

DECREE
ON ENVIRONMENTAL IMPACT ASSESSMENT

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LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY
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Prime Minister's Office

No 112/PM

Vientiane Capital, Date: 18 February, 2010

DECREE
ON ENVIRONMENTAL IMPACT ASSESSMENT

- Pursuant to Law on Government of the Lao People's Democratic Republic, No. 02/NA, dated 06 May 2003,
- Pursuant to Law on Environmental Protection, No. 02/99/NA, dated 03/04/1999,
- In conformity with the proposal of Minister to Prime Minister's Office, President 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 disseminate and implement Article 8 of Law Environmental Protection, in relation to Environmental Impact Assessment;
- To lay down principles and rules, and adopt measures on establishment, functions, management and monitoring (of the concerned agencies in) environmental impact assessment;
- To ensures that all investment projects of the State and private sector, both domestic and foreign, operating in Lao PDR (hereafter called 'investment projects') which create or will create adverse environmental and social impacts, are designed with the right 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 the national socio-economic development, to make it sustainable.

Article 2: Scope of application

This Decree is applicable to all investment projects which are divided into two categories, in which the Water Resources and Environment Administration shall review and improve the categorisation accordingly from time to time, in collaboration with line ministries:

- Category 1: Investment projects which are small or create less impacts on environment and society, but require initial environmental examination;
- Category 2: Big - sized investment projects which are complicated or create substantial impacts on environment and society, requiring environmental impact assessment.

Article 3: Terminological interpretation

The terms used in this Decree have the following meanings:

- (1) **Initial environmental examination (IEE)** means initial study, survey, research, and analysis of data to estimate initial impacts on the environment and society, including impacts on health which may arise from investment projects in Category 1, as provided in Article 2 of this Decree, as well as adopting measures to prevent and minimise possible impacts on environment and society.
- (2) **Environmental impact assessment (EIA)** means studying, surveying, researching-analysing, and estimating of possible positive and negative impacts which may have 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.
- (3) **Project screening** means research 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.
- (4) **Scoping the extent of environmental impact assessment** means the process to determine the scope of the environmental impact examination and the data needed to be collected and analysed, to assess the impacts of the investment project on environment, in which, such examination requires terms of reference (TOR) to prepare a report on environmental impact assessment.
- (5) **Terms of reference** means all works needed to be done when carrying out environmental impact assessment, subject to the specified extent of the assessment.
- (6) **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.
- (7) **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, minimization 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.

- (8) **A project developer** means a natural person, legal entity or organization, from the public or private sector, who/which is licensed to undertake study, survey, design, construction and operation of an investment project.
- (9) **Stakeholders** mean natural persons, legal entities or organizations 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.
- (10) **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.
- (11) **The ones who are affected by the investment project** means a natural person, legal entity, or organisation who/which are directly or indirectly affected by the investment project 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.
- (12) **The host village** means a village which accepts migration of the people who are affected by an investment project.
- (13) **Migration and restoration of living condition** means:
- Measures to minimise negative impacts on the society, as well as on the 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'¹ in the new 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 improve living standard further, or at least, not worse than before the existence of the investment project.
- (14) **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).
- (15) **An ongoing project** refers to a project which is under constructing or mining, and producing.
- (16) **A complicated project** refers to an investment project which has substantial impacts on the environment and society, including impact beyond border or accumulative impact on other investment project, and in which complicated technology is applied.

¹ The literary meaning of this phrase in Lao language is 'new production basis', but the drafter refers this phrase to new 'cultivation land', 'irrigation system', farmhouse, and so on, to be used in agricultural production and farming - the translator.

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 environmental compliance certificate, before any contract of mining and extracting of mineral substances or constructing can be concluded, or before any business license can be issued; and then they can start clear the area, construct or implement the project.
- (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 people who are² (will be) affected 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 who are (will be) affected by an investment project and other persons involved in preparation and examination 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 examining of a report on initial environmental examination, including measures to prevent and minimise impacts on the environment and society or a report on environmental impact assessment, an environmental management plan, a social management and monitoring plan, as well as implementing and overseeing the implementation of measures to prevent and minimise the impacts on the environment and society, or an environmental management and monitoring plan, and a social management and monitoring plan;

² The literal meaning of the Lao text is 'the people who are affected by...' but, in fact, it should be 'the people who will be affected by...' or 'the people who are likely to be affected by...' because at the time the initial environmental study or assessment is being conducted, there is no impact yet, except a investment project which has been operated without environmental compliance certificate, in which initial environmental examination is conducted after the project has been implemented for a certain period of time - translator.

- 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 examination (or deliberation) 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 impacts on the environment and society 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 procedural circle of investment project, in consistent with the laws of the concerned agencies.

Article 6: Screening of investment projects

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

- (1) A project developer must utilise an investment project account which is divided 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, in consistent with the investment project approval procedure of the concerned agencies.
- (2) In relation to an investment project which is neither in Group 1 nor in Group 2, as mentioned in Article 6(1) above, but is likely to affect environment and society, the project developer must submit 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 impacts on environment and society 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 shift production process;

- An investment project which is likely to create impacts on the conservation forest, protection forest, and regeneration forest, biological, cultural and historical preservation areas, and other conservation zones.
- (3) The Water Resources and Environment Administration shall screen the investment project, in coordination with the concerned sectoral agencies³, 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 assessment of its impacts on the environment;
 - 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 the ones who are affected by an investment project, and of other stakeholders

The people (residents) who are (will be) affected by an investment project and other stakeholders have the following rights and duties:

- (1) To receive information on development plan of the investment project, the benefits that they will receive and impacts on environment and society which may arise from the investment project;
- (2) To give 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 impacts on the environment and society, or in preparing a report on environmental impact assessment, an environmental management and monitoring plan, and a social management and monitoring plan;
- (3) To receive information on (contained in) the report initial environmental examination, including measures on prevention and minimisation of impacts on the environment and society, 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;
- (4) To participate in the consultation meetings at all levels to deliberate 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).
- (5) To participate in discussions on compensation, migration - resettlement, and restoration of the living condition of the people who are affected by the investment project;

³ The term “sectoral body” or “sectoral agencies” is used in many Lao laws to refer to the cluster of government ministries or agencies engaged in a particular activity

- (6) 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;
- (7) 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: Involvement process

The Water Resources and Environment Administration, local administrations, the sectoral bodies who are in charge of investment, and a project developer have a joint responsibility to ensure the participation of the people who are (will be) affected by an investment project, and other stakeholders, in consistent with the process of initial environmental examination or environmental impact assessment, as follows:

- (1) 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 impacts on the environment and society, as well as to collect opinions of the people who are (will be) affected by the investment project;
- (2) During preparation and examination of the report on initial environmental examination, including measures to prevent and minimise the impacts on environment and society 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 sectoral bodies in charge of investment, 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 people who are (will be) affected by the investment project and other stakeholders to share their opinions and give comments on the report and plans, since the first drafts until the final drafts.
- (3) During survey-exploration, construction and operation of the project, the project developer must inform the people (local residents) who are (will be) affected by the investment project and other stakeholders of the project activities which are likely to affect the environment and society, 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 people who are (will be) affected by the investment project and other stakeholders to access general information of the project.

Chapter 3

Initial Environmental examination

Article 9: Duties of the Water Resources and Environment Administration, local administrations, sectoral bodies in charge of investment, concerned sectors, and project developers on initial environmental examination.

- (1) The Water Resources and Environment Administration has duties:
 - a. To issue environmental compliance certificates to approve the initial environmental examination proposed by the sectoral bodies in charge of investment;

- b. To participate in field inspections and participate in consultation meetings at district level. The Water Resources and Environment Administration may nominate Provincial or Prefectural Water Resources and Environment Divisions to participate on its behalf.
 - c. To coordinate with the concerned sectoral bodies and issue guideline on practical implementation;
- (2) Local Administrations have duties:
- a. To issue environmental compliance certificates to certify reports on initial environmental examination, based on the verification of the Water Resources and Environment Administration;
 - b. To cooperate with and facilitate project developers in surveying and collecting information to prepare reports and in organising consultations with the people who are affected by the investment project and other stakeholders;
 - c. To cooperate in the information dissemination process, and encourage people who are affected by an investment project to access the objectives of the project, expected benefits and the environmental and social impacts which might occur from the project.
- (3) The sectoral bodies in charge of investment projects have duties:
- a. To lead field inspection (if needed), and together with people who are affected by investment projects and other stakeholders, participate in consultation meetings, at the village and district level, which are organised by project developers, in the cooperation with local administrations.
 - b. To examine reports on initial environmental examination, in coordination with local administrations and concerned sectoral bodies, make written comments and then report to the Water Resources and Environment Administration.
- (4) The sectoral bodies have a duty to give 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.
- (5) A project developer has duties as follows:
- a. 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 people who are (will be) affected by the investment project and other stakeholders, at village and district levels;
 - b. To follow Guidelines on Involvement without the use of threat, coercion, force, violence, bribery and deception;
 - c. In coordinate with the local administration and the sectoral bodies in charge of investment, 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;

- d. To prepare a report on initial environmental examination consisting of measures to prevent and minimise the impacts on environment and society;
- e. In coordination with the local administration, the sectoral bodies in charge of investment, to organise consultation meetings at village level, with participation of the people who are (will be) affected 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 people who are affected by the investment project and the persons involved to comment on it, before organising consultation meetings at the district level;
- f. In collaboration with the local administration and the sectoral bodies in charge of the investment, to organise **consultation meetings at district** level, with participation of the representatives of the people who are 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 sectoral bodies in charge of investment to examine further;
- g. The report on initial environmental examination which will be proposed to examine 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 examination of reports on initial environmental examination are as follows:

- (1) 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 sectoral bodies in charge of investment;
- (2) The sectoral bodies in charge of investment shall examine the report within 10 public working days and inform the project developers in writing, as follows:
 - a. 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;
 - b. The project developer to revise the report further, in case it found that the report on initial environmental examination is not comprehensive enough.
- (3) Examination of a report on initial environmental examination must be carried out within 50 public working days, since 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, which has procedure as follows:
 - a. The sectoral bodies in charge of investment will send the initial environmental examination to the local administration and concerned agencies within 5 public working days for comments;
 - b. The concerned agencies must send their comments to the sectoral bodies in charge of investment 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 waived the right to give comments;

- c. The sectoral bodies in charge of investment 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;
- d. The Water Resources and Environment Administration will consider and choose to act in one of the following manners accordingly:
 1. To issue the environmental compliance certificate to approve the report on initial environmental examination;
 2. 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 impacts on the environment and society, to continue to assess the impact on the environment;
 3. 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 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 does 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) in the assessment of impacts on environments 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 references 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

- (1) The Water Resources and Environment Administration has following duties:
 - a. To give technical guidelines on preparation of reports on the environmental impact assessment, management and monitoring plans (EMMP), and management and social monitoring plans (SMMP);
 - b. In collaboration with the local administration and the concerned agencies, to conduct field survey, and together with the people who are affected by the project and other stakeholders, to participate in the discussions at village and district levels;
 - c. To be an active coordinator in organising discussion meetings at provincial or prefectural level, examine reports on the environmental impact assessment, management and monitoring plans (EMMP), and management and social monitoring plans (SMMP), consider and issue environmental compliance certificate to approve the reports and plans.
- (2) The concerned agencies have following duties:
 - a. To give technical comments on reports on the environmental impact assessment, management and monitoring plans (EMMP), and management and social monitoring plans (SMMP);
 - b. To participate in discussion meetings, at district level (provincial or prefectural sectoral offices participate), at provincial or prefectural level (ministerial sectoral offices participate);
 - c. Together with the Water Resources and Environment Administration, to participate in field surveys.
- (3) Local administrations have the following duties:
 - a. To cooperate with and facilitate project developers in field surveying and in collecting data and information to prepare reports;
 - b. To organise consultation meetings with those who are affected by the investment project and other stakeholders;
 - c. 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;
 - d. To deliberate management and monitoring plans (EMMP), and management and social monitoring plans (SMMP) before the Water Resources and Environment Administration will issue environmental compliance certificates to approve those plans.
- (4) A project developer has the following duties:
 - a. To comply with the scope of the study and the terms of references approved by the Water Resources and Environment Administration;
 - b. 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 people who are affected by the investment project and other stakeholders, at village, district, and provincial or prefectural levels;

- c. 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 biology, including architectural and cultural heritages and antiques/antiquities, and incorporate into a report on the environmental impact assessment;
- d. In collaboration with local administrations such as the District Water Resources and Environment Offices, the Provincial or Prefectural 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;
- e. To prepare a report on environmental impact assessment, a management and monitoring plan (EMMP), and management and social monitoring plan (SMMP) which include assessment of impacts on health and health management measures;
- f. In collaboration with local administrations like District Water Resources and Environment Offices, to organise meetings at villages, with participation of the people who are affected by the investment project and other stakeholders to deliberate the first draft of report on the environmental impact assessment, of management and monitoring plan (EMMP), and management and social 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 villagers who are affected by the investment project and other stakeholders to revise them before district meetings;
- g. In collaboration with the local administrations like Provincial or Prefectural Water Resources and Environment Offices, to organise district-level meetings, with participation of the representatives of those who are affected by investment projects, from each village, the concerned provincial or prefectural 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, the environmental management and monitoring plan (EMMP), and the management and social monitoring plan (SMMP) shall be made in both Lao and English, before submitting them to the Water Resources and Environment Administration to examine;
- h. 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 examination 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

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

- a. 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 national agency.
 - b. Measures to prevent, minimise, and solve problems, and to restore environmental condition which stipulated in the report on the environmental impact assessment throughout the period of construction and operation of the project;
 - c. 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;
 - d. A plan for plantation of trees, restoration of forest and conservation of forest areas where are the originating sources of water;
 - e. A schedule and a budget for implementation of the environmental management and monitoring plan, including financial mechanism and budget available for each activity;
 - f. In relation to a hydropower project, there must be a plan to clean up biological substances from the reservoir area, a plan to manage the flow basin, a plan to manage the reservoir, a plan to manage and develop the river basin, a plan to manage fishery and other plans if necessary;
 - g. In relation to a mining project, there must be: a plan to close the mining site, a plan to restore environment in the mining areas, as well as budgeting for the implementation of those plans;
 - h. Other necessary information
- (2) A project developer must strictly implement the environmental management and monitoring plan approved by the Water Resources and Environment Administration. In case it assign 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;
 - (3) During the construction and operation period, if the Water Resources and Environment Administration found 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-examine;
 - (4) Six months before operation, the project developer must evaluate implementation of the environmental management and monitoring plan in 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 to consider and approve and to the concerned line ministry for issuing an operation license. 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;

- (5) 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

- (1) A project developer must design a social management and monitoring plan to be incorporated into a report on environmental impact assessment, which composed of the following contents:
 - a. Measures to prevent and minimise direct and indirect 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;
 - b. 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;
 - c. Measures to compensate the loss, resettlement and improvement of the living condition of the people who are affected by the development project;
 - d. A draft of a social development plan for the post-closure period of the mining site and termination of the investment project;
 - e. A plan to monitor implementation of the social management and monitoring plan;
 - f. A monitoring plan of the project developer and a monitoring plan of the concerned national agencies;
 - g. Institution and responsibilities of the agency which will implement the social management and monitoring plan, and other related plans;
 - h. 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;
 - i. Other necessary information.
- (2) The social management and monitoring plan must be consistent with the Decree and Regulations on Compensation and Movement, and consists of a re-settlement plan for the people who are affected 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 and etc;
- (3) 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 Re-settlement 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;
- (4) Six months before operation, the project developer must evaluate the implementation of the social management and monitoring plan in the survey-exploration phase, as well as 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 to consider and approve and to the concerned line ministry for issuing an operation license. 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;

- (5) During the construction and operation periods, if the Water Resources and Environment Administration found that the problems are not identified and the 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 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;
- (6) In relation to a mining project, the project developer must finalise a social development plan for the post-closing period of the mining site and such a plan must be approved by the Water Resources and Environment Administration before termination of the project.

Article 15: Examination of reports on the environmental impact assessment, environmental management and monitoring plans, and social management and monitoring plans

Examination of reports on environmental impact assessment, environmental management and monitoring plans, and social management and monitoring plans must be carried out in compliance with the following procedures:

- (1) A project developer must submit an application, as well as a report on the environmental impact assessment, an environmental management and monitoring plan, a social management and monitoring plan, amended after district consultation meeting, to the Water Resources and Environment Administration to examine and consider whether to issue an environmental compliance certificate;
- (2) The Water Resources and Environment Administration shall examine the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan, within 15 public working days, to ensure that they are correct and comprehensive, and then notify the project developer in writing, as follows:
 - a. In case the report on the environmental impact assessment, the environmental management and monitoring plan, and 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;
 - b. In case the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan are not correct and comprehensive, the project developer must revise or prepare a new report and plans.
- (3) 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, in general, within 15 public working days, and

120 public working days for investment projects which are complex, since the date the project developer submitted the documents stipulated in Article 15(2)(a) above, excluding the period of time the project developer takes the documents back to revise, which has following procedure:

- a. Within 5 public 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 the sectoral body in charge of the project, the relevant sectoral office and local administration for comments within 30 public working days, since the date of reception. If those organisations do not give comment within that period of time, it shall be deemed that they have waived their right to comment;
- b. The Water Resources and Environment Administration (shall) organises a technical workshop within 10 public working days, since the date it received those documents to listen to the brief presentation on a report on the environmental impact assessment, a environmental management and monitoring plan, and a social management and monitoring plan, with participation of the concerned sectoral offices;
- c. The Water Resources and Environment Administration (shall) conducts field survey within 20 public working days, after the brief presentation as stated in Article 15(3)(b), in coordination with the concerned sectoral offices and local administrations;
- d. The Water Resources and Environment Administration (shall) organises a joint technical workshop with the project developer, with the participation of the local administration and the sectoral offices, 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 public working days, since the date it received comments from the related sectoral offices and local administrations, as stated in Article 15(3)(a). The Water Resources and Environment Administration shall 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;
- e. After examination of the report and plans, as provided in Article 15(3)(d), is completed, the Water Resources and Environment Administration (shall) notifies the project developer in writing, to ask the latter to organise a provincial or prefectural 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 prefectural consultation meeting and then send them to the Water Resources and Environment Administration to consider and issue an environmental compliance certificate;
- f. The Water Resources and Environment Administration (shall) re-examines 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 public working days, before issuing an environmental compliance certificate. The Water Resources and Environment Administration shall re-examine those documents within 15 public working days after it received confirmation from the local administration, in the following circumstances:
 - 1) 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;

- 2) 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:
 - (a) The data and information contained in the report is not corresponded to the facts, there is a cover-up or concealment of the risks and severe impacts on environment and society which may arise;
 - (b) The report on the environmental impact assessment still lacks careful study, particularly on risks and possible impacts;
 - (c) 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;
 - (d) There is no scientific evidence to prove the accuracy of the specified impacts;
 - (e) There is no sufficient data and information in the environmental management and monitoring plan and the social management and monitoring plan;
 - (f) The project would cause more negative impacts than positive impacts;
 - (g) The project developer does not comply with the laws, guidelines, and did not undertake the involvement process.

Article 16: Re-examining of reports of complex investment projects

In relation to an investment project which is complicated, requiring specialists in that specific field to examine its 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 shall proceed as follows:

- (1) To establish a team of experts to examine the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan within 30 public working days, since the date the project developer handed over all required documents as stipulated in Article 15(2)(a), by selecting domestic experts or foreign experts to be included in the team of experts;
- (2) The team of expert shall consist of experts who are specialists in 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 team of experts has a duty to examine 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 public working days and must keep that information confidential;
- (3) The Water Resources and Environment Administration to examine the report on the environmental impact assessment, the environmental management and monitoring plan, and the social management and monitoring plan within 120 public working days, since 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 procedures provided in Article 15 of this Decree.

Chapter 5

Environmental compliance certificates

Article 17: Issuing of Environmental compliance certificates

The Water Resources and Environment Administration issues environmental compliance certificates to approve reports on the environmental impact assessment, environmental management and monitoring plans, and social management and monitoring plans, as provided in Article 10 and Article 15 of this Decree.

Based on verification from the Water Resources and Environment Administration, with consent from the sectoral body in charge of the investment project, a local administration may issue an environmental compliance certificate to approve an initial environmental examination.

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

Article 18: Expiry date of environmental compliance certificates

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

If an investment project does not start to operate within 2 years, from the date it obtained an environmental compliance certificate, the certificate would be automatically expired and cannot be used. 3 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 an investment project gets an environmental compliance certificate, 6 months prior to the end of construction phase of the investment project, the project developer must sum up and evaluate implementation of the measures to minimise impacts on environment and society or the environmental management and monitoring plan, the social management and monitoring plan, during project construction and operation period, 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 project operation, the project developer must review and improve measures to minimise impacts 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: Issuance of environmental compliance certificates to investment projects which are under operation

Investment projects which have been operated without an environmental compliance certificate, prior to the effective date of this Decree, must comply with the following procedures:

- a. Local administrations (shall) enlist(s) businesses located within their administrative areas, under their respective categories and sizes, in either Category 1 or Category 2, and then send the list to the Water Resources and Environment Administration within 90 public working days, after this Decree becomes effective;

- b. The Water Resources and Environment Administration (shall) consider(s) the list by referring to degrees of impacts on the environment and society of investment projects:
- If it is a project which has no impact on the environment and society, the Water Resources and Environment Administration shall notify the project developer to continue its operation.
 - If it is a project which has impacts on the environment and society, either under the class and size in Category 1 or Category 2, the Water Resources and Environment Administration (shall) notifies the project developer in writing to order the latter to prepare and finalise an environmental management and monitoring plan, and a social management and monitoring plan, within 90 public working days, for an investment project under Category 1, and 120 public working days for an investment project under Category 2, since the date of notification. If the plans cannot be finalised within that specified period, the measures provided in Article 35, 38, 39, and 40 of this Decree will be respectively imposed on the investment project, depending on the circumstances.

In relation to investment projects which the Water Resources and Environment Administration has already approved the scope of study and tasks for environmental impact assessment, and investment projects whose reports on initial environmental examination or reports on the environmental impact assessment have been submitted, but have not yet received environmental compliance certificates, before the date this Decree became into effective, the project developers 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 Financial Contribution for Initial Environmental Examination or Environmental Impact Assessment and Management of Fees and Service Charges

Article 20: Obligatory financial contribution 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 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:

- (1) Field survey;
- (2) Project dissemination meetings, consultation meetings on the initial environmental examination or on reports on the environmental impact assessment, environmental management and monitoring plans, and social management and monitoring plans, at all levels (village, district, province or prefecture);
- (3) Fees and service charges in compliance with the laws and regulations;
- (4) Implementation of 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;

- (5) Hiring domestic and/or foreign experts to examine an environmental impact assessment, a environmental management and monitoring plan, and a social management and monitoring plan;
- (6) Strengthening and providing the public officials with necessary equipments and vehicles for monitoring of environmental and social management;
- (7) Environmental and social monitoring and inspection on regular and emergency basis.

Article 21: Fees and service charges

The Water Resources and Environment Administration or the local administration which issues an environmental compliance certificate has a 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 followed:

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

Part III Management and Monitoring

Article 22: Management and monitoring

Managing and monitoring 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 comprise:

- a) Monitoring carried out by project developers;
- b) Monitoring carried out by Governmental agencies;
- c) Monitoring carried by external bodies.

Article 23: Monitoring carried out by project developers

Project developers shall proceed as follows:

- 1) In relation to investment projects in Category 1, (the project developers shall) carry out implementation and monitor the implementation of measures on prevention and mitigation of impacts on environment and society on their own and report to the Water Resources and Environment Administration, the sectoral body in charge of investment projects, relevant agencies and local administrations regularly.
- 2) With regard to investment projects in Category 2, (the project developers) must establish their own environmental and social management offices respectively to implement and monitor outputs of implementation of environmental management and monitoring plans (EMMP), and social management and monitoring plans (SMMP), and report to the Water Resources and

Environment Administration, the sectoral body in charge of investment projects, relevant agencies and local administration regularly.

Article 24: Monitoring carried out by Governmental agencies

Government agencies shall proceed as follow:

- 1) In relation to investment projects in Category 1:
 - The organisation which examined a report on initial environmental examination has a duty to monitor outputs of the implementation of 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 local administrations regularly.
 - The Water Resources and Environment Administration has a duty to inspect the implementation of 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 administrations and report to its superior (the National Environmental Committee).
- 2) In relation to investment projects in Category 2 :
 - The Water Resources and Environment Administration has a duty to monitor implementation of environmental management and monitoring plans (EMMP) in every six months or as required, in collaboration with the relevant agencies and local administrations and report to its superior (the National Environmental Committee) regularly.
 - The National Environmental Committee has a duty to inspect implementation of environmental management and monitoring plans (EMMP), and social management and monitoring plans (SMMP) of investment projects.
 - Local administrations have a duty to establish environmental management working units, in the districts where the investment projects located, in collaboration with the Water Resources and Environment Administration, to monitor implementation of environmental management and monitoring plans (EMMP), on a regular basis, and report to local administrations and the Water Resources and Environment Administration regularly, or urgently in the case of emergency.
 - Local administrations have a duty to establish working units to handle with issues of resettlement and restoration of living conditions, which functions as:
 - a) A secretariat of the Resettlement and Restoration of Living Condition Committee;
 - b) An inspector to inspect implementation of social management and monitoring plans (SMMP), in collaboration with project developers, and then report to the local administrations and the Water Resources and Environment Administration regularly, or urgently in the case of emergency.
 - The Water Resources and Environment Administration has a duty to give technical advice to, build capacity for, and provide trainings for the environmental and social management monitoring units within the scope of work-plans and budgets provided for in each phase. The

fund are 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.

Article 25: Monitoring carried out by external bodies

The purpose of monitoring by external bodies is to inspect implementation of environmental and social activities of investment projects. Monitoring by external bodies consists of:

- 1) Oversight of the National Assembly, as provided in the Law on Oversight of the National Assembly;
- 2) Inspection of the State Inspection Authority, as provided in the Law on State Inspection;
- 3) Auditing of the National Audit Authority, as provided in the Law on Audit;
- 4) Monitoring of Expert Teams, in the case of emergency.

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) substantial impacts on the environment and society, the government may form a National Steering Committee which has the following authority and duties:

- 1) 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, given particular attention to monitoring of implementation of the environmental management and monitoring plan (EMMP), the social management and monitoring plan (SMMP) to report to the government regularly;
- 2) To appoint a team of experts or a qualified consultant company to monitor implementation of the environmental and social activities of the investment project;
- 3) 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 (of an invest project) shall consist of:

- 1) The Head of the sectoral body in charge of the investment project , being the Chairperson;
- 2) Deputy head of the sectoral body in charge of the investment project , being the Vice-Chairperson, as well as the Standing Member of the Committee;
- 3) The Deputy Director of the Water Resources and Environment Administration, and the Vice-Mayors of the related province or prefecture, being the Deputy-Chairpersons;

- 4) The representatives from the relevant sectoral bodies, the Lao Front for National Construction, and civil society organisations, being the Members of the Committee;
- 5) 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 consist of representatives from the relevant departments-offices of the sectoral body in charge of the investment project, the Department of Environmental and Social Impact Assessment, the Water Resources and Environment Administration; the secretariat of the Provincial or Prefectural Resettlement and Restoration of Living Condition Committee.

Article 28: Resettlement and Restoration of Living Condition Committees

The Government appoint a Provincial or Prefectural Resettlement and Restoration of Living Condition Committee (of an investment project) which has authority and duties, as follows:

- 1) To lead and give directions, supervise, and monitor resettlement and restoration of living condition of the people who are affected by the investment project, living in its province or prefecture; in compliance with the Social Management and Monitoring Plan (SMMP);
- 2) To consider petitions filed by the people, in close coordination with the project developer, the concerned sectoral body 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 comprise:

- 1) The Provincial or Prefectural Mayor, being the Chairperson;
- 2) The Provincial or Prefectural Vice-Mayor, being the Vice-Chairperson, as well as the Standing Member of the Committee.
- 3) The Governor of the related District, the representatives from the relevant offices and the Provincial or Prefectural Office of Lao Front for National Construction, and the representative of the project developer, being the Members of the Committee.

A Provincial or Prefectural 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 an 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 sectoral body will allow transferring only if the so-called former developer and the new developer can reach an agreement on fulfilment of the environmental and social obligations.

In relation to an investment project which has not yet get the environmental compliance certificate, the new developer shall continue to carry out an initial environmental examination or an 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 an investment project which has already got an environmental compliance certificate, the new developer must fulfil the approved environmental and social obligations and must allocate sufficient budget for implementation of an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP), based on written agreement between the so-called former developer and the new developer.

Part VI

Information Disclosure

Article 31: Disclosure of general information

Disclosure of the general information shall be done, as follows:

- 1) 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 sectoral body concerned and the project developer, as well as facilitate the stakeholders and the people who are (will be) directly affected by the investment project in accessing such information.
- 2) A project developer has a duty to manage information on outputs of the implementation of measures on prevention and mitigation of impacts on environment, or an environmental management and monitoring plan (EMMP), and a 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 investment projects in Category 2, project developers shall build information centres within the area of the investment projects and in the related Districts.
- 3) The data and information to be disseminated must be both in Lao and English, consisting of:
 - a) A report on initial environmental examination or a report on environmental and social 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;
 - b) A report on implementation of measures on prevention and mitigation of impacts on environment, environmental management and monitoring plans (EMMP), and social management and monitoring plans (SMMP) of the project developers;
 - c) Reports of the Water Resources and Environment Administration or of local administrations which issued an environmental compliance certificate in relation to monitoring of implementation of an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP);
 - d) Detailed information on finings or other disciplinary measures which the Water Resources and Environment Administration or Provincial or Prefectural Offices of the Water Resources and Environment Administration, and the sectoral in charge of the investment has imposed on the project developer;

- e) The investment project expenditures on environmental and social activities.

Article 32: Confidential information

Confidential information shall be handled as follows:

- 1) The Water Resources and Environment Administration reserves the right to keep confidential any information related to the National stability, not disclose in any report on initial environmental examination or in any report on environmental and social impact assessment, environmental management and monitoring plans (EMMP), and social management and monitoring plans (SMMP).
- 2) Based on a written request of a project developer, the Water Resources and Environment Administration may consider keeping some information confidential and can refuse to put such information in any report on initial environmental examination or any report on environmental and social impact assessment; an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP). The information includes:
 - a) Information on privacy of an individual;
 - b) Information on property;
 - c) Information on commercial license;
- 3) In 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 confidential or not.
- 4) In case the submitted information is considered confidential, that information shall be kept confidential for 4 years. If the project developer wishes to extend, 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 disputes

Environmental and social disputes can be on:

- 1) Rights and responsibilities in managing, mining and utilising of natural resources, mainly water, land, mines, forests, wild plants and wild produces and biodiversity within the area of an investment project.
- 2) Determining original causes of pollution, environmental degradation which creates impact on people's lives and assets, including disputes over liability for resolution, maintenance, restoration and compensation for damages caused by the said phenomena.

- 3) Allocation of budget or determination of the compensation amount 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 disputes

An environmental and social dispute may arise between:

- 1) A project developer and another project developer ;
- 2) A project developer and the people who are (will be) affected by the investment project;
- 3) A project developer and a Governmental agency or an international organization, and a local administration.

Article 35 Dispute settlement

Dispute settlement shall be carried out in following forms:

- 1) In case it is a dispute 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.
- 2) In case it is a dispute between a project developer and the people are (will be) affected by an investment project:
 - a) 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 (mediate). 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.
 - b) 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.
- 3) In case it is a dispute between a project developer and a State organization, a local administration or an international organization, the dispute must be settled in compliance with the laws of Lao PDR or the conventions or treaties which Lao PDR 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

A natural person, legal entity or organization who/which has outstanding achievements in management and implementation of an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP) of an investment project and strictly complies with the laws and regulations of the Lao PDR shall be commended and awarded in various forms appropriately.

Article 37: Disciplinary measures towards violators

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

Article 38: Warning and educating measures

In case the outcomes of monitoring indicated that 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 order 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:

- a) The problems which are leading to or is likely to lead to violations;
- b) The resolution procedures and period of time needed to resolve the problems.

Article 39: Fining measures

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

- a) Giving false or misleading information in a report on initial environmental examination or in a report on environmental impact assessment, a environmental management and monitoring plan (EMMP), a social management and monitoring plan (SMMP), including the monitoring reports.
- b) Refusing to cooperate with or obstructing inspectors' performance of their duties, even though they has informed in advance:
 - Refusing to cooperate or obstructing (the inspectors') entry into the site of the investment project.
 - Refusing to cooperate or obstruct taking of samples or collecting of evidence for environmental monitoring.
 - Do not cooperate or obstruct taking of pictures or obstruct interviewing/interrogating of any person on the investment project.
- c) Ignoring or failing to inform or report of the severe environmental and social impacts⁴ to the concerned agency in time.

⁴ In Lao version, the drafters used the term 'emergency', but in fact what a project developer is obliged to inform or report is 'impacts'. Emergency once it is declared, it is known to the public, the project developer is not obliged to inform or report, or it is the related agency itself who may declare emergency - the translator.

- d) Clearing the area, mining or constructing an investment project without an environmental compliance certificate.
- e) Operating without the improved measures on prevention and mitigation of impacts on the environment and society or an environmental management and monitoring plan (EMMP), a social management and monitoring plan (SMMP), as provided in this Decree;
- f) Creating environmental and social impacts within the area of an 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 without carrying out any additional environmental impact assessment and formulating an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP);
- g) Failing to comply with the terms provided in the environmental compliance certificate, and failing to fulfil environmental and social obligations provided in the Concession Contract.
- h) Failing to completely implement measures on prevention and mitigation of impacts on the environment and society or an environmental management and monitoring plan (EMMP), and a social management and monitoring plan (SMMP);
- i) Failing to comply with any of the terms and guidelines provided in the Warning Notice;
- j) Failing to comply with the environmental quality standards and pollution releasing 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, violates this Decree shall be alternatively imposed with the following measures:

- a) To confiscate vehicles and equipments used or involved in the violated commission.
- b) 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 administrations and concerned sectoral body.

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:

- a) The degree of severity of the environmental and social impacts;
- b) The severity of pollution caused the violated action;
- c) It is a foreseeable environmental and social impact, but the preventive measures have not been put in place, or it is an unforeseeable impact;
- d) Violation Record of the project developer;
- e) Violation Record of the investment project;

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

Part IX

Final Provisions

Article 41: Enforcement

The Water Resources and Environment Administration is the central authority to coordination with the sectoral bodies and local 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 becomes effective after 30 days, from the date of signature. Any existing provisions and regulations which are in consistent with this Decree are null and void.

Prime Minister of Lao PDR,

Signed and Sealed