



Lao

Decree on the Implementation of the Investment Promotion Law

DEZAN SHIRA & ASSOCIATES

Corporate Establishment, Tax, Accounting & Payroll Throughout Asia

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Lao People's Democratic Republic

Peace Independence Democracy Unity Prosperity

Prime Minister's Office

No /PM

Vientiane, date

DECREE

ON THE IMPLEMENTATION OF THE INVESTMENT PROMOTION LAW

- Pursuant to the amended Law on Government No. 02/NA, dated 6 May 2003;
- Pursuant to the Investment Promotion Law No. 02/NA, dated 8 July 2009;
- Pursuant to the proposal of the Ministry of Planning and Investment No. 2733/MPI, dated 23 November 2010.

Prime Minister issues the Decree:

Part 1

General provision

Article 1: Purposes

This Decree is issued to expand and provide clarifications on the content of certain Articles that are deemed necessary to facilitate a simple, clear and thorough implementation of the Investment Promotion Law, such as division of responsibilities between the central and local authorities, between agencies at the central level themselves, [and] one-stop services, aiming to build proper and uniform understanding in the whole country thus ensuring effective investment.

Part 2

Business cooperation by contract and determination of registered capital

Article 2: Business cooperation by contract

A foreign legal entity operating business cooperation by contract with a domestic legal entity as specified in Article 11 of the Investment Promotion Law shall register a mutually signed contract with the Notary Office. Subsequently, this contract shall be forwarded to the industry and commerce or a planning and investment sector where the domestic legal entity has received its license, in order to issue the certificate of acknowledgement in accordance with the law.

Business cooperation by contract may be established in compliance with the form of cooperation and within the business sector as indicated in the contract for mutual benefits and without establishing a new legal entity in Lao PDR.

Article 3: Determination of registered capital

Foreign investors wishing to invest in any general business as set forth in Articles 12 and 17 of the Investment Promotion Law shall have the minimum total capital and registered capital of not less than one billion Kip.

Article 4: Registered capital payment

For general investment business, after the investor receives its enterprise registration certificate, the investor shall pay in the registered capital through a commercial bank established in Lao PDR and shall obtain a certification of such capital payment with the Bank of Lao PDR within 10 working days.

The payment of registered capital of an enterprise investing in each sector shall comply with the following rates and timeframes:

1. For business in agricultural sector -- the initial payment shall be 40% of the total registered capital payable within 90 working days and the remaining registered capital shall be fully paid within one year after receiving the enterprise registration certificate.
2. For business in manufacturing and handicraft-industry processing sectors -- the initial payment shall be 60% of the total registered capital payable within 90 working days and the remaining registered capital shall be fully paid within one year after receiving the enterprise registration certificate.
3. For business in trade and services sectors -- the initial payment shall be 80% of the total registered capital payable within 90 working days and the remaining registered capital shall be fully paid within one year after receiving the enterprise registration certificate. For business in commercial banks or

financial institutions, it shall comply with the regulations of the financial institution or the Bank of Lao PDR.

For registered capital in concession activities, the minimum rate has been defined in Article 12 of the Investment Promotion Law. The investor shall pay the initial registered capital of at least 12% of the total registered capital within 90 working days through commercial banks established in Lao PDR and the remaining registered capital shall be fully paid within two years after establishing the enterprise. Each capital payment of the enterprise shall be certified by the Bank of Lao PDR within 10 working days.

The payment of an enterprises' registered capital used to invest in general business and concession activities shall be in Lao Kip.

Part 3

Investment in general business activities

Article 5: Investment proposal

Investors who wish to invest in general business activities under the Negative List and outside the Negative List, that are not related to concession activities as specified in Articles 17 and 18 of the Investment Promotion Law, can submit their applications to the one-stop service of the industry and commerce sector at the central and local levels.

Article 6: Procedures and timeframes for consideration

The consideration of enterprise registration as stipulated in Article 18 of the Investment Promotion Law shall follow the provisions of Articles 14 and 16 of the Law on Enterprise without going through any meeting except if the concerned sector cannot reach a consensus or if there are any other matters where the enterprise may not be registered.

Article 7: Documentation for investment proposal

An investment proposal in general business activities shall include the following documents:

1. Application form(s);
2. Contracts and agreements (for joint ventures);
3. Other relevant documents such as:
 - Resume of the investor;

- Certificate of financial status and experience of the investor;
- Document about the status of foreign legal entity (if any);
- Copy of Identity Card (for Lao national) and passport (for foreigners);

An investor who wishes to invest in general business activities can request an application from the one-stop service of the planning and investment sector at the central and local levels or the industry and commerce sector at central and local levels or download from their websites.

Article 8: Enterprise registration certificate

As stipulated in Article 19 of the Investment Promotion Law, the enterprise registration certificate refers to the document that certifies that the investor can conduct his/ her business in compliance with the laws of Lao PDR and can carry out activities during the business term. The enterprise registration certificate includes the investment license, incentive, tax registration. Before operating a business, the enterprise shall make a request to the concerned sectors to issue the technical license or the business operation certificate as relevant.

The industry and commerce sector shall consider issuing the enterprise registration certificate and subsequently forward the copy of the certificate to the concerned sector within 10 working days from the issuance of the enterprise registration certificate for monitoring and management purposes in accordance with its role set out in relevant laws and regulations.

For the enterprise registration certificate issued by provincial and capital authorities, a copy of certificate and relevant information shall be forwarded to the one-stop service of the Ministry of Industry and Commerce within 10 working days from the day the certificate is issued.

The content of the enterprise registration certificate shall follow the regulations defined by the Ministry of Industry and Commerce.

The financial sector shall issue a taxpayer identification number to record in the enterprise license. The investor shall use this identification number for the purpose of annual tax declaration to the financial sector.

After issuing the enterprise registration certificate, the relevant industry and commerce sector shall issue the seal carving license for the Ministry of Public Security to carve a seal for the enterprise within a period not exceeding seven (7) working days.

Article 9: Issuance of taxpayer identification number

The taxpayer identification number refers to the code that is specifically used for taxpayers who have obligations to pay taxes to the government until the end of the concession term or the enterprise registration certificates in order to manage and periodically follow up on information for tax payments. The Tax Department defines

this number for the planning and investment or industry and commerce sector to record in the concession registration certificate or the enterprise registration certificate. The taxpayer identification number is also used in tax declaration, invoice, tax clearance, customs clearance, accounting documents, goods or product transportation documents and other official documents.

The industry and commerce shall ensure that coordination made to obtain the Tax payer identification number from the financial sector.

Part 4

Investment in concession activities

Article 10: Investment proposal

For the investment proposal as stipulated in Article 21 of the Investment Promotion Law, the investor has to be a legal entity and provide a complete set of documentation to the one-stop service of the planning and investment sector at central or local level. The permissible concession activities are defined in Annex 3 of this Decree.

Article 11: Documentations for the investment proposal

The documentations for an investment proposal in concession activities include:

1. Application form for concession activities;
2. Basic information about the project or the feasibility study and business plan in Lao PDR;
3. Joint venture contract which corresponds with the form and nature of business corporations as stipulated in the Law on Enterprise (if it is a joint venture);
4. Other annexes such as:
 - Certificate of financial status and experience of the investor;
 - Resume of the investor;
 - Copy of Identity Card (for Lao national) and copy of passport (for foreigners).

In addition to the above mentioned documents, for concession activities, particularly in mining, electricity-energy and land concession, a memorandum on initial field data collection is also required.

Investors who wish to establish or develop special economic zones and specific economic zones, specific regulations shall be followed.

Article 12: Selection of concessionaire

For selection of concession bidders that have two or more applications for the same project, the selection method shall be implemented in accordance with Article 12 of the Investment Promotion Law.

Article 13: Application procedures

The consideration of application for investment in concession activities as stipulated in Article 23 of the Investment Promotion Law shall follow the following procedures:

1. The planning and investment sector shall examine and consider the projects or concession activities listed in the investment calling list and propose to the meeting of the Committee for Investment Promotion (CIP) for further consideration to approve or reject the project:
 - In case of approval, negotiation on the Memorandum Of Understanding (MOU) or agreement shall be conducted and the outcomes of the negotiation shall be reported to the meeting of the CIP prior to submitting it to the government or provincial/municipal authorities in order to delegate the authority to sign the MOU/concession agreement.
 - In case of disapproval, a notification letter shall be sent to the requesting investor.

2. Projects and concession activities not listed in the investment calling list shall be examined and considered by the planning and investment sector in coordination with relevant sectors and locality for their comments in writing in consultation with their management. Comments shall be sent to the planning and investment sector within 25 working days after receiving the application. Afterwards, the planning and investment sector presents it to the meeting of the CIP prior to submitting it to the government or provincial/ municipal authorities for further consideration to approve or reject the project:
 - In case of approval, negotiation on the MOU or agreement shall be conducted and the outcomes of the negotiations shall be reported to the meeting of the CIP prior to submitting it to the government or provincial/ municipal authorities for delegating the authority to sign the MOU or concession agreement.
 - In case of disapproval, a notification letter shall be sent to the requesting investor.

Article 14: Negotiations of concession agreement

From the date of receipt of an approval notification from the government or the provincial/municipal authorities, the planning and investment sector shall provide written notification to the investor within two working days. The investor shall begin negotiation for the MOU/concession agreement from the date of receipt of the approval notification.

After approval notification, and within 10 working days, the investor shall schedule a negotiation date with the planning and investment sector for the MOU/concession agreement. Beyond this time period or if the investor is unable to participate in the negotiation within 30 working days, the government will consider that the investor has renounced his/her right in the proposed investment.

When the planning and investment sector completes the MOU/agreement negotiation, the outcomes of the negotiation shall be reported to the meeting of the CIP prior to submitting it to the government or provincial/municipal authorities for the delegation of authority to sign the MOU/ concession agreement.

Article 15: Warranties

As specified in Article 23 of the Investment Promotion Law, the investor shall deposit warranties to guarantee the implementation of the MOU/agreement.

The conditions and amount of the warranties depend on the size, type, sector and agreement made during the MOU/concession agreement negotiation such as:

1. Electricity project:

- installation capacity of 5MW or less , the warranties are US\$10,000;
- Over 5 MW to 100 MW installation capacity, the warranties are US\$30,000;
- Over 100 MW installation capacity, the warranties are US\$50,000.

2. Land concession project:

- Area from 2 – 150 ha, the warranties are US\$30,000;
- Area from 151-1,000 ha, the warranties are US\$50,000; Area from 1.101 ha or above, the warranties are US\$70,000.

3. Minerals concession project:

- Mining concession area from 1 – 300 square kilometers, the warranties are US\$50,000;
- Mining concession area from 301 – 500 square kilometers, the warranties are US\$100,000.

The warranties for concession of non-metal minerals, fuel minerals and liquid minerals will have specific regulations determining areas and warranties.

The warranties for other types of concession activities not referred to in this Decree will be decided during the MOU or agreement negotiation.

The investor shall have to deposit and transfer the warranties in cash to the account of the planning and investment sector at the National Treasury. The warranties must be in LAK or foreign currencies (US\$ or other currencies accepted by the Bank of

Lao PDR) based on the exchange rates on the date the warranties are deposited as agreed in the MOU/agreement.

The warranties that are deposited to ensure the implementation of the MOU/agreement shall be returned to the investor when the investor fulfills his/her obligations and conditions as defined in the MOU/agreement. In the event the investor fails to fulfill his/her duties and conditions as defined in the MOU/agreement, the warranties shall be forfeited by the government.

Article 16: Concession registration certificate

As defined in Article 25 of the Investment Promotion Law, the concession registration certificate refers to the document which certifies that the investor can legitimately operate a business in compliance with the laws of Lao PDR and can carry out activities during the duration of the concession. A concession registration certificate includes enterprise registration certificate, investment license, tax registration. Prior to starting the business operation, an enterprise shall request a certificate or technical permission from other relevant sectors as relevant.

The planning and investment sector shall issue concession registration certificate and subsequently forward the copy of the certificate to the concerned sector within 10 working days from the day the certificate is issued for monitoring and management purposes in accordance with its role set out in relevant laws and regulations of Lao PDR.

The concession registration certificate issued by the provincial or municipal authorities shall be duplicated and a copy forwarded to the Ministry of Planning and Investment within 10 working days from the day the certificate is issued.

The industry and commerce sector issues an enterprise identification number to record in the concession registration certificate.

The financial sector issues the taxpayer identification number to record in the concession registration certificate. The investor shall use this identification number for the purpose of annual tax declaration to the financial sector.

The planning and investment shall coordinate with industry and commerce sector for obtaining the enterprise identification number and the financial sector to obtain taxpayer identification number.

After the concession registration certificate is issued, the planning and investment sector where the license is issued shall grant permission for a company seal with the Ministry of Public Security. The public security sector shall make the seal for the enterprise within a period not exceeding seven (7) working days.

Article 17: Content of concession registration certificate

Concession registration certificate shall contain the following items:

- Name of the enterprise;
- Location of the enterprise and/or the location of its operation;
- Approved investment activity;
- Form of the investment;
- Type, form and nature of the enterprise;
- Name of shareholders and the proportion of shares (calculated in percentage of the registered capital);
- Total capital and registered capital in LAK. In the event the investors declare the total capital and registered capital in foreign currency, they shall be calculated in LAK based on the exchange rate of the Bank of Lao PDR defined on the date concession registration certificate is issued;
- Tax obligations and customs duties;
- Other obligations (if any);
- Tax incentives (if any);
- Code for concession registration certificate (the same as the number of the concession registration certificate);
- enterprised identification number;
- Taxpayer identification number;
- Other information according to the specificities of the activities.

The concession registration certificate code of each enterprise is the same code to be used by all sectors for the purpose of monitoring and managing that enterprise. In the absence of linking a network between various sectors for issuing one uniform concession registration certificate, the code or identification number of each sector will be used until a uniform database is established.

Article 18: Conditions for transferring shares or joint venture in concession activities

Enterprises wishing to transfer a concession right, shares or amend a concession agreement as defined in the last paragraph of Articles 26 and 27 of the Investment Promotion Law, shall propose to the planning and investment sector for further consideration and approval under the following conditions:

1. The registered capital has been completely paid as stipulated in the concession agreement;
2. Tax obligations have been regularly and completely cleared;
3. Rent and concession fees have been regularly paid;
4. All tasks have been performed in accordance with the set up schedules.

Part 5

Establishment and consideration of investment calling list

Article 19: Establishment of investment calling list

In accordance with Article 29 of the Investment Promotion Law, an investment calling list shall be established under the following procedures:

1. The Ministry of Planning and Investment shall advise and encourage relevant sectors both at the central and local levels to study and establish or improve the investment calling list;
2. The concerned sectors at both the central and local levels shall submit the investment calling list to the planning and investment sector annually by April;
3. The planning and investment sector shall consolidate, select the list and submit it to the government or provincial/ municipal authorities in accordance with their roles and scope of their rights.

The establishment of the investment calling list shall be in line with the socio-economic development plan of the Lao PDR.

Article 20: Scope of rights in approving an investment calling list

In considering an approval of project lists or investment calling activities in accordance with Article 31 of the Investment Promotion Law, the following steps shall be taken under the scope of responsibilities at each level:

- Project or activities with the value of more than US\$20 million shall be approved by the government;
- Project or activities with the value from US\$5 – 20 million shall be approved by the Ministry of Planning and Investment;
- Project or activities with the value of less than US\$5 million shall be approved by the provincial/municipal authorities.

Article 21: Investment Approval of projects or investment calling activities

In accordance with Article 32 of the Investment Promotion Law, the investment approval of projects or investment calling activities shall follow the following procedures:

- The industry and commerce sector shall approve the projects or investment calling activities for general business activities.
- The planning and investment sector shall approve the projects or investment calling activities for concession activities.

Part 6

Committee for Investment Promotion and one-stop services

Article 22: Committee for Investment Promotion

The Committee for Investment Promotion (CIP) is established to promote and manage the work related to domestic and foreign investments in Lao PDR. It consists of the central and local CIP.

The CIP is composed of the Chair, Vice Chair and members from relevant government sectors.

- The Chair of the central CIP is the Minister of Planning and Investment and the Vice Chair is the Deputy Minister of Planning and Investment who supervises investment work.
- The Chair of the provincial CIP is the Governor of the province, Mayor and the vice chair is the Vice Governor, Vice Mayor who supervises investment work.
- The members of both the central and local CIP are comprised of representatives of the following sectors: planning and investment, industry and commerce, finance, public security, labor and social welfare, foreign affairs, agriculture and forestry, energy and mines, public works and transportation, telecommunications and post, education, public health, water resources and environment, sciences and technology, national tourism, national land management, national defence, information and culture, justice and banking in Lao PDR. At the central level, the Deputy Minister and selected officials at the level of Director General and division from relevant sectors make up the members of the central CIP. For local CIP, officials at division level are the members of the local CIP.
- The Investment Promotion Department of the Ministry of Planning and Investment and the provincial/ municipal planning and investment sector serve as the machinery to assist and be the “think tank” for the CIP in facilitating the organization and activities of the one-stop service office of the planning and investment sector.
- The one-stop service at the central and local levels of the planning and investment serves the secretariat of the CIP.

The central CIP uses the same seal as the Minister of Planning and Investment, while the local CIP uses the same seal as the Governor/Mayor in their activities in accordance with their authorities as defined in the Law.

Article 23: Rights and duties of the Committee for Investment Promotion

The Committee for Investment Promotion has the following rights and duties:

- Convene weekly meetings to consider investment related activities. Some meetings may be convened based on the periodic need of the activities;
- Examine, report, consider, approve or reject investment activities in accordance with the scope of its role;
- Examine, report, consider, approve or reject amendment, transfer of shares, renewal, modifications, changes, suspension or cancellation of investment activities or the MOU, project development agreement and other concession agreements in accordance with the scope of its rights;

- Consider approval of project lists or investment calling activities in accordance with the scope of its rights;
- Sign concession registration certificate or other authorization in accordance with the scope of its rights;
- Sign any legal document such as an MOU, project development agreement and other concession agreements as assigned by the government;
- Monitor, inspect, assess, encourage and provide guidance to business corporation to properly conduct business activities in accordance with the agreement, the Law and regulations of Lao PDR;
- Monitor and inspect the promotion and management of the process of issuing investment license by the CIP at each level;
- Notify the suspension or cancellation of concession registration certificate or other authorizations that violate the Law, regulations, MOU, project development agreement or concession agreement.
- Convene concluding meetings, evaluate and draw lessons learned from the implementation of the one-stop service, promotion work and investment management on a quarterly, semi-annual and annual basis;
- Approve rewarding and disciplinary sanctions toward officials of the one-stop service office of the planning and investment sector; and
- Perform other tasks as assigned by the government.

Article 24: One-stop service office

The one-stop service office is established in accordance with Article 44 of the Investment Promotion Law. The one-stop service office located within the Ministry of Planning and Investment at the central and local levels act as the central body where representatives from the main sectors are posted, including: planning and investment, industry and commerce, finance, public security, labor and social welfare, foreign affairs and other sectors that are deemed necessary in each period as agreed by the chairman of the CIP.

The one-stop service office has the following rights and duties:

- Collect, consolidate and provide information on investment to investors by collaborating with relevant sectors;
- Provide investor clarifications on legal matters, and regulations related to investment;
- Provide clarification and guidance on the way documentation shall be prepared in accordance with the set standard forms and other documents on investment;
- Receive applications for investment in general business and concession activities;
- Receive applications for changes on a legal basis for general business and concession activities;
- Receive applications for customs duties incentives of enterprises that invest in general business and concession activities;

- Receive and provide services on application for business visa, work permit, resident permit of foreign investors and their family members, technicians and foreign workers;
- Issue a certificate of receipt of documents after confirming that the complete set of documents are provided in accordance with standard forms, and set a date for the investors or enterprises to receive a response about their submitted applications;
- Send documents and applications to the relevant sectors for further consideration;
- deliver response letters to investors, enterprise registration certificate, concession registration certificate, incentive granting certificates and other licenses mentioned above to the investors or enterprises after consideration and approval by the relevant sectors;
- Prepare meeting agenda and consolidate documents for the meeting prior to submitting the documents to the CIP for consideration;
- Issue an invitation letter to the CIP and the relevant sectors to attend the meeting;
- Record minutes of meeting and circulate the meeting resolutions to the CIP and the relevant sectors present at the meeting;
- Coordinate with the industry and commerce sector to obtain the enterprise identification code as well as with the financial sector to obtain the taxpayer identification number; and
- Perform other duties as assigned by the CIP.

The one-stop service office of the planning and investment sector at the central level is an organization located within the Investment Promotion Department of the Ministry of Planning and Investment by which the Director General of the Investment Promotion Department acts as the head of the office.

The one-stop service office of the planning and investment sector at the local level is an organization located within the Division of Planning and Investment by which the Head of Division of the Division of Planning and Investment acts as the head of the office.

For the organizations and activities of the one-stop service office located at the industry and commerce sector, special economic and specific economic zones, concerned sectors' regulations shall be followed.

Article 25: Criteria for staff of the one-stop service office

The staffs of the one-stop service office comprise staffs at division level or technical staff who have been assigned by relevant sectors and appointed by the Chair of the CIP. These staff must meet the following criteria:

1. Bachelor degree and above;
2. Have good knowledge and skills and firmly uphold the party and government's policies and guidance;
3. Have good knowledge about laws and work of the respective sector;

4. Good command of English and computer literacy;
5. Good interpersonal skills;
6. Good health.

Article 26: Rights and duties of staffs of the one-stop services office

1. Staffs of the one-stop service office shall have the following rights:
 - Attend meetings related to investment work;
 - Provide comments on the implementation of investment services;
 - Receive training, exchange lessons on the management of domestic and foreign investment;
 - Make decision as assigned by the respective sector;
 - Coordinate and follow up with responses from the respective sector in relation to the services under their responsibilities;
 - Propose suggestion to the CIP to improve coordination mechanism of their respective sector with other relevant sectors;
 - Receive awards and other benefits periodically for their contribution to investment work as appropriate;
 - Fulfill other rights as assigned by their hierarchical superior in accordance with the laws and regulations of Lao PDR.
2. Staffs of one-stop service office have the following duties:
 - Collect data and documents related to investment work and their respective sector to further submit to the one-stop service office;
 - Provide information and clarification on laws and regulations related to specialization of the respective sector;
 - Examine the complete set of required documents based on the standard forms and send them to the respective sector for further consideration in accordance with regulations;
 - Report on any matters related to their responsibilities to higher hierarchical supervisor on a daily, weekly and monthly basis;
 - Monitor and coordinate with the respective sector in providing investment services according to their rights and roles;
 - Perform other duties as assigned by their hierarchical superior in accordance with the laws and regulations of Lao PDR.

Part 7

Representative Office

Article 27: Representative Office

The Representative Office established in accordance with Article 47 of the Investment Promotion Law represents the legal entity registered in other countries

that are interested in investing in Lao PDR and want to collect data on investment and/or ensure the coordination between the relevant sectors of the government with its headquarter office abroad. The planning and investment sector at the central level considers and issues the representative office registration certificate to the Representative Office without going through a meeting with the CIP.

The representative office registration certificate includes the enterprise identification code and taxpayer identification number. The planning and investment sector ensures that coordination is carried out to obtain the enterprise identification code from the industry and commerce sector and the taxpayer identification number from the financial sector. After issuing the registration certificate to the Representative Office, the planning and investment sector shall issue permission to carve a company seal with the public security sector along with sending copies of the certificate and other relevant documents of the Representative Office to the public security sector to carve the company seal within a period not exceeding seven (7) working days and monitor the activities of the investor in accordance with their role.

For foreign legal entity that signs an MOU/agreement with the government, in the event there is no legal entity in Lao PDR, the Representative Office must be established to serve as the focal point for government agencies to ensure that coordination is facilitated with its headquarter office abroad (the company that signed the MOU/agreement with the government).

Article 28: Term of the Representative Office

The term of the Representative Office is one year and can be extended twice. The total term of the Representative Office shall not exceed three (3) years except if the parent company of the Representative Office has an MOU/agreement signed with the government to explore and collect specific data for a project. The term can be extended in accordance with the validity of the MOU/agreement signed with the government.

For a Representative Office of a mother company located in another foreign country that is registered in the stock market and receives an approval license in Lao PDR, the term can be extended three times from the date this Decree comes into force. If deemed necessary, the Ministry of Planning and Investment may consider extending the term as an exceptional case.

Upon completion of the term of the Representative Office, if the company wishes to further invest, it shall submit its application in accordance with the laws and regulations of Lao PDR.

The term of the Representative Office may be terminated before the period defined in the Enterprise Registration Certificate issued to the Representative Office upon the request of the investor or upon the approval of the planning and investment sector in the event the investor or the Representative Office carries out activities that infringes the laws and regulations of Lao PDR.

Article 29: Scope of the rights and duties of the Representative Office

The Representative Office has the following rights and duties:

- Collect data and conduct a feasibility study for investment;
- Serve as the focal point within the country and facilitate communication and activities coordination with the parent company;
- Monitor the implementation of the MOU and agreement;
- The representative of the foreign legal entity that signed an MOU/ agreement with the government has the right to enjoy tariff incentive for importing equipments in the form of machineries and vehicles for specific purposes as stipulated in the MOU or agreement.

Article 30: Prohibited activities for the Representative Office

The Representative Office is prohibited to conduct the following activities:

- Conduct business or carry out commercial activities beyond the approved activities in accordance with the provisions of this Decree;
- Generate income;
- Issue receipts or invoices for any revenues or incomes;
- Make a self-assessment that the office is not in the position to provide reimburse its liabilities in a timely manner and make self-declaration of bankruptcy.

Part 8

Incentives related to Duties and Taxes

Article 31: Promoted activities

In accordance with Article 49 of the Investment Promotion Law, the Ministry of Planning and Investment shall collaborate with relevant sectors at the central level to examine and create a detailed list of promoted activities and submit it to the government for approval. This list shall be attached to this Decree as Annex 1 and may be amended to be consistent with the reality of each period.

Article 32: Investment promoted zone

The Ministry of Planning and Investment in collaboration with local authorities and relevant sectors at the central level examines and draws up a detailed list of investment protected zones in each period and submits it to the government for consideration and approval. This list shall be attached to this Decree as Annex 2 and may be amended to be consistent with the reality of each period.

Article 33: Tax incentives

The investment in promoted activities and investment promoted zones as set out in Annex 1 and 2 of this Decree shall be exempted from profit tax as defined in Article 51 of the Investment Promotion Law.

The incentive and duration of profit tax exemption is determined in the concession or enterprise certificates. The duration for profit tax exemption starts from the date the company generates revenue.

For import of raw materials, equipment, machineries, and spare parts as well as vehicles for direct production, services, building factories, buildings, project design, construction or project development, it shall follow the laws and regulations of Lao PDR.

Article 34: Profit tax exemption for the production activities of new products, research and new technology development

Production activities of new products refer to the production and processing of raw materials within the country to produce a new product under a new brand by using a new process and technology in the production and processing stage. The modern process and technology as well as the new products shall be approved and certified in terms of their quality and international standard (ISO or any internationally used standard) by relevant organizations. The duration of the tax exemption for the production activities of new products start from the year the profit is made. In the event the operations have not been certified within three (3) years, the duration of profit tax exemption shall start from the date of business operation.

Research and new technology development refer to the investment activity in the construction research centers and laboratories, scientific testing centers to develop and invent new products as goods. The duration of the profit tax exemption for the production activity of new goods shall start from the date profit is made.

Article 35: Profit tax exemption for reinvested profit

Any enterprise that is operating beyond the profit tax exemption period and uses the net profit after clearing annual profit tax for the purpose of reinvesting in additional activities or extending business activities will be exempted from the profit tax in the following year within one year period based on the profit rate used to reinvest compared to the actual capital available at the closing of the financial year.

Article 36: Deferment of annual losses to be deducted from profit of the following year

If a business that declares to pay profit tax according to the expanded accounting system or basic accounting system and executed this accounting in accordance with the Law on Accounting, experienced losses in business which is certified by the audit organization or audit company accredited by the government of Lao PDR and confirmed such losses by the Tax Department , the business shall have the right to defer the loss value to be deducted from the profit of the following year within three

(3) years. Beyond this period, the remaining loss value cannot be deducted in the following year.

Article 37: Customs duty exemption

Business that invests in promoted activities as defined in Annex 1 and concession activities as defined in Annex 3 of this Decree shall be exempted from customs duties for import of raw material, equipment, machineries and vehicles to be used for direct production. Business entity concerned shall make an annual import plan and submit it to the financial sector at the central or local levels or send it to the one-stop service office of the planning and investment sector at the central or local level on a case by case basis.

For domestic and foreign investment enterprises that have received investment licenses before the Investment Promotion Law No. 02, dated 8 July 2009, and wish to enjoy the provision of the Decree related to customs duty exemption, they shall proceed with the same procedures as mentioned above.

Article 38: Procedures for considering customs duty exemption

The consideration of customs duty exemption shall be on the basis of the approval of the company's annual import plan and the following procedures shall be followed:

1. Provide documentation in accordance with the print form for annual import plan defined by the financial sector;
2. After the financial sector receives the complete set of documents, the documents shall be sent to the relevant sectors for further examination and submission to the management of concerned sectors for guidance;
3. Relevant sectors shall provide comments in writing to the financial sector within 10 working days. If no response is received within that time period, the documents are considered approved by the sector;
4. Afterwards, the financial sector convenes a joint meeting with the relevant sector to consider the approval of the annual import plan and issue the certificate to the business entity within 30 working days from the day the application is received.

The approved annual import plan can be amended one time to be consistent with actual business situation.

For unplanned imports, in particular the import of equipment, urgent spare parts to replace faulty parts with a value not exceeding US\$30,000, the approval shall not be granted more than twice a year. The financial sector is assigned to consider and approve the plan. If the total value exceeds US\$30,000, further discussion shall be held with the relevant sectors for further submission to higher authority for approval.

5. The financial sector shall send the approved annual import plan to the border check point dealing with the imports in order to manage, inspect each actual

import and record in monitoring book and prepare and submit monthly and quarterly reports to the financial sector, industry and commerce sector as well as the planning and investment sector.

Article 39: Import tax exemption for construction items and machineries for production

Import of construction items and tools are authorized only for the construction of factories and buildings that are fixed assets of the enterprise only. For the quantity of the construction items and tools imported, it should be based on the model, design, construction works sheet that have been approved by relevant sectors.

The authorization for import of machineries for productions shall be based on the real need in accordance with the feasibility study or business plan upon the approval of the relevant sectors.

Article 40: Import tax exemption for equipment and spare parts to replace machines for production

The import of equipment and spare parts of machines for production included in the enterprise's approved annual import plan is exempted from import tax duties.

Article 41: Customs duty exemption for office equipment

The office equipment used to start up the business activities such as computers, printers, photocopy machines, fax machines are authorized to be exempted from any customs duty only one time in accordance with the feasibility study or business plan approved by the relevant sectors. For subsequent imports, customs duty shall be declared and paid according to Customs and Tax Laws.

Article 42: Customs duty exemption for vehicles to be used for production

Vehicles to be used for production and direct services which is in line with the investment activities and work are authorized to be imported and exempted from customs duty. The authorized number of vehicles to be exempted from customs duty shall be consistent with the real volume of work of each project that has been approved by relevant sectors.

Customs duty exemption for vehicles to be used for production shall follow a specific regulation of the Ministry of Finance.

Article 43: Temporary import of machineries, equipments, spare parts and office supplies

For temporary import of machineries, tools, equipments for production, survey-design, construction or project development, only items that will be used during the lifetime of the work or the project are authorized and can be re-exported at the same initial number and in accordance with the warranty agreement only. For example lab

equipments, generators, water pumps, professional tools, back-up electricity supplies, water tanks, gallons, asphalt tanks, fans, clippers, saws, iron models, etc.

For construction items and repair tools, used spares, that cannot be re-exported at the same initial volume compared to when they were imported as they were used in the project, these are not authorized for temporary import such as iron bars, cement, stick welding rod, combustible rock, tires, inside spare parts of machine, equipment, etc.

Article 44: Temporary import of vehicles

Domestic and foreign legal entities that sign an MOU or agreement with the government for a feasibility study, exploration and design of a project can temporarily import vehicles to be used for direct and indirect production in accordance with Customs and Tax Laws.

Foreign legal entity that intends to temporarily import vehicles shall first establish a Representative Office as stipulated in Article 27 of this Decree.

Article 45: Policy on access to funding sources

Any enterprise wishing to borrow money from domestic funding sources shall pay its initial registered capital as set out in Article 4 of this Decree.

Any enterprise can borrow money from commercial banks and financial institutions in Lao PDR in accordance with the regulations of the respective commercial banks and from overseas sources as set forth in the laws and regulations of the Bank of Lao PDR.

Article 46: Specific incentive

Any enterprise that receives specific incentive in accordance with Article 54 of the Investment Promotion Law is promoted activity level 1 of Annex 1 of this Decree.

Part 9

Information and land use right incentives

Article 47: Information incentive

Information incentive, as stipulated in Article 57 of the Investment Promotion Law, is that domestic investors, foreign investors and enterprises may obtain investment related information through websites and from one-stop service offices of the planning and investment sector, industry and commerce sector at the central or local level, Special Economic Zones and Specific Economic Zones, Lao Embassies, Lao Consulates or Representative Office of Lao commerce abroad.

Article 48: Land use right incentive

The land use right incentive in accordance with Article 58 of the Investment Promotion Law refers to the authorization granted to foreign investors to purchase land use rights from the state for a maximum area not exceeding 800 square meters for the purpose of building for habitation or enterprise offices, except for the land the investors rent or has as concession from the government or rent from Lao citizens to conduct business activities in conformity with laws and regulations.

Article 49: Application for land use right incentive

Foreign investors who invest in infrastructure projects in Lao PDR and wish to acquire land use right from the government's allocated land shall submit their application with the following documents: enterprise registration certificate or concession registration certificate and other documents required by the provincial/municipal land management authority certified by the planning and investment or the industry and commerce sector that issue the enterprise registration certificate or concession registration certificate. In any case, foreign investors are not allowed to acquire land use right that is not allocated by the government or acquire directly from individuals or legal Lao entity.

Article 50: Land use right acquisition criteria for foreign investors

Foreign investors investing in infrastructure projects in Lao PDR and wishing to acquire land use right shall fulfill the following conditions:

1. Registered capital of US\$500,000 or above with certification from the Bank of Lao PDR of actual value of capital imported consistent with the registered capital;
2. The land shall be allocated by the government and the area shall not exceed 800 square meters;
3. The land shall be used for habitation or offices for business operations;
4. it is allowed to purchase land use right only one time per enterprise regardless of the number of enterprise units established in Lao PDR; If the enterprise has more than two shareholders or expand its investment branches, it is allowed to purchase land use right under the name of one legal entity only and to purchase land use right with the government only once.

Article 51: Consideration of land use right acquisition for foreign investors

After the provincial/municipal land management authority receives a proposal from foreign investors to acquire land use right, the authorities shall review all documents and conditions proposed by the investor to ensure that it is properly and thoroughly in accordance with Article 58 of the Investment Promotion Law and Articles 49 and 50 of this Decree. If the documents are correct and sufficient, the provincial or municipal land management authority where the land is located shall inspect the actual location by collaborating with the concerned provincial or municipal agencies, and report back

to the leading committee of the provincial or municipal administrative organization in order to consider approval in accordance with regulations.

After the proposal is approved by the leading committee of the provincial or municipal administrative organization, the provincial or municipal land management authority where the land is located shall issue a land title for the foreign investor making the request to purchase land use right by specifying the name of the individual or company and the duration of land use right on the land title.

Article 52: Right and interest of foreign investors who have acquired land use right

Foreign investors who have acquired land use right have the following benefits:

1. Use the land based on the approved purpose and within the timeframe defined in the concession agreement or in a specific law and regulation of Lao PDR; for foreign investors who invest in general business activities, the term of land use right shall be implemented in accordance with the duration of the land lease or land concession as specified in the Land Law by which the term of land use right is properly defined in the land title.
2. Transfer land use right ownership to other investors who fulfill all required conditions as set out in Article 50 of this Decree shall be certified by the planning and investment or the industry and commerce sector. The term of land use right for the new owner shall not exceed the remaining term specified in the land title.
3. Use of land use right ownership as a collateral to secure repayment of loan for banks or financial institution entity in Lao PDR;
4. Transfer or sell premises under the investor's ownership to other individuals or legal entities in accordance with the laws and regulations of Lao PDR.

Article 53: Obligation of foreign investor who have acquired land use right

Foreign investors who have acquired land use right have the following obligations:

1. Pay land use right acquisition fee for the government only one time based on the market price where the land is located when land use right is acquired;
2. Use the land in accordance with the approved purpose, pay fee for transferring land use right ownership, pay annual land use fee based on the rate defined in the laws and regulations of Lao PDR;
3. Refrain from degrading land quality, negatively affecting natural and social environment;
4. Refrain from violating the rights and interests of others;
5. Prior to the expiration of land use right, the investors shall propose to the provincial or municipal land management authority about the purpose of using their premises within 45 working days by following the described procedures on a case by case basis below:

- In case the investors wish to continue using the premises under their ownership but the land use right term indicated in the land title is already expired, the investors shall have to rent or acquire land use right where their premises is located from the government by paying land use right acquisition fee for the government based on the market price at the time purchase and follow procedures specified in Article 51 of this Decree. The term of land use right acquired from the government in this case shall not exceed the extended term of the investment.
- In case foreign investors wish to transfer or sell premises under their ownership on the land to individuals or other investors, they shall pay all fees in accordance with the laws and regulations of Lao PDR. If the buyer is an individual, she/he shall rent the land from the government. However, if the buyer is a foreign investor who fulfills all required conditions as specified in Article 50 of this Decree, the foreign investor can rent or acquire such land use right from the government by following the provisions of Article 49 of this Decree and in accordance with relevant laws. With regard to the rental or land use right terms of the buyer, the conditions defined in Article 52, point 1 of this Decree shall be fulfilled. If the investor fails to sell the premises on the land within one year starting from the date the investor notifies his/her purposes to the land management authority, or within one year after the expiration of the land use right term, the land use right and the premises will be considered as government property.

6. Strictly implement the laws and regulations of Lao PDR.

Part 10

Management of investors and family of foreign investors in Lao PDR

Article 54: Application for labor import and registration of foreign workers

For the recruitment of workers as indicated in Article 66 of the Investment Promotion Law, enterprises wishing to import foreign workers shall follow the following procedures:

1. Submit a project's work plan to use foreign worker to the planning and investment sector;
2. Request an approval for importing foreign workers from labor and social welfare sector;
3. Submit the list of foreign workers to the public security of Lao PDR to review;
4. Through the Ministry of Foreign Affairs, submit the application for business visas to the Lao Embassies or Lao Consulate abroad except for special cases when the visas can be obtained at the international border check points.

Enterprises who wish to request an approval for registering foreign workers entering Lao PDR shall follow the following steps:

1. Apply for work permit with the Ministry of Labor and Social Welfare or provincial or capital Department of Labor and Social welfare;
2. Apply for resident permit or temporary stay permit with the immigration office of the Ministry of Public Security;
3. Apply for multiple entry visas from the Ministry of Foreign Affairs of Lao PDR.

The aforementioned applications for immigrant workers and registration of foreign workers can be submitted to the one-stop services office of the planning and investment sector.

Article 55: Conditions and procedures for business visa applications

Foreign investors and their family members, shareholders, directors, deputy directors wishing to apply for business visas to conduct business activities in the enterprise located on territory of Lao PDR shall fulfill the following conditions:

- Be a legitimate investor in accordance with the laws and regulations of Lao PDR;
- Indicate that shareholders, directors, deputy directors are listed in the Article of Incorporation or organization of the corporation approved by the planning and investment or industry and commerce sector;
- Clear resume; not escaping from any court proceeding by coming and investing in Lao PDR;
- Follow the laws and customs of Lao PDR;
- Be in good health; free from contagious diseases which are prohibited by the World Health Organization;

Investors and their family members, shareholders, directors, deputy directors wishing to apply for business visas shall complete the form (s) provided by the one-stop service office of the planning and investment sector.

Article 56: Applications for registration or resident permit for investors and their family members, shareholders, directors, deputy directors, experts, technical staffs

Enterprises wishing to register and apply for a resident permit for the investors and their family members, shareholders, directors, deputy directors, experts, technical staffs shall provide a list of their staffs as well as their positions, nationalities, working period in Lao PDR and submit it to the one-stop service office of planning and investment sector for consideration.

Enterprises that fail to fulfill the above conditions shall not be allowed to reside/remain in Lao PDR.

Article 57: Consideration of resident permit issuance and its renewal

The consideration of issuing resident permit and renewal as specified in Article 67 of the Investment Promotion Law shall be implemented in accordance with the Decree on the management of entry – exit of Lao PDR and the management of foreigners' No. 136/PM, dated 25 may 2009.

Article 58: Obligations of investors

The obligations of the investors to hold accounting, pay customs duties and taxes as defined in Article 69 point 1 and 2 of the Investment Promotion Law shall follow the steps described below:

- Declare all taxes in accordance with actual business activities and under proper conditions, within timeframe as defined in the Law on Taxes;
- Use invoices based on the Decree on Invoices;
- Hold accounting as defined in the Accounting Law of Lao PDR. If deemed necessary, other internationally accepted accounting systems can be used but should be subject to approval from the financial sector;
- Prepare a Statement of Account of the previous year and make a business activity plan as well as tax payment plan for next year to notify the taxation sector where the enterprise is located before 31 March of every year, and request for the certificate of annual tax clearance to be included in other official documents.

Part 11

Decentralization

Article 59: Investment decentralization

The investment management authority is divided into two levels: central and local levels.

- The central investment management authority is composed of the Ministry of Planning and Investment, the Ministry of Industry and Commerce, the National Steering Committee for Special Economic Zone Projects in Lao PDR and central relevant ministries - authorities under the guidance of the government;
- Local investment management authority is composed of the Planning and Investment Division, Industry and Commerce Division and other relevant agencies at the local level.

The Ministry of Planning and Investment, the Ministry of Industry and Commerce, the National Steering Committee for Special Economic Zone Projects in Lao PDR and relevant ministries - authorities at the central level have the rights and duties as stipulated in Article 86, 90 and 91 of the Investment Promotion Law.

The Planning and Investment Division, the Industry and Commerce Division and other relevant agencies at local level have the rights and duties as stipulated in Article 87, 88 and 91 of the Investment Promotion Law.

Article 60: Responsibilities of investment management authority

The investment management authority at each level has the following responsibilities:

- **At the central level:** responsible for the macro management, encourage, monitor and inspect the implementation of the investment promotions effort at the local level, special economic zones and specific economic zones.
- **At the local level:** manage, monitor, inspect and assess the investment that are under the areas of their responsibilities, including projects or activities approved by the central authority located in their area with close coordination with relevant sectors in the provinces and report to the central authority.

Article 61: Management of relevant sectors

The concerned sectors at the central and local level shall take the lead in management, monitoring and inspection of the projects or technical investment activities that are under their responsibilities and periodically report assessment results to the sectors that issue the licenses.

Part 12

Summary and report on investment information

Article 62: Information summary

For the information summary and report on the investment work as defined in Article 86, point 9 of the Investment Promotion Law, the planning and investment sector in collaboration with the industry and commerce sector, the financial sector, the Bank of Lao PDR, defines the mechanism for collecting information on investment activities nationwide by creating a standardized form for a systematic and uniform collection of investment statistics under the following responsibilities:

- The planning and investment sector at the central and local level shall collect information on investment or investment statistics in concession activities under their responsibilities;
- The industry and commerce sector at central and local level shall collect investment statistics in general business activities, and serve as the national database on business units;

- The financial sector at the central or local level shall collect statistical data on the payment of profit tax, import value, amount of customs duty and tax payment for import of items, machineries, vehicles for direct production, other imports of other enterprise received and did not receive promotion treatment.
- The Bank of Lao PDR shall collect data on imported capital of enterprises.

Article 63: Report on Investment work

The industry and commerce sector, financial sector, the Bank of Lao PDR shall regularly consolidate and summarize statistical data and the status of the implementation of investment work that is under their responsibilities on a monthly, quarterly, semi-annual and annual basis and submit it to the planning and investment sector for further consolidation and report to the government.

If deemed necessary, all parties responsible for the investment work shall have to summarize statistical data and the status of the implementation of investment work periodically based on real needs.

Article 64: Report on the enterprise activities

Reporting the activities of the enterprises should follow the following procedures:

- Businesses that invest in general business activities shall report on their activities to the industry and commerce sector every six months and annually;
- Businesses that invest in concession activities or have an MOU or agreement with the government shall report to the planning and investment sector on the status of their activities every six months and annually as set out in the MOU or agreement.

Part 13

Acknowledgment of previously approved enterprise investment

Article 65: Acknowledgment of previously approved enterprises investment

Enterprises that received investment license or signed concession agreement before the Investment Promotion Law No. 02/PM, dated 8 July 2009 was officially promulgated and entered into force, are legitimately acknowledged for their rights and obligations as set forth in the domestic investment licenses or foreign investment licenses or concession agreements until the end of those investment terms.

Previously approved enterprises that wish to receive investment incentives in accordance with the Investment Promotion Law No. 02/PM dated 8 July 2009, shall submit their request within 90 working days from the date this Decree is promulgated to the following sectors:

- Businesses that invest in general business activities shall submit their request to the industry and commerce sector;
- Businesses that invest in concession activities shall submit their request to the planning and investment sector.

Article 66: Confirmation and approval of amendment to legal documents

Enterprises that received investment licenses before and after this Decree and wish to amend any legal document shall make a formal request for confirmation and approval of any changes on a legal basis change from the following authorities:

- Businesses that invest in general business activities shall make a request to the industry and commerce sector;
- Businesses that invest in concession activities shall make a request to the planning and investment sector where the enterprise was approved to sign the agreement.

Part 14

Policies toward those who performer well and measures against violators

Article 67: Policy toward those who perform well

Policy toward those who perform well as specified in Article 96 of the Investment Promotion Law shall follow the policies below:

- Individuals or organizations from both public and private sectors that have outstanding performances in implementing the Investment Promotion Law and attracts and encourages investment will receive award or other incentives in accordance with regulations and upon the proposal of relevant sectors;
- Domestic and foreign Investors that have outstanding performances in conducting business activities in accordance with the laws of Lao PDR particularly in ensuring effective investment, fulfilling obligations, contributing to the country's socio-economic development, utilizing and upgrading Lao workers' skills, contributing to poverty reduction, particularly in remote areas, protecting environment, preserving and promoting national traditions will receive award or other incentives based on the regulations and upon the proposal of the relevant sectors.

Article 68: Measures against violators

Measures against violators as set forth in Article 97 of the Investment Promotion Law shall follow the procedures described below:

- Any individual who violates the Investment Promotion Law, hinder or obstruct the documentation process, neglect the assigned responsibilities shall be educated, disciplined or sued in accordance with the Laws and regulations of Lao PDR;
- Domestic and foreign investor who violates the law of Lao PDR shall be given a warning and will be subject to the following procedures:
 1. For the first offense, violator shall be warned, educated and advised to ensure the right implementation with a written record;
 2. For the second offense, measures will be imposed in accordance with the procedures defined in the Law as follow:
 - Business entities that do not use invoices or use invoices but do not conform with the Decree on Invoices; do not hold any accounting or hold improper accounting systems as specified in the Accounting Law of Lao PDR shall be imposed measures as defined in the Decree on Invoices, Accounting Law and Tax Law;
 - In case business entity does not fully fulfill its obligation, the financial sector shall not issue a tax clearance and shall not approve the import plan for raw materials, equipments, machineries and vehicles to be used for direct production until the business entity fulfils its tax obligations under the law. The financial sector has the right to propose to the planning and investment or industry and commerce sector to temporarily suspend the enterprise's activities.
 - Business entities that conduct business activities but do not declare taxes that are related to their business activities or make declaration beyond the specified timeframe or does not reflect the actual business activities; and the enterprises have already been educated, advised, warned about the proper implementation, issued a follow-up notice and a warning notice for tax declaration by the tax department, but they still do not declare tax for a period of one year, the tax department shall propose to the planning and investment or industry and commerce sector to revoke concession registration certificates or enterprise registration certificates.

After receiving a notice from the tax department, the planning and investment or industry and commerce sector shall consider revoking concession registration certificate or enterprise registration certificates of the enterprise within one month or prosecute the case in accordance with the judicial process on a case by case basis.

Final Provisions

Article 69: Implementation

The planning and investment, industry and commerce, finance and banking sectors together with other relevant sectors have duties to strictly implement this Decree.

Article 70: Effectiveness of the Decree

This Decree supersedes the Decree on the Implementation of the Law on Domestic Investment Promotion No. 300/PM, dated 12 October 2005 and the Decree on the Implementation of the Foreign Investment Promotion No. 301/PM, dated 12 October 2005 and enters into force from the date of signature.

Prime Minister of Lao PDR

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