc. At the same time, the project developer must allow the project affected people and other stakeholders to access general information about the project.

## **Chapter 3 Initial Environmental Examination**

### **Article 9: Duties of the Water Resources and Environment Administration, local administrations, development project responsible agencies, concerned sectors, and project developers on initial environmental examination.**

The Water Resources and Environment Administration has duties:

To issue environmental compliance certificates to approve the report on initial environmental examination proposed by the development project responsible agencies;

To participate in field inspections and participate in consultation meetings at district level. The Water Resources and Environment Administration may nominate Provincial or Capital Water Resources and Environment Divisions to participate on its behalf.

To coordinate with the concerned agencies in issuing guideline on practical implementation;

Local Administrations have duties:

To issue environmental compliance certificates to certify reports on initial environmental examination, based on the verification of the Water Resources and Environment Administration;

To cooperate with and facilitate project developers in surveying and collecting information to prepare reports and in organising consultations with the project affected people by the investment project and other stakeholders;

To cooperate in the information dissemination process, and encourage project affected people by an investment project to understand the objectives of the project, expected benefits and the environmental and social impacts which might occur from the project.

The development project responsible agencies have duties:

To lead field inspection (if needed), and together with project affected people by investment projects and other stakeholders, participate in consultation meetings, at the village and district level, which are organised by project developers, in cooperation with local administrations.

To review reports on initial environmental examination, in coordination with local administrations and concerned agencies, make written comments and then report to the Water Resources and Environment Administration for considering issuing the Environmental Compliance Certificate.

The concerned agencies bodies have a duty to provide technical comments on the report on initial environmental examination and can assign that duty to their respective offices in provinces or prefecture to perform on their behalf.

A project developer has duties as follows:

To conduct study on overall physical, biological and socio-economic aspects, as well as estimate potential impacts which may arise from development of the project, by referring to the data and information gained from the concerned sectors, local administrations and other sources, including data and information collected in the field survey and from consultations with the project affected people by the investment project and other stakeholders, at village and district levels;

To follow Guidelines on Public Involvement without the use of threat, coercion, force, violence, bribery and deception;

In coordinate with the local administration and the development project responsible agencies, to organise dissemination meetings at village level so as to explain the project development plan, benefits which will gain from the

investment project and possible impacts on environment and society which may arise from the development project, as well as summarising and taking note of the people's comments in the meetings to incorporate in the report on initial environmental examination;

To prepare a report on initial environmental examination consisting of measures to prevent and minimise the impacts on environment and society;

In coordination with the local administration, the development project responsible agencies, to organise consultation meetings at village level, with participation of the project affected people by the investment project, and other stakeholders, in order to deliberate the first draft of the report on initial environmental examination and then revise the report in accordance with the resolution of the meetings, and then disseminate it to the project affected people by the investment project and the persons involved to comment on it, before organising consultation meetings at the district level;

In collaboration with the local administration and the development project responsible agencies to organise consultation meetings at district level, with participation of the representatives of the people who are (likely to be) affected by the investment project from each village, in order to deliberate the revised draft of the report on the initial environmental examination, which has been revised in accordance with the resolution of the village consultation meeting, and again revise it in accordance with the resolution of the meeting (the district consultation meeting). The revised report must be made in Lao if it is a domestic investment, or both in Lao and in English if it is a foreign investment, and then submit it to the development project responsible agencies to review further;

The report on initial environmental examination which will be proposed to be reviewed must be attached with the minutes of each meeting signed by the consultation firm who prepared the report, and the project developer.

#### **Article 10: Reviewing of the report on initial environmental examination**

Procedures on review of reports on initial environmental examination are as follows:

A project developer must make an application and send a copy of the report which is revised after the consultation meeting at district level to the development project responsible agencies;

The development project responsible agencies shall review the report within 10 public working days and inform the project developers in writing, as follows:

The project developer to send it 15 hardcopies of the report, as well as its soft copy, in case it sees that the report on initial environmental examination is correct and comprehensive;

The project developer to revise the report further, in case it found that the report on initial environmental examination is not comprehensive enough.

Review of a report on initial environmental examination must be carried out within 50 public working days, from the day the project developer submits the application in full as provided in Article 10(2)(a), excluding the period of time the project developer takes the application back for revision [in Article 10(2)(b)], which has procedure as follows:

The development project responsible agencies will send the initial environmental examination to the local administration and concerned agencies within 5 public working days for comments;

The concerned agencies must send their comments to the development project responsible agencies within 20 public working days. If they do not send their comments within that period of time, it shall be deemed that they agree with the study or the right to give comments would be waived;

The development project responsible agencies will organise a technical workshop to allow the project developer to clarify the report and have a field survey, if necessary, as well as summarise those final comments and send them to the Water Resources and Environment Administration to consider whether it should issue the environmental compliance certificate or not;

The Water Resources and Environment Administration will consider and choose to act in one of the following manners accordingly:

To issue the environmental compliance certificate to approve the report on initial environmental examination;

To demand the project developer to take the following actions:

To re-amend the report on initial environmental examination;

If the development project is complicated or would have severe environmental and social impacts the project developer need to continue to assess the impact on the environment;

To object the report in one of the following circumstances:

When the data and information does not correspond to the facts, concealing or covering up risks and the potentially severe impacts on the environment and society which may occur;

When it has sufficient evidence to prove that data and information of the initial environmental examination is not from the actual study of the project, but copied from other investment projects;

There is no scientific evidence to prove the accuracy of the specified impacts;

The report fails to identify comprehensive measures to prevent, minimise, and solve the impacts on environment and society;

The project would cause more negative impacts than positive impacts;

The project developer did not comply with the laws, guidelines, and did not undertake the involvement process.

## Chapter 4 Environmental impact assessment

### Article 11: Determining the scope of the study and terms of references

A project developer shall determine the scope of study and terms of reference (TOR) for the environmental impact assessment and submit it to the Water Resources and Environment Administration to consider and approve before conducting any assessment.

The Water Resources and Environment Administration shall complete its review and examination of the scope of study and the terms of reference within 15 public working days and notify the project developer of its comments in writing.

### Article 12: Duties of the Water Resources and Environment Administration, the concerned agencies, local administrations, and project developers in assessment of impacts on environment.

The Water Resources and Environment Administration has following duties:

To provide technical guidelines on preparation of reports on the environmental impact assessment, environment management and monitoring plans (EMMP), and social management and monitoring plans (SMMP);

In collaboration with the local administration and the concerned agencies, to conduct field survey, and together with the project affected people by the project and other stakeholders, to participate in the discussions at village and district levels;

To be an active coordinator in organising discussion meetings at provincial or Capital level, review reports on the environmental impact assessment, environmental management and monitoring plans (EMMP), and social management and monitoring plans (SMMP), consider and issue environmental compliance certificate to approve the reports and plans.

The concerned agencies have following duties:

To give technical comments on reports on the environmental impact assessment, environmental management and monitoring plans (EMMP), and social management and monitoring plans (SMMP);

To participate meetings at district level (where provincial or Capital divisions participate), at provincial or Capital level (ministerial agencies participate);

Together with the Water Resources and Environment Administration, to participate in field surveys.

Local administrations have the following duties:

To cooperate with and facilitate project developers in field surveying and in collecting data and information to prepare reports;

To organise consultation meetings with project affected people by the investment project and other stakeholders;

To disseminate to the people of objectives of investment projects, benefits which they will get, impacts on the environment and society which may arise from investment projects and measures to prevent and minimise those impacts;

To deliberate environmental management and monitoring plans (EMMP), and social management and monitoring plans (SMMP) before the Water Resources and Environment Administration will issue environmental compliance certificates to approve those plans.

A project developer has the following duties:

To comply with the scope of the study and the terms of references approved by the Water Resources and Environment Administration;

To collect information on general situation of an investment project such as physical, biological and socio-economic aspects, from the sectors and local administration, or by conducting field survey and consultation with the project affected people by the investment project and other stakeholders, at village, district, and provincial or Capital levels;

To carry out study and determine the direct and indirect impacts on the residents living around the project site, given attention to impacts on health, loss of assets and residences, impacts on living condition, usage of natural resources and other impacts on environment and society such as soil, water, climate, forest and biodiversity, including architectural and cultural heritages and antiques/antiquities, and incorporate into a report on the environmental impact assessment;

In collaboration with local administrations such as the District Water Resources and Environment Offices, the Provincial or Capital Water Resources and Environment Offices, to organise dissemination meetings at village level to explain general situation of the investment project, as well as the benefits, impacts on the environments and society which may arise from the investment project, measures to prevent and minimise impacts on environment and society, and summarise the comments and opinions given in the meetings to incorporate into the report;

To prepare a report on environmental impact assessment, an environmental management and monitoring plan (EMMP), and social management and monitoring plan (SMMP) which include assessment of impacts on health and health management measures;

In collaboration with local administrations like District Water Resources and Environment Offices, to organise meetings at villages, with participation of the project affected people by the investment project and other stakeholders to deliberate the first draft of the report on the environmental impact assessment, environmental management and monitoring plan (EMMP), and social management and monitoring plan (SMMP) and then revise the report and the plans in accordance with the resolution of the meetings, and then disseminate them back to the project affected people by the investment project and other stakeholders to revise them before district meetings;

In collaboration with the local administrations like Provincial or Capital Capitalater Resources and Environment Offices, to organise district-level meetings, with participation of the representatives of project affected people by investment projects, from each village, the concerned provincial or Capital offices, mass organisations and other district organisations to deliberate the report which was revised in compliance with the resolution of the village meetings. The district-level-revised report must be made either in Lao or in English in which the abstract/executive summary, the environmental management and monitoring plan (EMMP), and the social management and monitoring plan (SMMP) shall be made in both Lao and English, before submitting them to the Water Resources and Environment Administration to review;

The report on the environmental impact assessment, the environmental management and monitoring plan (EMMP), and the social management and monitoring plan (SMMP) to be submitted for review must be enclosed with the minutes of each meeting and must be signed by the project developer and the Consultation Firm which prepare the report.

### **Article 13: Environmental management and monitoring plans**

A project developer must design an environmental management and monitoring plan to be incorporated into a report on environmental impact assessment, which contains the following contents:

A implementation monitoring plan, main activities and persons who are responsible for implementation of the environmental management and monitoring plan:

A monitoring plan of the project developer;

A monitoring plan of the concerned government agencies.

Measures to prevent, minimise, and solve problems, and to restore environmental conditions which are stipulated in the report on the environmental impact assessment throughout the period of construction and operation of the project;

A plan to avoid and minimise the risks, including a plan to prevent and solve any accident or emergency which may arise, as well as allocation of sufficient budget to implement the plans;

A plan for plantation of trees, restoration of forest and conservation of forest areas which are the originating sources of water;

A schedule and a budget for implementation of the environmental management and monitoring plan, including financial mechanism and budget available for each activity;

In relation to a hydropower project, there must be a plan to remove bio-mass from the reservoir area, a plan to manage the river basin, a plan to manage the reservoir, a plan to manage and develop the downstream, a plan to manage fishery and other plans if necessary;



In relation to a mining project, there must be: a plan to close the mining site, a plan to restore the environment in the mining areas, as well as budgeting for the implementation of those plans;

Other necessary information

A project developer must strictly implement the environmental management and monitoring plan approved by the Water Resources and Environment Administration. In case it assigns the task to another company, it must incorporate the terms and conditions of the plan into the contract to ensure that the sub-contractor implement the plan comprehensively;

During the construction and operation period, if the Water Resources and Environment Administration find that problems are not identified and measures to minimise and solve the problems are not sufficiently provided in the environmental management and monitoring plan, as it is actually required, or fail to achieve the goal, the Water Resources and Environment Administration will notify the project developer in writing and set the deadline for the project developer to revise the plan and re-submit it to the Water Resources and Environment Administration to re-review;

Six months before operation, the project developer must evaluate implementation of the environmental management and monitoring plan in the **construction phase or the survey-exploration phase**, as well as improve the environmental management and monitoring plan, making it suitable for the project operation phase and then submit it to the Water Resources and Environment Administration **for consideration and approval before the sector responsible for investment project issuing the Operating Permit**. During the project operation phase, the project developer shall review and improve the environmental management and monitoring plan in each period, 2 - 5 years (the period for reviewing and improving the environmental management and monitoring plan depends on the complexity of the investment project which will be stipulated in the environmental compliance certificate) and then submit it to the Water Resources and Environment Administration to consider and approve;

In relation to a mining project, before closing the mining site, the project developer must develop a plan on closure of the mining site and restoration of the mining area and then submit it to the Water Resources and Environment Administration to consider and approve before implementation of the plan.

#### **Article 14: Social management and monitoring plans**

- A project developer must develop a social management and monitoring plan to be incorporated into a report on environmental impact assessment, which is composed of [contains] the following contents:
  - Mitigation measures to prevent and minimise direct and indirect social impacts of an investment project on the society as provided in the report on the environmental impact assessment, throughout the project's construction, operation, and termination periods;
  - Mitigation measures to prevent and minimise the risks including prevention and solutions to any accident or emergency which may arise, as well as allocating sufficient budget (fund) and identifying the source of budget for implementation of the plan and solve such problems;

- Mitigation measures to compensate the loss, resettlement and improvement of the living condition of the project affected people by the development project;
  - A draft of a social development plan for the post-closure period of the mining site and termination of the investment project;
  - A plan to monitor implementation of the social management and monitoring plan;
  - A monitoring plan of the project developer and a monitoring plan of the concerned national agencies;
  - Institution and responsibilities of the agency which will implement the social management and monitoring plan, and other related plans;
  - A schedule and a budget for implementation of the social management and monitoring plan, as well as financial mechanism and allocation of budget for each task and activity;
  - Other necessary information.
- The social management and monitoring plan must be consistent with the Decree and Regulations on Compensation and Resettlement of project affected people by development projects, and consists of a resettlement plan for the project affected people by the investment project, a social development plan and a plan to restore living condition, given particular attention to healthcare of those who are affected etc;
  - The project developer must strictly implement the social management and monitoring plan approved by the Water Resources and Environment Administration, in coordination with the concerned local administration, particularly the Committee of Resettlement and Restoration of Living Condition. In case it assigns the task to another company, it must incorporate the terms and conditions of the plan into the contract to ensure that the sub-contractor implement the plan comprehensively;
  - Six months before operation, the project developer must evaluate the implementation of the social management and monitoring plan in the **construction phase or the survey-exploration phase**. **If necessary the project developer must** improve the social management and monitoring plan, making it suitable for the project operation phase and then submit it to the Water Resources and Environment Administration **for consideration and approval before the sector responsible for investment project issuing the Operating Permit**. During the project operation phase, the project developer shall review and improve the social management and monitoring plan in each period, 2 - 5 years (the period for reviewing and improving the social management and monitoring plan depends on the complexity of the investment project and the pace of restoration which will be stipulated in the environmental compliance certificate) and then submit it to the Water Resources and Environment Administration to consider and approve;
  - During the construction and operation periods, if the Water Resources and Environment Administration find that the problems are not identified and the mitigation measures to minimise and solve the problems are not sufficiently provided in the social management and monitoring plan, as it is actually required, or fail to achieve the goal, the Water Resources and Environment Administration shall notify the project developer in writing and set a deadline for the project developer to revise the plan and re-submit it to the Water Resources and Environment Administration to re-consider and approve;

- In relation to a mining project, the project developer must finalise a social development plan for the post-closure period of the mining site and such plan must be approved by the Water Resources and Environment Administration before project termination.

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**Article 15: Examine the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan**

Review of the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan must be carried out in accordance with the following procedures:

The project developer must submit an application, as well as the report on the environmental impact assessment, the environmental management and monitoring plan, the social management and monitoring plan, amended after district consultation meeting, to the Water Resources and Environment Administration to review and consider to issue environmental compliance certificate;

The Water Resources and Environment Administration examines the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan, within 15 working days, to ensure that they are correct and comprehensive, and then notify the project developer in writing, as follows:

In case the report on the environmental impact assessment, the environmental management and monitoring plan, the social management and monitoring plan are correct and comprehensive, the project developer must send 15 hardcopies and a softcopy of the report and those plans to the Water Resources and Environment Administration;

In case the report on the environmental impact assessment, the environmental management and monitoring plan, the social management and monitoring plan are not correct and comprehensive, the project developer must revise or prepare/design new report and plans.

The Water Resources and Environment Administration reviews the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan, in general, within 95 working days, and 120 working days for the investment project which is complex, from the date the project developer submitted the documents stipulated in paragraph 2(a) above, excluding the period of time the project developer takes the documents back to revise [in accordance with paragraph 2(b) above], which has the following procedure:

Within 5 working days, the Water Resources and Environment Administration sends the report on the environmental impact assessment, the environmental management and monitoring plan, the social management and monitoring plan back to development project responsible agencies, the relevant local agencies and administration for comment within 30 working days, from the date of reception. If those organisations do not give comment within that period of time, their right [to do so] will be forfeited;

The Water Resources and Environment Administration organises a technical workshop within 10 working days, from the date it received those documents to listen to the brief presentation on the report on the environmental impact assessment, the environmental management and monitoring plan, the social management and monitoring plan, with participation of the concerned sectoral offices;

The Water Resources and Environment Administration to conduct field survey within 20 working days, after the brief presentation given as stated in [paragraph] 3(b), in coordination with the concerned local agencies and administration;

The Water Resources and Environment Administration to organise a joint technical workshop with the project developer, with the participation of the local concerned agencies and administration, to deliberate and comment on the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan, within 5 working days, from the date it received comments from the related local concerned agencies and administrations, as stated in [paragraph] 3(a). The Water Resources and Environment Administration will then summarise the comments in writing and give it to the project developer to improve the report and plans and then return them to the Water Resources and Environment Administration to re-consider;

After completion of reviewing of the report and plan as provided in [paragraph] (d), the Water Resources and Environment Administration to notify the project developer in writing, to ask the latter to organise a provincial or capital consultation meeting, in coordination with the local administration. The project developer must finalise the improvement of the report in conformity with the resolution of the provincial or capital consultation meeting and then send them to the Water Resources and Environment Administration to consider and issue the environmental compliance certificate;

The Water Resources and Environment Administration to re-review the finalised report on the environmental impact assessment, the finalised environmental management and monitoring plan, the finalised social management and monitoring plan and then send the finalised environmental management and monitoring plan and the finalised social management and monitoring plan to the local administration to consider and approve within 15 working days, before issuing the environmental compliance certificate. The Water Resources and Environment Administration will re-review those documents within 15 working days after it received confirmation from the local administration, in the following circumstances:

To issue an environmental compliance certificate to approve the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan or notify the project developer of the need to revise those report and plans;

To reject the report on the environmental impact assessment, the environmental management and monitoring plan, the social management and monitoring plan of the investment project on the following grounds:

The data and information contained in the report does not correspond to the facts, there is cover-up or concealment of the risks and severe impacts on environment and society which may arise;

The report on the environmental impact assessment still lacks comprehensive study, particularly on risks and possible impacts;

The report on the environmental impact assessment did not derive from an actual study carried under the project, but copied from another investment project, which there is sufficient evidence to prove its actual copying;

There is no scientific evidence to prove the accuracy of the specified impacts;

There is not sufficient data and information in the environmental management and monitoring plan and the social management and monitoring plan;

The project would cause more negative impacts than positive impacts;

The project developer did not comply with the laws, guidelines, and did not undertake the involvement process.

#### **Article 16: Review of the report of the investment project which is complicated**

For the investment project which is complicated which requires experts of that specific field to review the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan, the Water Resources and Environment Administration must proceed as follows:

To establish a panel of experts to review the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan within 30 working days, from the date the project developer handed over all necessary documents as stipulated in Article 15, 2(a), by giving priority to the domestic experts or foreign experts to be appointed in the panel of experts;

The panel of experts must consists of experts who are specialist in their respective scientific fields depending on the actual need, who have no connection with and have no direct and indirect interest in the investment project. The panel of experts has the duty to review and comment on the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan in writing and give it to the Water Resources and Environment Administration within 30 working days and must keep that information confidential;

The Water Resources and Environment Administration to review the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan within 120 working days, from the date the project developer handed over all required documents, as stipulated in Article 15, 2(a), excluding the period of time the project developer revises the documents. The report and plans must be revised by following the procedure provided in Article 15 of this Decree.

## **Chapter 5**

### **Environmental compliance certificate**

#### **Article 17: Issuing of Environmental compliance certificate**

The Water Resources and Environment Administration issues the environmental compliance certificate to approve the report on initial environmental examination, the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan, as provided in Article 10 and Article 15 of this Decree.

Based on the confirmation from the Water Resources and Environment Administration, with consent from the development project responsible agencies, the local administrations may issue environmental compliance certificate to approve the initial environmental examination.

The environmental compliance certificate may contain some conditions which the project developer is obliged to perform.

#### **Article 18: Expiry date of the environmental compliance certificate**

The environmental compliance certificate is valid through the concession period of the investment project.

If the investment project does not start to operate within 2 years, from the date it obtained the environmental compliance certificate, the certificate will be automatically expired and cannot be used. Three months prior to the expiry date, if the project developer wishes to continue its investment project, it can request the Water Resources and Environment Administration to re-consider;

After the investment project gets the environmental compliance certificate, 6 months prior to the completion of the construction phase, the project developer must review and evaluate the implementation of the measures to minimise the impacts on environment and society or the environmental management and monitoring plan, the social management and monitoring plan during the period of construction of the investment project, as well as improve the measures to minimise impacts on environmental and society or the environmental management and monitoring plan, and the social management and monitoring plan for the operation period of the project and then request the Water Resources and Environment Administration to approve. During the operation of the project, the project developer must review and improve measures to minimise the impact on environmental and society or the environmental management and monitoring plan, and the social management and monitoring plan in each period, 2 - 5 years (the period for reviewing and improving the environmental management and monitoring plan depends on the complexity of the investment project) and then submit it to the Water Resources and Environment Administration to consider and approve.

#### **Article 19: Issuing environmental compliance certificate to an investment project which is under operation**

For the investment project which is under operation without an environmental compliance certificate prior to the effective date of this Decree must comply with the following procedure:

The local administrations to make a list of the businesses which are located within their administration areas, under their respective categories and sizes of the investment project, in either category 1 or category 2, and then send the list to the Water Resources and Environment Administration within 90 working days, after this Decree becomes into effect;

The Water Resources and Environment Administration considers it with reference to the degree of impacts on the environment and society of the investment project:

For the project which has no impact on the environment and society, the Water Resources and Environment Administration will notify the project developer to continue its operation;

For the project which has impacts on the environment and society, under the class and size of the investment project, either category 1 or category 2, the Water Resources and Environment Administration will notify the project developer in writing to demand the project developer to prepare and finalise the environmental management and monitoring plan, and the social management and monitoring plan within 90 working days, for the investment project which falls under category 1, and 120 working days for the investment project which falls under category 2, from the date of notification. If the plans cannot be finalised within that specified period, the measures provided in Article 37, 38, 39, and 40 of this Decree will be respectively imposed on the investment project, depending on their circumstances.

For the investment project which the Water Resources and Environment Administration has already approved the scope of study and ToR for the environmental impact assessment, and the investment project of which its report on initial environmental examination or report on the environmental impact assessment has already been submitted, but have not yet received environmental compliance certificate, before the date this Decree becomes into effect, that project developer can follow the Regulatory Provisions on Environmental impact assessment in Lao PDR No.1770/STEA.PMO, dated October 3, 2000 or this Decree.

## Chapter 6

### Obligatory Contribution of Fund for Initial environmental examination or Environmental impact assessment and Management of Fees and Service Charges

#### Article 20: Obligatory contribution of fund for initial environmental examination or environmental impact assessment

A project developer must be liable for all expenses incurred in preparation and examination of a report on initial environmental examination or a report on the environmental impact assessment, an environmental management and monitoring plan, and a social management and monitoring plan, as well as implementation and monitoring of measures on prevention and reduction of the impacts on environment and society or an environmental management and monitoring plan, and a social management and monitoring plan as follows:

Field survey;

Project dissemination meetings, consultation meeting on the initial environmental examination or the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan, at all levels (village, district, province or prefecture);

Fees and service charges in compliance with laws and regulations;

Implementation of mitigation measures on prevention and reduction of impacts on environment and society or the environmental management and monitoring plan, the social management and monitoring plan, and monitoring;

Hiring domestic and/or foreign experts to review the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan;

Strengthening and providing the public officials with necessary equipment and vehicles for monitoring of the environmental and social management;

Environmental and social monitoring and inspection on regular and emergency basis.

#### Article 21: Fee and Service Charge

The Water Resources and Environment Administration or the local administration which issues environmental compliance certificate has the duty to collect fees and services charges, as provided in the Presidential Ordinance on Fees and Service Charges, No. 03/P, dated November 19, 2008, as follows:

All fees are to be put into the State Treasury;

Service charges must be calculated and put in a balance sheet, to sum up revenues and expenses, as part of the Water Resources and Environment Administration or the local administration budgeting, in compliance with the State financial management regulation; and under the management of the Water Resources and Environment Administration or local administration and financial offices.

## Part III

### Management and Monitoring

#### Article 22: Management and Monitoring

Managing and monitoring of the implementation of measures on prevention and mitigation of environmental impacts or an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP) of an investment project comprises:

Monitoring by project developers;

Monitoring by Governmental agencies;

Monitoring by external bodies.

#### Article 23: Monitoring by project developers

Project developers shall proceed as follows:

For the investment projects fallen within Category 1, (the project developers shall) carry out implementation and monitor the implementation of the mitigation measures on prevention and mitigation of impacts on environment and society on their own and report to the Water Resources and Environment Administration, development project responsible agencies, relevant agencies and local administration regularly.

For the investment projects fallen within Category 2, (the project developers) must establish their own environmental and social management offices respectively to implement and monitor the outputs of implementation of the environmental management and monitoring plans (EMMP), and the social management and monitoring plans (SMMP), and report to the Water Resources and Environment Administration, development project responsible agencies, relevant agencies and local administration regularly.;

#### **Article 24. Monitoring by Governmental agencies**

Government agencies shall proceed as follow:

The investment projects in Category 1 :

The organisation which reviewed the report on initial environmental examination has a duty to monitor outputs of the implementation of the measures on prevention and mitigation of impacts on the environment and society, by spending the budget allocated in the report on initial environmental examination, and report to the Water Resources and Environment Administration, and the local administration regularly.

The Water Resources and Environment Administration has a duty to inspect the implementation of the measures on prevention and mitigation of impacts on the environment and society; and to conduct an emergency ad hoc inspection, in collaboration with the relevant agencies and local administration and report to its superior.

The investment projects in Category 2 :

The Water Resources and Environment Administration has a duty to monitor implementation of the environmental management and monitoring plans (EMMP) every six months or as required, in collaboration with the relevant agencies and local administrations and report to its superior.

The National Environmental Committee has a duty to inspect the implementation of the environmental management and monitoring plans (EMMP), and the social management and monitoring plans (SMMP) of the investment projects.

Local administrations has a duty to establish environmental management units, in the districts where the investment projects located, in collaboration with the Water Resources and Environment Administration, to monitor the implementation of the environmental management and monitoring plans (EMMP), on a regular basis, and report to the local administrations and the Water Resources and Environment Administration regularly, or urgently in the case of emergency.

Local administrations has a duty to establish a unit to deal with the issues of resettlement and restoration of living conditions, which functions as:

A secretariat of the Resettlement and Restoration of Living Condition Committee;

An inspector of the implementation of the social management and monitoring plan (SMMP), in collaboration with the project developer, and then report to the local administration and the Water Resources and Environment Administration regularly, or urgently in the case of emergency.

- 1) The Water Resources and Environment Administration has a duty to provide technical advice to, build capacity for, and provide trainings for the environmental and social management monitoring units within the scope of the work-plans and budgets provided for in each phase. The fund mainly comes from concession contracts or the environmental management and monitoring plans (EMMP), the social management and monitoring plans (SMMP), and the budget of the State.
- 2) Article 25: Monitoring of external bodies
- 3) The purpose of monitoring by external bodies is to inspect the implementation of the environmental and social activities of the investment projects. Monitoring of external bodies consists of:
- 4) Oversight of the National Assembly, as provided in the Law on Oversight of the National Assembly;
- 5) Inspection of the State Inspection Administration, as provided in the Law on State Inspection;
- 6) Auditing of National Audit Administration, as provided in the Law on Audit;
- 7) Monitoring of Panel of Expert, if necessary.

## **Part IV**

### **Investment Project Steering Committee and Implementation of Environmental and Social Management and Monitoring Plans**

#### **Article 26: National Steering Committee**

If an investment project is complicated and (has a potential to) create(s) enormous [significant] impacts on the environment and society, the government may form a National Steering Committee which has the following authority and duties:

To give directions, to lead and encourage, as well as monitor during the phase of construction and/or operation of the investment project, among other things, giving particular attention to monitoring of the implementation of the environmental

management and monitoring plan (EMMP), the social management and monitoring plan (SMMP) to report to the government regularly;

To appoint a team of experts or a qualified consultant company to monitor the implementation of the environmental and social activities of the investment project;

The National Steering Committee shall be financed by a budget derived from the investment project, from the budget of the State allocated to the ministry in charge of the investment project, and other sources.

**Article 27: Institutional structure of a National Steering Committee.**

A National Steering Committee shall consist of:

The Head of the development project responsible agency, being the Chairperson;

Deputy head of the development project responsible agency, being the Vice-Chairperson, as well as the Standing Member of the Committee;

The Deputy head of the Water Resources and Environment Administration, and the Vice-Mayors of the related province or capital, being the Deputy-Chairpersons;

The representatives from the relevant agencies, the Lao Front for National Construction, and mass organisations, being Members of the Committee;

The project developer's representative, being a member of the Committee;

A National Steering Committee shall be assisted by a secretariat. Members of a secretariat consists of representatives from the relevant departments-offices of the development project responsible agency, the Department of Environmental and Social Impact Assessment, the Water Resources and Environment Administration; the secretariat of the Provincial or Capital Resettlement and Restoration of Living Condition Committee..

**Article 28: Resettlement and Restoration of Living Condition Committees**

The Government appoints a Provincial or Capital Resettlement and Restoration of Living Condition Committee which has the authority and duties, as follows:

To lead and give directions, supervise, and monitor the resettlement and restoration of living condition of the project affected people located in its province or prefecture; in compliance with the Social Management and Monitoring Plan(SMMP);

To consider petitions filed by the people, in close coordination with the project developer, the concerned agencies and report to the government regularly;

This committee functions by relying on the budget allocated from the investment project, the State budget and other sources.

**Article 29: Personnel composition of a Resettlement and Restoration of Living Condition Committee**

A Resettlement and Livelihood Restoration Committee shall comprises:

The Provincial or Capital Mayor, being the chairperson;

The Provincial or Capital Vice-Mayor, being the Vice-Chairperson, as well as the Standing Member of the Committee.

The Governor of the related District, the representatives from the relevant offices and the Provincial or Capital Office, Lao Front for National Construction, and the representative of the project developer, being Members of the Committee.

A Provincial or Capital Resettlement and Restoration of Living Condition Committee shall be assisted by a secretariat which is appointed by the Chairman of the Resettlement and Restoration of Living Condition Committee.

## Part V

### Change of Investment Project Owner

**Article 30: Change of Investment Project Owner**

A project developer who wishes to transfer the investment project ( hereafter called the former developer) to another person (hereafter called new developer) shall make a proposal to the sectoral body concerned for approval. The concerned agencies will allow transferring [such a transfer] only if the current developer and the tentative developer can reach an agreement on fulfilment of the environmental and social obligations.

In relation to the investment project which has not yet get the environmental compliance certificate, the new developer shall continue to carry out the initial environmental examination or the environmental impact assessment and prepare an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP), as provided in this Decree.

In relation to the investment project which has already got the environmental compliance certificate, the new developer shall fulfil the approved environmental and social obligations and must allocate sufficient budget for the implementation of the environmental management and monitoring plans (EMMP), the social management and monitoring plan (SMMP), based on written agreement between the former developer and the new developer.

## Part VI

### Information Disclosure

**Article 31: Disclosure of General Information**

Disclosure of the general information shall be done [carried out], as follows::

The Water Resources and Environment Administration has a duty to manage information on the environmental and social aspects of an investment project, in coordination with the concerned agencies and the project developer, as well as facilitate the stakeholders and the project affected people in accessing such information.

A project developer has a duty to manage information on outputs of the implementation of the measures on prevention and mitigation of the impacts on environment, or the environmental management and monitoring plan (EMMP), the

social management and monitoring plan (SMMP), and to facilitate the people who are (will be) directly affected by the investment project and other stakeholders in accessing the information. In relation to the investment projects in Category 2, the project developers shall build information centres within the area of the investment projects and in the related Districts.

The data and information to be disseminated must be both in Lao and English, consisting of:

A report on initial environmental examination or a report on environmental [] impact assessment, an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP), except confidential information provided in Article 32 of this Decree;

A report on implementation of measures on prevention and mitigation of the impacts on environment, environmental management and monitoring plans (EMMP), and social management and monitoring plans (SMMP) of the project developers;

The reports of the Water Resources and Environment Administration or of the local administration which issued the environmental compliance certificate on monitoring of implementation of the environmental management and monitoring plans (EMMP), and the social management and monitoring plans (SMMP);

Detailed information on finings or other disciplinary measures which the Water Resources and Environment Administration or Provincial or Capital Offices of the Water Resources and Environment Administration, and the development project responsible agencies has imposed on the project developer;

The investment project expenditures on environmental and social activities.

**Article 32: Confidential Information**

The confidential information shall be operated [handled] as followed:

The Water Resources and Environment Administration reserves the right to disclose any information related to the National stability in any report on initial environmental examination or in any report on environmental impact assessment, environmental management and monitoring plan (EMMP), and social management and monitoring plan (SMMP).

Based on a written request of a project developer, the Water Resources and Environment Administration may consider to keep some information confidential and can refuse to put such information in any report on initial environmental examination or any report on environmental impact assessment; an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP). The information includes:

Information on privacy of an individual;

Information on property;

Information on commercial license;

In the case a project developer does not wish to disclose any of the above information, stated in Article 32(2) above, the project developer may submit a request enclosed with the information in question, and send it to the Water Resources and Environment Administration. Within 25 public working days, the Water Resources and Environment Administration shall conclude whether, all or some part of, the information in question is confidential or not.

In the case the submitted information is considered confidential, that information shall be kept confidential for 4 years. If the project developer wishes to extend [this period], he or she must submit a request 60 public working days prior to the expiry date, otherwise the information will not be regarded as confidential information anymore.

## Part VII

### Settlement of Environmental and Social Disputes

**Article 33: Types of Dispute**

Environmental and social disputes can be:

The right and responsibility in managing, mining and utilising of natural resources , mainly are water, land, mines, forests, wild plants and produces and biodiversity within the area of the investment project.

Determining original sources of pollution, environment degradation which creates impact on people’s lives and assets, including disputes over liability for resolution, maintenance, restoration and compensation for the damage caused by the said phenomena.

Allocation of budget or determination of the amount compensation for the loss/damages, such as land, houses, services, and so on, including dispute over payments or official Resolutions on compensation of the loss.

**Article 34: Parties to the Disputes**

An environmental and social dispute may erupt between:

A project developer and another project developer ;

A project developer and the people who are (will be) affected by the investment project;

A project developer and a Governmental agency or an international organisation, and a local administration.

**Article 35 Dispute Settlement**

Dispute settlement shall be carried out:

In case the dispute is between a project developer and a project developer, they should first enter into negotiation. If they cannot reach an agreement, they may take the matter to the Economic Dispute Arbitration Organisation to arbitrate. If they are not satisfied with the arbitration, they may file a lawsuit with a People Court of Lao PDR, unless the terms of their contract stipulate otherwise.

In case the dispute is between a project developer and the people are (will be) affected by an investment project:

The project developer must consider the complaint and solve the environmental disputes through transparent consultation/discussion and with compromise to each other. If a compromised agreement cannot be reached, the parties can request the environmental management and monitoring agency and local administrations, at each level, to resolve. If the environmental management and monitoring agency and the local administration fail to resolve the dispute, the parties may take the matters to a People Court to adjudicate, in compliance with the laws.

The project developer must listen to the complaint/petition and solve social disputes by following the Prime Minister’s Decree on Compensation and Resettlement of People Affected by Development Projects No. 192/PM, dated 7 July 2005 and Regulatory Provisions on Implementation of Decree on Compensation and Resettlement of People Affected by Development Projects No 1432/STEA, dated 11 November 2005, or other regulations which replace those regulations.

In case the dispute is between a project developer and a State organisation, a local administration or an international organisation, the dispute must be settled in compliance with the laws of Lao PDR or the conventions or treaties which Lao is a member party or a signatory (if any).

**Part VIII**

**Policies Towards Persons with Outstanding Compliances and Measures for Violators**

**Article 36: Policy towards person with outstanding compliance**

Any natural person, legal entity or organisation [who] has outstanding achievements in management and implementation of the environmental management and monitoring plan (EMMP), the social management and monitoring plan (SMMP) of the investment project and strictly complies with the laws and regulations of the Lao PDR shall be commended and awarded in other forms appropriately.

**Article 37: Disciplinary measures towards violators**

Any natural person, entity or organization [who] violates this Decree shall be warned and educated, fined, ordered to compensate and prosecuted accordingly, depending on the degree of severity of wrongful commission [the violation], in compliance with the laws..

**Article 38: Measures on warning and educating**

In case the monitoring outcomes [results] indicating that the measures on prevention and mitigation of impacts on environment and society, the environmental management and monitoring plan (EMMP), the social management and monitoring plan (SMMP) are [not] completely implemented, the Water Resources and Environment Administration will notify in writing and demand the project developer to implement those measures or plans strictly in order to resolve the pending problems, within a certain period of time, before it is too late. The written notice shall consist of:

The problems which are leading to or is likely to lead to violations;

The resolution procedures and period of time needed to resolve the problems.

**Article 39. Fining measures**

Any natural person, legal entity or organization [who has taken] the following actions will be fined in compliance with the relevant laws:

Giving false or misleading information in the report on initial environmental examination or in the report on environmental impact assessment, the environmental management and monitoring plan (EMMP), the social management and monitoring plan (SMMP), including the monitoring reports.

Refusing to cooperate with or obstructing the performance duty of the inspectors, even though they has informed in advance:

Refusing to cooperate or obstructing (the inspectors) entering into the site of the investment project.;

Refusing to cooperate or obstructing taking of samples or collecting evidence for environmental monitoring.

Does not cooperate or obstructs taking of pictures or obstruct interviewing/interrogating of any person on the investment project.

Ignoring or failing to inform or report of the severe environmental and social impacts to the concerned agency in time.

Clearing the area, start mining or constructing an investment project without an environmental compliance certificate.

Operating without the improved measures on prevention and mitigation of impacts on the environment and society or environmental management and monitoring plan (EMMP), social management and monitoring plan (SMMP), as provided in this Decree;

Creating environmental and social impacts within the area of the investment project or expanding the investment project without carrying out additional initial environmental examination and without measures on prevention and mitigation of impacts on the environment and society or carrying out any additional environmental impact assessment and formulating environmental management and monitoring plan (EMMP), and social management and monitoring plan (SMMP);

Failing to comply with the terms provided in the environmental compliance certificate, or the environmental and social obligations provided in the Concession Contract.



Failing to completely implement measures on prevention and mitigation of impacts on the environment and society or environmental management and monitoring plan (EMMP), and social management and monitoring plan (SMMP);

Failing to comply with any of the terms and guidelines [time periods?] provided in the Warning Notice;

Failing to comply with the environmental quality standards and pollution releasing standards [environmental technical standards].

The Water Resources and Environment Administration shall issue separate specific legislation for the rate of fines.

#### **Article 40: Other disciplinary measures**

In addition to the disciplinary measures provided in Article 37, 38, and 39 above, any natural person, legal entity or organization, operating an investment project, who violates this Decree shall be alternatively [also?] Imposed with the following measures:

To confiscate vehicles and equipment used or involved in the commission of the violation.

To temporarily or permanently suspend the investment project partially or wholly, in accordance with an Order of the Water Resources and Environment Administration, in coordination with local concerned agencies and administrations.

In determining the additional penalties, as well as the periods of any temporary partial or whole suspension, the following factors must be taken into account:

The degree of severity of the environmental and social impacts;

The severity of pollution caused by the violation;

[whether] It is a foreseeable environmental and social impact, but the preventive measures have not been put in place, or it is an unforeseeable impact;

Record of violations committed by the project developer;

Record of violations committed by the investment project;

If the violation causes damage to the environment, the project developer may be ordered to be liable for all expenses incurred in cleaning up or for an environmental remedy.

## **Part IX**

### **Final Provisions**

#### **Article 41: Enforcement**

The Water Resources and Environment Administration is the central authority to coordinate with the local agencies and administration to disseminate and enforce this Decree.

The related natural person, legal entities and organizations, both in private and public sectors, must be informed and implement this Decree strictly.

#### **Article 42: Its effectiveness**

This Decree is effective after 30 days, from the date of signature. Any existing Provisions and Regulations which is inconsistent with this Decree are null and void.

**Prime Minister of Lao PDR,**

Signed and Sealed