SIAM PREMIER
INTERNATIONAL LAW OFFICE LIMITED

THE RESEARCH OF LEGAL SYSTEM OF THE LAO PDR AND LEGAL INFORMATION RELATED TO TRADE AND INVESTMENT IN THE LAO PDR

SPONSORED BY

OFFICE OF THE COUNCIL OF STATE OF THAILAND

RESEARCHED BY

SIAM PREMIER INTERNATIONAL LAW OFFICE LIMITED

MARCH 2017

FINAL REPORT ON

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Table of Content

CHAPTER 1 Introduction of Lao People's Democratic Republic 1

1. Summary of Lao Legal History 1
2. Legal System 2
3. The Source of Laws 3
4. The Status and Hierachy of Law 10
5. Method of Interpretation of the Law 13
6. Law Enforcement and Problem in Practice 18
7. Political Institutions 20
8. History and Politics of the Lao PDR 45

CHAPTER 2 Infrastructure System of The Lao PDR 49

1. Relevant Legislations 49
2. Road Transportation Infrastructure 49
3. Air Transportation Infrastructure 56
4. Train Transportation Infrastructure 60
5. Waterway Transportation Infrastructure 61
6. Telephone System Infrastructure 64
7. Electricity System Infrastructure 67
8. Water Supply System Infrastructure 72
9. Relevant Government Authorities 78

CHAPTER 3 Trading of Goods and Services by Foreigners 80

1. Relevant Legislations 80
2. International Trading Laws 80
3. Privileges Given to Business Operators with ASEAN Member States or Thai Nationality Provided by the Government of the Lao PDR 98
4. Relevant Government Authorities 99

CHAPTER 4 Immigration Laws 101

1. Relevant Legislations 101
2. General Principles 101
3. Visas 104
4. Period of Stay in the Lao PDR 108
5. Measures against Offenders 109
6. Relevant Government Authorities 111

CHAPTER 5 Work Undertakings by Foreigners in The Lao PDR 112

1. Relevant Legislations 112
2. General Rules governing Importation of Foreign Labour 112
3. Procedure governing Application for Importation and Registration of Foreign Labour 113
4. Relevant Government Authorities 118

CHAPTER 6 Investment Promotion in Lao PDR 119

1. Relevant Legislations 119
2. Investment Forms 119
3. Type of Investment 120
4. One Stop Service Centre 126
5. Investment Promotion 127
6. Agreements between the Lao PDR and other Countries for Promotion and Protection of Investment 131
7. Incentives that the Government of the Lao PDR has given to Investors from ASEAN Member States and Thailand 131
8. Relevant Government Authorities 132

CHAPTER 7 Trade Law 133

1. Relevant Legislations 133
2. Categories of Enterprises 133
3. Procedure of Enterprise with Legal Entity Registration 141
4. State Procurement 147
5. Public-Private Partnerships 150
6. Relevant State Authority 151

CHAPTER 8 Taxation 153

1. Relevant Legislations 153
2. Types of Tax 153
3. Double Taxation Agreement 185
4. Relevant Government Authorities 189

CHAPTER 9 Law on Finance and Banking 190

1. Relevant Legislations 190
2. Bank of the Lao PDR 191
3. Commercial Banks and Financial Institutions 192
4. Anti-Money Laundering Law 201
5. Relevant Government Authorities 208

CHAPTER 10 Transfer of Money to and From The Lao PDR 210

1. Relevant Legislations 210
2. General Principle for the Transfer of Money and Precious Metals to and from the Lao PDR 210
3. Transfer of Money to and from the Lao PDR by Foreign Investors 214
4. Investment in Foreign Countries by Residents of the Lao PDR 220
5. Relevant State Authority 221

CHAPTER 11 Securities and Securities Exchange Law 222

1. Relevant Legislations 222
2. Laws Applicable to Securities 222
3. Securities Exchange 223
4. Public Offering of Securities 224
5. Listing of Companies on the Securities Exchange 232
6. Reporting and Disclosure of Information by Securities Issuing Companies and Listed Companies 235
7. Relevant Government Authorities 241

CHAPTER 12 Land 243

1. Relevant Legislations 243
2. Holding/Occupying/Possession of Land in the Lao PDR 243
3. Category of Rights on Land Holding 247
4. Documents showing the Rights Over Land 248
5. Various juristic acts concerning Land and Registration 249
6. Lease of Land or Land Concession 253
7. Law on Urban Planning 260
8. Relevant Government Authorities 262

CHAPTER 13 Employment and Trade Unions in The Lao PDR 264

1. Relevant Legislations 264
2. General Principles 264
3. Employment 265
4. Labour Dispute Resolution and Labour Strike 290
5. The Unification and Formation of Trade Unions 291
6. Relevant Government 297

CHAPTER 14 Insurance and Other Related Businesses 298

1. Relevant Legislations 298
2. Overview of the Insurance Business in Lao PDR 298
3. Type of an Insurance 299

3.1 Life Insurance 299
3.2 General Insurance 300
3.3 Reinsurance 301
4. Insurance Agreement 302
4.1 Private Insurance Agreement 302
4.2 Property Insurance Agreement 303
4.3 Civil Liability Insurance Agreement 304
4.4 Content of the Insurance Agreement 304
4.5 Period to Claim for a Compensation 305
4.6 Period to Pay a Compensation 305
4.7 Termination of the Insurance Agreement 306
4.8 Transfer of the Insurance Agreement 306
4.9 Prescription Period 307
5. Rights and Obligations of the Insurer and Insurance Buyer 307
5.1 Rights and Obligations of the Insurer 307
5.2 Rights and Obligations of the Insurance Buyer 308
6. Insurance Businesses 309
6.1 Type and Scope of Insurance Businesses 309
6.2 Establishment of the Insurance Businesses 309
6.3 Qualification to Establish the Insurance Businesses 309
6.4 Conducting Insurance Businesses by Foreign Insurance Company 310
6.5 Revocation of the Insurance Businesses License 311
7. Businesses Related to Insurance 311
7.1 Insurance Agent 311
7.2 Insurance Broker 313
8. Dispute Resolutions 314
9. Relevant Government Authorities 314
9.1 Insurance Governing Authority 314
9.2 Insurance Auditing Authorities 315

CHAPTER 15 Law on Secured Transaction 317

1. Relevant Legislations 317
2. General Principles 317
3. Personal Guarantee 318
3.1 Guarantor's Liability 318
3.2 Extinction of Guarantee 319
4. Security 319
4.1 Movable Security 319

4.2 Immovable Security 324
5. Security over Other Things under the Lao Laws 327
5.1 Pledge of Inventory 327
5.2 Pledge of Intangible Property 327
5.3 Pledge of Future Assets or Gains 327
6. Relevant Government Authorities 328

CHAPTER 16 Fuel Oil Trading in The Lao PDR 329

1. Relevant Legislations 329
2. General Principles 329
3. Importation of Fuel Oil 330
4. Sale of Fuel Oil 333
5. Relevant Government Authority 338

CHAPTER 17 Law on Intellectual Property 339

1. Relevant Legislations 339
2. Types of intellectual property 339
3. Industrial Properties 341
4. Copyrights and rights relating to copyrights 350
5. Structure of protection of Intellectual Property 354
6. Intellectual Property infringement 359
7. Dispute Settlement 366
8. Relevant Government Authority 369

CHAPTER 18 Mining 370

1. Relevant Legislations 370
2. Type of Minerals 370
3. Mineral Resource Areas 370
4. Mineral Activities 371
5. Application for Concession and Operation in Mining Business 372
6. Relevant Governmental Authorities 384

CHAPTER 19 Law on Natural Resources and Environment 386

1. Relevant Legislations 386
2. Natural Resources 386
3. Environment 390
4. Relevant Government Authority 402

CHAPTER 20 Dispute Resolution 404

1. Relevant Legislations 404
2. Dispute Resolution by Administration Mediation Procedure 404
3. Dispute Resolution by Arbitration 408
4. Dispute Resolution by Court 415
5. Court System 431

BIBLIOGRAPHY 445

APPENDIX 448

Chapter 1
Introduction of Lao People's Democratic Republic

1. Summary of Lao Legal History

The Lao PDR is a country with a long-standing legal history. In the past, its ancient laws (or Customary Laws) were inscribed on palm leaves and adhered to continually on a regular basis. When the law became generally known and accepted by all people in the society, the law became the Law of the Land.

The Khun Barom Thammasart Law is the most ancient law of all Laos' ancient laws comprising of 9 laws, namely, Khun Barom Thammasart Law, Khumpee Soi Sai Kum, Khumpee Moonkumtai, Khumpee Phra Thammasart Luang, Khumpee Suwanamucha, Khumpee Ratchasart, Khumpee Posaraj, Khumpee Sungkahapakorn, Khumpee Anachakra and Dhammachakra. The contents and essence of most of these laws are based mainly on the concept of Buddhism.

Before the establishment of the Lao PDR, and during the era when the country was under French rule, the introduction of the Civil Law system resulted in adjustments to Laos' ancient laws where laws began to be prescribed in writing in the form of Legal Codes consisting of the Civil Code, Criminal Code, Civil Procedural Code and Criminal Procedural Code. Moreover, enforcement of other laws followed which were enacted and have been in force since 1927.

After establishment of the Lao PDR in 1975, all Codes of Law and various legislations prior to 1975 that had been enacted and in force were revoked. Laws applicable in the Lao PDR between 1975-1989 were in the form of Resolutions, Orders, Instructions, etc. which are laws ensuing from Decrees made by the country's executive authorities for the administration and management of the country. However, in 1986, the policy of the Government of the Lao PDR was to develop and reform the country's economic system by changing the power of the Government from owning the basic manufacturing resources, planning the overall country's economy, controlling the pricing of goods, including taking over operations of businesses which are of importance to the country's economic system and the people's basic needs (such as operations of the various public utilities)[1], to employ marketing tools pursuant to the "New Economic Mechanism" policy by relaxing measures of control and planning from the Central Government, giving freedom to the private sector for

[1] The Chamber of Commerce of Udornthani Province, Overall Economy of the PDR of Laos (on-line), accessible from http://udonechamber.com/home/journal-chamber/2569-2569).html. (Date of data search: August 20, 2014).

their conduct of businesses and promoting overseas investment. Thus, the Government of the Lao PDR, put emphasis on revising the laws to ensure that they could respond to said economic systems. In 1990, the Lao PDR certified and issued major legislations for enforcement to govern the People's Court, the People's Public Prosecutors, court costs, criminal and civil procedure, criminal law, ownership, contracts, torts, family law and laws governing Laotian nationals and so forth.[2] Periodic adjustments/revisions are continually made to the Laotian Laws as the Lao PDR is determined to develop its laws to a standard acceptable in the eyes of the international community.

2. Legal System

Even though laws of the Lao PDR today may not be codified into the form of a Code of Law, its main laws and the origins of major laws in the Laotian legal system today are characteristically that of the Civil Law through its influence by countries such as France, the former Soviet Union, China and Vietnam. The country's core legislation are laws enacted by the National Assembly which is a Legislative body, while the Executive and Administrative bodies have the power to enact secondary legislation to set out details for compliance with and enforcement of the core legislative. Any secondary laws, in place cannot contain any provision that is in conflict with that of the laws in the higher hierarchy. There may be a few instances where Customary Laws, which are not written down in the form of Civil Law, are enforced, will be used for the purpose of interpretation and filling the gap of any law not provided for in the Civil Law or for laws that are not explicit.[3] However such instances will not occur if clear written laws exist.

Where there is no clarity in the written word of law, the Laotian legal system accepts the use of the interpretative method pursuant to the intention of the law in which various components and other legal documents may be used to help ascertain their meaning, such as Introduction to the Law and the principles and justification for such legislation, etc. In this respect, other than the judicial courts, it is also provided by the laws governing execution of juristic acts that the National Assembly Standing Committee, which is considered the legislative body, has the power and duty to interpret the law in any case where there is doubt or ambiguity over the law's application.

Under Laotian law, judgment from a judicial court is not considered a part of the source of law but merely an explanation for the use of the legal provision or a guideline to the interpretation of the law. However, Section 12 of the Law on the People's Court

[2] Paimanee Chaiwongsa: Basic Information on General Law, 2nd edition (Project of Co-operation between the Faculties of Law and Administration with SIDA Project, 2007), pp 47-48.
[3] *Id*., p. 46

prescribes that in case the judgment has been rendered by the People's Supreme Court over any problem in a criminal case without clear provisions in the law, or in any judgment of the People's Supreme Court on any problem in case of civil, commercial, family or youth litigation where there is no provision under the law or if such provision is not clear, it shall be construed in accordance with the practice and tradition of the court in which every hierarchy of the People's Court must comply with until it is provided accordingly by the law. Thus, according to the above provisions, even though judgment of the People's Supreme Court may be adhered to by the lower courts, the judgment of the People's Supreme Court has no force of law despite its adherence to by the lower courts.

In this regard, we can assume that the legal system of the Lao PDR presently resembles the legal system of Thailand. Even though there is no law code, the written law, the main law of the country, is enacted by the National Assembly, which is an organization of legislative body, and is a representative of the people. Nevertheless, no provision exists similar to Section 4 of the Civil and Commercial Code of Thailand which provides for legal gap-filling using Customary Law. Such gap-filling remains a mere legal theory taught only in law school, and is hard to find in practice. This is because judgments of the People's Supreme Court of the Lao PDR are not readily accessible in the way judgments of the Thai Supreme Court are. Furthermore, although the judgments of the People's Supreme Court of the Lao PDR are not considered a part of the source of law in the way the judgments of the Thai Supreme Court are, which is an important feature of the Civil Law System, the judgment of People's Supreme Court of the Lao PDR has a clearer and stricter binding force to the judgment of the lower court as a tradition of the court than that of the Thai Supreme Court. The Law of the People's Court clearly stipulates that the people's courts at all levels must comply with the foregoing court tradition.

3. The Source of Laws

There are 2 sources of Laotian law, namely the written law and Customary Law.[4]

3.1 The Written Law

Before discussing the written law in detail, one fundamental thing to understand prior to the study of Laotian law is the meaning of the term "law".

The term "law" is used under two contexts. Under one context, the term "law" can mean a written law certified by the National Assembly, the organization of the legislative

[4] Paimani Chaiwongsa: Basic Information on Law in General, p. 43.

body, published for use by the President of the State, which can be compared to an "Act", the written law of Thailand. In another context, the term "law" may include written law and unwritten law, whether enacted by the organization of legislative or by an administrative body, and whether enforceable at whatever stage, which can be compared to the "law" of Thailand.

Another term which may cause confusion is the term "juristic act" which, under Laotian law, does not mean the voluntary lawful act, the immediate purpose of which is to establish between persons juristic relations, to create, modify, transfer, preserve, or extinguish rights as same as provided by Section 149 of the Thailand Civil and Commercial Code, but the said term means legal provision or legal documents which are enacted and enforced by the State's duly authorized body that may have an effect of enforcement either generally or specifically.[5] In brief, one may say that the term "juristic act" under Laotian law means the legislation or written law.

As far written law is concerned, the Lao PDR's Law on Making Legislation divides the written law into two categories, i.e. the written law of general enforcement and the written law of specific enforcement.[6] The written law of general enforcement consists of the following:

(1) The Constitution;
(2) The Law;
(3) The Resolution of the National Assembly;
(4) The Resolution of the National Assembly Standing Committee;
(5) The Presidential Ordinance;
(6) The Decree of the Government;
(7) The Resolution of the Government;
(8) Orders, Decisions and Instructions of the Prime Minister;
(9) Orders, Decisions and Instructions of the Governor or City Mayors;
(10) Orders, Decisions and Instructions of the District Chief or Municipal Mayor; and
(11) Village Regulations.[7]

Written law of specific enforcement consists of:

(1) Presidential Decree on the Promulgation of a Law;
(2) Presidential Decree, Decree or Decision on the award or appointment of a certain person for a certain position or specific activity; and

[5] Law on Making Legislation, Section 2.
[6] Law on Making Legislation, Section 3.
[7] Law on Making Legislation, Section 4.

(3) Notice.[8]

The written law may have different origins and are separated according to the authority of the legislators with consideration as to whether such laws are enacted by the Legislative, Executive or Administrative[9] bodies. However, study on the written law in this report will deal only with written laws of general enforcement.

3.1.1 Legislative law or true law

Legislative law or true law means law enacted or approved by the legislative body directly empowered to enact laws, which in this case means the National Assembly. The most important law in this category is the "Law". The organization or person empowered to submit draft legislation is the President of the State, the National Assembly Standing Committee, the Government, the People's Supreme Court, the People's Supreme Public Prosecutor, and the Lao Front for National Construction or the Central Public Organization.[10] Before a draft law can be submitted to the National Assembly for approval, it must go through the process of ensuring consistency by the Ministry of Justice with the prior consideration by the Government. Upon aforesaid approval, the Government will submit the draft law to the National Assembly Standing Committee for further consideration and approval by the National Assembly. A draft law will be enforceable only once it has been approved by more than half the number of members of the National Assembly attending the meeting. Once a draft law is approved by the National Assembly, it will be submitted by the National Assembly Standing Committee to the President of the State within 20 days from the date it is approved by the National Assembly. The President of the State will then consider issuing a Presidential Decree to enact such law within 10 days from the date of receipt of the draft from the National Assembly Standing Committee. During that period, the President of the State may send the draft back to the National Assembly Standing Committee and recommend that the draft be reviewed. In the case where the National Assembly confirms that the draft law should be enacted for application, the President of the State must announce the use of such law within 15 days from the date of receipt of the confirmation in writing from the National Assembly Standing Committee.[11] The "Law" determines the overall criteria for Rules, Regulations and various measures which are to be generally applicable[12] and may not, in any way, contravene the Constitution which is the country's highest law.

Furthermore, law enacted by the legislative body consists of the resolutions of the National Assembly as well as the resolutions of the National Assembly Standing Committee.

[8] Law on Making Legislation, Section 5.
[9] Paimani Chaiwongsa, Basic Information on General Law, p 43.
[10] Law on Making Legislation, Section 18.
[11] Law on Making Legislation, Sections 57-58.
[12] Paimani Chaiwongsa, Basic Information on General Law, p 43.

The resolutions of the National Assembly include agreements concerning solutions to various problems which have been considered at the National Assembly's meeting in relation to the economic and social development plan, the State Budget Plan including details pertaining to the enforcement of the law and other problems which lie within the scope of the National Assembly's authority.[13] The resolutions of the National Assembly shall be drafted by the office of the National Assembly and submitted to the National Assembly for approval.

The resolutions of the National Assembly Standing Committee consist of agreements concerning solution to various problems that have been considered at the meetings of the National Assembly Standing Committee in relation to details concerning enforcement of the resolutions of the National Assembly, follow-up on enforcement and interpretation of the Constitution and the Law as well as other problems which lie under the National Assembly Standing Committee's authority. The resolutions shall be drafted by the relevant Committee of the National Assembly and submitted to the meeting of the National Assembly Standing Committee for approval by votes of more than half the number of members attending the meeting.[14]

3.1.2 Executive Legislations or laws enacted by the Executive body

Executive Legislations are laws enacted by the executive body by virtue of the "Law". Executive legislations consist of the Presidential Ordinance, the Decree of the Government, the Resolution of the Government, Orders, Decisions or Instructions of the Prime Minister as well as Orders, Decisions or Instructions of the Minister and Head of a governmental organization.

Presidential Ordinances are written laws enacted by the President of the State on recommendation from the National Assembly Standing Committee. In general, enactment of Presidential Ordinances by the President of the State does not need to be approved by the National Assembly except when the said Presidential Ordinance is enacted for the purpose of revising some provisions of the Law for which submission must be made by the National Assembly Standing Committee to the next meeting of the National Assembly for approval.[15]

The Decree of the Government is a written form of law enacted by the Government in the following cases:

[13] Law on Making Legislation, Section 59.
[14] Law on Making Legislation, Section 61-62.
[15] Law on Making Legislation, Section 65.

(1) To determine details in relation to the enforcement of the Resolution of the National Assembly, Resolution of the National Assembly Standing Committee, economic and social development plan and Strategic Plans;

(2) To resolve any relationships in a society within any district in response to the need to exercise the administrative power when such has not been enacted into "Law"; and

(3) To set up and determine criteria governing the performance of duties by ministries and organizations under the Government's jurisdiction.

Moreover, the Government may issue a decree to exemplify the enforcement of the "Law" in order to explain the contents of some sections in the law for better and clearer understanding, or in the case where it is prescribed by the "Law" that details pertaining thereto shall be prescribed by a specific regulation.16 The Government shall determine the plan to draft the Decree of the Government pursuant to the proposals made by various ministries and organizations under its jurisdiction. The ministries and organizations must submit plans on their annual draft decrees to the Government for consideration before the 1st of September every year.[17]

The resolutions of the Government consist of agreements concerning solutions to various problems considered during the Government's meetings in relation to the economic and social development plan, the State Budget Plan and other problems which lie under the Government's mandate. The resolutions shall be drafted by the Office of the Government and submitted to the Government's meeting for its consideration and approval.[18]

Moreover, Executive Legislations also include the Orders, Decisions or Instructions of the Prime Minister, and the Minister or Head of a governmental organization. Such Orders, Decisions or Instructions are written laws issued by the relevant Head of state organizations to facilitate enforcement of Law, Presidential Ordinances or other written laws, including to advise and explain procedures, methods, durations and details for compliance with the higher laws under the scope of its authority. The Orders, Decisions and Instructions of the Prime Minister shall be drafted by the Administration Cabinet of the Prime Minister[*] and submitted to the Prime Minister for consideration and approval. The Orders, Decisions and Instructions of the Minister or Head of a governmental organization shall be drafted by

[16] Law on Making Legislation, Section 66.
[17] Law on Making Legislation, Section 67.
[18] Law on Making Legislation, Section 71.
[*] The administrative office of the Prime Minister is a part of the Office of the Prime Minister. The Office of the Prime Minister comprise of the administrative office of the Prime Minister, the government Secretariat committee, bureau, and other organizations under the government's jurisdiction

the relevant department and then submitted to the Minister or Head of the governmental organization for approval.[19]

3.1.3 Administrative Law or laws enacted by the Administrative body

Administrative law is an enactment of law by the Administrative body by virtue of the "Law". Administrative law consists of Orders, Decisions or Instructions of the Governor or City Mayor; Orders, Decisions or Instructions of the District Chief or Municipal Mayor; and Village Regulations.

Orders, Decisions and Instructions of the Governor or City Mayor; and Orders, Decisions and Instructions of the District Chief or Municipal Mayor are written laws drafted by the Provincial or City Cabinets and the District Cabinet or Municipal Administration Cabinet with co-ordination from every relevant sector as well as the Committees of the National Assembly Members in the Constituencies. They are then forwarded to the Justice Department of the Province or City and the Justice Office of the District or Municipality[**] for verification and confirmation on compliance with the law before being submitted to the Governor or City Mayor, or the District Chief or Municipal Mayor for consideration and approval.[20]

Village Regulations are written law issued by the Village Administration to facilitate enforcement of written laws at a higher echelon or to ensure peace and order within an area under its jurisdiction. Village Regulations are drafted by the Village Administration before they are submitted to the Village Meeting for consultation, discussion and consideration by the people in the Village. Some revisions may have to be made once the opinion is heard before they are forwarded to the Justice Office of City or Municipality for verification and confirmation of compliance with the law. They are then forwarded to the District Cabinet or Municipal Administration Cabinet for consideration and approval.[21]

In case where the Administrative Law contravenes the Constitution or "Law", such Administrative Law shall be void.[22]

[19] Law on Making Legislation, Section 72-76.

[**] Management/overseeing system in the various areas of the PDR of Laos will be separated into levels. In other words, the Central Sector will be looked after by entities at the level of "Ministries", while those at the levels of Regions or Cities, will be looked after by entities at the level of "Departments", and those at the levels of Towns or Municipalities will be looked after by entities at the level of "Chambers". Each level of these entities will have different power/duties and responsibilities pursuant to what are set out by the relevant laws.

[20] Law on Making Legislation, Section 77.

[21] Law on Making Legislation, Section 79.

[22] Paimani Chaiwongsa, Basic Information on General Law, p 43.

3.2 Customary Law

Customary Law is the law which is not set out in writing. Despite this, the position of the Customary Law is the same as that of the Law due to its general acceptance by the people and its continuous enforcement by the state.[23]

On this issue, Prof. Paimani Chaiwongsa, Head of the Political Science Department of the National University's Faculty of Law and Political Sciences, has given the following 4 reasons for the enforceability of Customary Law:

3.2.1 Customary Law's enforceability derived from the people's intention to have them as applicable Law

Customary Law may be enforceable in the view that it is considered to be the intention of the people. This view is only valid in democratic countries where the power of the people are considered supreme.

3.2.2 Customary Law is enforceable to the extent the party authorized to enact laws accepts them as Law

Customary Law has no power of enforcement per se, albeit it is enforceable as the authority of the State certifies such power to be enforceable; for instance, when a judgment is made to certify a fact by the Court or there is a provision of the written law to support it. Reasons pursuant to this opinion can be used irrespective of the current system of government.

3.2.3 Customary Law is enforceable because the people accept such custom/tradition as Law

Customary Law is enforceable because that particular custom/tradition has been used and enforced as Law over a long period of time in which people have come to acknowledge it as Law. As far as this opinion is concerned, the main point is the fact that people acknowledge the validity/legality of that particular tradition. Thus, this opinion which gives importance to the people, may receive support only from the democratic state.

[23] *Id*., p. 45.

3.2.4 Customary Law is enforceability derived from repeated usage over a long period of time

According to this opinion, Customary Law is enforceable due to the fact that such Customary Law has been in use in the same manner continuously for a long time. However, the following conditions must be present:

(1) That Customary Law has been in use in the same manner; for example, a doctor treating patients by amputating his/her leg without such being considered a crime;

(2) That Customary Law has been used in the same manner continuously for a long time; and

(3) It is not in conflict with the written law.

3.2.5 Results of Use of Customary Law in the Lao PDR

There is no evidence or academic resources which criteria are used by the Lao PDR in enforcing Customary Law with the same effect as written law. Prof. Paimani Chaiwongsa's opinion on the use of Customary Law in the Lao PDR suggests that because the Lao PDR is considered to be a country which uses the written law (Civil Law) system, there is very little likelihood for Customary Law to materialize. If legal provisions already exist under the Civil Law system, Customary Law can arise only for the use as legal gap-filling. In this regard, Customary Law may apply either to restrict or expand the written law.[24]

4. The Status and Hierachy of Law

There are several forms of the written law of the Lao PDR as mentioned in the preceding headings. However, it is explicitly provided by Section 9 of the Law governing Creation of Juristic Acts that the written law shall not be in conflict with the written law in a higher hierachy.[25] It is important, therefore, that one should study the status and hierachy of the written law in each category so as to apply the law correctly where there are variations between provisions.

The Constitution is the highest law of the land and is the basic law for all various laws. To accept draft legislation or to revise the Constitution requires votes of approval from at least two-thirds of the total number of members of the National Assembly. No law shall be in conflict with the Constitution.

[24] *Id*., p. 46.
[25] Law on Making Legislation, Section 9.

Law is the written law with a hierachy below the Constitution and is enacted directly by the legislative body. Law will come into force only when it has been approved by more than half of the members of the National Assembly who attended the meeting and when declared to be in force by the President of the State. The substance of the "Law" shall not be in conflict with the Constitution which is the highest law of the country.

The Resolution of the National Assembly is an agreement concerning the solutions of various problems considered at the Meeting of the National Assembly, which include details over enforcement of the "Law". Thus, the National Assembly's resolutions shall substantially be in line with the "Law", Otherwise they must be made to conform to what is prescribed by the "Law" which is the written law of a higher hierachy.

The Resolution of the National Assembly Standing Committee is an agreement concerning the solutions of various problems considered at the Meeting of the National Assembly Standing Committee, which relate to details over enforcement of the National Assembly's resolution including interpretation of the Constitution and the Law. Thus, the Resolution of the National Assembly Standing Committee shall be compliant with the Constitution, the Law and the National Assembly's resolution.

The Presidential Ordinance is enacted by the President of the State who is not a direct legislative body; albeit empowered by the Constitution of the Lao PDR to issue Presidential Ordinances pursuant to the proposal from the Committee to the National Assembly. However, where a Presidential Ordinance is enacted to revise some provision of the "Law", the Committee of the National Assembly shall submit it to the next meeting of the National Assembly for approval. The Presidential Ordinance shall not contain any substance which is in conflict with the written law of a higher hierachy, i.e. the Constitution or the Law.

The Decree of the Government is a written law enacted by the Government to set out details concerning enforcement of the Resolution of the National Assembly, the National Assembly Standing Committee, the economic and social development plan and the Strategic Plans as well as to solve problems concerning the exercise of the State's executive power where such has not yet been enacted into "Law", and to set up criteria for the discharge of duties by ministries and departments under the government's jurisdiction. Thus, the Government's Decree shall contain provisions which are compliant with the Constitution, Law, Resolution of the National Assembly, and Resolution National Assembly Standing Committee which are higher-hierachy laws.

Resolution of the Government is an agreement in relation to solutions of various problems considered during the Government's meeting which shall not be in conflict with the

provisions of the Constitution, the Law, Resolution of the National Assembly, Resolution of the National Assembly Standing Committee, and Government's Decrees.

Orders, Decisions or Instructions are written laws issued by the head of the State's relevant organization(s) to facilitate the enforcement of the Law, Presidential Ordinances, or other written law as well as clarifying provisions on procedures, methods, durations and details concerning the performance of work to ensure compliance with higher-hierachy laws in relation to the matters under their jurisdiction. Such orders, decisions or instructions may be enacted by the Prime Minister, Minister in charge of a ministry or chief of an organization under the government's jurisdiction, the Governor or City Mayor, and the District Chief or Municipal Mayor. However, enforcement of the order, decision or instruction shall be in line with the provisions of the Constitution, Law, Resolution of the National Assembly, Resolution of the National Assembly Standing Committee, Decree of the Government, Resolution of the Government, and Orders, Decisions or Instructions issued by a higher- hierachy State's entity.

Village Regulations are written laws issued by the Village Administration to facilitate the enforcement of written laws of higher rank which the substances shall be compliant with and shall not be in conflict to the above-mentioned provisions.

In brief, laws of lower hierachy shall be in line with higher- hierachy laws. If laws in the same hierachy are in conflict with one another, the law which has been issued last (the most current law) shall prevail. If laws at the same level contain conflicting or contradictory provisions on the same issue, enforcement shall be made pursuant to the law enacted specifically for that particular problem.[26]

Hierachy of the Laws
The Constitution
The Law
The Resolution of the National Assembly
The Resolution of the National Assembly Standing Committee
The Presidential Ordinance
The Decree of the Government
The Resolution of the Government
Orders, Decisions or Instructions of the Prime Minister
Orders, Decisions or Instructions of the Minister or the Head of governmental organization(s)

[26] Law on Making Legislation, Section 9.

Hierachy of the Laws
Orders, Decisions or Instructions of the Governor or City Mayor
Orders, Decisions or Instructions of the District Chief or Municipal Mayor
Village Regulations

5. Method of Interpretation of the Law

Interpretation of Laotian law will arise when the provisions of the law are unclear, ambiguous or vague. In other words, interpretation of the law will arise only when there are doubts concerning the true meaning of legal provisions.[27] If the law is already clear, there is no need for it to be interpreted again even though the user of the law may feel that to use in such a way would lead to injustice. Indeed, justice is a point of view held by individuals whose opinion may differ. However, there must be certainty in the law. Thus, it is the duty of legislators to make the law just, and the law must be considered and revised to always be so, because if users of the law, which includes the People's Court, are allowed to interpret the law which is already clear, even if it was to produce a just outcome in a particular case, it would be tantamount to the court itself enacting the law, in direct defiance of the doctrine of the separation of powers laid down by the constitution which separate the powers into 3 branches, i.e. the Legislative branch, the Executive branch, and the Courts.

However, in an event the statements of law or their provisions are ambiguous or conflicting, the Law governing Creation of Juristic Acts provides that the task of interpreting such laws be with different organizations. In the event the provisions of "Law", which is a type of written law enacted by the National Assembly and comparable to the Thai "Act", are ambiguous or conflicting, the Law governing Creation of Juristic Acts stipulates that the National Assembly Standing Committee, an organization of the legislative body, has the authority to interpret such statement of law or provisions. In this regard, a resolution according to the interpretation of such "Law" shall be proposed. In an event the statement or provisions of other type of written law are ambiguous or conflicting, the task of interpreting such statements or provisions is with the organization that has enacted such written law.[28]

The principles in interpreting Laotian law may be separated into interpretation of general laws and interpretation of special laws as detailed further below.

[27] Paimani Chaiwongsa, Basic Information on General Law, p 79.
[28] Law governing Creation of Juristic Acts, Section 84.

5.1 Principles governing Interpretation of General Laws

There are two rules of interpretation of general law, i.e. literal interpretation and interpretation according to intention.

5.1.1 Literal Interpretation

Literal interpretation is an analysis of the meaning of the terms of the law which can be separated into 3 categories. First, where a legal provision involves an ordinary term used in general in the Society, these words will have the meaning as understood by the general public. Secondly, where the legal provision uses a technical term which is specifically used in sectors of Technology such as chemical or engineering terms, etc., in such a case, interpretation of the word shall bear the specific meaning pertaining to it. Thirdly, where the legal provision uses a term with a special meaning which varies from that which is generally understood, or where a technical or legal term is used, a definition will be provided by the law. However, the meaning of any term given in the definition can be used for interpretation of the meaning of the term in that law only. The meaning of a term/word as given in the definition for one law cannot be used to interpret the same term/word which appears in other laws with a different objective and purpose.[29]

5.1.2 Interpretation according to Intention

Interpretation according to intention means analysis of the meaning of the words from the intention or objective of that law. This principle derives from the rationale that laws should be enacted for a purpose before attempts can be made to select vocabulary or terms which will reflect the correct intention with utmost clarity for use in the legislation. Thus, if one knows the intention of the law, one can understand the meaning of the vocabulary or terms accordingly.

5.1.2.1 Theory used for interpretation according to intention

The principles used for interpretation according to intention involve 2 theories, i.e. Subjective Theory and Objective Theory:

(1) Subjective Theory

This theory explains that we can ascertain the intention of the Law from the intention of the legislators which can be ascertained from studies of historical background of that particular law, for example, by studying the original documents

[29] *Id*., p. 82.

of the law, minutes of the meeting of the Legislation Committee and of the National Assembly's Commission as well as the explanatory memorandum of the National Assembly's meetings.

(2) Objective Theory

This theory explains that we can ascertain the intention of the law from the contents of that law itself without relying on the intention of the legislators. For instance, studying the objectives of the law and interpretation pursuant to the weight of the court's judgment for which the law can be interpreted appropriately in conformity with changes and progress in various aspects of Society and Technology. This will not place a law under a standstill but keeps it progressing and up-to-date on a constant basis.

On this issue, Prof. Paimani Chaiwongsa commented that any one theory should not be used alone to interpret the law in view of the fact that the Subjective Theory does not take into account the changes in the Society and Technology. Even though it would create stability and certainty for the law, the Subjective Theory tends to harden the nature of the Law such that it may not be up-to-date. On the contrary, even if the Objective Theory takes into account the true nature of things and changes which occur in Society and Technology that will keep the law constantly up-to-date, this theory ignores the point that the development of the law is a product of history. Hence, the Law should be interpreted by means of both theories in complement with each other, as appropriate.[30]

5.1.2.2 Method of search and interpretation in accordance with the intention of the law

A search for the intention of the law can be done by studying documents and various components of the law, as follows:[31]

(1) Preambles

Laws in the past often explained their objectives and rationale for enactment of that law in their preambles. There is however no explanation and rationale in today's Law. Even if there were, it would be only a short explanation which would not fully depict the intention of the Law. Thus, now only the Constitution

[30] *Id.*, p. 84.
[31] *Id*, pp. 84-87.

of the Lao PDR contains the preamble that specifies its intention. Where the preamble of any law states the intention and rationale for its enactment, the law-users could study it in order to ascertain the real intention of that particular law.

(2) Record of the principles and rationale for the drafting of legislation

Where the Law Drafting Committee of the Lao PDR which is a member of the National Assembly makes a record of principles and rationale for use in support of its consideration on the draft of any law, law-users can study the said record which gives the reasons and necessity for the drafting of that law to ascertain the intention of the law.

(3) Status of the law prior to the date of its enforcement

In addition, the intention of the law may be ascertained by considering the status of laws existing before the date of their enforcement. Laws may be enacted to correct some defects or injustice existing prior to its enactment or to improve laws currently in force, or even to enact new things which have never been provided for in current laws. Thus, consideration of the status of the law before its enforcement can provide the rationale for the legislation.

(4) Consideration of several laws which provide for the same topic, or consideration of other sections in the same law

Laws with provisions on the same subject may be revised/expanded or consolidated into new law. The study of legal provisions on the same subject in several laws with subsequent comparisons can enable us to see the differences and learn of the intention of that particular law.

In interpreting the provision of one section, we may understand and interpret the provision of that section by studying the provisions in other sections of the same law, while taking into consideration the ranking of the series of sections. For instance, provisions which contain statement of principles are usually at the beginning of the law, etc.

(5) Interpretation of the law in the way which makes it effective.

Where interpretation can be made in two ways, i.e. for the law to be enforceable in one way and not enforceable in another

way, interpretation of the law must be made along the line which will promote the law's intention that it should be enforceable.

(6) Strict interpretation of exclusions and provisions which are restrictive of freedom

Where a legislator is drafting a provision which constitutes an exclusion or limitation of the people's rights and freedom, it can be assumed that such legislator has already given cautious consideration of the matter so as to provide for the exception, or in the case of specific provision which restricts freedom, such is intended specifically in the case for which it is provided only. Thus, interpretation must be made strictly and it shall be construed that the legislator has no intention to cover cases which are not stipulated therein.

Where the literal interpretation and interpretation according to intention lead to different meanings, Prof. Paimani Chaiwongsa comments that the meanings ascertained from the interpretation according to intention should be preferred as it would better conform with the requirements of the law.[32]

5.2 Principles governing Interpretation of Special Laws

No definition or restrictive meaning on the term "special laws" is given; albeit it is accepted in the Lao PDR circles of legal academic studies today that the Criminal Law is characteristically a special law whose interpretative criteria differs from the that of general laws, as follows:

5.2.1 The law must be strictly interpreted

As Criminal Law is the law which sets out crimes and punishment, therefore, interpretation of the Criminal Law shall be made strictly in a way that conforms with the notion that the law intends only to punish the offender specifically for action prescribed by the law.

[32] *Id*, p. 87.

5.2.2 The law may not be interpreted in a way which will punish or increase the punishment of the offender

This criterion is in line with the preceding criteria in that interpretation of the Criminal Law shall not be made in a way that expands the culpability or increases the punishment of the offender. The offender shall be liable specifically only for action provided by the law.

5.2.3 In any case of doubts, interpretation shall be made in a way which will be beneficial

This case will materialize only when there is any doubt over interpretation of the law. In any case of doubts where there is no clarity in the law, interpretation shall not be made in an adverse manner vis-à-vis the offender.

6. Law Enforcement and Problem in Practice

With the Lao PDR determined to develop its laws to the standards acceptable in the eyes of the international community, periodical improvements have been made on the Laotian laws. Moreover, assistance has been received by international organizations, both in areas of legal development and development of legal enforcement systems in the country. However, in practice, there are still many problems and obstacles. One of which is the insufficient number of officers to ensure enforcement of the law on a comprehensive basis; particularly in distant rural areas where one officer has to take the responsibility for a great deal of work such that there are delays over law enforcement which, therefore, are not as effective/efficient as it should be. Furthermore, because of this shortage of people to take charge of any particular matter, i.e. with only 1-2 people, law enforcement would, again, be further delayed if the said officer is otherwise engaged on another assignment.

Another law enforcement problem involves different interpretation between officials. This problem has arisen a great deal in a case, for example, where one law may be applicable, or where more than 1 State entity is involved which may be an entity on the same ranking, i.e. between work units at the same ministerial levels. Or, they may be entities at different levels, i.e. between a ministerial level entity and a departmental level entity. Frequent problems found are that when a problem arises over lack of clarity over any point of law, officers in each unit may make their interpretation differently which leads not only to the lack of clarity on the matter but also to confusion for those assigned to enforce the law. This problem shows a lack of communication between the State's work units to find

conclusion over enforcement of the law on each specific issue. Moreover, interpretation of the law and direction of work by each officer within the same unit may differ as well. This problem will arise when consultation has to be sought or documents submitted to officials. Some units may operate under rules issued governing operating procedures at various stages, while some officers, however, operate under the procedure which may differ from that of other officials. Likewise, this leads to confusion over law enforcement. However, when there is doubt over any issue of law enforcement, some Lao PDR work units may hold meetings for consultation with one another in order to reach a conclusion and obtain answers on issues being consulted before giving written responses to the party which has asked for such advice which would, indeed, lead to better clarity. This, however, could take time for matters which may be 1-2 weeks and more for matters of greater complexity. In the case that the statements or the provisions of law are ambiguous or conflicting, the Law governing Creation of Juristic Acts provides that the task of interpreting such laws be with different organizations. In an event the provisions of "Law", which is a type of written law enacted by the National Assembly and comparable to the Thai "Act", are ambiguous or conflicting, the Law governing Creation of Juristic Acts stipulates that the National Assembly Standing Committee, an organization of the legislative body, has the authority to interpret such statement or provisions of law. In this regard, a resolution according to the interpretation of such "Law" shall be proposed. In an event the statement or provisions of other type of written law are ambiguous or conflicting, the task of interpreting such statements or provisions is with the organization that has enacted such written law.[33]

Furthermore, it has been found on several occasions that, even though laws may have been revised throughout times past, the laws are not put to actual use in practice. For example, in the process of company incorporation, laws governing business operations prescribe that the party wishing to make an investment shall file their applications and company incorporation documents to the relevant work units, which can be the Ministry of Industry and Trade or the Ministry of Planning and Investment, and to issue the Certificate of Incorporation, the responsible ministry shall co-ordinate with the Ministry of Finance to ask for the Taxpayer ID number to be stated in the Certificate of Incorporation before issuing such Certificate to the investor. In practice, however, it is the investor itself which must take the documents from the Ministry of Industry and Trade or the Ministry of Planning and Investment, as applicable, and take them to contact and apply for the Taxpayer ID Number after which the Ministry of Industry and Trade or the Ministry of Planning and Investment, as applicable, will be notified to have the Certificate of Incorporation further issued to the investor.

[33] Law governing Creation of Juristic Acts, section 84.

7. Political Institutions

The political institutions of the Lao PDR can be divided into the central political institutions and the local political institution. The Constitution of the Lao People's Democratic Republic, dated 6 May 2003,[34] (the "Lao Constitution") acknowledges the powers and duties of the central political institutions, i.e. the National Assembly, the President of the State, the Government, the People's Court and the People's Public Prosecutor, including the powers and duties of the local political institution as follows:

7.1 National Assembly

The National Assembly of the Lao PDR is a legislative body whose members are directly elected by Lao citizens. Its important responsibility is to serve as a representative of Lao citizens in order to protect their rights and benefits, to enact laws as well as to monitor performance of the executive and judicial body. Due to the absence of the Constitutional Court therein, the National Assembly is also responsible for ensuring the validity of laws by abolishing laws whose provisions contravene the Constitution, and for supervising governmental organizations and/or state agencies to ensure they perform their duties in conformity with the Lao Constitution and laws of the Lao PDR.[35]

According to the provisions of the Lao Constitution and the Law on the National Assembly, the rights and duties of the National Assembly are as follows:

(1) To consider and approve the drafting, amendment and abolition of the Constitution and the Law;
(2) To consider and approve drafting and amending plans;
(3) To consider and approve the specification, change and cancellation of the tax and duty rates;
(4) To consider and approve the government's report on the implementation of the economic and social development plan and the state budget plan as well as the future direction of the economic and social development plan and the State Budget Plan;
(5) To consider and approve the reports on activities and future direction of the People's Supreme Court and the People's Public Prosecutor;

[34] The Constitution of the Lao PDR dated of 6 May B.E 2546 (A.D. 2003), adopted by the National Assembly's Resolution number 25/NA, dated on 6 May B.E 2546 (A.D 2003), and enforced by Ordinance of the President of the Statedated 28 May B.E. 2546 (A.D. 2003).
[35] Sommai Sriudomphan, Introduction to the Constitutional Law of the Lao PDR (A co-project between the faculty of law and political sciences and SIDA Project, 2006), p. 28.

(6) To consider and approve the reports on activities and future directions, including the report of the State Audit Organisation on the implementation of the annual budget plan;

(7) To elect and remove the President, the Vice-Presidents and the members of the National Assembly Standing Committee;

(8) To consider and approve the establishment, change and dissolution of the organizational structure of the National Assembly;

(9) To consider and approve the appointment, transfer and removal of chairman, vice-chairmen and members of the Committees on recommendation of the National Assembly Standing Committee;

(10) To elect and remove the President and Vice-President of the State on recommendation of the National Assembly Standing Committee;

(11) To consider and approve the appointment and removal of the Prime Minister on recommendation of the President of the State;

(12) To consider and approve the government's organizational structure as well as the appointment, transfer and removal of the Deputy Prime Minister and Ministers on recommendation of the Prime Minister;

(13) To elect and remove the President of the People's Supreme Court and the People's Supreme Public Prosecutor on recommendation of the President of the State;

(14) To elect and remove the President of the State Audit Organization on recommendation of the National Assembly Standing Committee;

(15) To consider and approve the establishment, dissolution, consolidation and separation of ministries, organizations, provinces and cities, including the determination of the boundaries of provinces and cities, on recommendation of the Prime Minister;

(16) To consider and approve the granting of amnesties;

(17) To consider and approve the termination or annulment of the treaties to which the Lao PDR is a party, including the international agreement at the State level;

(18) To consider and approve the matters relating to security, safety and peace;

(19) To monitor the consistency between the Resolution of the National Assembly sessions, Resolution of the National Assembly Standing Committee, economic and social development plan, state budget plan, national projects and projects which affect many people or have an adverse environmental impact under the Lao Constitution and the Law;

(20) To terminate any legal documents issued by the National Assembly Standing Committee, the President of the State, the Government, the Prime Minister, the State Audit Organization, the Lao Front for National Construction, public organizations at the central level, the People's Supreme Court, and the People's Supreme Public Prosecutor, which are inconsistent with the Constitution or the Law, with the exception of the decisions or rulings given by the People's Supreme Court and the People's Supreme Public Prosecutor in regard to legal proceedings; and

(21) To liaise and cooperate with parliaments and regional and international organizations.

The term of office of each National Assembly is five years from the opening session of the incumbent National Assembly to that of the new National Assembly.[36] The election of the members of the new National Assembly must be completed no later than sixty days before the end of the incumbent National Assembly's term. In an event of emergency or any inconvenience preventing the election such as war, the members of the new National Assembly shall be elected within six months after the situation returns to normal.[37]

Each province or city shall be regarded as a constituency of the election of the National Assembly's members. Currently, the Lao PDR has 16 provinces and 1 city, i.e. Vientiane. Therefore, there are 17 constituencies in total. The number of Members in the National Assembly shall be based on the population number within a constituency. There shall be 1 member for every 50,000 of the population in each constituency. If the number of the population in any constituency is less than 150,000, there shall be no less than 3 members elected from that constituency. The National Assembly Standing Committee will specify the numbers of the National Assembly's members which may be elected in each constituency, and the President of the State will officially issue an Ordinance no later than sixty days before the election day.[38]

There are three types of the National Assembly meetings, i.e. the opening session, the ordinary session and the extraordinary session. The opening session shall be open no later than 60 days after the election of the new National Assembly.[39] The National Assembly convenes its ordinary session biannually. The first ordinary session will take place at the end of the fiscal year between June and July. The second ordinary session will take place at the beginning of the fiscal year between November and December.[40] The extraordinary session

[36] Law on National Assembly, section 5.
[37] Law on National Assembly, section 5.
[38] Law on the Election of Members in the National Assembly, section 11.
[39] Law on National Assembly, section 8.
[40] Law on National Assembly, section 9.

of the National Assembly may be convened between the two ordinary sessions as agreed by the National Assembly Standing Committee or upon request of the President of the State, the Prime Minister or at least one-fourth of the total number of the National Assembly members.[41]

Each session of the National Assembly meeting is convened by the National Assembly Standing Committee[42] requiring a quorum of more than one-half of the total number of the National Assembly members.[43] The Resolution of the National Assembly is one of the legislations having general binding legal powers. For resolutions of the National Assembly to be valid, a vote of more than one-half of the members present at the session is required, except in the case of the election of the President of the State, the election of the National Assembly members prior to the end of its term, and the amendment of the Constitution, where at least a vote of two-thirds of the members present are required.[44]

The organizational structure of the National Assembly shall consist of the President and Vice-President of the National Assembly, the National Assembly Standing Committee, Members of the National Assembly, the Committees of the National Assembly, the Office of the National Assembly, the Committee of the National Assembly Female Members and the Committees of the National Assembly Members in the Constituencies.[45]

7.1.1 President and the Vice-President of the National Assembly

The President is the person who holds the highest position in the National Assembly and presides over the meetings of the National Assembly and the National Assembly Standing Committee. The President is responsible for guiding and supervising performance of the National Assembly and other organizations of the National Assembly which include the National Assembly Standing Committee, the Committees of the National Assembly, the Office of the National Assembly, the Committee of the National Assembly Female Members and the National Assembly Members in the Constituencies. In addition, the President of the National Assembly is also a representative of the National Assembly in contacting and cooperating with domestic and international agencies.

The Vice President of the National Assembly is responsible for assisting the President to perform and fulfill the President's duties and also for being a representative of the President in the National Assembly Meetings or the National Assembly Standing Committee Meetings as assigned.

[41] Law on National Assembly, section 10.
[42] Law on National Assembly, section 12.
[43] Law on National Assembly, section 11.
[44] Law on National Assembly, section 14.
[45] Law on National Assembly, section 16.

At present, the President of the 7th National Assembly is Ms. Pany Yathotou, and the two vice-chairmen are Dr. Xaysomphone Phomvihane and Mr. Somphanh Phengkhammy.[46]

7.1.2 The National Assembly Standing Committee

The National Assembly Standing Committee is responsible for performing the duties of the National Assembly when the National Assembly is not in session.[47] The National Assembly Standing Committee has the rights and duties as follows:

(1) To study the drafting and improvement to the Law for the consideration and approval by the National Assembly session, and to study, review and draft the Ordinance for submission to the President of the State for approval;

(2) To make preparations for the National Assembly sessions;

(3) To interpret the Constitution and the Law;

(4) To consider and approve the appointment, transfer and removal of any member of the Cabinet or the Head of an organization on recommendation of the Prime Minister where necessary, and report the matter for consideration and approval in the next National Assembly session;

(5) To study and propose to the President of the State a list of the convicts who are well-behaved and have served some of their time so that the President of the State may consider granting amnesties;

(6) To monitor and encourage the implementation of the Constitution, the Law, the Resolution of the National Assembly session, the Resolution of the National Assembly Standing Committee, the economic and social development plan, the state budget plan, government projects, the People's Supreme Court, the People's Supreme Public Prosecutor, the State Audit Organization, and provincial or city administrative organizations;

(7) To suspend the enforcement of legislations issued by the Government, the Prime Minister, the Ministers, the President of the State Audit Organization, the Lao Front for National Construction, public organizations at the central level, provincial governor, city mayor, the President of the People's Supreme Court, and the Head of the People's Supreme Public Prosecutor which are inconsistent with the Constitution,

[46] _____. The National Assembly Standing Committee. Online. http;//www.na.gov.la/index.php?option=com_content&view=article&id=62&Itemid=147&lang=la. (Accessed on 23 July 2014).
[47] Law on National Assembly, section 25.

the Law or the Resolution of the National Assembly sessions, and present the matter for consideration in the next National Assembly session, with the exception of decisions or rulings given by the People's Supreme Court and the People's Supreme Public Prosecutor in respect of legal proceedings;

(8) To appoint, transfer and remove Chief and Deputy Chief of the Office of the National Assembly, Chairman and Vice-Chairmen of the Committee of the National Assembly Female Members, heads of the departments and other agencies which are under the supervision of the Office of the National Assembly, Chairmen and Vice-Chairmen of the Committees of the National Assembly Members in the Constituencies, and chiefs of the National Assembly offices in the constituencies;

(9) To fill vacancies on, and rotate membership of, any Committee of the National Assembly;

(10) To appoint, transfer and remove judges of the People's Supreme Court, presidents and vice-presidents of the People's Local Courts and the Military Courts, as well as chiefs of the Regional Audit Organizations;

(11) To report to the National Assembly session on activities performed by it during the two sessions;

(12) To appoint ad hoc committees to perform specific duties as it deems necessary; and

(13) To arrange the election of new National Assembly.

The National Assembly Standing Committee shall consist of the President, Vice-President and committees. The President and Vice-President of the National Assembly also respectively serve as the President and Vice-President of the National Assembly Standing Committee at the same time.[48]

The meeting of National Assembly Standing Committee shall be held at least once a month. The meeting of the National Assembly Standing Committee shall be convened by its President, and at least two-thirds of the members of the National Assembly Standing Committee must be present in order to constitute a quorum.[49] Any Resolution of the National Assembly Standing Committee meeting shall be valid only if passed by a vote of more than one-half of the members present.[50]

At present, the National Assembly Standing Committee consists of a Chairwoman - Ms. Pany Yathotou, two vice-chairmen - Dr. Xaysomphone Phomvihane and

[48] Law on National Assembly, section 27.
[49] Law on National Assembly, section 30.
[50] Law on National Assembly, section 32.

Mr. Somphanh Phengkhamm, and 7 other committee members as follows: Mr. Douangdy Outhachak, Professor Davone Vangvichit, Dr. Koukeo Akkhamuonty Dr. Souvanpheng Boupphanouvong, Prof. Dr. Phonethep Pholsena, Police Brigadier General Vilay Douangmany and Dr. Ounkeo Vouthirath.[51]

7.1.3 Members of the National Assembly

The current National Assembly of the Lao PDR consists of 132 members, 33 of whom are female and 99 men. The current National Assembly has been sworn into office from 2011 to 2015.[52]

The term of office of the National Assembly members corresponds to that of the National Assembly which is 5 years. In the event of the by-election of a new member to fill the vacancy on the National Assembly, the term of office of the newly-elected member commences on the date of the National Assembly session after the by-election and ends on the date of the opening session of the new National Assembly.[53]

The end of membership in the National Assembly shall occur at:

(1) Expiry of the office term;

(2) Resignation by reason of necessity;

(3) Removal; or

(4) Death.[54]

Members of the National Assembly shall be immune from arrest, detainment or prosecution unless there is an approval from the National Assembly Standing Committee. If it is crucial to arrest a member of the National Assembly for a flagrant offence or due to the urgency of the matter, the arrest must be immediately reported to the National Assembly Standing Committee for instructions regarding further actions. The prosecuted member may still attend the National Assembly sessions during the course of the investigation.[55]

7.1.4 Committees of the National Assembly

At present, the National Assembly consists of 6 Committees as follows: the Law Committee consisting of 26 members, the Economic, Planning and Finance Committee consisting of 30 members, the Socio-Cultural Committee consisting of 31 members, the Tribal Committee consisting of 25 members, the National Security and Defense Committee

[51] _____. The National Assembly Standing Committee. Online. http;//www.na.gov.la/index.php?option=com_content&view=article&id=62&Itemid=147&lang=la. (Accessed on 23 July 2014).
[52] _____. The National Assembly Standing Committee. Online. http;//www.na.gov.la/index.php?option=com_content&view=article&id=62&Itemid=147&lang=la. (Accessed on 23 July 2014).
[53] Law on National Assembly, section 19.
[54] Law on National Assembly, section 22.
[55] Law on National Assembly, section 24.

consisting of 19 members and the Foreign Affairs Committee consisting of 21 members.[56] Any member of the National Assembly is able to serve in more than 1 Committee.

7.1.5 Office of the National Assembly

The Office of the National Assembly is the administrative body of the National Assembly with the duty to support the National Assembly in administration, planning and finances, and to facilitate activities of the National Assembly.[57]

7.1.6 Committee of the National Assembly Female Members

The Committee of the National Assembly Female Members is an organization of the National Assembly. The Committee is responsible for conducting research, empowering the roles of women in the context of laws, examining the application of Constitution, laws and other related policies in relation to equality between men and women as well as enhancing mother and child development.[58]

7.1.7 Committees of the National Assembly Members in the Constituencies

A Committee of the National Assembly Members in the Constituencies is an organization of the National Assembly in each constituency (currently, there are 17 constituencies in total). The Committee's duty is to represent the National Assembly in considering and deciding on important issues of a province or city, and to monitor the activities of the local officials and administrative organizations in its constituency to ensure compliance with the Constitution, the Law, the economic and social development plan, the state budget plan, the Resolution of the National Assembly session, and the Resolution of the National Assembly Standing Committee meetings.[59]

7.2 President of the State

The President of the State is the leader of the country and is elected by the National Assembly with two-thirds of the votes of all members of the National Assembly attending the session.[60] The term of the President of the Lao PDR is 5 years.[61]

As leader of the country, the President is entitled to serve as a representative of the country in any event in relation to international affairs i.e. to appoint a representative to work

[56] _____. The National Assembly Standing Committee. Online. http;//www.na.gov.la/index.php?option=com_content&view=article&id=174%3Aconstituency-17-attapue-province&catid=28%3Aconstituencies&Itemid=156&lang=la (Accessed on 23 July 2014).
[57] Law on National Assembly, section 48.
[58] Law on National Assembly, section 54.
[59] Law on National Assembly, section 55.
[60] Constitution of Lao PDR, section 66.
[61] A term of the National Assembly is 5 years as prescribed in section 54 of the Constitution of Lao PDR.

abroad, to summon that person back to the country as proposed by the prime minister, and to receive representatives of other countries posted in the Lao PDR. In addition, the President of the country is entitled to ratify or veto treaties or agreements into which the Lao PDR has entered.

In order to manage domestic affairs, the authority and duty of the President shall be classified into 3 branches as follows: The executive branch, the legislative branch and the judicial branch.

7.2.1 Authority and duties of the President in the Legislative Branch

In order to promulgate the Law, the President is entitled to promulgate the Constitution and Law to which the National Assembly has adopted in Ordinance or Decree. After the Law has been adopted by the National Assembly, the National Assembly Standing Committee shall propose to the President for consideration for the purpose of issuing the Presidential Ordinance on implementation of such Law within 10 days[62] but no more than 30 days from the day the draft law has been adopted by the National Assembly.[63] Within such period, the President may return the draft Law to the National Assembly Standing Committee for reconsideration. If the National Assembly insists on the draft, the President of the State shall promulgate the Law within 15 days from the day of receiving the certified letter from the General Assembly Standing Committee.[64]

In addition, the President of the State is one of the six organizations or persons that are eligible to propose a draft Law to the National Assembly for consideration.[65] In this regard, before drafting or amending any laws, the authority who may propose the draft Law shall submit a letter to the National Assembly Standing Committee showing the purposes and reasons in promulgating or amending such law. When the National Assembly Standing Committee approves the letter, the Office of the President shall be responsible for drafting the laws the President of the State has proposed for promulgation or amendment.[66]

7.2.2 Authority and duties of the President in the Executive Branch

The previous Constitution of the Lao PDR of 1991 contains a provision that recognizes the position of the President of the State as the leader of the executive branch. In other words, the previous Constitution recognizes that the President of the State is the highest executive institution with the Government as the central administrative

[62] Law on Legislation Making, section 58.
[63] Constitution of Lao PDR, section 60.
[64] Law on Legislation Making, section 58.
[65] Law on Legislation Making, section 18.
[66] Law on Legislation Making, section 27.

organization.[67] However, even though the current Lao Constitution does not expressly recognize the supreme position in the executive branch or the highest executive institution of the President of the State, the current Lao Constitution still recognizes the authority of the President of the State in executive branches as follows:

(1) To propose candidates to the National Assembly eligible for presidency or removing the Prime Minister from office;
(2) To appoint or remove the Prime Minister from office, and to appoint, transfer or remove members of the Government from office with the approval of the National Assembly;
(3) To appoint, transfer or remove heads of provinces or cities on recommendation of the Prime Minister;
(4) The President of State is the Head of the People's Military Office;
(5) To promote and demote the General in the National Security and Defense Army on recommendation of the Prime Minister;
(6) To provide the Epaulet Medal, the Courage Medal, the Victory Medal and the highest title of the Lao PDR;
(7) To call and to preside over governmental extraordinary meetings; and
(8) To mobilize the military and civilians and to declare a state of emergency in specific areas.

7.2.3 Authority and duties of the President in the Judicial Branch

The Lao Constitution provides authority to the President of the State in the judicial branches as follows: 1) the President is able to appoint or remove the Vice-President of the People's Supreme Court based on recommendation of the President of the People's Supreme Court, and to appoint or remove the Deputy of the People's Supreme Public Prosecutor based on recommendation of the Supreme Public Prosecutor; and 2) the President of the State has the power to grant amnesty.[68]

7.3 The Government

The government of the Lao People's Democratic Republic is the executive branch of the State approved by the National Assembly and has the duty of administering the State in the following areas: political, economic, social, cultural, use of natural resources, environmental protection, national defense and security, and foreign affairs.[69] The government operates on a principle of democratic centralism based on the Constitution and

[67] Sommai Sriudomphan, Introduction to Constitution of the Lao PDR, p. 71.
[68] Constitution of Lao PDR, section 67.
[69] Law on the Government of the Lao PDR, section 2.

laws, with the Lao People's Revolutionary Party as the axle.[70] The rights and duties of the Government are affirmed in the Constitution and the Law on the Government of the Lao PDR:

(1) To implement the Constitution, the Law, the Resolution of the National Assembly, and the Presidential Ordinances and Decrees; to disseminate the laws, and to specify measures to protect lawful rights and interests of citizens;

(2) To determine strategic plans, economic and social development plans and annual state budgets and to submit them to the National Assembly for consideration and approval;

(3) To build and promote the development of the country's economic, social, cultural, scientific and technical foundations, to implement fiscal and currency policies; to manage and ensure effective use of national assets; and to protect State property, collective property and private property based on the Constitution and Law;

(4) To report on its operations to the National Assembly, or to the National Assembly Standing Committee when the National Assembly is not in session, and to report to the President of the State;

(5) To examine, comment on, and to submit drafts of Laws to the National Assembly for consideration and approval, and drafts of Presidential Ordinances to the National Assembly Standing Committee for consideration;

(6) To examine and comment on, and to submit, drafts of presidential decrees to the President of the State for consideration and approval;

(7) To issue decrees and resolutions on State administration, Economic and Social management, management in the fields of science and technology, development and use of human resources, protection and utilization of natural resources, the environment and other resources, national defense and security, and foreign affairs;

(8) To organize, direct, facilitate and oversee the activities of sectorial organizations and local administrations to ensure effectiveness and compliance with the laws and regulations;

(9) To protect citizens;

(10) To strengthen the national defense and security forces and social order, to build the people's armed forces, to execute orders on force mobilization, and to determine necessary measures to protect the country;

[70] Law on the Government of the Lao PDR, section 3.

(11) To suspend the implementation of or cancel decisions, guidelines, and notifications of ministries, ministry-equivalent organizations, other governmental organizations, and local administrations that are in conflict with the law;

(12) To create, abolish and define the borders of districts or municipalities based on the proposal of provincial governor or city mayors;

(13) To monitor and prevent any non-observance of laws, corruption and other hindrances, and to consider the complaints or petitions of the people against such acts committed by civil servants, government officials and executive organs so that any remedial measure may be adopted; and

(14) To coordinate, cooperate, negotiate and sign conventions and agreements with foreign countries, and to administer and monitor foreign affairs activities and the implementation of signed conventions and agreements.

The term of office of the Government is five years. In the event that the term of the government expires, but the National Assembly has not approved a new government, the former government shall continue to exercise its functions.[71]

The meeting of the government is held once every month and is convened and presided over by the Prime Minister.[72] If it is deemed necessary and urgent, an extraordinary session may be convened upon the proposal of the Prime Minister or upon the request of at least one-third of the total members of the government.[73] The extraordinary meeting of the government is a meeting of members of the government convened and chaired by the President of the State. This kind of government meeting can be called at any time when the country is undergoing an economic or cultural and social crisis, or the state of emergency in national defense and security or foreign affairs. Members of the government are responsible for attending every government meeting.[74] The majority vote system shall be used in government meetings. If a vote is equal, the chairman of the meeting shall have the casting vote.

At present, the government structure consists of 18 ministries and 3 other ministry-equivalent organizations. The 18 ministries are as follows:[75]

(1) Ministry of National Defense;

(2) Ministry of Public Security;

(3) Ministry of Foreign Affairs;

[71] Law on the Government of Lao PDR, section 4.
[72] Law on the Government of Lao PDR, section 8.
[73] Law on the Government of Lao PDR, section 8.
[74] Law on the Government of Lao PDR, section 10.
[75] _____. The National Assembly Standing Committee. Online. http;//www.na.gov.la/index.php?option=com_content&view=article&id=221%3Anew-cabinet-members-announced-&-&catid=64%3Athe-association-of-lao-parlientarians&Itemid=58&lang=la (Accessed on 23 July 2014).

(4) Ministry of Justice;
(5) Ministry of Home Affairs;
(6) Ministry of Education and Sports;
(7) Ministry of Health;
(8) Ministry of Information, Culture and Tourism;
(9) Ministry of Labour and Social Welfare;
(10) Ministry of Planning and Investment;
(11) Ministry of Finance;
(12) Ministry of Agriculture and Forestry;
(13) Ministry of National Resources and Environment;
(14) Ministry of Energy and Mines;
(15) Ministry of Industry and Commerce;
(16) Ministry of Public Works and transport;
(17) Ministry of Science and Technology; and
(18) Ministry of Posts and Telecommunication.

The ministries-equivalent organizations are the Office of the Government, the Lao Republic Ombudsman and the Central Bank of the Lao PDR.

The government structure consists of the Prime Minister, the Deputy Prime Minister, Ministers, Ministers to the Minister's Office and the Leaders of other ministry-equivalent organizations.

The Prime Minister is the leader of the government, appointed or removed by the President of the State after the approval of the National Assembly.[76] At present, Mr. Thongsing Thammavong is serving as the current Prime Minister whose important authority and duties specified in the law of the government of the Lao PDR include:

(1) To call and chair the meeting of the government;
(2) To direct and facilitate activities of the government, to monitor the implementation of resolutions of the National Assembly, and resolutions of the meeting of the government, and to monitor the activities of the ministries, ministry-equivalent organisations, provinces, cities and other organisations that are directly under the government's jurisdiction;
(3) To propose to the President of the State the appointment, transfer or removal of deputy prime ministers, ministers, ministers to the Prime Minister's Office, and chairmen of ministry-equivalent organisations, and to submit such proposals to the National Assembly for consideration and approval;

[76] Law on the Government of Lao PDR, section 14.

(4) To propose to the President of the State the appointment to foreign countries plenipotentiary representatives of the Lao People's Democratic Republic, or summon such representatives back to the country;

(5) To propose to the President of the State the appointment, transfer or removal of provincial governors, and city mayors, and to propose the promotion or demotion of generals in the national defense and security forces;

(6) To appoint, transfer or remove vice-ministers, vice-ministers to the Prime Minister's Office, vice-chairmen of ministry-equivalent organisations, chiefs and deputy chiefs of sub-ministries, director generals of departments, vice-governor, vice-mayors, chiefs of districts and municipalities, and chiefs of organisations that are directly under the government's jurisdiction and other equivalent positions;

(7) To promote or demote colonels in the national defense and security forces;

(8) To issue decrees, orders and instructions, and guidelines on the implementation of policies, laws and regulations, and government plans; and to issue decrees on the establishment and operations of ministries, ministry-equivalent organisations, sub-ministries and local administrations;

The performance of the Government shall be supervised by the National Assembly in which the Government is to submit the annual report of performances, propose strategic plans for Economic and Social development, State budgets, and amendments to the State budget to the National Assembly for consideration and approval, and to clarify or explain, or to respond to questions from members of the National Assembly regarding the performance of duties of the government or of any member of the government.[77] When the National Assembly is not in session, members of the government are obligated to report their activities to the National Assembly Standing Committee and to provide data as required by the National Assembly Standing Committee. In conducting important foreign affairs or domestic affairs, the government shall receive prior approval from the National Assembly. Important foreign affairs include the signing and ratification of international conventions or agreements.[78]

[77] Law on the Government of Lao PDR, section 32.
[78] Law on the Government of Lao PDR, section 32.

7.4 The People's Court

The People's Court is one of two judicial institutions of the Lao PDR (the other is 'the People's Public Prosecutor which shall be discussed next).

The People's Court is a judicial institution and the only institution with the authority to monitor and adjudicate cases. Its rights and duties are as follows:

(1) To educate, mediate between the parties, and adjudicate cases;
(2) To publicize and disseminate laws and regulations, and identify and eliminate the cause of wrongdoing;
(3) To educate citizens on politics and law, as well as promote the right attitude and obedience to the law;
(4) To liaise with relevant organizations both inside and outside the country in discharging the court's duties;
(5) To contact and cooperate with other countries in matters involving justice and law; and
(6) To summarize and report on their performance to organizations of higher hierarchy.[79]

Decisions and rulings of the People's Courts are given in three stages: Preliminary stage, appellate stage and annulling stage which is the equivalent of the judgment of the Supreme Court of Thailand.[80]

The People's Municipal Court is entitled to adjudicate at the preliminary stage the cases where the amount of money involved does not exceed 300,000,000 Kip (approximately 1,200,000 Baht) and the cases involving spouse, post-nuptial property, debts, and children, as well as cases where maximum penalty does not exceed 3 years, with the exception of cases involving children or minors.[81]

The People's Provincial and City Courts can adjudicate, at the preliminary stage, cases which are not within the jurisdiction of the People's Municipal Courts, and can adjudicate at the appellate stage, the cases ruled at the preliminary stage by the People's Municipal Courts and appealed against by the parties or objected to by the People's Public Prosecutor.[82]

The People's Regional Courts can adjudicate at the appellate stage cases ruled at the preliminary stage by the People's Provincial and City Courts and the Juvenile Courts and

[79] Law on the People's Court, section 18.
[80] Law on the People's Court, section 5.
[81] Law on the People's Court, section 27.
[82] Law on the People's Court, section 5.

appealed against by the parties or objected to by the People's Public Prosecutor, and can adjudicate at the annulling stage, the cases ruled at the appellate stage by the People's Provincial and City Courts and sought to be annulled by the parties or objected to by the People's Public Prosecutor.[83]

The People's Supreme Court can adjudicate at the annulling stage cases ruled at the appellate stage by the People's Regional Courts and sought to be annulled by the parties or objected to by the People's Public Prosecutor.[84]

The Structure of the People's Court consists of:

(1) The People's Supreme Court;
(2) The People's Regional Court;
(3) The People's Provincial and City Court and the Juvenile Court;
(4) The People's Municipal Court; and
(5) The Military Court.

Further details about the method of dispute resolution by the People's Court will be explained in Chapter 20, Dispute Resolution Method.

7.5 The People's Public Prosecutor

The People's Public Prosecutor is the government institution responsible for monitoring the enforcement of law by other government institutions as well as citizens of the Lao PDR.[85]

The institutional structure of the People's Public Prosecutor consists of the following:

(1) The People's Supreme Public Prosecutor;
(2) The People's Regional Public Prosecutor;
(3) The People's Provincial and City Public Prosecutor;
(4) The People's Municipal Public Prosecutor; and
(5) The People's Military Public Prosecutor.

Each stage shall consist of: 1) the President of the People's Public Prosecutor; 2) the Vice-President of the People's Public Prosecutor; 3) the People's Public Prosecutor; 4) the assistants to the People's Public Prosecutor; and 5) the Administrative Officers.[86]

The President of the People's Public Prosecutor shall serve for 5 years, and shall be appointed or removed by the National Assembly on recommendation of the President of the

[83] Law on the People's Court, section 5.
[84] Law on the People's Court, section 5.
[85] Law on the People's Public Prosecutor, section 9.
[86] Law on the People's Public Prosecutor, section 24.

State. The Vice-President of the People's Public Prosecutor shall be appointed, transferred or removed by the President of the State on recommendation of the President of the People's Public Prosecutor. The Presidents and Vice-Presidents of the People's Regional Public Prosecutor, the People's Provincial and City Public Prosecutor, and the People's Municipal Public Prosecutor as well as the People's Public Prosecutor, the assistants to the People's Public Prosecutor, and the Administrative Officer shall be appointed, transferred or removed by the President of the People's Supreme Public Prosecutor.[87]

The roles of the People's Public Prosecutor in monitoring law enforcement shall be classified into 6 categories as follows: 1) to monitor general law enforcement; 2) to monitor law enforcement by investigatory institutions; 3) to submit cases to the Court; 4) to monitor law enforcement during trial proceedings; 5) to monitor the execution of judgments; and 6) to monitor law enforcement in prisons, penitentiaries and rehabilitation centers.

Further details of the People's Public Prosecutor will be explained in Chapter 20, Dispute Resolution Method.

7.6 Local Administration

According to the Law on Local Administration of the Lao People's Democratic Republic, No. 03/NA, dated 21 October 2003 (the **"Law on Local Administration"**), the local administration is the state administration at the local level established by the government and delegated the responsibility of managing lands, natural resources and local population in order to preserve and further develop their locality.[88] The authorities and duties of the local administration according to the Law on Local Administration are as follows:[89]

(1) To implement the constitution, laws, resolutions, orders of the higher level authorities, economic and social development plan and state budget plans within its area of responsibility;

(2) To prepare a strategic plan, economic and social development plan, state budget plans, and national defense and security plans based on national strategic plans;

(3) To manage political, Economic and Social and cultural affairs, national resources, environment, and national defense and security;

(4) To issue resolutions, decisions, orders, instructions, and notifications regarding Economic and Social and cultural management, national defense

[87] Law on the People's Public Prosecutor, section 26.
[88] Law on Local Administration, art. 2.
[89] Law on Local Administration, art. 4.

and security within its area of responsibility in accordance with the laws and regulations;

(5) To supervise the performance of the organizations under its responsibility;

(6) To collaborate and cooperate with foreign countries as directed by the government; and

(7) To assume other rights and duties in accordance with the laws.

In this regard, the organization and functions of the local administration shall be in accordance with the principle of centralized democracy and deconcentration[90] which divides the local administration into 3 levels[91]; the provincial level, the district level, and the village level.

7.6.1 Provincial Level

The local administration at the provincial level consists of provinces and a city, and, if required, a Special Zone.[92]

(1) The province is a local administration comprising of several districts and municipalities.

(2) The city is a local administration in larger urban communities comprising of several districts and municipalities. It is the center of politics, economy, society, culture and services which influence the Economic and Social development of the country.

At present, the local administration at the provincial level consists of 16 provinces and 1 city, Vientiane.

The organizational structure of the local administration at the provincial level is comprised of the Provincial or City Cabinet, and the field departments of the line ministries and equivalent organizations.

The personnel of the provincial or city administration is comprised of the Governor or City Mayor, the Vice Governor or Vice City Mayor, the Chief and Deputy Chief of the Provincial or City Cabinet, the Director and Deputy Director of the field departments, and staff and civil servants of the provincial or city administration.[93]

[90] Law on Local Administration, art. 5.
[91] Constitution of the Lao PDR, art. 75, and Law on Local Administration, art. 2.
[92] Law on Local Administration, art. 2 and art. 6.
[93] Law on Local Administration, art. 8.

7.6.1.1 Governor or City Mayor

The Governor or City Mayor is the chief of the provincial or city administration and representative of the province or city, and is responsible to the government in fulfilling the roles, rights, and duties of the provincial or city administration.[94]

The rights and duties of the Governor or City Mayor according to the Law on Local Administration are as follows:[95]

(1) To implement the constitution, laws and rules of the State;
(2) To convene and preside over provincial or city administration meetings;
(3) To study and set strategic plans, economic and social development plans and budget plans;
(4) To implement economic and social development plans, state budget plans, provincial or city defense and security;
(5) To prevent mishaps, and to monitor and inspect the central government projects being implemented in the province or city;
(6) To supervise and manage the relevant organizations to ensure the timely and accurate accounting of local revenue collections;
(7) To motivate, promote and facilitate the participation of the Lao Front for National Construction, mass organizations, civil society organizations, and all economic parties and ethnic people in the Economic and Social development of the province or city;
(8) To issue decisions, orders, instructions, notifications and other regulations in accordance with the laws and regulations;
(9) To protect the local population;
(10) To suspend or cancel legal transactions of lower local administrations, or propose to higher level authorities to suspend or cancel legal transactions of departments which contravene the laws and regulations;
(11) To propose the creation and abolition of districts or municipalities, and organizational structure of the provincial or city administration;

[94] Law on Local Administration, art. 13.
[95] Law on Local Administration, art. 14.

(12) To create, abolish, merge, divide and delineate village boundaries;

(13) To propose the appointment, transfer or demotion of the District Chief or Municipal Mayor including proposing or approving the appointment of the Directors and Deputy Directors of the field departments of the line ministries and equivalent organizations, and the Head of the field offices of the line ministries and equivalent organizations;

(14) To appoint, transfer or demote the Chief or Deputy Chief of the Provincial or City Cabinet, the Vice District Chief or Vice Municipal Mayor, the Chief and Deputy Chief of the District or Municipal Cabinet, the Deputy Head of field offices of the line ministries and equivalent organizations, and other staff in accordance with regulations;

(15) To manage the performance of staff or civil servants in accordance with their authority, including to follow up on supervising and reporting on the performance of staff or civil servants under the line ministries and equivalent organizations, to the ministries and related organizations;

(16) To consider, advise or resolve complaints, petitions and proposals from within the civil service regarding inappropriate behavior or unsatisfactory performance of staff, civil servants or organizations under their jurisdiction in accordance with the laws and regulations;

(17) To regularly report the overall situation of the province or city to the government;

(18) To collaborate and cooperate with other countries and international organizations as directed by the government; and

(19) To assume other rights and duties in accordance with the laws.

The Governor or City Mayor is appointed, transferred or demoted by the President of the State upon the proposal of the Prime Minister for a five-year term of office, and can be reappointed for one more term to the same position.[96]

[96] Law on Local Administration, art. 16.

7.6.1.2 Vice Governor or Vice City Mayor

The Vice Governor or Vice Mayor assists the Governor or City Mayor and is in charge of certain functions as assigned by the Governor or City Mayor. In the case the Governor or City Mayor is unable to carry out their duties for whatever reason, the Vice Governor or Vice City Mayor shall take over.[97]

The Vice Governor or Vice City Mayor is appointed, transferred or demoted by the Prime Minister upon proposal of the Governor or City Mayor for a five-year term of office and can be reappointed to the same position.[98]

7.6.1.3 Provincial or City Cabinet

The role of the Provincial or City Cabinet is to assist the Governor or City Mayor in the management of their tasks; formulate programs and project plans; study, research, summarize, draft and review documents; coordinate with relevant parties; provide information; supervise and support the implementation of legal acts of central, provincial and city authorities; and facilitate the operation of the provincial and city administration.[99]

7.6.1.4 Field Departments of the Line Ministries and Equivalent Organizations

The role of the field departments of the line ministries and equivalent organizations is to assist ministries and equivalent organizations and the province or city in state management by the relevant sectors according to the principles of deconcentration and decentralization.[100]

7.6.2 District Level

The local administration at the district level is under the supervision of the provincial level[101], consisting of districts and municipalities, and comprising of several villages.

[97] Law on Local Administration, art. 15.
[98] Law on Local Administration, art. 16.
[99] Law on Local Administration, art. 9.
[100] Law on Local Administration, art. 10.
[101] Law on Local Administration, art. 5.

The districts where the Provincial or City Administration Offices are located shall be established as municipalities. However, other districts can be established as municipalities if they meet the following criteria:

(1) Having the population of at least 10,000;
(2) Having a well-developed system of economy, society, and culture including an infrastructure system; and
(3) Having the ability to collect revenue to respond to necessary local expenditures.[102]

The organizational structure of the local administration at the district level is comprised of the District Cabinet or Municipal Administration Cabinet, the field offices of the line ministries and equivalent offices in the district or municipality.

The personnel of the local administration at the district level is comprised of the District Chief or Municipal Mayor, the Vice District Chief or Vice Municipal Mayor, the Chief and Deputy Chief of the District or Municipal Cabinet, the Director and Deputy Director of line offices, or the Head and Deputy Head of field offices in the municipality, and staff and civil servants of the district or the municipal administration.[103]

7.6.2.1 District Chief or Municipal Mayor

The District Chief or Municipal Mayor is the head of the district or municipal administration and the representative of the district or municipality, and is responsible to the provincial or city administration in fulfilling their roles, rights and duties.[104]

The rights and duties of the District Chief or the Municipal Mayor according to the Law on Local Administration are as follows:[105]

(1) To implement the Constitution, Laws and rules of the State;
(2) To convene and preside over district or municipal administration meetings;
(3) To study and set strategic plans, economic and social development plans and budget plans of the district or municipality;
(4) To implement economic and social development plans, state budget plans, and district or municipal defense and security;

[102] Law on Local Administration, art. 38.
[103] Law on Local Administration, art. 21 and art. 34.
[104] Law on Local Administration, art. 26 and art. 39.
[105] Law on Local Administration, art. 27 and art. 40.

(5) To supervise and manage the relevant organizations to ensure the timely and accurate accounting of revenue in the district or municipality;

(6) To motivate, promote and facilitate the participation of the Lao Front for National Construction, mass organizations, civil society organizations, all economic parties and ethnic people in the Economic and Social development of the district or municipality;

(7) To issue decisions, orders, instructions, notifications and other regulations in accordance with the Laws;

(8) To protect the local population;

(9) To suspend or cancel legal transactions of lower local administrations, or propose to a higher level authority to suspend or cancel the legal acts of higher administration which contravene the laws and regulations;

(10) To propose the creation and abolition of villages, municipalities, and any organizational structure of the district or the municipal administration;

(11) To propose the appointment, transfer or demotion of the Vice District Chief or Vice Municipal Mayor, the Chief and Deputy Chief of the District or Municipal Cabinet;

(12) To appoint, transfer or demote the Heads and Deputy Heads of units of the district or municipal administration including other staff, and to approve the election or the appointment of the Village Chiefs;

(13) To manage the performance of staff or civil servants in accordance with their authority, including following up, supervising and reporting on the performance of staff or civil servants under the line ministries and equivalent organizations to related field departments of the line ministries;

(14) To consider, advise or resolve complaints, petitions and proposals from within the civil service regarding inappropriate behavior or unsatisfactory performance of staff, civil servants or organizations under their jurisdiction in accordance with the laws and regulations;

(15) To regularly report the overall situation of the district or municipality to the Governor or City Mayor;

(16) To collaborate and cooperate with other countries and international organizations as directed by the province or city; and

(17) To assume other rights and duties in accordance with the laws.

The District Chief or Municipal Mayor is appointed, transferred or demoted by the Prime Minister upon the proposal of the Governor or City Mayor for a five-year term of office and can be reappointed for one more term to the same position.[106]

7.6.2.2 Vice District Chief or Vice Municipal Mayor

The Vice District Chief or Vice Municipal Mayor assists the District Chief or Municipal Mayor and is in charge of certain functions as assigned by the District Chief or Municipal Mayor. In the case the District Chief or Municipal Mayor is unable to carry out their duties for whatever reason, the Vice District Chief or Vice Municipal Mayor shall take over.[107]

The Vice District Chief or Vice Municipal Mayor is appointed, transferred or demoted by the Governor or City Mayor upon a proposal of the District Chief or Municipal Mayor for a five-year term of office and can be reappointed to the same position.[108]

7.6.2.3 The District Cabinet or Municipal Administration Cabinet

The role of the District Cabinet or the Municipal Administration Cabinet is to assist the District Chief or Municipal Mayor in the management of their tasks; formulate programs and project plans; study, research, summarize, draft and review documents; coordinate with concerned parties; provide information; supervise and support the implementation of legal acts of higher-level authorities and the district or municipal authorities; and facilitate the operation of the district or municipal administration.[109]

7.6.2.4 Fields Offices of the Line Ministries and Equivalent Organizations in the District and Municipality

The field offices of the line ministries and equivalent organizations have roles in state management by the relevant sectors according to the deconcentration of the province or city and decentralization; including implementing legal acts of higher level

[106] Law on Local Administration, art. 29 and art. 42.
[107] Law on Local Administration, art. 28 and art. 41.
[108] Law on Local Administration, art. 29 and art. 42.
[109] Law on Local Administration, art. 22 and art. 35.

authorities and economic and social development plan of the province or city, and district or municipality.[110]

7.6.3 Village Level

The local administration at the village level is a unit of local administration at the grassroots level under the supervision of the district or municipality. A village is comprised of several households.[111]

The organizational structure of the village administration is comprised of the Village Chief, the Deputy Village Chief and some functional units.

7.6.3.1 The Village Chief

The Village Chief is the chief executive of the village administration and the representative of the village, and is responsible to the district or municipal administration. All villagers are to fulfill the roles, rights and duties of the village administration.[112] The rights and duties of the Village Chief according to the Law on Local Administration are as follows:[113]

(1) To implement the constitution, laws, resolutions and orders of the higher level authorities, develop the economy to improve the living conditions of the population, protect the natural resources and environment, and maintain peace and security and orderliness in the village;

(2) To disseminate the government policies, laws and regulations to all people in the village, and educate, mobilize, promote harmony and solidarity of the people, and encourage the citizens to carry out their rights and duties;

(3) To motivate, promote and facilitate the participation of the Lao Front for National Construction, mass organizations, civil society organizations, all economic parties and ethnic people in the Economic and Social development of the village;

(4) To preserve and promote good national traditions and cultures of the multi-ethnic Lao people, prevent mishaps and superstitious beliefs, and promote education within the community, and enhance hygiene and sanitary awareness;

[110] Law on Local Administration, art. 23 and art. 36.
[111] Law on Local Administration, art. 46.
[112] Law on Local Administration, art. 52.
[113] Law on Local Administration, art. 53.

(5) To protect people in the village a more employable, stable and sustainable lifestyle;

(6) To convene and preside over village administration meetings and attend meetings convened by higher level authority;

(7) To propose to the District Chief or Municipal Mayor to appoint or demote the Deputy Village Chief;

(8) To issue rules and notifications in accordance with the laws and regulations;

(9) To propose to higher-level authority to suspend or cancel activities which are against the laws, rules, and rights and the common interests of the village;

(10) To resolve local conflicts, complaints, and petitions of the people within the scope of their authority;

(11) To regularly report the overall situation of the village to the District Chief or Municipal Mayor;

(12) To receive some allowances in accordance with the laws; and

(13) To assume other rights and duties in accordance with the laws.

7.6.3.2 The Deputy Village Chief

The Deputy Village Chief assists the Village Chief and is in charge of certain functions as assigned by the Village Chief. In the case the Village Chief is unable to carry out the duties for whatever reason, the Deputy Village Chief shall take over.[114]

8. History and Politics of the Lao PDR

8.1 History of the Lao PDR

Long before the establishment of the Lao People's Democratic Republic in B.E. 2518 (1975), the Lao people were scattered throughout various provinces until Chao Fa Ngum of the Xieng Thong Kingdom established the Lanxang Kingdom in the 14th century. The Lanxang Kingdom developed and flourished under the rule of Chao Fa Ngum, the first king of the Lanxang Kingdom, and under subsequent kings including King Samsenthai, the son of Fa Ngum, King Saysetthathirath and King Souriyavongsa. Sri Song Rak Temple and Luang

[114] Law on Local Administration, art. 54.

Temple were built during this time, and Sri Kod Temple and In Rung Temple were restored.[115]

In the 18th century, a great internal conflict divided the Kingdom into three parts, the Lanxang Luang Prabang Kingdom, the Lanxang Vientiane Kingdom, and the Lanxang Champasak Kingdom. All three kingdoms ultimately fell under the rule of Siam in 1779 for 115 years until Siam was forced to relinquish certain parts of the territories to France in 1893.

France combined what is now Laos, Vietnam and Cambodia together under the name "French Indochina". French Indochina was under the direct administration of the Governor-General of French Indochina who controlled and set out political, economic, cultural, military, and foreign affairs policies. Under the rule of France, the three French Indochina countries had been exploited in many ways. The people of the French Indochina countries fought for their independence under the leadership of Ho Chi Minh of the Indochinese Communist Party established on 3 February 1930.

In 1945, during World War II, Japan invaded Laos and other French Indochina countries. During that time, the idea of nationalism spread. One of the most significant nationalist organizations was the Free Laos Front (Lao Seri) formed in 1944 and led by Un Chananikon. The Free Laos Front was initially an underground organization conducting operations to fight the Japanese army. However, the Free Loas Front was also determined to liberate Laos from the French colonial empire. With the support of Thailand and the Office of Strategic Service (OSS) of the United States of America, patriotic Lao male youths applied for military training in northeastern Thailand in preparation to fight the French should Japan lose the War.[116]

The Lao Freedom Front (Lao Issara) was a nationalist organization which successfully gathered a nationalist group of people who were against the French army. The Lao Freedom Front (Lao Issara) began their role in 1930 at the time the Indochinese Communist Party was established. In late August and September of 1945, the Lao Freedom Front gradually amassed people who supported Japan as well as many others who supported and who believed in Vietnamese and Japanese nationalism for the purpose of freeing Laos from France. Kaysone Phomvihane, an active revolutionary, ultimately established the Lao Freedom Army in 1949.

After Japan officially made a declaration of surrender in World War II on 15 August 1945, the Lao Freedom Front, under the leadership of Prince Phetsarath Ratanavongsa,

[115] Associate Professor Somphan Janthaleewong, Theory of State and Law, 2nd edition (In cooperation between the Faculty of Law and Political Science and SIDA Project, 2007), p. 62.
[116] Martin Stuart-Fox, History of Lao PDR, translated by Jiraporn Winyarat, 1st edition (2013), pp. 99-100.

took this chance to fight Japan, and on 12 October 1945, declared their independence. The Government of the Lao Freedom Front had also been established. France eventually returned to reclaim Lao once again in 1946. During French rule, Lao politics in conflict between the Lao people who supported the re-occupation by France and those who opposed it. When Viet Minh prevailed over France at the Battle of Bien Dien Phu and was able to free Vietnam in 1954, Laos was also able to claim its sovereignty.

In 1951, the Indochinese Communist Party was dissolved and had agreed for its members in each country to establish their own communist party. Laotian members of the Indochinese Communist Party successfully established the Lao People's Party in 1955, and Kaysone Phomvihane was the Secretary General of the Lao People's Party Central Committee.

Since the establishment of the Lao People's Party, Lao was still faced with intervention by the United States of America from 1955-1975 but finally received its independence. On 2 December 1975, the Lao People's Democratic Republic (or the Lao PDR) was established. Currently, Laotian people continue to celebrate their Independence Day on 2 December of every year.

8.2 Political History of the Lao PDR

From Laotian history, the foundation of the Lao People's Revolutionary Party (or former Lao People's Party) comes from the Indochinese Communist Party as established and led by Ho Chi Minh who introduced Marxism and Leninism to the Lao PDR. Ho Chi Minh suggested that only socialism or communism would be able to liberalize the proletariat Laos from exploitation.

The Indochinese Communist Party was established on 3 February 1930 being the mainstay in the fight for independence of the people in Indochina countries i.e. Laos, Cambodia and Vietnam, between 1930 and 1954. As part of the Indochinese Communist Party, the Lao Communist Party led the fight in liberating Laos from French rule.

During the second General Assembly of the Indochinese Communist Party, which was held in 1951, representatives of the Party agreed to dissolve the Party and to encourage its members to establish their own communist party in each country.

Laotian members of the former Indochinese Communist Party successfully established the Lao People's Party in 1955 electing Kaysone Phomvihane as the Secretary General of the Lao People's Party Central Committee. In 1972, the Lao People's Party was renamed the Lao People's Revolutionary Party (the "**Party**"). Kaysone Phomvihane continued as the Secretary General of the Party Central Committee in the 2nd to 5th General

Assembly of the Party. Khamtai Siphandon was elected as the Secretary General of the Party Central Committee in the 6th and 7th General Assembly of the Party, and Choummaly Sayasone was elected as the Secretary General of the Party Central Committee in the 8th and 9th General Assembly of the Party. The General Assembly is held every 5 years.

Under the rule of the Party, Marxism and Leninism, which had been applied by the Indochinese Communist Party, remain the cornerstone of the Party with the goal of making the Lao PDR a socialist country. The ideology of the Party is “for the people’s happiness, for a strong and rich country, for peaceful society, for fair democracy, and for glory”. To be a Party member, one must be at least 18 years of age, and have passed the training and practice under the leadership of the Party. One must then be considered and elected by the Party to be a member.

Chapter 2
Infrastructure System of the Lao PDR

The infrastructure system for road transportation, waterway transportation, air transportation and public utilities of the Lao PDR is as follows:

1. Relevant Legislations

There is no specific legislation regarding the construction and conduct of the infrastructure system of the Lao PDR. Accordingly, the National Economic and Social Development Plan is applied consisting of the government's operation, and the concession operated by a private individual (details of which are as appeared in Chapter 6 Investment Promotion in the Lao PDR concerning the concession business). Therefore, the information contained in this report is mainly based on statistics provided by the government sector of the Lao PDR

2. Road Transportation Infrastructure

Lao PDR has roads connecting its regions for local transportation, and roads connecting Lao PDR and neighbouring countries for international transportation as well as to act as a bypass en route. For example, the Kingdom of Thailand ("***Thailand***") is a bypassing route through the Lao PDR en route to the People's Republic of China ("***China***"). The roads currently used in Lao PDR, details of which appear in Appendix X, are as follows:

2.1 Roads used for locally transportation

At present, roads used for locally transportation are as follows:[1 and 2]

2.1.1 Route 1B

Route 1B is 109 Kilometres of bituminous road from Yor Village[*] to Pak Nam Noi Village in Phongsaly Province.[**]

[1] Ministry of Public Works and Transport. Statistics of National Road for Year 2013 (online). Available at http://www.mpwt.gov.la/lo/statistic-lo/roads-lo. (Accessed on 11 September 2014).
[2] Transport Techniques and Environment Division of Transport Department, Ministry of Public Works and Transport. Information regarding the Construction of Roadways. 2014.

2.1.2 Route 1C

Route 1C is 345 Kilometres of bituminous road connecting Pak Mong Village of Phongsaly Province, bypassing Oudomxay Province and Luang Prabang Province, to Pa Kham Village, Kham District*** of Xiangkhouang Province.

2.1.3 Route 1D

Route 1D is 307 Kilometres of bituminous road from Phonsavan Village of Xiangkhouang Province to Pa Kham Village, Khamkeut District of Bolikhamsai Province.

2.1.4 Route 1E

Route 1E is a 99 Kilometreroad which is under construction to become a bituminous road from Lak 20 Village of Bolikhamsai Province to Thang Bang Village, Yommalath District of Khammouane Province.

2.1.5 Route 1F

Route 1F is 155 Kilometresof gravel and earth road from Mahaxay District of Khammouane Province to Ban Se Tha Muak of Savannakhet Province.

2.1.6 Route 1G

Route 1G is 130 Kilometres of gravel and earth road from Phine District of Savannakhet Province to Na Don Khouang Village of Salavan Province.

2.1.7 Route 1H

Route 1H is 44 Kilometres of bituminous road from Salavan Province to Tha Teng District of Sekong Province.

2.1.8 Route 1I

Route 1I is 77 Kilometres of bituminous road from Lam Mam District of Sekong Province to a three-way junction which connected Route 18Bin Attapeu Province.

*The word “Village” means “Ban” in Lao language
**The word “Province” means “Khoueng” in Lao language
***The word “District” means “Muang” in Lao language

2.1.9 Route 4A

Route 4A is 140 Kilometres of gravel and earth road from Ngeun District of Sainyabuli Province to Sainyabuli District of Sainyabuli Province.

2.1.10 Route 4B

Route 4B is 118 Kilometres of gravel and earth road from Xiang Men Village, Luang Prabang Province to Ban Na Pong Village, Hongsa District of Sainyabuli Province.

2.1.11 Route 9A

Route 9A is 20 Kilometresof bituminous road from Kaeng Ka Bao Port, Savannakhet Province to reach Route 13S at Nasai Village of Savannakhet Province.

2.1.12 Route 9B

Route 9B is 35 Kilometres of bituminous road from Savannakhet Province to Ban Lak (35) of Savannakhet Province.

2.1.13 Route 10

Route 10 is 93 Kilometres of bituminous road from a three-way junction of Don Noon, Vientiane to a three-way junction of Phonhong of Vientiane Province.

2.1.14 Route 11

Route 11 is a 170.7 Kilometres bituminous and gravel road from a three-way junction of See Khai, Vientiane to connect with Route 4 at Parklai District of Sainyabuli Province.

2.1.15 Route 14C

Route 14C is 40.3 Kilometres of gravel road from Mounlapamok District of Champasak Province to Nong Nga Village of Champasak Province.

2.1.16 Route 16A

Route 16A is 70 Kilometres of gravel road from Paksong District of Champasak Province to reach a three-way junction of 48th Kilometres at Bang Phoo Kham Village of Attapeu Province.

2.1.17 Route 18A

Route 18A is 116 Kilometres of earth road from Route 13S at Thang Bang Village of Champasak Province to Samakkhixay District of Attapeu Province.

2.1.18 Route 20

Route 20 is 69 Kilometres of bituminous road from Ban Lak (21) of Champasak Province to Bang Village of Salavan Province.

2.2 Roads used for international transportation

2.2.1 Route 1A

Route 1A is 145 Kilometres of gravel road from Lan Tui the border of Lao PDR-People's Republic of China ("***Lao-China Border***") to Boun Neua District of Phongsaly Province.

2.2.2 Route 1J

Route 1J is 81 Kilometres of gravel road from Attapeu Province to the border of Lao PDR -Kingdom of Cambodia ("***Lao-Cambodia Border***").

2.2.3 Route 2E

Route 2E is 172 Kilometres of bituminous road from a four-way junction of Talad in Xay District of Oudomxay Province to Phongsaly Province at the border of Lao PDR - Socialist Republic of Vietnam ("***Lao-Vietnam Border***").

2.2.4 Route 2W

Route 2W is 191 Kilometres of bituminous road from Ngeun District of Sainyabuli Province at the border of Lao PDR - Kingdom of Thailand ("***Lao-Thai Border***") to Xay District of Oudomxay Province.

2.2.5 Route 3

Route 3 is 214 Kilometres of bituminous road from Houay Xay District of Bokeo Province to connect with the junction of Route 13N at Na Teay Village of Luang Namtha Province which can cross to Boten, the Lao-China Border.

2.2.6 Route 4

Route 4 is 380.7 Kilometres of earth and bituminous road from Xiengngeun District of Luang Prabang Province to Nakha Village of Botene District, Sainyabuli Province which can cross the Lao-Thai Border.

2.2.7 Route 5

Route 5 is 270 Kilometres of bituminous and gravel road from the junction of Route 13 Nat Huay Mor Village to Xiangkhouang Province which can cross the Lao-Vietnam Border.

2.2.8 Route 6

Route 6 is 179 Kilometres of bituminous road from a three-junction of Phou Lao Village of Houaphanh Province to Nameo Village of Houaphanh Province which can cross the Lao-Vietnam Border.

2.2.9 Route 6A

Route 6A is 86 Kilometres of gravel, earthand bituminous road from Hang Long Village of Houaphanh Province to Dan Village of Houaphanh Province which can cross the Lao-Vietnam Border.

2.2.10 Route 6B

Route 6B is 24 Kilometres of gravel road from Sop Bao District of Houaphanh Province to Parang Village of Houaphanh Province which can cross the Lao-Vietnam Border.

2.2.11 Route 7

Route 7 is 263 Kilometres of bituminous road from Phoukhoune District of Luang Prabang Province to Nam Kan Village of Xiangkhouang Province which can cross the Lao-Vietnam Border.

2.2.12 Route 8

Route 8 is 133 Kilometres of bituminous road from the junction of Route 13S at Viengkham Village of Bolikhamsai Province to Kaew Nuea Village of Bolikhamsai Province which can cross the Lao-Vietnam Border.

2.2.13 Route 9

Route 9 is 239 Kilometres of bituminous road from the Second Lao-Thai Friendship Bridge in Savannakhet Province to Dan Savan Village of Savannakhet Province which can cross the Lao-Vietnam Border.

2.2.14 Route 12

Route 12 is 147 Kilometres of bituminous road from the Third Lao-Thai Friendship Bridge in Thakhek District of Khammouane Province to Kiu Mu Ya of Khammouane Province which can cross the Lao-Vietnam Border.

2.2.15 Route 13N

Route 13N is 679 Kilometres of bituminous road from Boten, the Lao-China Border, in Luang Namtha to Hor Kham Village of Vientiane.

2.2.16 Route 13S

Route 13S is 853 Kilometres of bituminous road from Hor Kham Village of Vientiane to Champasak Province which can cross the Lao-Cambodia border.

2.2.17 Route 14A

Route 14A is 120 Kilometres of gravel and earth road from a junction of Route 16 in Phonthong District of Champasak Province to Thahin Village of Champasak Provincewhich can cross the Lao-Cambodia border.

2.2.18 Route 14B

Route 14B is 140 Kilometres of gravel and earth road from a junction of Route 16 in Ang Kham Village of Champasak Province to Bor Village and Khem Village of Champasak Province which can cross the Lao-Cambodia border.

2.2.19 Route 15

Route 15 is 238 Kilometres of gravel, bituminous and earth road from Napong Village of Salavan Province to Lalai Village of Salavan Province which can cross the Lao-Vietnam border.

2.2.20 Route 16

Route 16 is 302 Kilometres of bituminous, gravel and earth road from Wang Tao of Champasak Province, the Lao-Thai Border, to Thahin Village of Dak Cheung District, Sekong Province which are the Lao-Vietnam border.

2.2.21 Route 17

Route 17 is 123 Kilometres of bituminous and gravel road from Luang Namtha District, passing Sing District and Long District to Xieng Kok Village of Luang Namtha Province which are the border of Lao PDR - Union of Myanmar ("***Lao-Myanmar Border***"). This road is in the project, which is expected to get supported budget from China for upgrading the road. Furthermore, a construction project in building the Lao-Myanmar Friendship Bridge at Houay Kum Village of Long District, Luang Namtha Province is expected to be completedby9 May 2015.[3]

2.2.22 Route 17A

Route 17A is 13 Kilometres of bituminous road from Sing District of Luang Namtha Province to Pang Rai Checkpoint at Luang Namtha Province which are the Lao-China border.

2.2.23 Route 18B

Route 18B is 113 Kilometres of bituminous road from Samakkhixay District of Attapeu Province to PhouKeua International Border Checkpoint in Attapeu Province, the Lao-Vietnam Border.

2.2.24 Route 19

Route 19 is 222 Kilometres of bituminous and gravel road from Pakha Village of Phongsaly Province, the Lao-China Border, to the Lao-Vietnam Border in Phongsaly Province.

In this regard, the Lao PDR provides guidance for keeping the current routes in good condition so as to be able to travel including the development of state highways by improving

[3] Ministry of Public Works and Transport. The Official Opening Ceremony of Lao-Myanmar Friendship Bridge. (online). Available at http://www.mpwt.gov.la/lo/news-lo/ministry-news-lo/955-open-lao-myanmar952015. (Accessed on 5 June 2015).

and constructing new routes within the year 2020. Four types of routes separated into terms of usability are as follows:[4]

(1) Routes significant to the development of the National Economy, namely, routes connecting countries within the region, and routes for special economic zone entry, bypasses and highways. Total distance is 6,116 Kilometres. The improvement of routes or the new construction must conform to the International Route Development Plan. The responsible agency is Ministry of Public Works and Transport.

(2) Routes significant to National Defence and the development of the local economy, namely, state highways of districts and provinces. Total distance is 14,967 Kilometres. The routes must be convenient and safe for travel throughout the year. The responsible agency is the Local Government.

(3) Routes essential for National Defence and public security, namely, domestic strategic routes connecting certain lines of the Lao PDR and crossings or border paths of each side of the country. The routes must be improved and reconstructed for emergency use for entry into such area or use when a disaster occurs. The responsible agency is the Ministry of Defence.

(4) Routes essential for culture and society, namely, rural routes, routes for poverty alleviation, entry routes for revolutionary base area sand entry routes for tourist attractions. Total distance is approximately 16,440 Kilometres. The routes must be improved or reconstructed for travel. The responsible agencies are the Ministry of Public Works and Transport, the Ministry of Information, Culture and Tourism, the National Committee for Rural Development and Poverty Eradication, and the Local Government.

3. Air Transportation Infrastructure

3.1 Airports[5]

3.1.1 International Airports

(1) Wattay International Airport in Vientiane

(2) Luang Prabang International Airport in Luang Prabang Province

(3) Pakse International Airport in Champasak Province

(4) Savannakhet International Airport in Savannakhet Province

[4] Ministry of Public Works and Transport. Guidance for Highway Development Plan for 2011-2020 and Implementation Plan 2011-2015, January 2012.
[5] Civil Aviation Department, Ministry of Public Works and Transport, Names of Airports in Lao PDR, 15 September 2014.

(5) Attapeu International Airport in Attapeu Province, completed construction on 10 May 2015 and officially opened on 30 May 2015[6]

Tax for Passenger Service for international flights is USD10.00 for each passenger[7] (THB324.50 per each passenger[8]).

3.1.2 Domestic Airports

(1) Luang Namtha Airport in Luang Namtha Province;
(2) Xiangkhouang Airport in Xiangkhouang Province;
(3) Houay Xay Airport in Bokeo Province;
(4) Sainyabuli Airport in Sainyabuli Province;
(5) Xam Neua Airport in Houaphanh Province;
(6) Oudomxay Airport in Oudomxay Province; and
(7) Phongsaly Airport in Phongsaly Province.

Tax for Passenger Service for domestic flights is LAK**** 20,000 for each passenger[9] (THB79 per each passenger[10]).

3.2 Airlines

3.2.1 Local Airlines

3.2.1.1 Lao Airlines[11]

Domestic Flights between Wattay International Airport and the following airports:

(1) Luang Prabang International Airport;
(2) Savannakhet International Airport;
(3) Pakse International Airport;
(4) Luang Namtha Airport;
(5) Oudomxay Airport;
(6) Xam Neua Airport; and
(7) Xiangkhouang Airport.

[6] Ministry of Public Works and Transport. Ceremony for Official Opening and Operation of Attapeu Airport, Attapeu Province. (online). Available at http://www.mpwt.gov.la/lo/news-lo/ministry-news-lo/959-hand-over-atp-airport. (Accessed on 5 June 2015).
[7] Civil Aviation, Department. GEN 4 - Charges for Aerodromes and Air Navigation Services. Lao PDR: Department of Civil Aviation, 2014.
[8] Exchange rate on September 18th, 2014. USD 1 : THB 32.4479
**** LAK, KIP, Kip, and kip are the currency of the Lao PDR.
[9] Civil Aviation Department. Charges for Aerodromes and Air Navigation Services. 2014.
[10] Exchange rate on September 17th, 2014. THB 1 : LAK 250.58
[11] Lao Airlines. FLIGHT INFORMATION (Route Map). (online). Available at :http://www.laoairlines.com/?contentkey=pages&id=6. (Accessed on 6 June 2015).

Flights are also available between Pakse International Airport and the following airports:

(1) Savannakhet International Airport; and

(2) Luang Prabang International Airport.

Lao Airlines plans to expand flights between Wattay International Airport and Houay Xay Airport in the future.

International Flights between Wattay International Airport and the following airports:

(1) Seoul, Republic of Korea;

(2) Guangzhou, China;

(3) Kunming, China;

(4) Hanoi, Vietnam;

(5) Bangkok, Thailand;

(6) Phnompenh, Cambodia (code share flights); and

(7) Republic of Singapore.

Flights between Luang Prabang International Airport and the following airports:

(1) Bangkok, Thailand;

(2) Chiang Mai, Thailand;

(3) Hanoi, Vietnam; and

(4) Jinghong, China.

Flights between Pakse International Airport and the following airports:

(1) Siemreap, Cambodia;

(2) Ho Chi Minh, Vietnam; and

(3) Bangkok, Thailand.

Flights between Savannakhet International Airport and the following airport:

(1) Bangkok, Thailand

Lao Airlines plans to expand flights between Wattay International Airport and the following airports:

(1) Taipei;

(2) Nanning, China;

(3) Yangon, Myanmar; and

(4) Jakarta, Republic of Indonesia.

Flights between Luang Prabang International Airport and Chengdu, China.

3.2.1.2 Lao Skyway

Lao Skyway is a domestic airline providing only domestic flights. Its routes[12] are between Wattay International Airport and the following airports:

(1) Luang Prabang International Airport;
(2) Houay Xay Airport;
(3) Oudomxay Airport;
(4) Luang Namtha Airport;
(5) Phongsaly Airport; and
(6) Xam Neua Airport.

3.2.1.3 Lao Central Airlines

At present, Lao Central Airlines has been closed for service improvement without certain schedule for the date of re-opening.

3.2.2 International Airlines

At present, Thai Air Operators providing flights between Thailand and Lao PDR are as follows:

(1) Thai Airways;
(2) Bangkok Airways;

The Civil Aviation, Ministry of Public Works and Transport is an agency responsible for an air transportation of the Lao PDR which plans to develop the construction and operation of air transportation as follows:[13]

(1) To develop air navigation services, provide modern airports with high security, develop quality of airline services and expand air routes between countries within the ASEAN and Europe;
(2) To improve and develop the standards of domestic airports, construct new airports to be able to support Boeing 747 aircraft in Vientiane and Boeing

[12] Lao Skyway.Flight Schedule. (online). Available from :http://www.laoskyway.com/index.asp. (Accessed on 17 September 2014).
[13] Ministry of Planning and Investment. The Seventh Five-Year National Socio-Economic Development Plan (2011-2015) (Full Version), 7 October 2011.

737 aircraft in Luang Prabang, Xiangkhouang, Savannakhet and Champasak, to improve air navigation in Bokeo Province, Xaignabouli Province, Houaphanh Province and Salavan Province, to be able to efficiently support aircraft with 30 seats in order to meet the demand of air transportation between the Lao PDR and certain countries of the Greater Mekong Sub-region (GMS) and ASEAN;

(3) To increase aircraft, improve the basic structure of aviation and service quality, guarantee safety for air navigation, improve control systems of air navigation, expand air routes by studying direct routes of medium/long-haul flights so as to increase the number of arrival and departure passengers as well as facilitate tourism;

(4) To accelerate the process of air transportation up to 8-10% per annum; and

(5) To accelerate the process of constructing aircraft, which passes territorial airspace of the Lao PDR up to 4.5-6.5% per annum.

4. Train Transportation Infrastructure

There is only one railway in the Lao PDR, which starts from the Lao-Thai Friendship Bridge, in Nong Khai Province of Thailand, and extends to Tha Na Laeng in Vientiane.[14] The responsible agency is the National Railway Authority under the Ministry of Public Works and Transport.

At this stage, the Lao PDR has construction plans to:

(1) construct infrastructure and provide more services to 21 cities;

(2) construct railway with complete infrastructure and provide efficient services for increasing transport of goods across the border or container in which it reduces transportation costs;

(3) extend the current railway to Vientiane and the East Sea (Vietnam);

(4) construct a railway to connect Singapore and Kunming through the Lao PDR;

(5) construct a railway from north to south of the Lao PDR along Route 13;

(6) construct crosswise railway connecting Houay Xay District of Bokeo Province and Boten, the Lao-China Border, and connecting Phou Khoune and Nong Het in Xiangkhouang Province; and

[14] _____.Magazine of the Ministry of Public Works and Transport.

(7) analyse economic value regarding the construction of a high-speed rail project from Boten to Vientiane, and the construction of a railway from Thakhek to Pakse.[15]

5. Waterway Transportation Infrastructure

The Lao PDR is landlocked, making waterway transportation only in the river with Mekong River as the main water throughway of the country by having river ports for domestic and international waterway transportation[16], under the responsibility of the Waterway Department, Ministry of Public Works and Transport, as follows:

5.1 Domestic Waterway Transportation

5.1.1 Vientiane

(1) Kao Leaw Port
(2) Lak 4 Port
(3) Tha Duea Port

5.1.2 Luang Namtha Province

(1) Pak Lai Port
(2) Xieng Kok Port

5.1.3 Bokeo Province

(1) Ban Mom Port
(2) Ton Pheung Port
(3) Houay Xay Port

5.1.4 Oudomxay Province

Oudomxay Province has Pak Beng Port as the only port in the province.

5.1.5 Sainyabuli Province

(1) Tha Duea Port/Tha Na Laeng Port
(2) Pak Khon Port

[15] Ministry of Planning and Investment. The Seventh Five-Year National Socio-Economic Development Plan (2011-2015) (Full Version), 7 October 2011..
[16] Ministry of Public Works and Transport. Information in regard to Waterway Transportation.16 June 2014.

(3) Pak Lai Port

5.1.6 Luang Prabang Province

Luang Prabang Province has Luang Prabang Port as the only port in the province.

5.1.7 Vientiane Province

(1) Xanakham Port
(2) Ban Wang Port

5.1.8 Bolikhamsai Province

(1) Paksane Port
(2) Ban Na Port

5.1.9 Khammouane Province

Khammouane Province has Thakhek Port as the only port in the province.

5.1.10 Savannakhet Province

(1) Kaeng Ka Bao Port
(2) Savannakhet Port

5.1.11 Champasak Province

(1) Pakse Port
(2) Champasak Port
(3) Don Khong Port
(4) Tha Pho Port
(5) Meuang Moun Port
(6) Ban Na Port
(7) Ban Had Port
(8) Hadxaykoun Port
(9) Ban Meuang Port

5.2 International Waterway Transportation[17]

5.2.1 Vientiane

Tha Duea Port is a border port between Vientiane and Nong Khai Province of Thailand.

5.2.2 Bokeo Province

Houay Xay Port is a border port between Bokeo Province and Chiang Rai Province of Thailand.

5.2.3 Vientiane Province

(1) Xanakham Port is a border port between Vientiane Province and Loei Province of Thailand.

(2) Ban Wang Port is a border port between Vientiane Province and Loei Province of Thailand.

5.2.4 Luang Prabang Province

Luang Prabang Port is a border to China by going up to the north of the country.

5.2.5 Bolikhamsai Province

Paksane Port is a border port between Bolikhamsai Province and Bueng Kan Province of Thailand.

5.2.6 Khammouane Province

Thakhek Port is a border port between Khammouane Province and Nakhon Phanom Province of Thailand.

5.2.7 Savannakhet Province

Savannakhet Port is a border port between Savannakhet Province and Mukdahan Province of Thailand.

The river ports of the Lao PDR whether using for domestic or international waterway transportation are mostly natural ports, only Lak 4 Port of Vientiane provides equipment and systems to load and unload goods.[18]

[17] Interview with Somphon, Chief of Waterway Transport Division, Waterway Department, Ministry of Public Works and Transport, 16 September 2014.

Aside from the Mekong River, its tributaries such as Tha River, Ou River, Xeuang River, Khan River, Ngum River, Sane River, Xe Bang Hieng River, Xe Don River, and Xe Kong River can be used for waterway transportation, but due to theirnatural terrain can only be used in particular seasons.[19]

The Lao PDR plans to develop waterway transportation as follows:

(1) Continue and improve waterway transportation in the Mekong River and its tributaries to be efficient and safe, manage the waterway transportation infrastructure to meet international standards and keep the environment protected;

(2) Construct ports in certain locations as appropriate and necessary and encourage investment by the public sector for the development of waterway transportation;

(3) Continue and fund the construction of coastal protection of the Mekong River and its tributaries; and

(4) Construct a transportation system of the Vietnam (Jung Arng) seaward.

6. Telephone System Infrastructure

6.1 Telephone Service Provider

Telephone Service Providers ("**Service Providers**") in the Lao PDR are either wholly invested by State or partly invested in by another company. At the time of writing this report (17 September 2014), there are 4 Service Providers in the Lao PDR as below:[20]

No.	Name of the Company	Investment Proportion	
		State	Private Sector
1	ETL Public Company ("***ETL***")	100%	-
2	Lao Telecommunications Co., Ltd. ("***Lao Telecom***")	51%	49% (Thailand)
3	Star Telecom Co., Ltd. ("***Star Com***")"	51%	49% (Vietnam)
4	Vimpel Com Lao Co., Ltd. ("***Vimpel***")	22%	78% (Russia)

[18] Ministry of Public Works and Transport. Information in regard to Waterway Transportation.16 June 2014.
[19] Ibid, 2.
[20] The Office of the Ministry of Post, Telecom and Communication. Post, Telecom and Communication, Ministry. Information in regard to Telecommunication. 17 June 2014. (Unpublished)

6.2 Rate of Telephone Service Charge

The rate for the Service Provider to acquire from the customer shall be in accordance with the Agreement on the Rate of Telephone Service Charge[21] which stipulates the rate ceiling for the Service Provider as follows:

6.2.1 Service Charge Rate for Calling under the Same Network

No.	Type of Service	Rental Payment/Month	Rate of Service Charge
1	Wired Desk Phone	LAK15,000/month (THB59.86/month)[22]	LAK250/minute (THB1/minute)
2	Wireless Desk Phone	-	LAK 250/minute (THB1/minute)
3	Postpaid Mobile Phone	LAK25,000/month (THB99.77/month)	LAK300/minute (THB1.20/minute)
4	Prepaid Mobile Phone	-	LAK800/minute (THB3.2/minute)
5	SMS	-	LAK100/message (THB0.4/message)

6.2.2 Service Charge Rate for Calling to Different Network

No.	Type of Service	Rate of Service Charge	Rate for pass the LANIC[23]	Rate for Connection
1	Wired Desk Phone	LAK250/minute (THB1/minute)	LAK5/minute (THB0.02 /minute)	LAK100/minute (THB0.40 /minute)
2	Wireless Desk Phone	LAK 250/minute (THB 1/minute)	LAK 5/minute (THB 0.02 /minute)	LAK100/minute (THB 0.40 /minute)
3	Postpaid Mobile Phone	LAK300/minute (THB1.20/minute)	LAK5/minute (THB 0.02/minute)	LAK100/minute (THB0.40/minute)
4	Prepaid Mobile Phone	LAK800/minute (THB 3.2/minute)	LAK5/minute (THB 0.02/minute)	LAK100/minute (THB0.40/minute)
5	SMS	LAK200/ message (THB0.80/ message)	LAK5/ message (THB0.02/ message)	LAK50/ message (THB0.20/ message)

[21] Agreement on the Rate of Telephone Service Charge, Section 2
[22] Exchange rate on September 17th, 2014. THB 1 : LAK 250.58
[23] Rate for pass the LANIC is a rate for connecting through Lao National Internet Centre (LANIC). Any telephone signal that the Service Providers connect to LANIC shall pay for using such service.

6.2.3 Service Charge Rate for Calling Aboard

No.	Type of Service	Rate of Service Charge	Rate for pass theLANIC
1	Wired Desk Phone	Charge 30% extra to the normal Service Charge Rate but limit at LAK 1,800/minute (THB 7.2/minute)	LAK5/minute (THB0.02/minute)
2	Wireless Desk Phone		LAK 5/minute (THB 0.02 /minute)
3	Postpaid Mobile Phone		LAK5/minute (THB0.02/minute)
4	Prepaid Mobile Phone		LAK5/minute (THB0.02/minute)
5	SMS	LAK 500/message (THB 2/message)	LAK 5/ message (THB0.02/ message)

6.2.4 Service Charge Rate for Receiving Call and SMSfromAboard

No.	Type of Service	Rate of Service Charge	Rate for pass theLANIC	Rate for Connection (For off net service)
1	Telephone	LAK505/minute (THB2.02/minute)	LAK85/minute (THB 0.34 /minute)	LAK 100 /minute (THB 0.40 /minute)
2	SMS	LAK500/ message (THB2/ message)	LAK 5/message (THB 0.02/message)	LAK 50/message (THB 0.20 /message)

6.3 Telephone Statistics

Telephone Statistics of the Lao PDR for desk phone and mobile phone operating by each service provider are as follows:[24]

No.	Type of Service	ETL	Lao Telecom	Star Com	Vimpel	Total	Percentage /Citizens
1	Desk Phone(with wire of wireless)	37,356	108,581	489,700	-	535,637	9.49%
2	Mobile Phone	634,655	1,263,832	2,075,837	320,216	4,294,540	64%

[24] Ministry of Public Works and Transport. Information in regard to Waterway Transportation.16 June 2014.

In this regard, the responsible agency for the telephone system infrastructure is the Department of Telecommunications under the Ministry of Post, Telecom and Communication which plans to develop the telephone system infrastructure project as follows:[25]

(1) Expand telecommunication services to rural areas for 90% of villages[*****] in the country and increase fibre optic cable to 17,192 Kilometres;

(2) Increase the telephone numbers from 7 to 8 digits in order to expand mobile and desk phone services for up to 80% of the total population; and

(3) Construct 2 Internet Gateway locations to cover the entire country.

7. Electricity System Infrastructure

The electricity generation in the Lao PDR is under the responsibility of Energy Policy and Planning Department, the Ministry of Energy and Mines, and can be divided into 3 types of electricity generation sources[26] as follows:

7.1 Hydropower Plants

There are 2 types of Hydropower Plants categorized by their installed capacity which are as follows:

7.1.1 Hydropower Plants with installed capacity more than 1,000 Kilowatt (kW)

Lao PDR has 20 hydropower plants with an installed capacity of more than 1,000 kW (1 MW[27]) having the combined installed capacity of 2,964.2 KW and are able to generate 12,760.07 GWh of power. The installed capacity and power generation in each province are as follows:

(1) Champasak Province is supplied by Selabam plant which has the installed capacity of 5 MW and generates 24.40 GWh of power;

(2) Luang Prabang Province is supplied by Nam Dong plant which has the installed capacity of 1 MW and generates 5.74 GWh of power;

(3) Vientiane Province has the installed capacity of 976 MW in total and generates 3,990.53 GWh of power in total, supplied by the following plants:

(a) Nam Ngum 1 plant;

[25] Ministry of Planning and Investment. The Seventh Five-Year National Socio-Economic Development Plan (2011-2015) (Full Version), 7 October 2011, Page 123-124.

[*****] "Village" is a unit of local administration of the Lao PDR as same as "Sub-District" level in Thailand.

[26] Energy Policy and Planning Department, Ministry of Energy and Mines. Electricity Statistics 2012 of Lao PDR.

[27] 1,000 kW =1 MW

(b) Nam Leuk plant;

(c) Nam Mang 3 plant;

(d) Nam Lik 1-2 plant;

(e) Nam Ngum 2 plant; and

(f) Nam Song plant;

(4) Salavan Province has the installed capacity of 121 MW in total and generates 395.50 GWh of power in total, supplied by the following plants:

(a) Xeset 1 plant; and

(b) Xeset 2 plant;

(5) Oudomxay Province is supplied by Nam Ko plant which has the installed capacity of 1.5 MW and generates 9.90 GWh of power;

(6) Khammouane Province has the installed capacity of 1,300 MW in total and generates 7,769.40 GWh of power in total, in which supplied by the following plants:

(a) Theun-Hinboun plant; and

(b) Nam Theun 2 plant;

(7) Attapeu Province is supplied by Houay Ho plant which has the installed capacity of 152.1 MW and generates 542.15 GWh of power;

(8) Phongsaly Province is supplied by Nam Ngay plant which has the installed capacity of 1.2 MW and generates 2.25 GWh of power;

(9) Bokeo Province is supplied by Nam Ghone plant which has the installed capacity of 3.4 MW and generates 10.28 GWh of power;

(10) Luang Namtha Province is supplied by Nam Tha 3 plant which has the installed capacity of 1.3 MW and generates 3.05 GWh of power;

(11) Bolikhamsai Province has the installed capacity of 281.7 MW in total******, supplied by the following plants:

(a) Nam Phao plant; and

(b) Theun-Hinboun (Expansion); and

(12) Xiangkhouang Province is supplied by Nam Ngum 5.*******

In this regard, such installed capacity is divided into 760.1 MW for domestic supply and 2,204.10 MW for export.

******There appeared to be no statistics record of generating power from this province.
*******There appeared to be no statistics record of generating power from this province.

7.1.2 Hydropower Plants with installed capacity of 1-1,000 kW

There are 13 Hydropower Plants with installed capacity of not more than 1,000 kW and able to generate 1,072.5 kW of power:

(1) Phongsaly Province has the installed capacity of 220 kW in total, supplied by the following plants:
   (a) Nam Boun 1 plant; and
   (b) Nam Nga plant;

(2) Houaphanh Province has the installed capacity of 480 kW in total, supplied by the following plants:
   (a) Houy San plant;
   (b) Nam Sat plant;
   (c) Nam Peun plant; and
   (d) Nam Et plant;

(3) Sainyabuli Province is supplied by Houay Ngou plant which has the installed capacity of 7.5 kW;

(4) Luang Prabang Province has the installed capacity of 73 kW in total, supplied by the following plants:
   (a) Nam Mong plant; and
   (b) Katangkadeuang plant;

(5) Xiangkhouang Province has the installed capacity of 99 kW in total, supplied by the following plants:
   (a) Nam Ka 1 plant; and
   (b) Nam Ka 2 plant;

(6) Oudomxay Province is supplied by Houay Se plant which has the installed capacity of 80 kW; and

(7) Attapeu Province is supplied by Houay Samong plant which has the installed capacity of 113 kW.

In addition, the Lao PDR has 38 on-going construction projects and is preparing to commence construction projects with the expected combined installed capacity of 6,305 MV generating 32,402.30 Gwh of power. The Lao PDR also has 37 projects with a total capacity of 4,720.6 MV generating 20,520.60 Gwh and is expected to be complete in 2020.[28]

7.2 Diesel Generators

[28] Electricity Generation Planning Division, Energy Policy and Planning Department, Ministry of Energy and Mines, Summary on Electricity Generation Project across the Country. 1 June 2014.

The Diesel Generating System has been used in village areas and households of 3 provinces with a combined installed capacity of 618 kW as follows:

(1) Luang Prabang Province has a total installed capacity of 245 kW;

(2) Sainyabuli Province had a total installed capacity of 345 kW; and

(3) Houaphanh Province had a total installed capacity of 28 kW.

The capacity to generate electricity by Diesel Generating System is small. There is no plan to develop the production of electricity by such method.

7.3 Solar System

There are 16 provinces using the Solar System with the capacity of 499,093 Watt (W) as follows:

(1) Phongsaly Province has capacity of 10,770 W from the following districts:
   (a) Phongsaly District;
   (b) Yot Ou District; and
   (c) Boun Neua District;

(2) Luang Namtha Province has capacity of 48,740 W from the following districts:
   (a) Luang Namtha District;
   (b) Sing District;
   (c) Long District;
   (d) Viengphoukha District; and
   (e) Na Le District;

(3) Bokeo Province has used Solar System in Houay Xay District; *******

(4) Houaphanh Province has capacity of 7,060 W from the following districts:
   (a) Xam Neua District; and
   (b) Houameuang District;

(5) Oudomxay Province has capacity of 45,000 W from the following districts:
   (a) Xay District;
   (b) La District;
   (c) Beng District;
   (d) Na Mo District;
   (e) Pak Beng District; and
   (f) Houne District;

*******There appeared to be no statistics record of generating power from this province.

(6) Luang Prabang Province has capacity of 13,580 W from the following districts:

(a) Luang Prabang District;

(b) Xiengngeun District;

(c) Nane District;

(d) Phoukhoune District; and

(e) Phonxay District;

(7) Sainyabuli Province has capacity of 40,020 W from the following districts:

(a) Sainyabuli District;

(b) Phiang District;

(c) Xienghone District;

(d) Ngeun District;

(e) Hongsa District;

(f) Xaysatan District;

(g) Paklai District;

(h) Kenethao District; and

(i) Khop District;

(8) Xiangkhouang Province has capacity of 38,230 W from the following districts:

(a) Pek District;

(b) Kham District;

(c) Nong Het District;

(d) Phou Kout District; and

(e) Khoune District;

(9) Vientiane Province has capacity of 4,180 W from the following districts:

(a) Phonhong District;

(b) Kasy District;

(c) Feuang District;

(d) Keo Oudom District;

(e) Mad District;

(f) Hinhurp District; and

(g) Hom District;

(10) Bolikhamsai Province has capacity of 11,130 W from the following districts:

(a) Borikhane District;

(b) Pakkading District; and

(c) Viengthong District;

(11) Salavan Province has capacity of 110,290 W from the following districts:

(a) Lakhonepheng District;

(b) Vapy District;

(c) Khongsedone District;

(d) Saravane District;

(e) Toumlane District;

(f) Ta Oy District; and

(g) Lao NgamDistrict;

(12) Khammouane Province has capacity of 33,330 W from the following districts:

(a) Nakai District;

(b) Mahaxay District; and

(c) Saybouathong District;

(13) Savannakhet Province has capacity of 66,430 W from the following districts:

(a) Assaophone District; and

(b) Nong District;

(14) Champasak Province has capacity of 56,810 W from the following districts:

(a) Sanasomboun District;

(b) Bachieng District;

(c) Paksong District;

(d) Pathouphone District;

(e) Phonthong District;

(f) Khong District; and

(g) Mounlapamok District;

(15) Attapeu Province has capacity of 13,350 W from the following districts:

(a) Sanamxay District; and

(b) Phouvong District;

(16) Sekong Province has capacity of 173 W from the following districts:

(a) La Mam District; and

(b) Kaleum District.

The capacity to generate electricity by Solar System is small. There is no plan to develop the production of electricity by such method.

8. Water Supply System Infrastructure

The Water Supply System and capacity of the Water Treatment Plants in the Lao PDR[29] are as follows:

[29] Information on Technique and Water Supply Service for Year 2013. Lao PDR, 2013. (Mimeographed)

8.1 Vientiane

The Water Supply Systems are covered 11 service areas of Vientiane as follows:

(1) Chanthabuly District;
(2) Sikhottabong District;
(3) Xaysetha District;
(4) Sisattanak District;
(5) Naxaithong District;
(6) Xaythany District;
(7) Tha Duea in Hadxayfong District;
(8) Poey Lad in Sangthong District; and
(9) Pak Ngum District:
    (a) Ban Na Chon;
    (b) Ban Na Tham; and
    (c) Ban Bor Lek.

The 6 Water Treatment Plants situated in the capital are as follows:

(1) Kao Leaw Water Treatment Plant has a capacity of 60,000 cu m. (Cubic Meters)of water supply per day;
(2) Chi Nai Mo Water Treatment Plant has a capacity of 80,000 cu m. of water supply per day;
(3) Saen Din Water Treatment Plant has a capacity of 20,000 cu m. of water supply per day;
(4) Dong Mak Khai Water Treatment Plant, Phase 1, has a capacity of 20,000 cu m. of water supply per day;
(5) Dong Bang Water Treatment Plant has a capacity of 20,000 cu m. of water supply per day; and
(6) Huoay Kham - Ban Kok Peung has a capacity of 250 cu m. of water supply per day.

8.2 Phongsaly Province

The Water Supply Systems covering the 6 districts of Phongsaly Province are as follows:

(1) Phongsaly District;
(2) May District;
(3) Khoua District;

(4) Boun Neua District;

(5) Yot Ou District; and

(6) Boun Tay District.

8.3 Luang Namtha Province

The Water Supply Systems cover 5 service areas of Luang Namtha Province as follows:

(1) Luang Namtha District;

(2) Sing District;

(3) Long District;

(4) Viengphoukha District; and

(5) Na Le District.

8.4 Oudomxay Province

The Water Supply Systems cover 3service areas of Oudomxay Province as follows:

(1) Xai District;

(2) Na Mo District; and

(3) Houne District.

8.5 Bokeo Province

The Water Supply Systems cover 3 service areas of Bokeo Province as follows:

(1) Houay Xay District;

(2) Ton Pheung District; and

(3) Nam Keung in Ton Pheung District.

8.6 Luang Prabang Provinc

The Water Supply Systems cover 6 districts of Luang Prabang Province as follows:

(1) Luang Prabang District;

(2) Xiengngeun District;

(3) Nane District;

(4) Nam Bak District;

(5) Ngoy District; and

(6) Phonxay District.

The 4 Water Treatment Plants situated in the district are as follows:

(1) Phou Peung Water Treatment Plant with a capacity of 9,000 cu m. of water supply per day;
(2) Pha Nom Water Treatment Plant with a capacity of 12,000 cu m. of water supply per day;
(3) Su Pha Nu Wong Water Treatment Plant with a capacity of 1,000 cu m. of water supply per day; and
(4) Asia Water Treatment Plant, a private Water Treatment Plant.

8.7 Houaphanh Province

The Water Supply Systems cover 3 districts of Houaphanh Province as follows:

(1) Xam Neua District;
(2) Viengxay District; and
(3) Samtay District.

8.8 Sainyabuli Province

The Water Supply Systems cover 8 districts of Sainyabuli Province as follows:

(1) Sainyabuli District;
(2) Hongsa District;
(3) Ngeun District;
(4) Xienghone District;
(5) Phiang District;
(6) Paklai District;
(7) Kenethao District; and
(8) Thongmyxay District.

8.9 Xiangkhouang Province

The Water Supply Systems cover 3 districts of Xiangkhouang Province as follows:

(1) Pek District;
(2) Kham District; and
(3) Khoune District.

8.10 Vientiane Province

The Water Supply Systems cover 14 service areas as follows:

(1) Phonhong District;
(2) Ban Lak 52 of Phonhong District;
(3) Community of Ban Saen Chumin Phonhong District;
(4) Ban Keun in Thoulakhom District;
(5) Keo Oudom District;
(6) Vangvieng District;
(7) River Port-Huay Morin Vangvieng District;
(8) Community of Ban Namon in Vangvieng District;
(9) Ban Vieng Xai - Huay Ngam in Vangvieng District;
(10) Feuang District;
(11) Xanakharm District;
(12) Ngung - Don Kuad - Viengkham in Viengkham District;
(13) Hinhurp District; and
(14) Xaysomboun District.

8.11 Bolikhamsai Province

The Water Supply Systems cover 7 service areas as follows:

(1) Paksane District;
(2) Community of Ban Huay Khoun in Paksane District;
(3) Community of Ban Tha Bok - Palai in Thaphabat District;
(4) Ban Thung Na Mee in Pakkading District;
(5) Ban Viengkham in Pakkading District;
(6) Borikhane District; and
(7) Ban Lak(20) in Khamkeut District.

8.12 Khammouane Province

The Water Supply Systems cover 4 districts as follows:

(1) Thakhek District;
(2) Mahaxay District;
(3) Nong Bok District; and
(4) Sebangphay District.

8.13 Savannakhet Province

The Water Supply Systems cover 9 service areas as follows:

(1) Kaysone Phomvihane District;

(2) Outhoumphone District;
(3) Atsaphangthong District;
(4) Phine District;
(5) Ban Dan Savan in Seponh District;
(6) Nong District;
(7) Thapangthong District;
(8) Songkhone District; and
(9) Champhone District.

8.14 Salavan Province

The Water Supply Systems cover 3 districts as follows:

(1) Saravane District;
(2) Khongsedone District; and
(3) Lao Ngam District.

8.15 Sekong Province

The Water Supply Systems cover 5 service areas as follows:

(1) La Mam District;
(2) Kaleum District;
(3) Dak Cheung District;
(4) Tha Teng District; and
(5) Ban Jun La in Tha Teng District.

8.16 Champasak Province

The Water Supply Systems cover 3 service areas as follows:

(1) Pakse District;
(2) Phonthong District; and
(3) Khong District.

8.17 Attapeu Province

The Water Supply Systems cover 2 districts as follows:

(1) Saysetha District; and
(2) Samakkhixay District.

In this regard, the Lao PDR plans to continue the improvement of the Water Supply System of the city in each province for use by at least 65% of all inhabitants, including construct Water Supply Systems in small cities and villages for clean and safe water supply as well as sustainable services.[30]

9. Relevant Government Authorities

The responsible government authorities for the Infrastructure System of the Lao PDR categorized by each type of infrastructure are as follows:

9.1 Road Transportation Infrastructure

(1) The responsible agency for routes significant to the development of the National Economy is the Ministry of Public Works and Transport;

(2) The responsible agency for routes significant to National Defence and the development of the local economy is the Local Government;

(3) The responsible agency for routes essential to National Defence and public security is the Ministry of Defence; and

(4) The responsible agencies for routes essential to culture and society are the Ministry of Public Works and Transport, the Ministry of Information, Culture and Tourism, the National Committee for Rural Development and Poverty Eradication, and the Local Government.

9.2 Air Transportation Infrastructure

The responsible agency for air transportation infrastructure is the Department of Civil Aviation under the Ministry of Public Works and Transport.

9.3 Train Transportation Infrastructure

The responsible agency for train transportation Infrastructure is the National Railway Authority under the Ministry of Public Works and Transport.

9.4 Waterway Transportation Infrastructure

The responsible agency for waterway transportation infrastructure is the Waterway Department under the Ministry of Public Works and Transport.

[30] Ministry of Planning and Investment. The Seventh Five-Year National Socio-Economic Development Plan (2011-2015) (Full Version), 7 October 2011, Page 121.

9.5 Telephone System Infrastructure

The responsible agency for telephone system infrastructure is the Department of Telecommunications under the Ministry of Post, Telecom and Communication.

9.6 Electricity System Infrastructure

The responsible agency for electricity system infrastructure is the Department of Energy Policy and Planning under the Ministry of Energy and Mines.

9.7 Water Supply System Infrastructure

The responsible agency for water supply system infrastructure is the Office of Water under the Ministry of Public Works and Transport.

Chapter 3
Trading of Goods and Services by Foreigners

1. Relevant Legislations

(1) Decree on Trade Competition No. 15/PM, dated4 February 2004 ("**Decree on Trade Competition**")

(2) Decree on the Issuance of Import License Procedure No. 180/PM, dated 7 July 2009 ("**Decree on the Issuance of Import License Procedure**")

(3) Decree on Place of Origin for Imported and Exported Goods No. 228/PM, dated 22 April 2010 ("**Decree on Place of Origin for Imported and Exported Goods**")

(4) Decree on Importation and Exportation of Goods No. 114/GoL, dated 6 April 2011 ("**Decree on Importation and Exportation of Goods**")

(5) Agreement on Wholesale and Retail Business No. 1005/IC.DTD, dated 22 May 2015 ("**Agreement on Wholesale and Retail Business**")

(6) Customs Law No. 04/NA, dated 20 December 2011("**Customs Law**")

Several laws and regulations of major importance must be taken into account on this issue of trading of goods and provision of services by foreigners within the Lao PDR. New laws and regulations are issued today which bear significant impact and changes in business operations undertaken by foreigners in areas of trade and services.

The following are major issues which should be taken into consideration from laws governing the trading of goods and provision of services by foreigners in the Lao PDR.

2. International Trading Laws

International Trading Laws are all laws and rules concerning juristic relations established in international trade which are comprised of rules governing on trade between private sectors, for example, the sale and purchase agreement between a purchaser and a seller, and rules governing on trade between state and private sector, whereas, the state uses such rule to control trading such as stipulation of import duties, approval on importation of certain kinds of goods, etc.

For considering whether a business operation in the Lao PDR is between a local business entity and a foreign business entity, or between local business entities, the interpretation of local business entity shall be made in considering such business entity. However, at present, there is no legislation providing a general rule concerning the shareholding ratio in a business entity which shall be considered as a foreign business entity. In this case, the Agreement on Wholesale and Retail Business No. 0977/IC.DTD, dated 18 May 2012, which is a previous legislation, defines the term of foreign business entity as a business entity incorporated and registered under the laws of a foreign country or one which is incorporated and registered under the laws of the Lao PDR and invested in by foreign shareholders from 50% or more of its entire registered capital. In practice, however, officials of the Lao PDR regularly consider that business entities incorporated under the laws of the Lao PDR and invested in by foreign shareholders with as little as 1 share shall be considered as a foreign entity. At present, officials primarily follow the Agreement on Wholesale and Retail Business No. 1005/IC.DTD, dated 22 May 2015, in which there is no provision of definition of "foreign business entity" in any respect.

The Agreement on Wholesale and Retail Business No. 0977/IC.DTD, dated 18 May 2012 provides that a retail business is reserved for people holding Laotian nationality only. Overseas investors may carry out retail business in the Lao PDR only through the following channels:

(1) Through Laotian distributor(s);
(2) Investing or participating in a joint venture to build a modern, new-style Trade Centre to allow other business entities to make their reservation and to conduct their trading activities there; and
(3) Establish factories to manufacture and distribute goods they have produced under a strict restriction not to distribute other goods which they have not produced themselves under any circumstance.

For wholesale business, foreigners or foreign business entities may invest in the wholesale businesses of the following goods in the Lao PDR at the ratio of not more than 49% and that they must have a registered capital of LAK1,000,000,000 at least or more (approximately USD125,000), namely:

(1) Textiles;
(2) Clothing apparels; and
(3) Shoes and socks.

However, the aforementioned Agreement was repealed as a result of the implementation of Agreement on Wholesale and Retail Business No. 1005/IC.DTD, dated 22

May 2015, by the Ministry of Industry and Commerce. The essence of the new Agreement authorizes foreigners to invest in the wholesale and retail business under the conditions specified as follows:

(1) Foreign investors shall establish and operate the wholesale and retail business in accordance with the Decision on Shopping Centre and Department Store issued by the Ministry of Industry and Commerce. However, at present, this regulation has not been put into effect. An official at the Ministry of Industry and Commerce informed that such Decision remains in draft form for the process of study in order to be further enforced.

(2) The operation place of business shall be located in the shopping centre and department store or any other place permitted by the government.

(3) The minimum registered capital is at least LAK4,000,000,000 (approximately THB16,000,000). In case the registered capital is more than LAK20,000,000,000 (approximately THB80,000,000), foreign investors shall be able to hold 100% shares.

(4) The authorised share percentage foreign investors are allowed to hold for wholesale and retail business in the Lao PDR is based on the amount of registered capital as follows:

  (a) Foreign investors can hold a maximum of 70% share where the registered capital is below LAK20,000,000,000 (approximately THB80,000,000) but not less than LAK10,000,000,000 (approximately THB40,000,000; and

  (b) Foreign investors can hold a maximum of 50% share where the registered capital is below LAK10,000,000,000 (approximately THB40,000,000) but not less than LAK4,000,000,000 (approximately THB16,000,000).

Other than relevant laws and regulations on retail and wholesale business and announcements regarding the categories of goods for wholesale trading may be undertaken by foreign investors, foreigners who step in to conduct trading in the Lao PDR are also required to comply with rules governing reserved businesses, conditional businesses and prohibited businesses for which there are restrictions pertaining to foreigners undertaking such operations. For example:

(1) According to rules governing businesses reserved for Laotian citizens, the following businesses may not be undertaken under any circumstances by foreigners:

(a) Harvesting/picking of products or fruits of the forests (reserving only the business of exploration of natural resources with pharmaceutical contents);

(b) Raft-making (reserving only the plaiting activity including the designing, collecting, pattern-designing and multi-threaded/multi-coloured weaving (mud-mee) in the local Laotian style);

(c) Knitting and embroidery of satin (reserving only the knitting and embroidery of Laotian silk with ancient artistic patterns which are unique to each various tribes);

(d) Production of products from wood, reeds, fueng and woven products (reserving only the small family-style wood processing factory and the conduct of businesses pertaining to wood carving and other weaving activities which bear ancient artistic patterns that are unique to each various tribes);

(e) Provision of services pertaining to publications/printing (reserving only the business of printed graphics);

(f) Generation, transmission and distribution of electricity (reserving only the conduct of business in Waterfall Electricity Generation Projects in the Lao PDR with generating capacity of less than 15 megawatt for which there are no concessions for the projects);

(g) Non-specific wholesaling (meaning every wholesaling business);

(h) Retailing businesses in stores in general (meaning every retailing business); and

(i) Businesses for short-term stay accommodation (reserving only the businesses of home stay, resorts, hotels from three stars and below), etc.

(2) According to rules governing conditional businesses, the following businesses may be undertaken by foreigners under certain restrictive conditions:

(a) Maintenance and repairs for cars services (reserving only the businesses of garage providing repair facilities for vehicles and motorcycles) must have a minimum registered capital of LAK1,500,000,000 or more (approximately USD187,500) in which 100% investment may be made by foreigners;

(b) Short-term stay accommodation service (3 – 5 stars hotels) must have a minimum registered capital of LAK1,000,000,000 (approximately USD125,000) in which 60% investment may be made by foreigners; and

(c) Establishment of commercial banks requires a minimum registered capital of LAK300,000,000,000 (approximately USD37,500,000), establishment of a bank's branch office requires a minimum registered capital of LAK100,000,000,000 (approximately USD12,500,000) establishment of a micro financial institution which accepts deposits of money must have a minimum registered capital of LAK3,000,000,000 (approximately USD375,000). The shareholding ratio for such establishments must be in the ratio agreed upon, and so forth.

(3) According to rules governing prohibited businesses, the following businesses may not be undertaken under any circumstances by either Laotian citizens or foreigners in the Lao PDR:

(a) Businesses involving every kind of radioactive minerals/ores;

(b) Businesses involving bullets and every kind of weapons/ammunition (excepting explosives for use in industrial activities which, however, must receive specific licenses), and vehicles for use in warfare;

(c) Opium, poppy seeds, poppy flowers, poppy heartwood, dried poppy flowers, opium finished products, products produced from opium, cocoa leaves, marijuana in a variety of forms, cocaine and seeds of these plants; and

(d) Paper and ink for use in printing banknotes, banknote printing machines and coin-moulding machines, etc.

2.1 Measures against Market Dumping and Trade Barriers

Measures against market dumping and trade barriers are subject to general rules set out in the Decree on Trade Competition No. 15/PM, dated 2 February 2004 ("**Decree on Trade Competition**") which is aimed at countering monopolistic activities and unfair trading competition in every form with enforcement on businesses involving trading of goods and services in every form in the Lao PDR.[1]

There is mention of the Trade Competition Board in this Decree on Trade Competition, however none has been appointed so far. The rights and duties of the said Board are as follows:

(1) Conduct searches on rules governing action, rights and duties of the Secretariat as well as making recommendation pertaining to its performance;

[1]Decree on Trade Competition, Section 4.

(2) Conduct searches to issue additional rules for performance pursuant to this Decree;

(3) Set up sub-committee(s) to carry out any specific duty when the need arises;

(4) Consider requests/applications and issue any particular licenses to business operator(s);

(5) Set up and give notification of unit accounts and business categories;

(6) Call relevant parties to a meeting for consultation or to give advice or clarification over various relevant problems;

(7) Follow-up/monitor commercial operations and issue orders for business operator(s) to make changes/improvements, suspend its operations on a temporary basis or stop activities which are considered to be unfair;

(8) Determine market share, a business operator's sales turnover considered to constitute market take-over;

(9) Determine ratio of shareholding which can be traded, or set up rules governing sale/purchase of properties between business operators to prevent control of other business operators' businesses;

(10) Consider complaints filed by business operators and consumers;

(11) Recommend that the relevant authorities enforce measures that have been prescribed against offenders;

(12) Co-ordinate with public communications organizations and various business entities to give notification of news/information and carry out public relations work on various works and problems relating to trade competition for public information; and

(13) Act in line with other of its rights and duties as assigned by the Government.[2]

As far as monopoly of market/services and unfair trading pursuant to this Decree on Trade Competition is concerned, provisions are set out to prohibit business operators from taking over the market by means of merger/amalgamation or control which would destroy its competitors or severely restrict competition. Such destruction means every action/activity which causes damages, either directly or indirectly, such as market dumping, restriction or interference in other people's businesses. Other than this, it also prohibits business operators from entering into a joint agreement or be in connivance in this kind of action as well such as price-fixing, freezing of sale/purchase pricing levels for goods and services, hoarding of goods, reducing or limiting production capacity, working in concert to win the procurement tenders, set up conditions, either directly or indirectly, in order to have a business operator which is its customer limit its production capacity, or restricting a

[2]Decree on Trade Competition, Section 6.

customer's opportunity to make a choice for its purchase of goods and services, and so forth.[3]

Furthermore, business operators in the Lao PDR who must be involved in businesses with overseas operators, either by virtue of contracts, shareholdings or others, are prohibited from taking any action which would constitute a restriction of opportunities for other business operators in the country to make their selection to purchase and sell goods or services directly from such overseas operators.[4]

However, the Trade Competition Board may set up exceptions to these rules if they are justifiable in the country's economic/social interests and for national security. Offenders against this Decree on Trade Competition may be subject to such penalty as warning, ordered to suspend its operations temporarily, having its operations closed down permanently or may even be subject to legal action under the law or to make indemnification for damages, etc.[5]

2.2 Procedures for Importation and Exportation of Goods and Relevant Customs Procedure

Importation and exportation of goods as well as customs procedures in the PDR of Laos are subject to relevant rules, as follows:

(1) Decree on Procedures for Issuance of Import License No. 180/PM, dated 7 July 2009 ("**Decree on Procedures for Issuance of Import License**"); and

(2) Decree on Importation and Exportation of Goods No. 114/GoL dated 6 April2011 ("**Decree on Importation and Exportation of Goods**").

[3] Decree on Trade Competition, Section 7-11.
[4] Decree on Trade Competition, Section13.
[5] Decree on Trade Competition, Section14.

2.2.1 List of Banned Goods for Import and Export

According to notification requirements on banned goods for import and export, there is a list of items which are not permitted to be imported into or exported out of the Lao PDR under any circumstances. However, when there is a necessity for any of them to be imported or exported, an application must be filed together with documents showing the necessity for such importation or exportation, to the relevant authorities for their check or consideration and further submission to the government of the Lao PDR to seek its authorization.

2.2.1.1 List of Banned Goods for Import

(1) Highly toxic chemical substances used in industrial operations;
(2) Bullets and every kind of ammunition/weapons (except explosives used in industrial activities), and vehicles used in warfare;
(3) Opium, poppy seeds, poppy flowers, poppy heartwood, dried poppy flowers, opium finished products, products produced from opium, cocoa leaves, marijuana in a variety of forms, cocaine and seeds of these plants;
(4) Tools of fishing by means of electrocuting ponds;
(5) Promiscuous media; and
(6) Paper and ink for use in printing banknotes, banknote printing machines and coin-moulding machines.

2.2.1.2 List of Banned Goods for Export

(1) Antique items/objects d'art including Buddha statues, Deva statues/figurines and objects of worship, objects which are National Heritage of great value historically, archeologically and culturally which are aged 50 years or more;
(2) Paper remnants/fragments.

2.2.2 Procedures on Application for Import License

Other than goods in those categories which require either automatic or non-automatic import permits, goods in other categories, however, may immediately be imported into the Lao PDR after they have passed Customs clearance once documents pertaining to their importation and exportation have been duly notified at Customs Ports.[6] Such goods are divided into two categories under the Decree on Procedures for Issuance of Import License which give the meaning for and separate such goods in detail, as follows:

2.2.2.1 Automatic Import License

Issuance of automatic Import License constitutes issuance of immediate Import License or, at the latest, not more than 15 business days. In this regard, the Notification* Governing Items of Goods Subjected to Automatic and Non-Automatic Import or Export License provides details of goods subject to Automatic Import License as follows:

(1) Every category of land vehicles which are machine-regulated, except tricycles;
(2) Car fuel and gas;
(3) Timber, tree stumps, bulge wood and processed wood;
(4) Unpolished rice, broken rice, rice which are either half or fully hulled, whether polished or not;
(5) Iron wire/steel rods and steel/iron of various appearances;
(6) Cement, mortar and concrete;
(7) Publication products;
(8) Mineral ores and mineral ore products; and
(9) Wood exploration machinery, wood-cutting machinery, chain saw including components or parts thereof.

The maximum term for Automatic Import License in the Lao PDR is one year or otherwise depends on the category of goods imported and will immediately expire at the end of the prescribed period. In the procedure governing the application for an Import License, the applicant must file an application to import goods with the relevant entity duly authorized to issue Import License during official working hours. And, the Decree on Importation and Exportation of Goods provides that, where necessary, an application may be filed by the applicant via a number of organizations which, however, must not exceed three.

[6] Decree on Importation and Exportation of Goods, Section13.
* The "Notification" is a written law applicable to a certain matter, enacted to enforce and provide details for the provisions of a higher ranking written law.

The work unit duly authorized to issue an Import License will depend on each category of goods as prescribed by the Ministry of Industry and Trade. Once the authorized entity has received a correct and complete application, it will give its consideration immediately and not later than 10 business days from the date of its receipt of the application.

After receiving the Import License, the importer must take the goods to give notification for payment of import duties. Goods duly licensed to be imported will not be denied entry into the country even though their value, volume or weight may slightly vary from those stated in the Import License albeit an equivalent exchange rate must be used.[7]

However, the Government of the Lao PDR is empowered to revoke the automatic import license system immediately if it is of the opinion that such measures are no longer necessary.[8]

2.2.2.2 Non-automatic Import License

In general, issuance of non-automatic import license is an issuance of Import License used to limit the volume or Import Quota[9] pursuant to the Notification Governing Goods Subject to Automatic and Non-automatic Import or Export License for which goods subject to application for non-automatic importation license are as follows:

(1) Guns and bullets used for training and sports competition;
(2) Explosive substances used in industrial operations such as explosive substances, explosive items, explosives, fireworks; and
(3) Gold bullion (only gold bars which can be used internationally for debts repayment)

On this subject of issuance of non-automatic import licenses, the procedure governing the application for them is similar to that used for automatic license, however, this criteria will be used by the authorized entity by considering the applications on the first-come, first-served basis which, however, shall not exceed 30 days from the date of receipt. In the case where the entity authorized to issue the application gives its consideration to relevant documents simultaneously altogether, consideration of such applications must, however, be completed within a period of not more than 60 days from the date announced to close off the acceptance of such applications.

[7] Decree on Procedure for Issuance of Import License, Section 5.
[8] Decree on Procedure for Issuance of Import License, Section 6.
[9] Decree on Procedure for Issuance of Import License, Section 7.

However, the Government of the Lao PDR is empowered to revoke the non-automatic import license system immediately if it is of the opinion that such measures are no longer necessary.[10]

2.2.2.3 Extension of Import Licenses

In a case where that Import License is not used, or it is used but work is not accomplished within the prescribed period, the applicant must file an application to seek extension of the Import License while the current License is still in force, or within three months from the date of its expiry by attaching the old License for submission to the authority empowered to issue Import Licenses. After it has been duly considered and deemed appropriate, action will be taken to revoke the old License and new one issued to the applicant[11] which will be for a term of not more than 1 year.

2.2.3 Procedures on Application for Export License

Other than goods in those categories which require either automatic or non-automatic export permits, goods in other categories, however, may immediately be exported out of the Lao PDR after they have passed Customs clearance once documents pertaining to their importation and exportation have been duly notified at Customs Ports[12]. (Please see 2.2.5). However, such goods are divided into two categories under the Decree governing Procedure for Application of Import or Export Licenses which give the meaning and separate such goods in detail, as follows:

2.2.3.1 Goods subject to application for Automatic Export License

Goods for which action must be taken to apply for automatic export licenses are as follows:

(1) Timber, tree stumps, bulge wood and semi-finished wood from wood plantations;

(2) Unhusked rice, unpolished rice, broken rice, rice which are either half or fully hulled, whether polished or not; and

(3) Mineral ores and mineral ore products.

[10] Decree on Procedure for Issuance of Import License, Section 7.
[11] Decree on Procedure for Importation and Exportation of Goods, Section 5.
[12] Decree on Procedure for Importation and Exportation of Goods, Section 13.

2.2.3.2 Goods subject to application for Non-Automatic Export License

Goods for which action must be taken to apply for non-automatic export licenses are as follows:

(1) Timber, tree stumps, bulge wood and semi-finished wood from natural forests;

(2) Gold bullion (only gold bars which can be used internationally for debt-repayment).

2.2.4 Import and Export of Goods which must pass Hygienic Measures

For importation and exportation of goods which must pass hygienic measures, the authority which provides protection in areas of import and export has the right to demand submission of documents pertaining to hygienic approvals to support its consideration. Or, it may require the importer or exporter to comply with rules in other technical areas first before making such import or export. Such approval may be given by an organization for the protection of the Lao PDR's exports or from other organizations which have been granted international accreditation from the exporting country or a third country and which are duly acknowledged by the Government of the Lao PDR.[13]

However, the right to import and export goods into and out of the Lao PDR is a right which is separated from the right to sell such goods in the country. People authorized to distribute goods inside the Lao PDR must only be those who have been authorized to conduct the business of goods distribution.[14]

2.2.5 Temporary Import and Export and Border Pass

2.2.5.1 Goods subject to application for Automatic Export License

Importers may bring every category of goods into the country on a temporary basis for re-exportation. However, if at the time such goods are sent out of the country, they have been modified, embellished or added with any other things which have changed their categories, the importer will, in each case, have to comply with rules applicable depending on the category of goods. Export shall be made within the time prescribed by law on customs only. Importation of goods and items on a temporary basis consist of the following:

[13] Decree on Importation and Exportation of Goods, Section 9 and 13.
[14] Decree on Importation and Exportation of Goods, Section 14.

(1) Items and things used for production, renovation, assembly, modification or repairs;
(2) Vehicles used for survey works towards the designing of a project;
(3) Vehicles used for tourism or visits;
(4) Supplies and equipment used for survey works towards the designing of a project;
(5) Goods, things to be put on display; and
(6) Things used for studies and trials/samples.

These six categories of goods are exempted from import duties and other obligations and will be granted tax-exemption as prescribed by applicable rules when they are sent back out of the country. However, importers must execute guarantee agreements for contractual performance and they may not, under any circumstances, transfer title, pledge, exchange, trade and use such goods and things which have been imported out of line with their objectives.[15]

2.2.5.2 Temporary Export

Exporters may send out goods for re-importation. However, if at the time such goods are sent out of the country, they have been modified, embellished or added with any other things which have changed their categories, the exporter will, in each case, have to comply with applicable rules depending on the category of goods. Export shall be made within the time prescribed by laws governing Duties and the exporter shall pay tax duties and other obligations pursuant to applicable rules based on the value of such modifications, embellishments or additions/expansions, according to their computation.[16]

2.2.5.3 Border Pass

Importers or exporters may bring in or send out goods across the border, as applicable in each case. Such transmission of goods across the borders in the Lao PDR must be made along Border Ports of entry-exit during prescribed times in the full number/volume and in their actual conditions which must be subject to monitoring by Customs Officials of the Lao PDR.[17]

Notwithstanding if such be temporary importation or exportation or transmission of goods across the border, rules governing conditions of goods that have been

[15] Customs Law, Section 42 and Section 49.
[16] Decree on Importation and Exportation of Goods, Section 18, and, Customs Law, Section 41.
[17] Decree on Importation and Exportation of Goods, Section 19.

changed which will be applicable and subjected to certification on their source of origins in the interest of Customs Declaration will be mentioned next in 2.2.6.3 on the subject of Source of Origins of Goods.

2.2.6 Customs

Under Customs Law, every kind of goods and things which are imported into and exported outside the PDR of Laos are subject to duties and other obligations as listed in the Duties Rates Index of the Lao PDR, 2010 ("**Duties Rates Index**")[18] unless they are goods which have been exempted from such payment or exempted from payment of other taxes and obligations. Principal rules concerning Customs in the PDR of Laos are as follows:

2.2.6.1 Duties Declaration

Every kind of goods and items to be imported into or exported out of the Lao PDR is subject to Duties Declaration pursuant to each category of goods in the List of Duties Rates Index. Value used for such Declaration is separated into two, as follows:

(1) Value of Declaration on Export Duties
This is the actual value which includes costs of transportation up to the Customs Port of border exit.[19]

(2) Value of Declaration on Import Duties
This is the actual value which includes costs of transportation and/or costs of insurance up to the Customs Port of border entry which must be in line with the agreement governing Customs and Trade, 1994 of the World Trade Organization re: Determination of the Value of Declaration of Duties.[20]

Declaration of Duties in the Lao PDR is given in a form of details separated into Declaration of Details in a general form and Declaration of Details by electronics means, as follows:

(1) Declaration of Details in a general form
This is to fill in information/data in the Declaration Form concerning details of goods in accordance with the published form.

[18] Current edition, information as of 18 September 2014
[19] Customs Law, Section 12.
[20] Customs Law, Section 13.

(2) Declaration of Details by electronics means

This is to provide information and technology on goods via the automatic Duties Declaration system.[21]

Signing of signatures in both Duties Declaration forms will have the same legal effect.[22] Duties Declaration Forms that have been checked by Customs officials will be duly registered and will consist of material documents as follows:

(1) Duties Declaration Form in detail
(2) Price Declaration Form
(3) Transportation/shipping documents
(4) Packaging List (if any)
(5) Certificate of Origins on Goods (if any)
(6) Export – Import License(s) (if any)[23]

On the issue of Duties Declaration schedules, Declarations must be made within 15 business days from the date goods are recorded by Customs Officers pursuant to their Bill of Transportation as otherwise they will be subjected to control by Customs Officers when action are to be taken by exporters or importers as follows:

(1) Make a Declaration of Duties in detail within 45 business days and be subject to a fine at the rate of 0.1% of the goods' value;
(2) On expiry of this 45 days deadline, Custom Officials will send a notice for the Duties Declaration to be made within 21 additional business days and they will be subjected to a fine of 0.5% of the goods' value; and
(3) At the lapse of this 21 days deadline, such goods will be confiscated into the State's Purse.[24]

Once Duties Declaration has been duly certified by Customs Officers, the Declarer shall make payment of duties and other obligations in the Kip currency in full as scheduled.[25]

[21] Customs Law, Section 3.
[22] Customs Law, Section 22.
[23] Customs Law, Section 23.
[24] Customs Law, Section 24.
[25] Customs Law, Section 25.

2.2.6.2 Exceptions, Exemption of Duties and Other Obligations

Exceptions, exemptions of duties and other obligations under Law on Customs are separated into 3 cases as follows:

(1) For the Diplomatic Corps and International Organizations
Importation of items and vehicles for use by the Diplomatic Corps in proper conformance with provisions of the Treaty of Vienna regarding Diplomatic Relationships dated 19 April 1961 and duly certified by the Ministry of Foreign Affairs of Lao PDR, and importation of items and vehicles for use by International Organizations or foreign non-governmental organizations and foreign experts in a project who are duly certified by the Ministry of Foreign Affairs of Lao PDR will be exempted from the levy of duties and other obligations. However, on completion of their term as scheduled, such items must be sent out of the country as otherwise they will be subject to regular duties if they are to be used further in the country.[26]

(2) Exemption of Duties and Other Obligations in general
Goods and things imported which are exempted from duties and other obligations consist of the following:

(a) A passenger's personal on-board belongings;
(b) Items for certain usage for housing re-location;
(c) A delegation's gifts for those operating overseas;
(d) Goods or items obtained out of the government's subsidy and loans;
(e) Things which are necessary for use in areas of education, public health, scientific researches, samples and religion; and
(f) Specific items for use in national security or peacekeeping.

Moreover, export of agricultural produce derived from the production, cultivation and husbandry activities, or industrial products which have passed through the process of production or modification as well as craftsmanship products will be exempted from export duties except only for some items.[27]

[26] Customs Law, Section 50-52
[27] Customs Law, Section 53 and 59

(3) Investment in various categories

The State supports production activities to promote investment in the Lao PDR. The various exports or imports of goods into the PDR of Laos under Law on Investment Promotion No. 02/NA, dated 8 July 2009 will be granted exemption or rebate of taxes and other obligations. Vehicles and supplies/equipment which have been brought into the country are not allowed, in general, to be sold under any circumstances.[28]

In this case, the importation of raw materials, equipment, and vehicles to be used in the production within a special economic zone and specific economic zone shall be granted exemption of duties pursuant to pertinent rules except the importation of fuel which shall be subject to the duties. The exportation of general goods produced from such zones is granted for the exemption of duties. However, the exportation of natural resources or products of natural resources shall be subject to payment of taxes under relevant laws and regulations.[29]

It is the objectives of the various duty-free shops to distribute goods to people departing the country such that the said goods will be tax-free and exempted from other obligations under the law.[30]

2.2.6.3 Origin of Goods

Origin of goods means a country where exploration, production or process of production or modification had taken place on an item of goods for which a "**Certificate of Origin**" will be issued to certify the place of origin for that particular item which may receive special privileges in the rebate of duties/taxes from the various countries with which the Lao PDR is a counter-party.

[28] Customs Law, Section 60 and 61
[29] Law on Investment Promotion No. 02/NA, dated 8 July 2009, Section 52
[30] Customs Law, Section 62

Certificate of Origin is divided into two categories, namely:

(1) A regular Certificate of Origin

This is a document used to give buyers confidence that the exported good has been produced or processed entirely in the Lao PDR.

(2) A Certificate of Origin with Special Trading Privileges

This is a Certificate of Origin with special trading privileges which will help boost competitive edge for exportation of such goods as buyers will have the right to be exempted from or granted a rebate of import duties under unilateral trading privileges project or Free Trade Agreement.

Principles governing issuance of "**Certificate of Origin for Export Goods**" are subject principally to rules which must be complied with as follows:

(1) Exporters who wish to receive the Certificate of Origin for Export Goods must file their applications together with complete documentation to the Officials authorized to issue such Certificates.

(2) The Official duly authorized to issue such Certificates must conduct verification on the origins of such exported product in detail and issue the Certificate within three and not more than seven business days at the latest if pertinent documentation is verified or complete.

(3) If there is any complaint received from Customs Officials or any organization of the country which imports goods from the PDR of Laos concerning the origin of any product, action must be taken by Customs Officials or the organization duly authorized to issue that Certificate of Origin for such verification/proof and to notify the complainant accordingly.

On this issue of application for the "Certificate of Origin" by an importer, such application must be filed with the Customs Official at the time the Declaration of Duties is made in order to seek the grant of the Certificate of Origin on goods in the following cases:

(1) If the importer wishes to exercise special rights under the laws of the Lao PDR or an International Treaty in which Lao PDR is a party;

(2) The place of origin for that particular imported good is the Lao PDR which gives special privileges under a bilateral treaty;

(3) That particular imported good is classified under the List of Controlled Goods under the law of the Lao PDR or an international treaty in which the Lao PDR is a party;

(4) Imported goods classified in the List of Goods declared by the Lao PDR or an International Organization as being hazardous which may endanger the Community and the well-being of humans, animals, plants and the environment and is necessary for them to be placed under control; and

(5) Goods imported from countries in which measures are being undertaken by the Lao PDR to counter their market dumping or subsidizing or protection of local producers or restriction of import volumes.

To seek Certificates of Origin, for goods which are granted special trade privileges, they must be filed with the Ministry of Industry and Commerce or the Department of Industry and Commerce countrywide while goods which do not receive such trade special privileges, are to be submitted to the relevant officers of the National Council of Industry and Commerce or the relevant Regional Council of Industry and Commerce.

3. Privileges Given to Business Operators with ASEAN Member States or Thai Nationality Provided by the Government of the Lao PDR

At present, the Government of the Lao PDR gives several trade privileges to business operator shaving the nationality of an ASEAN member state, including Thai nationality. Such trade privileges include reduced import duty rates for goods imported into the Lao PDR according to the ASEAN Trade in Goods Agreement: ATIGA, etc. Additional information concerning privileges given to business operators with such nationality by the Lao PDR can be found in Chapter 6: Investment Promotion in the Lao PDR.

4. Relevant Government Authorities

The State's duly authorized authorities in relations to the performance of Trade Law are mainly the Ministry of Industry and Commerce and the Ministry of Finance which consist of internal units, as follows:

4.1 Department within the Ministry of Industry and Commerce

(1) Permanent Secretary Office
(2) Personnel and Organization Department
(3) Foreign Trade Policy Department
(4) SME Promotion Department
(5) Inspection Department
(6) Import and Export Department
(7) Industry and Handicraft Department
(8) Domestic Trade Department
(9) Economic Research Institute for Trade
(10) Enterprise Registration and Management Department
(11) Planning and Cooperation Department
(12) Trade and Product Promotion Department[31]

4.2 Department within the Ministry of Finance

(1) Cabinet of Ministry
(2) Personnel and Organization Department
(3) Budget Department
(4) National Treasury
(5) Tax Department
(6) Customs Department
(7) State Owned Enterprise Financial Management Department
(8) Finance Information Technology Department
(9) State Assets Management Department
(10) International Cooperation Department
(11) External Finance Department
(12) Fiscal Policy Department
(13) State Reserve Department

[31] Information from http://www.moic.gov.la, as of 23 June 2015.

(14) Financial Inspection Department

(15) Accounting Department[32]

[32] Interview with the officials of Finance Ministry, 31 May 2015.

Chapter 4
Immigration Laws

1. Relevant Legislations

(1) Law on Entry-Exit and Protection of Foreigners in the Lao PDR No. 59/NA, dated 26December 2014 ("**Law on Entry-Exit and Protection of Foreigners in the Lao PDR**")

(2) Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners No. 136/PM, dated 25May 2009 ("**Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners**").

(3) Notification on Cancellation of Departure Visa for Laotian Nationals holding Official and Diplomatic Passport issued by the Ministry of Foreign Affairs' Consulate Department No. 007027/Thor Por Tor. Kor Kor Sor2, dated 18 September 2013 ("**Notification on Cancellation of Departure Visa for Laotian Nationals holding Official and Diplomatic Passport**")

2. General Principles

Law governing immigration control is mainly the Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners with the general objectives being to determine criteria and measures to safeguard matters concerning exit-entry for the Lao PDR, whether by Laotian citizens, aliens, foreigners or people with no nationality. In this document, we will deal with the subject of exit-entry into the Lao PDR with the use of proper travel documents in various categories.

For the sake of understanding this Decree, the term "Laotian citizens" means people holding Laotian nationality under laws governing Laotian nationality. The term "aliens" means people of other nationalities who have established domicile and taking residence in the Lao PDR for a long time, holding Alien Certificates and are officially acknowledged by their own government(s) for their entry into the Lao PDR. The term "foreigners", however, means people holding other nationalities who enter the Lao PDR to discharge certain kind of duties on a fixed-term basis and who must leave the country once such period expires. One can see that the terms aliens and foreigners in this Decree have different meanings.

Moreover, the term “persons with no nationality” means people who are not Laotian citizens and whose nationality cannot be confirmed[1].

2.1 Main Conditions for Entry-Exit of the Lao PDR

Main conditions for entry-exit of the Lao PDR are as follows:

(1) Laotian nationals, aliens, foreigners and people with no nationalities must hold a passport (or travel document used in lieu of passport), proper border pass document or Border Pass and must enter-depart at ports prescribed by the authorities. Moreover, if entry-exit is made with the use of a passport, said passport must have a remaining life of 6 months or more[2];

(2) Individuals who have several proper, complete and valid passports due to having more than one nationality must hold a passport which is used at the last port of entry-departure before arriving at the Lao PDR as a document for entry-exit of the Lao PDR;

(3) Individuals with a proper, complete and valid passport being stamped by the immigration officer or individual who is permitted to extend the period of stay in the Lao PDR must use the same passport in order to exit the Lao PDR;

(4) Individuals from the country in which a stamp for enter-exit on travel document is not required must follow the bilateral agreement or the consent of the government of the Lao PDR; and

(5) In case that a passport is damaged or invalid, a confirmation document by a police officer or officer of the Immigration Bureau is needed in order to issue a new passport from the embassy or consulate of that individual national and apply for an exit visa from the Ministry of Foreign Affairs. As such, the individual can be able to exit the Lao PDR.

2.2 Entry-Exit of the Lao PDR by Laotian nationals and Aliens[3]

Every Laotian national who will be traveling overseas must hold correct travel documents such as passport, border-pass documents or Border Pass. However, where such Laotian nationals hold diplomatic or official passports, they must have visas which give notification of their departure from the Lao PDR as well. For aliens holding passports for overseas travel, however, there is no need for them to have visas to give notification of their exit from the Lao PDR.

[1] Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 4.
[2] Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 5.
[3] Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 7.

However, they must also have a visa for the country they are going to when using passports for overseas travel unless there is an agreement for visa-exemption by that country with the Lao PDR which must also conform with the bilateral agreements between them.

Travel to neighbouring countries with borders adjacent to the Lao PDR can be done by using border pass documents or Border Pass subject to terms and conditions under bilateral agreements between the Lao PDR and the said country.

However, for each entry-exit of the Lao PDR, an immigration form must be filled in completely and duly notified to the Police Immigration Officers and relevant officers based at the Ports.

2.3 Entry-Exit of the Lao PDR by foreigners and people with no nationality[4]

In the case of people holding diplomatic or official passports and ordinary passports from countries with visa-exemption agreements with the Lao PDR who wish to enter the Lao PDR, they are to perform pursuant to agreements set out between the two countries in the absence of which they will have to first make their application for proper visas before they can enter the country.

For citizens of the Lao PDR' neighbouring countries who hold border pass documents or Border Pass to enter the Lao PDR, they are to perform pursuant to agreements entered between the two countries.

In the case of airlines employees with certification documents on their status from airlines of a country which has signed an agreement with the Lao PDR, when they wish to make an overnight stay in a town where an airport is located, they will be permitted to enter-exit and stay in the Lao PDR for not more than 24 hours without being required to hold a passport, visa and affixment of entry-exit stamps albeit they must pass through checks by the Immigration Police Officers based at airports pursuant to rules between the two countries.

However, for entry of the Lao PDR, an immigration form must be filled in completely and duly notified to the Police Immigration Officers and relevant officers based at the Ports.

[4]Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 8.

3. Visas

A visa means authorization to enter-exit the country within a prescribed period. Work units duly authorized to issue visas consist of Embassies and Consulates of the Lao PDR based in various countries and the Visa Work Units and International Ports which may issue tourist visas, short-term visas and transit visas immediately to foreigners and people with no nationality. For visas in other categories, however, including multiple entries-exits visas, they must receive prior approval from the Ministry of Foreign Affairs[5].

There are altogether 15 types of Entry-Exit Visas for the Lao PDR, as follows[6]:

3.1 Diplomatic Visas (D-A1)

Diplomatic visas will be issued to diplomats from the positions of secretaries/attaches upwards, Consulate Officials, representatives and deputy representatives of the United Nations and other International Organizations including members of their families who have been assigned to work on both short and long term in the Lao PDR, with letters of proposals from the relevant organizations.

There is no application fee for diplomatic visas.

3.2 Official Visas (S-A2)

Official visas are issued to administrative personnel based at Embassies and Consulates including members of their families.

There is no application fee for official visas.

3.3 Marriage Visas (SP-B3)

Marriage visas are issued to foreigners or people with no nationalities which have a legally registered marriage certificate with Laotian nationals.

The application fee for marriage visas is based on the nationality of the spouse who applies for the visa. The application fee for a spouse with Thai nationality is approximately USD30.

3.4 Courtesy Visas (C-B1)

Courtesy visas are issued to the following persons:

[5]Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners,Article 9.
[6]Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners,Article11.

(1) Employees working towards bilateral co-operations, employees of the United Organization and various International Organizations based at the Representative Offices located in the Lao PDR.

(2) Foreign experts or academicians who come into the country in the name of a project of cooperation between two Governments.

(3) Foreign experts or academicians of foreign voluntary organizations who come into the country under the Project of Non-Remunerative Assistance to the Government of the Lao PDR.

(4) Experts who come into the country to collect data concerning loans and following up on projects under loans extended to the Government of the Lao PDR.

(5) Foreign experts invited to come into the country for seminars, training or to give lectures/talks.

(6) Servants at embassies, consulates and diplomats' private homes who are not Laotian nationals or have permanent domicile in the Lao PDR.

(7) VIPs who are in the Plans of Movement to Provide Help, and honorary citizens.

(8) Family members of persons under (1) through to (7) above.

There is no application fee for courtesy visas.

3.5 Tourist Visas (T-B3)

Tourist visas are issued to foreigners and people with no nationality who come into the Lao PDR for tourism.

The application fee for tourist visas is based on the nationality of traveller. There is no application fee for Thai travellers.

3.6 Non-Immigrant Visas (NI-B3)

Non-Immigrant Visas will be issued to the following people:

(1) Foreign academicians who are permitted to come in for training or for educational-site touring on a temporary basis in the Lao PDR.

(2) Foreign priests/monks/parsons, sportspeople, artistes who intend to come into the country to participate in various events or operate in works in the Lao PDR.

(3) Foreigners, people with no nationality who intend to come into the country to visit their parents, siblings, friends, collect data for investment, trading and

other purposes which are correctly in compliance with the laws and rules of the Lao PDR.

The application fee for non-immigrant visas depends on the nationality of individual who applies for the visa. The application fee for Thai nationals is approximately USD30.

3.7 Immigrant Visas (I-B3)

Immigrant Visas are subject to issuance terms to the following people:

(1) Foreigners and people with no nationality who have made good their contributions towards the protection/preservation and development of the Lao PDR including those who have been of use to the Lao PDR who wish to enter and reside in the country for a long-term.

(2) For foreigners and people with no nationality who intend to enter the Lao PDR for a long-stay, they must have deposits of money with the Bank of the Lao PDR. Those wishing to come and stay within a period of six months, they must make advance remittance of at least twenty thousand USD while those who wish to stay for one year, there must be an advance transfer of at least forty thousand USD.

The application fee for immigrant visas is based on the nationality of the individual who applies for the visa. The application fee for Thai nationals is approximately USD30.

3.8 Permanent Visas (P-B3)

These are issued to foreigners and people with no nationality permitted to live in the Lao PDR on a permanent basis.

The application fee for permanent visas is based on the nationality of the individual who applies for the visa. The application fee for Thai nationals is approximately USD30.

3.9 Expert Visas (E-B2)

These are issued to the following people:

(1) Experts, staff members of non-government organizations (NGOs) who have entered the country to perform work.

(2) Experts who come into the country under contracts, or on agreements to undertake contractual undertaking from the public or private sector or the various international establishment/organizations together with members of their families.

The application fee for expert visas is based on the nationality of the individual who applies for the visa. The application fee for Thai nationals is approximately USD30.

3.10 Transit Visas (TR-B3)

These are issued to foreigners and people with no nationality who intends to pass through the Lao PDR in order to get to another country.

The application fee for Transit visas is based on the nationality of the individual who applies for the visa. The application fee for Thai nationals is approximately USD30.

3.11 Business Visas (NI-B2 or I-B2)

These are issued to foreign businessmen together with members of their families who enter the country to make an investment or to collect business data/information in the Lao PDR.

The application fee for Business visas is based on the nationality of the individual who applies for the visa. The application fee for Thai nationals is approximately USD30.

3.12 Student Visas (ST-B2)

These are issued to students who enter the country to conduct their studies, research, collection of data/information or for training in any particular academic area in the Lao PDR.

The application fee for student visas is based on the nationality of the individual who applies for the visa. The application fee for Thai nationals is approximately USD30.

3.13 Journalist Visas (M-B2)

These are issued to foreign news reporters who come into the Lao PDR for news coverage.

The application fee for journalist visas is based on the nationality of the individual who applies for the visa. The application fee for Thai nationals is approximately USD30.

3.14 Labour Visas (LA-B2)

These are issued to foreigners and people with no-nationality who enter the Lao PDR to work.

The application fee for labour visas is based on the nationality of the individual who applies for the visa. The application fee for Thai nationals is approximately USD30.

3.15 Attached Visas

These are visas issued which will be attached to passports of foreigners and people with no nationality when there is no more blank pages for visa stamps to be stamped on them while their passports are still enforceable, or in passports of countries or regions with which the Lao PDR have no diplomatic or consular relationships as yet for diplomatic reasons or on the ground of national security.

The application fee for attached visas is based on the nationality of the individual who applies for the visa.

4. Period of Stay in the Lao PDR

(1) A period of stay of 30 days for those who receive their visas from the overseas Embassy or General Consulate of the Lao PDR.

(2) A period of stay of 30 days for those who receive Visa on Arrival.

(3) A term of 5 days for those receiving Transit Visas.

(4) For citizens of those countries with visa-exemption agreements with the Lao PDR, their period of stay shall be as agreed upon in the agreements between the two countries.

(5) For citizens of those countries for which the Lao PDR has agreed to extend a unilateral visa-exemption, their term of stay shall be pursuant to what they have agreed on.

(6) For people of Laotian race who hold foreign nationality, as well as members of their families, their period of stay are set at 60 days which is extendable once. For those of 65 years old or more, their period of stay is set at 90 days which may be extended once, or additional extensions may be granted, where necessary.

(7) For people who have been granted long-term visas as set out in 2.6, their period of stay shall be as set out in the visas but not more than 1 year at the most.

(8) Foreigners and people with no nationalities who are permitted to stay in the Lao PDR and intend to stay for a longer period of time must apply for an extension of period of stay in the Lao PDR with the immigration officer prior to expiry of the period of stay.

5. Measures against Offenders

Foreigners or people with no nationality who fail to comply with the law and Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners shall be subject to action as applicable in the case, as follows[7]:

(1) For clandestine entry-exit of the country without going through Port of Entry-Exit as officially set out, they shall be educated, fined from USD100 to USD500 each and repatriated back to their country. Where a severe offence against the law is found, legal action will be taken against them as well pursuant to the law.

(2) For entry into the Lao PDR via the country's Ports of Entry-Exits but without notification of immigration entry/exit (affixment of entry-exit stamps) by the Immigration Police Officials and other authorized officials at the Ports, they shall be educated or warning. Where they are found to be committing a second offence, a fine will be imposed of USD100 per person.

(3) People who forge, modify, buy/purchase, incorrectly use ID cards, Domicile Permit, Registry, Visa or documents used for various categories of travel shall be deemed as committing an offence against Section 161 of the Criminal Law governing forgery of documents or utilization of forged documents.

(4) Use of border pass documents or the Border Pass in excess of the prescribed parameters as set out in the bilateral agreements, or scope set out by the authorities will be subject to being put in a course of education, warning and fines not exceeding USD100 per person and then repatriated.

(5) An over-stay beyond the period permitted by the authorities will be subject to a fine of USD10 per person per day.

(6) For people who are not granted business visas and permission to operate businesses from authorities with due jurisdiction but who operate such businesses without authorization, they will be subject to fines from USD300 to USD500 per person per one occasion of offence committed and such people

[7] Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 31.

will be advised to get pertinent documentation prepared to seek authorization in accordance with the relevant rules.

(7) For people who are not granted Work Visas and Work Permits from relevant authorities but work or operate any occupation to generate income on the clandestine will be subject to a fine from USD100 to USD300 per person/day and repatriated.

(8) For people who conduct work which is not in line with the objectives for which they are permitted to undertake work by the authorities, they shall be subject to fines from USD100 to USD300 per person and repatriated.

(9) For persons or legal entities who/which accept foreigners or people with no nationality to work without any Work Cards issued by the Ministry of Labour and Social Security or work units duly assigned by such Ministry, they will be ordered to cancel the employment of such foreigners or people with no nationality thus employed and be subjected to education, be given warning or fined from USD500 to USD3,000 per each commission of offence and be responsible for expenses to repatriate such foreigners or people with no nationality they have employed as well.

(10) Those who facilitate, provide accommodation or place of concealment for foreigners, people with no nationality who infringe the law shall be subject to be educated, be given warning or fined from USD200 to USD2,000 per person/occasion. In the case where it is the State's opinion that such constitutes a severe infringement, legal action will also be taken against them as well in accordance with the law.

(11) Those who enter restricted zones set up by the authorities will be educated, be subjected to warning or legal action pursuant to the law.

(12) Owners of accommodation who do not give notification of foreigners or people with no nationality taking temporary residence will be subjected to being educated and fined from USD50 to USD100 each time and will also have legal action taken against them pursuant to the law in the case where such offence is considered a severe violation of the law.

(13) Those who do not operate correctly in line with the objectives for which they have been authorized shall be subjected to being educated or fined from USD500 to USD 1,000 and repatriation. Legal action will also be taken against them under the law if such constitutes a severe infringement.

(14) Those who do not take residences correctly at premises prescribed by the authorities shall be subject to education and advice that they take residence at premises prescribed by the authorities.

(15) Foreigners and people with no nationality who have the intention to make good their escape into the Lao PDR shall be fined from USD300 to USD2,000 per person and be repatriated. Legal action will also be taken against them under the law if such constitutes a severe infringement.

(16) For employees responsible for the performance of work under their responsibilities, including any individual or legal entity, if they infringe any Decree such as abusing the positions of their office, exercising their power in excess of their responsibility for personal gains, accept or give bribes, they shall be educated and be subjected to warnings. Legal action will also be taken against them under the law if such constitutes a severe infringement.

However, if the case discovered is that a foreigner or person with no nationality infringes this Decree as the result of an event of force majeure with ample evidences in verification thereof, they will be exempted from being subjected to such various penalties.

On this issue of repatriation of foreigners or people with no nationality, the Ministry of Public Security will be the party in charge of the matter. The person being repatriated, however, shall be responsible for repatriating expenses him/herself.[8] On the issue of repatriating foreigners with special privileges and immunity pursuant to international treaties in which the Lao PDR has signed or is a party, they will be corrected by diplomatic means.[9]

6. Relevant Government Authorities

Relevant authorities concerning entry-exit of the Lao PDR and the protection of foreigners are as follows:

(1) Ministry of Foreign Affairs

(2) Ministry of Interior

(3) Ministry of Labour and Social Welfare

(4) Department of Consular Affairs

(5) Immigration Bureau

[8] Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 33.
[9] Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 32.

Chapter 5
Work Undertakings by Foreigners in the Lao PDR

1. Relevant Legislations

(1) Decision regarding the Permit to Bring Foreign Labour to Work in the Lao PDR No. 5418/MLSW dated 10 December 2007 ("**Decision regarding the Permit to Bring Foreign Labour to Work in the Lao PDR**").

(2) Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners No. 136/PM dated 25 May 2009 ("**Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners**").

2. General Rules governing Importation of Foreign Labour

The definition of the term "Foreigner" and "Alien" used in the Lao PDR is different. The term "Foreigner" is defined as an individual having a nationality other than Lao nationality and entering into the Lao PDR for a fixed period in order to perform a duty. Once the period has lapsed, such individual must return to his/her country. On the other hand, the term "Alien" is defined as an individual having a nationality other than Lao nationality and entering into the Lao PDR for residence for a long period and has an alien registration card. The government of such alien also officially acknowledges such residence. Therefore, workers who wish to work in the Lao PDR shall be called foreign workers, not alien workers.[1]

Generally, people entitled to seek the permit to bring foreign labour to work in the Lao PDR consist of entities, legal entities (whether Laotian or foreign) who are employers conducting the operations of manufacture/production, businesses or provision of services and Non-Remunerative Assistance Projects. However, such employers or projects must have received proper Licenses to conduct their businesses in conformance with the law, have a plan in-place concerning their annual importation of foreign labour for use and must have received pertinent Quotas from the Ministry of Labour and Social Welfare[2].

[1] Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 4.
[2] Decision regarding the Permit to Bring Foreign Labour to Work in the Lao PDR, Article 4.

Foreign labour who will be working in the Lao PDR will be subject to the following conditions:

(1) They must be skilled workers with levels of specific knowledge in line with the positions of their work.
(2) They must have good personal records and are not fugitives fleeing from any legal action in order to come to work in the Lao PDR.
(3) Be 20 years of age or older.
(4) There must be a transfer of academic or technical knowledge to Laotian labour.
(5) They must comply with laws, regulations, customs and traditions of the Lao PDR.
(6) They must be physically fit and are not suffering from any contagious diseases.

3. Procedure governing Application for Importation and Registration of Foreign Labour

3.1 Application for the Quota to use Foreign Labour

The first step to be taken by an employer who wishes to import foreign labour is to apply for the Foreign Labour Quota from the Department of Skill Development and Employment, Ministry of Labour and Social Welfare. Quotas are set by the law concerning the use of foreign labour as follows: (1) in the case of physical labour - ratio of foreign labour force must not exceed 10% of the entire labour force of that particular employer, and (2), in the case of intellectual work force, the maximum ratio of foreign headcount shall not exceed 20% of the entire work force of that employer[3].

In practice, however, an employer may, when necessity arises, file an application to the Ministry of Labour and Social Welfare to ask for a foreign labour quota at a rate higher than that prescribed by the law which will be considered by the said authority and permission granted on a case-by-case basis.

Labour Quota Permit is issued for a term of 1 year commencing from the 1st of October to the 30th of September every year. The term of such Quota can be used up to the expiry of the prescribed period.

To apply for foreign labour quota, an employer shall submit documents and the application fee to the Department of Skill Development and Employment under the Ministry of Labour and Social Welfare as follows:

[3]Decision regarding the Permit to Bring Foreign Labour to Work in the Lao PDR, Article 7.

3.1.1 Documents in Support of Application for Foreign Labour Quota

(1) Application form for Foreign Labour Quota.
(2) Plan for use of Foreign Labour.
(3) Enterprise Registration Certificate.
(4) Copy of the Investment License.
(5) Copy of the License to Establish a Factory or Company.
(6) Tax receipts on salaries for a list of Laotian employees for the latest month.
(7) The registered capital shall be more than LAK50,000,000 upwards (approximately THB187,500).
(8) Where it is necessary to employ a large number of labour, there must be supporting documents from relevant authorities such as Electricity and Mineral Ores.
(9) Power of Attorney. As above-mentioned, people granted the right to file such documents to the Ministry of Labour and Social Welfare must be employees of that business entity.

3.1.2 Fees

LAK 50,000 (approximately THB200).

3.2 Application to bring in Foreign Labour

After receiving the Quota License from the Department of Skill Development and Employment, Ministry of Labour and Social Welfare, the applicant to import foreign labour must submit the said Quota License once again to the Ministry of Labour and Social Welfare to seek its authorization to bring in such labour.

3.2.1 Supporting Documents for the Application

(1) Quota License issued by the Department of Skill Development and Employment, Ministry of Labour and Social Welfare.
(2) Application for Foreign Importation Permit
(3) List of names of foreign labour
(4) Guarantee documents from the employer
(5) Labour employment agreement
(6) Curriculum Vitae for foreign labour
(7) Health certificates for foreign labour

(8) Copy of passports of foreign labour

(9) Two 3 x 4 inches photographs

(10) Copy of the Entity Registry License

(11) Copy of Concessions or Permits for Construction Projects (If any)

(12) Copy of internal Tax Registry.

3.2.2 Fees

There is no fee for application to import foreign labour.

3.3 Application for Worker Visas

Worker visas are issued to foreigners and people with no nationality that come in to work in the Lao PDR. After receiving the Foreign Labour Quota License and License to Import Foreign Labour from the Ministry of Labour and Social Welfare, employers who wish to bring in foreign labour must file their applications to the Department of Immigration, the Ministry of Public Security and the Ministry of Foreign Affairs' Consulate Department to seek issuance of Work Visas or LA-B2. Such application must be made in the prescribed form and (1) submitted to the Police Department of Immigration for its check on visa-applicants in the list and (2) after the said application has been signed by the Police Department of Immigration, Worker Visa applicants must bring the application forms that have been signed with seal affixed by Head of the Department of Immigration for submission to the Ministry of Foreign Affairs' Consulate Department for their consideration concerning issuance of Work Visas.

3.3.1 Supporting Documents for the Application

(1) Application form

(2) Copy of passport

(3) Copy of License for Business Operation

(4) Copy of Business Registry License

(5) Copy of Annual Tax Payment.

(6) Copy of Permit for Import of Foreign Labour

(7) Copy of Quota License

3.3.2 Fees

Fees will be subject to the nationality of the applicant. In case that the applicant is Thai, the fee is USD30 per person per annum.[4]

3.4 Application to register Foreign Labour and Issuance of Work Permits

Permission granted for foreign workers to come to work in the Lao PDR is set for a term of 2 years which may be extended for another 2 years which, however, must not exceed the maximum of an aggregate of 4 years at the most. On expiry of these 4 years, the foreign worker must return to his/her homeland and his/her work permit will not be granted another extension under any circumstances until a lapse of 2 years. Furthermore, in executing labour contracts, foreign workers are allowed to execute such contracts for a term of not more than 12 months each time which may be extended for another 6 to 12 months[5].

3.4.1 Supporting Documents for the Application

(1) Application for registration and issuance of Work Permit in the Lao PDR.
(2) List of foreign labour
(3) Certificate Employee
(4) Employment Contract
(5) Curriculum Vitae of foreign labour
(6) Copy of Investment License (if any)
(7) Copy of License of Business Operation
(8) Copy of Annual Tax Payment
(9) Copy of Enterprise Registration Certificate
(10) 2 Photos of 3 x 4 inch size.
(11) Foreign Labour Import License
(12) Copy of passport and
(13) Work Visa (LA-B2).

3.4.2 Fees

USD10 per person per month[6], and fee for issuance of License/Permit of LAK50,000 (approximately THB200).

[4]Notification on Rate for Visa Application Fee No.256/Thor PorTor.KorKorSor dated 25 February 2009
[5] Decision regarding the Permit to Bring Foreign Labour to Work in the Lao PDR, Article 7.
[6] Decision regarding the Permit to Bring Foreign Labour to Work in the Lao PDR, Article17.

3.5 Application for Multiple Entry-Exit Visas of the Lao PDR

After receiving Work Permits for the Lao PDR, employers may seek multiple Entry-Exit visas by filing applications to the Ministry of Foreign Affairs' Consulate Department. Terms governing foreign workers to be granted these multiple entry-exit visas to the Lao PDR are as follows:

(1) They are people who come in to work in the Lao PDR for a short period of not more than sixty days. If it is necessary for them to enter and exit the Lao PDR on several occasions, consideration will be made by the Ministry of Foreign Affairs to issue one visa for use in making entries and exits three times, as applicable.

(2) They are foreigners or people with no nationality who come in to work in the Lao PDR for a period from sixty days or more and have been registered or given their ID cards or Residence Permits[7].

3.5.1 Supporting Documents for the Application

(1) Application for multiple entry-exit visa for the Lao PDR
(2) Recommendation for the multiple entry-exit visa from employer
(3) Copy of License for Business Operation
(4) Copy of Business Registry License
(5) Copy of Annual Tax Payment
(6) Copy of Permit for Import of Foreign Labour
(7) Copy of Quota License
(8) Copy of Work Permit for the Lao PDR.
(9) Copy of Residence Permit.
(10) Copy of passport.

3.5.2 Fees

USD10 per person per month

3.6 Registration and Application for Residence Permit

After receiving Work Permits for the Lao PDR, employers wishing to bring in foreign labour must file their applications to the Department for the Protection of Foreigners, Ministry of Public Security to issue Residence Permits to foreign workers. Foreign workers who

[7] Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 19, item3 and 4.

reside in the Lao PDR from 1 year or less will be duly registered with their term of stay set out at 3 months per stay[8]. For a period of stay in the Lao PDR of 1 year or more, they will be granted Residence Permits for the duration they have applied for but not more than 2 years at the most[9].

3.6.1 Supporting Documents for the Application

(1) Application for Residence Permit
(2) Letter of recommendation from the relevant employer
(3) License to Import Labour from the Ministry of Labour and Social Welfare (granted as the result of action taken under the 2nd step of the procedure)
(4) Copy of Business Registry License
(5) Tax Certificate
(6) Work Permit issued by the Ministry of Labour and Social Welfare (after action taken under Step 4 in the procedure),
(7) Copy of foreign worker' passport
(8) Medical Certificate from Regional Hospital or Hospital in the Vientiane Metropolitan City of the Lao PDR.
(9) 3 photos of 3 x 4 inch size.

3.6.2 Fees

USD33 for 6 months Residence Permit or USD63 for 1 year Residence Permit, and another LAK20,000 (approximately THB80) fee for issuance of the Permit.

4. Relevant Government Authorities

In the procedure of application to bring foreign workers to work in the Lao PDR, the competent state organizations consist of the following:

(1) The Department of Skill Development and Employment, Ministry of Labour and Social Welfare.
(2) The Department of Immigration, Ministry of Public Security.
(3) The Ministry of Foreign Affairs' Consulate Department.
(4) The Department of Protection of Foreigners, Ministry of Public Security.

[8]Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 15 item3.
[9]Decree on Protection of Entry-Exit for the Lao PDR and Protection of Foreigners, Article 15 item 4.

Chapter 6
Investment Promotion in Lao PDR

1. Relevant Legislations

Law on Investment Promotion No. 02/NA, dated 8 July 2009 (the "**Law on Investment Promotion**").

2. Investment Forms

According to the Law on Investment Promotion, investors may directly or indirectly invest in the Lao PDR in 3 forms of investment, i.e. a wholly domestic or foreign-owned investment, a joint venture between domestic and foreign investors, and a business cooperation by contract.[1]

2.1 Wholly Domestic or Foreign-owned Investment

A wholly domestic or foreign-owned investment is an investment entirely owned by either domestic or foreign investors. It can be either a single investor or a group of investors in the enterprise or project in the Lao PDR.[2]

2.2 Joint Venture between Domestic and Foreign Investors

A joint venture between domestic and foreign investors is a joint investment between domestic and foreign investors who jointly establish a new legal entity under the laws of the Lao PDR in order to conduct business operations. Foreign investors in the joint venture shall contribute at least 10 percent of the total capital.[3]

2.3 Business Cooperation by Contract or Joint Venture

Business cooperation by contract or joint venture is a joint business arrangement between domestic and foreign legal entities without establishing a new legal entity in the Lao PDR. In this regard, the agreement of the business cooperation shall be submitted to the Notary Office of the Lao PDR for certification. The Notary Office is a government

[1] Law on Investment Promotion, Article 8.
[2] Law on Investment Promotion, Article 9.
[3] Law on Investment Promotion, Article 10.

organization under the Ministry of Justice of the Lao PDR which has the authorization to consider and certify agreements as well as other relevant documents to be in accordance with the law. In this regard, the government of the Lao PDR encourages individuals, legal entities and certain organizations to submit agreements and relevant documents to the Notary Office for certification. In principle, however, failure to submit an agreementor relevant document for certification does not affect its validity.

After submitting an agreement to the Notary Office for certification, the certified agreement must then be declared to the Ministry of Industry and Commerce (the "**MOIC**") or the Ministry of Planning and Investment (the "**MPI**") depending on the facts of each case in order to obtain a certification letter in accordance with the laws of the Lao PDR.[4]

3. Type of Investment

The types of investment in the Lao PDR can be classified into 3 types depending on the business operations of investors, i.e. general business, concession business and activities for development of special economic zones and specific economic zones.[5]

3.1 General Business

General business is investment in various kinds of business which is not categorized as one of the concession businesses. It also includes the business activities which are specified in the list of controlled businesses (Negative List). Investment in one of the controlled businesses must be approved by the relevant authority where specific requirements such as shareholding ratio of foreign shareholders or minimum registered capital may be prescribed. In general, if no specific requirement is specified, foreign investors may have 100% shareholding in an investment in general business, but with at least LAK1,000,000,000 (approximately THB4,000,000) registered capital.[6] However, some general businesses which are sensitive and where investment by foreign investors may affect the fundamental professions of Lao citizens shall be reserved for Lao investors only. Consequently, foreign investors are not allowed to conduct or have even 1% share in such reserved business. Such reserved businesses are, for example:

- Harvesting/picking of products or fruits of the forests (reserving only the business of exploration of natural resources with pharmaceutical contents);
- Weaving;

[4] Law on Investment Promotion, Article 11.
[5] Law on Investment Promotion, Article 13.
[6] Law on Investment Promotion, Article 17.

- Knitting and embroidery of Laotian silk with ancient artistic patterns which are unique to each various tribe;
- Small wood processing factory and the conduct of businesses pertaining to wood carving and other weaving activities which bear ancient artistic patterns that are unique to each various tribe;
- Services pertaining to publications/printing;
- Manufacturing Laotian pottery craft which bear ancient artistic patterns that are unique to each various tribe;
- Generating and distributing electricity from cascade hydroelectric power plant project with capacity of 15 MV or less;
- Services pertaining to installing electrical system in the building;
- Services pertaining to piping in the city, installing water supply system and installing air-conditioned system in the building;
- Wholesale business with registered capital less than LAK 4,000,000,000;
- Retail business with registered capital less than LAK 4,000,000,000;
- Land transport in the city or rural area;
- Other land transport except taxi-meter services;
- Services pertaining to bus terminals;
- Services pertaining to hotels or resorts with 3 stars or less;
- Printing newspapers, articles or journal business;
- Publishing business;
- Sound recording business;
- Establishing community radio station;
- Establishing television station;
- Establishing small financial institution which is not a savings bank, cooperative credit or deposit;
- Pawnshop business;
- Consulting services pertaining to exploration, design, construction and installation of Laotian architecture and engineering which relates to history, nature and culture including installing medium voltage electricity from 22 KW to 35 KW and low voltage at 0.4 KW;
- Translation of Lao language;
- Employment services;
- Travel business;

- Building cleaning services;
- Skill development centre except vocational school and technical college;
- Teaching Lao language to foreigners;
- Hospital and physical exam clinic;
- Repairing shoes and leatherwork;
- Services pertaining to clothes and wool washing and drying;
- Beauty shop and barber shop;
- Services pertaining to funeral arranging and related activities; and
- Business pertaining to decoration, installation of lighting and sound system.

Where investors intend to invest in general business, an application must be submitted to the One Stop Service Centre of the MOIC for registration of an entity. When registration is completed, the investors shall obtain the Enterprise Registration Certificate which is a document evidencing that the enterprise is legally established under the laws of the Lao PDR. After obtaining the Enterprise Registration Certificate, the investors may conduct the business operations accordingly, except in the case of specified businesses where approval by the responsible authority shall be required. In such latter case, the approval from the responsible authority must be obtained prior to actual operations of the business commence. The establishment of a legal entity to conduct general business in the Lao PDR shall be elaborated next in Chapter 7.

In general, there is no time limit for business investment except under specific law which specifies the term of investment for a particular business.[7]

3.2 Concession Business

The concession business is investment in specific kinds of businesses which require approval from the Government prior to operation, or involve the use of rights on land concession and other rights in accordance with relevant laws. The type of investment which is categorized as concession business shall be listed in the List of Concession Activities. Said list shall be determined and amended from time to time by the Government. In this regard, concession business activities normally involve natural resources, public utilities, or activities having significant impact on the national economy and/or public security such as mineral activities, electricity activities and telecommunications activities. The term for conducting a concession business shall not exceed 99 years and may be renewed. However, such term may be less than 99 years depending on type and size of the business,

[7]Law on Investment Promotion, Article 20.

value of investment, and specific terms and conditions as provided for each type of concession business.

Where the investors intend to invest in a concession business, an application must be submitted to the One Stop Service Centre of the MPI for study of the details of the project and to present the application to the Government for consideration. However, it should be noted that the applicant allowed to file an application requesting for approval to invest in a concession business must be a legal entity. In this regard, the procedures for approval are as follows.

3.2.1 Submission of Application and Additional Documents

The applicant shall file an application and other additional documents to the One Stop Service Centre of the MPI. The said documents shall include:

(1) Application;
(2) Initial details of the project, feasibility study or business plan;
(3) Shareholder Agreement (where it is a joint venture between two or more legal entities);
(4) Curriculum Vitae of shareholders and directors of the applicant;
(5) Copy of ID card (in the case of Lao nationals) and copy of Passport (in the case of foreigners) of shareholders and directors of the applicant;
(6) Financial statement and experience of the applicant;
(7) Basic data collection report (in the case of investment in mineral or electricity activities);
(8) Environmental Impact Assessment;
(9) List of vehicles, equipment and materials directly used in the manufacturing process which the applicant wishes to apply for import tax and duty exemption; and
(10) Other documents as may be requested by the officials.

Upon full documentation having been submitted, the One Stop Service Centre of the MPI shall forward all documents to other relevant authorities including the responsible authority of each concession business for opinions on the project.

3.2.2 Consideration by the Investment Promotion Committee

The application, other relevant documents and opinions obtained from all relevant authorities shall be considered by the Investment Promotion Committee (the "**IPC**"). If the application is approved, the One Stop Service Centre of the MPI shall inform the

Government of the approval by the IPC as well as the details of the project, and ask for further approval from the Government. If the Government also approves the application, the One Stop Service Centre of the MPI shall inform the investor of such result and then call for negotiations on the Memorandum of Understanding ("**MOU**") or Concession Agreement.

3.2.3 Negotiation and Execution of Memorandum of Understanding or Concession Agreement

Within 2 days after the One Stop Service Centre of the MPI is informed of the approval from the Government, it shall invite the investor to participate in the negotiations of the MOU or Concession Agreement between the investor and the Government. The investor must inform the One Stop Service Centre of the MPI within 10 days of the date and time it wishes to arrange negotiations. If such 10 days have passed without the investor informing the One Stop Service Centre of the MPI of negotiation arrangements or the investor fails to participate in the negotiations within 30 days from receiving an invitation from the One Stop Service Centre of the MPI, the investor shall be deemed as having waived its application for the investment.

After all crucial points have been negotiated, the One Stop Service Centre of the MPI shall conduct a Negotiation Memorandum to be submitted to the IPC for consideration. After the IPC approves the Negotiation Memorandum, such Negotiation Memorandum shall be forwarded to the Government for further approval. In this regard, if approved by the Government, the Government shall issue a Power of Attorney granting powers to the MPI to be its representative for signing the Concession Agreement with the investor.

3.2.4 Deposit of Guarantee

To secure the performance under the Concession Agreement, the investor must deposit a guaranteed amount into the MPI's bank account. The amount of such guarantee shall depend on the type of investment and size of the concession area.

3.2.5 Establishment of a New Legal Entity

After the Concession Agreement has been signed, the investor must establish a new legal entity to operate the concession business by submitting the Articles of Association of the new legal entity to the One Stop Service Centre of the MPI for certification. After such Articles of Association has been certified by the MPI, the investor must also have it certified by the State Asset Management Department, Ministry of Finance. When the Articles of Association is certified by the State Asset Management Department, the investor shall

submit the same as well as other relevant documents to the One Stop Service Centre of the MPI for further processing.

After full documentation has been submitted to the One Stop Service Centre of the MPI, it shall coordinate with the MOIC for issuance of the Enterprise Registration Number, and the Ministry of Finance (the "MOF") for issuance of the Tax Identification Number. In practice, however, due to lack of official resources, the MPI shall issue cover letters attached to copies of the certified Articles of Association and other relevant documents for the investor to submit to and coordinate with the MOIC and MOF for Enterprise Registration Number and Tax Identification Number.

When the investor receives the Enterprise Registration Number and Tax Identification Number from the relevant ministries, the investor must coordinate with the MPI to include such numbers into the Concession Certificate. The Concession Certificate will then be issued to the investor. Together with the issuance of the Concession Certificate, the MPI shall also issue the Permission for Carving the Company Seal to the investor. The investor must submit an application along with its Concession Certificate and Permission for Carving the Seal to the Ministry of Public Security in order to carve the seal of the new legal entity.[8]

The Concession Certificate is a document evidencing that the investor is allowed to operate the concession business as approved in accordance with the laws of Lao PDR. Upon receipt of the Concession Certificate, the investor can immediately start its business operations[9], except where there is a specific regulation specifying that the concession business must also be approved by a responsible governmental authority. In such latter case, the investor shall be able to start its business operations after obtaining approval from the responsible governmental authority. In this regard, the investor must start its business operations within 90 days from the date of issuance of the Concession Certificate.[10]

3.3 Development of the Special Economic Zones and Specific Economic Zones

Development of the special economic zones and specific economic zones is the investment in the development of special economic zones and specific economic zones in the Lao PDR. Special economic zones are development zones for construction of new cities that receive special investment incentives and are subject to specific laws and regulations. A special economic zone may consist of several specific economic zones, for example,

[8] The seal of a legal entity established under the laws of Lao PDR must be approved by the Ministry of Public Security and shall be carved only by a responsible governmental authority. It shall be carved in accordance with the official format.
[9] Law on Investment Promotion, Article 25.
[10] Law on Investment Promotion, Article 25.

industrial zones, export processing zones, duty free trade zones and tourist zones. Currently, the Lao PDR has 10 special economic zones and specific economic zones as follows:

(1) Savan-Seno Special Economic Zone;
(2) Boten Beautiful Land Specific Economic Zone;
(3) Golden Triangle Special Economic Zone;
(4) Vientiane Industrial and Trade Area;
(5) Saysettha Development Zone;
(6) Phoukhyo Specific Economic Zone;
(7) Thatluang Lake Specific Economic Zone;
(8) Longthanh – Vientiane Specific Economic Zone;
(9) Dongphosy Specific Economic Zone; and
(10) Thakhek Specific Economic Zone.

If an investor wishes to invest in the development of a special economic zone or specific economic zone, the investor may submit an application to the MPI. The application procedures for investment in the development of special economic zones and specific economic zones are the same as those applied for investment in the concession business as elaborated above. The term of investment in the development of special economic zones and specific economic zones depends on the type, size and conditions of each special economic zone and specific economic zone, but shall not exceed 99 years subject to the discretion of the relevant authorities.[11]

In the case where the investors wish to invest in various kinds of business activities inside the special economic zones and specific economic zones, they may submit an application for establishment of a legal entity to the One Stop Service Centre of the relevant zone management committee. In this regard, such newly established legal entity may be entitled to special investment incentives in accordance with the regulations of each special economic zone and specific economic zone.

4. One Stop Service Centre

The One Stop Service Centre provides broad services and facilitates investment to investors particularly in providing information to investors, considering investment applications, issuing enterprise registration certificates or concession certificates, and

[11] Law on Investment Promotion, Article 42.

issuing investment notices.[12] The offices of the One Stop Service Centre are established in 3 different authorities directly responsible for consideration of investment, i.e. (i) Ministry of Planning and Investment, which is responsible for management of the investment in concession business and the development of special economic zones and specific economic zones; (ii) Ministry of Industry and Commerce, which is responsible for management of investment in general business; and (iii) each special economic zone and specific economic zone, which is responsible for management of investment in the zone.

The One Stop Service Centre's principles are as follows:

(1) Investors will receive responses on their investment applications from respective one stop service centre offices, where they have submitted their applications. The responses shall be given within the timeframe defined in the notice issued by the one stop service centre;

(2) The submission of an investment application can be done directly by the investor or through its legitimate representative;

(3) The one stop service centre shall be responsible for providing information and resolving any problems occurred with the investors;

(4) Fees and service charges of the applicants shall be made public and posted at the one stop service centre office;

(5) The services shall be provided in compliance with the regulations, and be systematic, well organized, efficient, fast, creative, transparent, made public and assessable; and

(6) Solutions to any problems related to investments shall be reported to the weekly meeting of the one stop service centre office.[13]

5. Investment Promotion

The Law on Investment Promotion provides many incentives to promote investment for investors. Such incentives are customs duty and tax incentive, and other incentives.

[12] Law on Investment Promotion, Article 44.
[13] Law on Investment Promotion, Article 45.

5.1 Tax Incentives and Customs Duty

5.1.1 Tax Incentives

The Law on Investment Promotion provides different levels of incentives on profit tax for investors, depending on the type of business operations and location of investment in the Lao PDR.

In relation to the type of business operations, the Government shall determine a list of business operations which shall be regarded as promoted sectors. The promoted sectors shall be classified into 3 classifications in accordance with their capability in resolving poverty issues and improving the living conditions of the people as follows:

(1) Business operations with top level of promotion;
(2) Business operations with medium level of promotion; and
(3) Business operations with low level of promotion.

Business operations which are classified as promoted sectors Level (1) shall be entitled to top level of promotion. They shall be entitled to a greater incentive on profit tax exemption than those entitled to by the promoted sectors Level (2) or (3)[14]

Apart from the type of business operations, the provision of incentive on profit tax exemption also depends on the location of investment in the Lao PDR. In this regard, the Government shall determine a list of investment locations which shall be regarded as promoted zones. The promoted zones shall be divided into 3 different levels based on their socio-economic infrastructures and geographical conditions as follows:

(1) Zones where there are insufficient socio-economic infrastructures favourable to facilitate investments. These zones are mainly mountainous remote areas;
(2) Zones where there are some socio-economic infrastructures that are partially able to facilitate investments in some extent; and
(3) Zones where there are good infrastructures available to support investments.

Investment in Zone (1) shall be entitled to a top level of investment promotion, and Investment in Zone (2) and (3) shall be entitled to a lower level of investment promotion, respectively.[15]

In this regard, the Law on Investment Promotion provides details regarding incentive on profit tax exemption as follows:[16]

[14] Law on Investment Promotion, Article 49.
[15] Law on Investment Promotion, Article 50.

Investment in Zone (1):

(1) Business operations with Level (1) of investment promotion shall be entitled to profit tax exemption for 10 years.
(2) Business operations with Level (2) of investment promotion shall be entitled to profit tax exemption for 6 years.
(3) Business operations with Level (3) of investment promotion shall be entitled to profit tax exemption for 4 years.

Investment in Zone (2):

(1) Business operations with Level (1) of investment promotion shall be entitled to profit tax exemption for 6 years.
(2) Business operations with Level (2) of investment promotion shall be entitled to profit tax exemption for 4 years.
(3) Business operations with Level (3) of investment promotion shall be entitled to profit tax exemption for 2 years.

Investment in Zone (3):

(1) Business operations with Level (1) of investment promotion shall be entitled to profit tax exemption for 4 years.
(2) Business operations with Level (2) of investment promotion shall be entitled to profit tax exemption for 2 years.
(3) Business operations with Level (3) of investment promotion shall be entitled to profit tax exemption for 1 year.

Apart from this, investors shall also be entitled to exemption from profit tax in the next accounting year for businesses that spend the net profit to expand business,[17] and investors can transfer the annual losses to the next following year to be deducted from profit within the period of 3 years.[18]

5.1.2 Customs Duty Incentives

Regarding customs duty incentives, the Law on Investment Promotion provides that investors shall be entitled to exemption from import duty on raw materials, equipment, spare parts and vehicles that are directly used for production.[19] The amount of raw materials, equipment, spare parts and vehicles which may be exempted from import duty must firstly

[16] Law on Investment Promotion, Article 51.
[17] Law on Investment Promotion, Article 52 (1).
[18] Law on Investment Promotion, Article 52 (4).
[19] Law on Investment Promotion, Article 52 (2).

be approved by the Ministry of Finance. In addition, investors shall also be entitled to exemption from export duty for exporting general products.[20]

5.2 Other Incentives

5.2.1 Provision of Information

The Law on Investment Promotion guarantees correct and complete information for investors for using as a reference to make decisions on their investments by establishing Investment Information Centre within the relevant One Stop Service Centre office. Both domestic and foreign investors may access data and information in relation to investment via the website of the Ministry of Planning and Investment and every One Stop Service Centre office.[21]

5.2.2 Granting of Land Use Right

In principle, foreign investors including their legal entities established under the laws of the Lao PDR may not own land by having a land use right.[22] However, the Law on Investment Promotion provides incentive to foreign investors who have a registered capital of USD500,000 or more to be entitled to buy land use rights from the Government according to the Government's allocation and investment timeframe for the purposes of building houses or office buildings.[23]

[20] Law on Investment Promotion, Article 52 (3).
[21] Law on Investment Promotion, Article 57.
[22] Land use right under Lao laws have significant characteristics similar to ownership under Thai laws.
[23] Law on Investment Promotion, Article 58.

6. Agreements between the Lao PDR and other Countries for Promotion and Protection of Investment

In order to promote and protect the investment between the Lao PDR and other countries, the Lao PDR has become a party to bilateral treaties with 26 countries including Australia, Cambodia, China, Cuba, Denmark, France, Germany, India, Indonesia, Japan, South Korea, Kuwait, Malaysia, Mongolia, Myanmar, Netherlands, Pakistan, Philippines, Russia, Singapore, Sweden, Switzerland, England, the United States of America, Vietnam, and Thailand.[24] The general principles agreed in the bilateral treaties for promotion and protections of investment are the National Treatment and the Most-Favoured-Nation Treatment principles. They are provided to assure that the party to each bilateral treaty shall give equal treatment and advantage to the investors of the other party as the former has given to the investors of other countries.

Apart from this, the Lao PDR is also a party to bilateral treaties for economic and trade cooperation with other countries such as Argentina, Belarus, Vanuatu and North Korea.

7. Incentives that the Government of the Lao PDR has given to Investors from ASEAN Member States and Thailand

As the Lao PDR has been categorized by the United Nations as being on the list of Least Developed Countries, most incentives and trade advantages are therefore those given by developed and developing countries to investors from the Lao PDR. For example, ASEAN Free Trade Area or AFTA provides that the six members of AFTA, i.e. Thailand, Indonesia, Brunei, Philippines, Singapore and Malaysia, had to deduct their import duty to 0% by 2010, while Lao PDR must deduct its import duty to 0% by 2015. Apart from this, 35 importing countries including those in the EU and also Japan have given tax and customs duty privileges or Generalized System of Preferences (GSP) to the Lao PDR. In addition, EU countries have expanded their tax and customs duty privileges to the Lao PDR by exempting import duty and cancelling all import quotas from the Lao PDR for goods and products that are verified the country of origin.

As mentioned earlier in the previous topic, the Lao PDR is a party to bilateral treaties for promotion and protection of investment and economic and trade cooperation with various countries. The basic principles agreed in such treaties are the National Treatment and the Most-Favoured-Nation Treatment principles which guarantee that the sale of goods,

[24] Please see Appendix XI.

investment, establishment of legal entity, import and export of goods, and also trade advantage given to investors shall be in accordance with Lao laws, without differentiation by race or nationality of the investors. For example, if foreign investors invest in the Lao PDR, they shall be entitled to trade advantages and incentives as provided in the Law on Investment Promotion. If they invest in special economic zones or specific economic zones, they may be entitled to a greater level of incentives than those provided outside the zones. However, all incentives shall be in accordance with relevant laws and regulations of such special economic zones or specific economic zones.

8. Relevant Government Authorities

As mentioned above, the type of investment in the Lao PDR has been classified into 3 types, i.e. general business, concession business, and activities for development of special economic zone and specific economic zone. In this regard, relevant and responsible governmental authorities for the operation of such 3 types of investment are different.

In general, the consideration and control of investment in general business shall be under the responsibility of the One Stop Service Centre of the Department of Industry and Commerce. It is a district authority under the supervision of the MOIC. However, where the general business involves many authorities or many districts, or requires a high level of technology, such general business shall be under the responsibility of the MOIC which is the central organization. The list of business activities which are under the responsibility of the MOIC shall be determined by the Government from time to time. Apart from this, some of the general businesses may be required to be approved by other relevant authority prior to its establishment. For example, an investment in insurance business is required to be approved by the Ministry of Finance before the One Stop Service Centre of the Department or Ministry of Industry and Commerce may approve for the establishment of the new legal entity.

Investment in concession business and activities for development of special economic zone and specific economic zone shall be under the responsibility of the One Stop Service Centre of the Ministry of Planning and Investment. In this regard, the relevant laws may divide powers and authorities to consider and control over each type of such businesses between the Ministry of Planning and Investment which is the central organization, and the Department of Planning and Investment which is the district authority, generally based on type and size of investment.

For the investment in special economic zone and specific economic zone, it shall be under the sole responsibility of One Stop Service Centre of the concerned special economic zone and specific economic zone.

Chapter 7
Trade Law

1. Relevant Legislations

(1) Law on Enterprise No. 46/NA, dated 26 December 2013

(2) Decree on Procurement of Goods, Construction, Repairs and Provision of Services with State's Funds (Amendment) No.03/PM, dated 9 January 2004

Generally, criteria concerning business operations, particularly in relation to business organizations, differ among countries such as the form of legal entity, the procedure of registration, conditions of registration, etc.

Criteria of the Lao PDR concerning establishment of a legal entity and its general operations are prescribed in the Law on Enterprise No. 46/NA, dated 26 December 2013 ("**Law on Enterprise**"), which is the most updated piece of legislation[1] with the objectives to set up rules governing establishment, business operations and to protect enterprises which are actively engaged in the Lao PDR. This is to promote works for production/manufacture and provision of services as well as to expand production capacity for the sake of national economic and social prosperity and strength. This is a part of national development and upgrading of the level of public sustenance for the better.

Main criteria of Law on Enterprise are as follows:

2. Categories of Enterprises

According to Enterprises Law, the term "enterprise" means an enterprise duly established by individuals, legal entities which comprise its capital, management, offices and are incorporated as enterprise under this Law governing Enterprises[2] to operate business, seek profit and serve social benefit. After being registered as an Enterprise, the status of Enterprise whether being a legal entity or not depends on the type of Enterprise which will be mentioned henceforth. In this regard, enterprises thereunder are separated into 4 categories[3] as follows:

[1] Information as of 14 September 2014
[2] Law on Enterprise, Section 2.
[3] Law on Enterprise, Section 10.

2.1 Private Enterprises

Private Enterprises[4] are enterprises established by the private sector in general under 3 forms as follows:

2.1.1 Sole-trader Enterprises

These sole-trader enterprises, once their incorporation are duly notified with the Industry and Commerce sector, will hold the status of legal entities. Moreover, from our queries with the officials of Ministry of Industry and Trade[5] and according to the advice from the Minister of Industry and Trade regarding the registration of enterprise incorporation pursuant to Law on Enterprise No. 0995/Or Kor, dated 19 June 2008 ("**Advice regarding the Registration of Enterprises Incorporation**"), investment in the form of sole-trader enterprises may be undertaken only by Laotian nationals[6] who may file their applications for incorporation with the data required for such incorporation being the following:[7]

(1) Name and category of the enterprise;

(2) Name, address, nationality of owner(s) and manager(s) of the enterprise;

(3) Location; and

(4) Registered capital.

Owners of sole-trader enterprises may appoint themselves as managers or employ third parties to do so with one or more such managers being appointed. In the case where several managers are appointed, one of them may be designated as the "General Manager" who will be empowered to sign in documents in the name of the enterprise with third parties[8]. Appointment of such manager(s) shall be made via contractual engagements which will set out the rights, duties, remuneration and liability of the contractual parties and terms governing cancellation of Agreement[9].

2.1.2 Partnership Enterprises

Partnership Enterprises are enterprise incorporated based on an agreement between two or more investors for co-investment and the sharing of benefits. Partners under the Law on Enterprise may be individuals or legal entities. A partnership enterprise will be incorporated as a legal entity by applying for registration with the Industrial and Trade units. As a result, a partnership enterprise will have rights and responsibilities separate from its

[4]Law on Enterprise, Section 11.
[5]Information as of 14 September 2014.
[6]Advice regarding the Registration of Enterprise Incorporation.
[7]Law on Enterprise, Section 32.
[8]Law on Enterprise, Section 34.
[9]Law on Enterprise, Section 35.

partnership. And, if any partnership enterprise has a branch office, such a branch needs not be registered under the Enterprise Registry again and it will not be considered a separate legal entity from that Partnership Enterprise in any way.[10]

Forms of partnership enterprises in the Lao PDR under Law on Enterprise are divided into the following:

2.1.2.1 General Partnership Enterprises

General Partnership Enterprises are enterprises where partnerships establish a business in order to seek profit based on a fiduciary relationship. In this regard, each partnership shall have unlimited collective liability for the enterprise's debt.

General Partnership Enterprises under Law on Enterprise must give notification of their incorporation as an enterprise to the Industrial and Commerce sector. The application to incorporate such an enterprise shall be signed by the manager of that particular general partnership enterprise[11] who will be subject to the same rules as those for Manager of the Sole-Trader Enterprise and may or may not be remunerated if its partner is the Manager him/herself, however, she/he will be remunerated pursuant to agreements made by partners if a third party is appointed as such a manager.[12] In the case where there is only one manager, it must be explicitly stated in the Enterprise Registration Certificate as otherwise it will not have any binding effect against the third parties.[13]

Under Law on Enterprise, shares in an general partnership enterprise in the Lao PDR need not have the same/equivalent value or equity ratio while Share Certificates issued to partners may not be transferable/negotiable with other people[14]. However, transfer or acceptance of a new partner must receive the consent of every partner and duly notified to officials of the Industrial and Commerce sector within 5 business days. And, in the case where there is only one partner left, this will have the effect of having that general partnership duly dissolved.

As far as a partner's restriction/prohibition are concerned, it is prohibited by the Law on Enterprise for a partner to carry out any action in competition with the general partnership enterprise such as operating a business which is similar to that of that particular general partnership enterprise, either in his/her own name or that of another party, or to become a partner in an general partnership enterprise or a limited partnership enterprise without limited liability unless unanimous approval has been given by other partners, or if such are

[10]Law on Enterprise, Section 40.
[11]Law on Enterprise, Section 43.
[12]Law on Enterprise, Section 46.
[13]Law on Enterprise, Section 48.
[14]Law on Enterprise, Section 45.

action undertaken before she/he steps in to become such a partner and has not been challenged/objected to by other partners in any way[15].

As for a partner's liability for indebtedness, each partner will be responsible for debts of the general partnership enterprise without limitation for which creditors may make their demand for repayment of debts directly from partners if they fail to receive such repayment from that general partnership enterprise. However, every partner may reach an agreement on the ratio of pertinent responsibilities for such debts albeit the said agreement will not have an effect on third parties in any way[16]. In this respect, partner(s) who has terminated his/her partnership in an general partnership enterprise shall be responsible for debts incurred before his/her departure and such responsibilities will end after a lapse of one year from his/her exit unless a longer period has been determined. A new partner will also be held responsible for debts of the general partnership enterprise without limitation in the same way unless it has been agreed otherwise. However, such an agreement will not have any bearing on third parties in any way[17]. In the case where an general partnership enterprise has been ordered to be dissolved by virtue of a court's judgment, all partners thereof shall be held liable together for debts of the said partnership enterprise within a period of three years from the date of the Court's judgment.[18]

2.1.2.2 Limited Partnership Enterprises

Limited Partnership Enterprises are enterprises which have two types of partnership, namely, (1) General Partners who shall be responsible without limitation for the sum of the limited partnership enterprise's indebtedness and will have the same rights and duties as partners in an ordinary partnership enterprise (please see 1.1.2.1), and (2) Partners with limited liability are partners who will be responsible only for the partnership enterprise's debts in a sum of not more than the value of his/her shares that have not been fully paid-up. Notification for a limited partnership enterprise's incorporation as a legal entity shall be made with the Industrial and Trade Work Unit based on the same rules as those applicable with ordinary partnerships.[19]

The significant difference between partners with limited liability and general partners is that a partner with limited liability may transfer his/her shares to another person without having to receive the approval of other partners which will have a bearing towards third parties only once such has been duly notified and changed in the Enterprise

[15]Law on Enterprise, Section 51 and Section 52.
[16]Law on Enterprise, Section 53.
[17]Law on Enterprise, Section 55.
[18]Law on Enterprise, Section 73.
[19]Law on Enterprise, Section 75.

Registration Certificate.[20] Moreover, a limited partner may not become the manager of that partnership enterprise unless s/he has been first appointed by the various general partners.[21] In the case where the name of a limited partnership has been used as a name for a partnership enterprise, whether such be by direct or indirect authorization, the said limited partnership shall be liable to third parties in the same way as general partners.[22]

2.1.3 Companies[23]

A company means an enterprise incorporated by dividing capital into shares with each share being equal in value. A company is incorporated by submitting an application for registration to the Industrial and Trade Work Unit. After being incorporated, a company under the Law on Enterprise holds the status as a legal entity under the law and its shareholders may be individuals or legal entities and it may have only one shareholder or more. The company's shareholder(s) will be liable for the Company's debts only for the value of shares that s/he has not paid-up in full. In the Lao PDR, a company may step in to hold shares in another company.[24] Companies are separated under three categories, as follows:

2.1.3.1 Limited Companies

Limited Companies are enterprises incorporated by dividing capital into shares with each share being equal in value. In addition, a shareholder of the company is not personally liable for any of the debts of the company, other than for the value of their investment in that company.

There must be at least two and not more than thirty shareholders in a limited company. And where there is only one shareholder left in the company, it will have to be changed into a "sole limited company" which will be mentioned further in 2.1.3.2 unless it is decided by a special resolution from the meeting of shareholders for its status as a limited company to be further retained.[25] Or, if there are more than thirty shareholders, it will have to be converted into a "public company" which will be dealt with in 2.1.3.3. Any limited company may become a shareholder or partner in other enterprises albeit it is prohibited by the law to become a shareholder under any circumstances in his/her own limited company.[26]

A limited company's shares shall bear a value of not less than LAK 2,000 per share (approximately THB8) which can be paid for in money or in kind. Such shares may be set up as ordinary or preferred shares. The value of shares as set out in the

[20]Law on Enterprise, Section 77.
[21]Law on Enterprise, Section 78.
[22]Law on Enterprise, Section 79.
[23]Law on Enterprise, Section 12.
[24]Law on Enterprise, Section 83-85.

Enterprise Registration Certificate will be called the "par value" and a company may not issue shares with a value of less than such par value in any way, however, their trading prices may be determined by shareholders on their own.[27]

A limited company will have the "Director" as the administrator/manager for the conduct of its operations who will be an individual appointed by shareholders. Such director may be its shareholders or a third party. Moreover, there may be more than one director depending on the Company's business requirements although it must be clearly defined in the Company's Articles of Association. The law, however, has not made any prohibition against a foreigner being a company's Director in any way.[28]

2.1.3.2 Sole Limited Companies

Sole limited Companies mean an enterprise with one shareholder in the company. An individual or legal entity may establish a sole limited company in the Lao PDR by being the only shareholder in that company. A "Manager" may be appointed by the shareholder to administrate the conduct of the Company's operations on his/her behalf.[29]

2.1.3.3 Public Companies

Public Companies are enterprises under the Law on Enterprise which having at least nine promoters who may be either individuals or legal entities. Foreigners or foreign legal entities can be the promoters to establish public companies at the rate of 100%, however, in a case of necessity where there is a provision of law or regulation specifically in place, there must be at least half the number of company founders[30] depending on the category of business.

As for shares in a public company, it is provided by law that the value of one share shall not exceed LAK100,000 (approximately THB400) and a public company's shareholders must have paid-up for them in full on the date of the Company's incorporation, whether such payment be made in money or in kind.[31] And, founding members of a limited public company may not transfer their shares within 2 years from the date of that company's incorporation.[32]

However, one point of law should be noted concerning transfer of a public company's shares because under Law on Enterprise, a public company's shareholders may

[25]Law on Enterprise, Section 109.
[26]Law on Enterprise, Section 89-91.
[27]Law on Enterprise, Section 12.
[28]Law on Enterprise, Section 121-123 and Section 125.
[29]Law on Enterprise, Section 179 and Section 180.
[30]Law on Enterprise, Section 184 and Section 185.
[31]Law on Enterprise, Section 188.
[32]Law on Enterprise, Section 190.

transfer shares they hold to current shareholders or third parties albeit such transfers will become effective only once its transfer has been duly registered by the Company.[33] This, indeed, is considered a limitation which conflicts with the nature of a public company, particularly with regards to public companies duly listed in the Stock Exchange[34] which is aimed at mobilizing funds from the public at large such that its shares should be freely transferable in nature. The said provisions, however, are in conflict with the principles governing transfer of shares which should characteristically be freely negotiable, for example, by endorsing share certificates for the transfer and delivery of share certificates to transferees. The transfer will be enforced against third parties when it has been registered in accordance with the law which is within 5 days from the day an application has been made.

2.2 State-Owned Enterprises

The State's Enterprises are enterprises established by the State or in which the State holds more than 50% equity or is the result of conversion of other enterprises into the State's Enterprises under contractual agreements. The State's Enterprises shall be called "State Enterprises", and the "State-Owned Company" if they are run in the form of a company.[35]

State Enterprises may have access to various financial resources, as follows:[36]

(1) The State's own investment;
(2) Joint venture with other entities;
(3) Acquisition of loans on provision of its land or other property as collaterals; and
(4) The Stock Exchange.

Current State Enterprises consist of the Electricity State Enterprise of Laos, the Metropolitan Water State Enterprise and the Oil and Fuel State Authority of Laos, etc.

2.3 Combined Enterprises

Combined enterprises are enterprises under a joint venture between the State and a State Enterprise or other work unit(s), be they local business entities in the Lao PDR or a foreign entity. Such joint venture may be made in two forms, as follows:

(1) Other entities stepping in to hold shares in a State Enterprise which, however, must not exceed 49%; and

[33]Law on Enterprise, Section 190.
[34]Please study the contents of Law on Securities and Stock Exchange in Chapter 11.
[35]Law on Enterprise, Section 196.
[36]Law on Enterprise, Section 201.

(2) Through the State's holding of shares in other enterprise(s) in the ratio as agreed upon.[37]

In this regard, whether the State holds any ratio of shares, such enterprise does not become a State Enterprise except where expressly agreed in the transformation into a State Enterprise.

2.4 Joint Enterprises

Joint Enterprises are jointly established by small business operators in order to achieve mutual operation. The Law on Enterprise specifies that establishment and operations of Joint Enterprises are set out under separate rules/regulations.[38] At present, the Decree on Cooperative No. 136/Nor Yor, dated 5 March 2010 (the "**Decree on Cooperatives**") defines the term "Cooperative" as a joint business organization by small business operators such as farmer, handicraftsman, trader and other workers jointly incorporated as a cooperative.

Criteria concerning registration of the cooperative specified in the Decree on Cooperatives are similar to establishment of legal entities as mentioned in Clause 3. That is, an application for registration must be submitted to the Industrial and Trade Unit. Company seal and tax identification number must also be presented. The cooperative will have the status of legal entity after being registered.[39]

According to the Decree of Cooperatives, there are 2 types of cooperatives, namely:

(3) Cooperatives pertaining to manufacturing, agriculture and forestry, the garnish industry and handicraft; and

(4) Cooperatives pertaining to services such as trade, finance, transportation, travel, construction, medical amenities and other related services.

A particular regulation of the cooperative that differs from other enterprises is that the investor is called a member and that a legal entity cannot be a member of the cooperative except in certain cooperatives.[40] In addition, cooperatives also provide services pertaining to deposits, loans, equipment leases and pledges.

However, the Decree on Association No. 115/PM, dated 29 April 1999 (the "**Decree on Association**"), sets out the criteria for control only cooperative which is a legal entity. However, although the association is registered as a legal entity, there is no guarantee that such association is also an enterprise. This is because an association is not established for

[37]Law on Enterprise, Section 202-204
[38]Law on Enterprise, Section 10.
[39]Decree of Cooperative, Section12.
[40]Asprovided by a registrar of Industrial and Trade Unit, there is no information concerning types ofcooperative in which member can be a legal entity currently (25 June 2015)

the purpose of seeking profit from the operation of business in the same way as other aforementioned enterprises.

3. Procedure of Enterprise with Legal Entity Registration

To establish an enterprise in the Lao PDR, it must be registered as a legal entity with the relevant authorities pursuant to the Law on Enterprise. In the case of general operations, investors are to make such registration with the Industrial and Commerce sector which are separated into:

(1) The Ministry of Industry and Commerce; and

(2) Department of Industry and Commerce based in each locality

Responsibilities for business incorporation to ascertain which category of business is to be registered with which sector are currently separated as defined in the Announcement concerning scope of responsibilities for incorporation of enterprises between ministries, industrial trade departments and regional trade units. List of Business Categories, their size and capacity, category and forms of business at ministerial levels (various ministries) are reserved for prior consideration before being permitted to be registered in the Enterprise Registry which set out a list of business categories that must be registered under the Enterprise Registry with the Ministry of Industry and Trade first only. Registration of enterprises which are subject to concessions, however, have already been dealt with in Chapter 6.

In this regard, procedure governing registration of enterprises with the Industrial and Commerce sector are as follows:

3.1 Reservation of a Name

Action shall be taken by an investor to reserve a name for the enterprise which she/he wishes to register with a choice of three names which must be made in the Laotian and English languages, with or without abbreviations, however, the following names may not be used.[41]

(1) A name which is ambiguous, similar or duplicated with the name of another enterprise or name of an enterprise which is known to the public on a wide basis;

(2) A name which is in conflict with the country's good names, culture-wise, with its customs and tradition or in conflict with the Society's peace and order;

[41]Law on Enterprise, Section 27.

(3) Name of a country or international organization which is indicative Culture-wise or name of a national heritage. However, on this issue concerning a country's name, from our queries with the Ministry of Industry and Trade's Officials[42], a country's name is reserved only for this term of "The People's Democratic Republic of Laos" or the "PDR Laos" to form a component of a name albeit the word "Laos" may be used in a name; and

(4) A name which is like or similar to the category or form of the enterprise.

After having been duly registered, the operator shall affix a signboard of the name of his/her enterprise. The signboard to be affixed must comply with criteria prescribed in announcements governing protection of signboards for advertisement of goods and services. If there is no display of such a signboard or a name is used which is not in conformance with the category or form, s/he will be subjected to be trained or fined for LAK200,000 (approximately THB800) per occasion seven days after having been duly notified[43], or subjected to be trained or fined LAK 300,000 (approximately THB1,200) if it involves the use of a name which is prohibited as well as instructed to stop using such a name[44]

3.2 Registration of an Enterprise

Enterprises undertaking general operations and duly registered with Industrial and Trade Work Units will receive "**Enterprise License**". The following documents are to be submitted by the applicant to the relevant Industrial and Trade Work Units when applying for such registration:[45]

Documents required for use to register an enterprise:

(1) Incorporation Contract[46] (where there are 2 founders or more);

(2) Articles of Association of the enterprise;

(3) Minutes of Meeting for Establishment/Foundation (where there are 2 founders or more);

(4) For every Director or Manager, copies of Civic ID cards and Domicile Cards in the case of Laotian nationals, or copies of passports in the case of foreigners;

(5) a photo of 3 x 4 inch size of the person whose photo will appear in the Enterprise Registration Certificate;

[42]Information as of 12 September 2014.
[43]Law on Enterprise, Section 216.
[44]Law on Enterprise, Section 217.
[45]Law on Enterprise, Section 27.
[46]Incorporation Contract according to the meaning in Lao language means the Memorandum of Articles of Association under Thai law.

(6) Business Plan (generally consists of overall business plan, production plan, capital fund, number of labourers varied by the type of business) (only for the prerequisite business);

(7) Power of Attorney for Enterprise Incorporation; and

(8) Investment Form.

In the case of registration of a sole limited company, there will be no need for the Incorporation Contract and minutes of foundation meeting to be used as supporting documents.

After the Industrial and Commerce sector has received the application form and supporting documents in good order, consideration will be made by that particular unit as to whether or not any of the objectives of that designated enterprise are prohibited, are subjected to conditions for foreigners or are specifically reserved for Laotian nationals only. Once it is that sector's opinion after due consideration that the objectives of the enterprise under the registration application are not in contravention of the law, the said application will be sent further to the relevant sector.[47] For instance, if it is a business in the category of transportation, the documents will have to be sent to the Ministry of Civil Engineering and Transportation to seek its authorization which shall be considered and sent back within 10 business days except for certain enterprises with specific technical and academic characteristics which would require a longer period for examination.[48]

However, in the Lao PDR, authorization will not be granted to investors who apply to register their enterprises with variously ranging objectives and which are not related to their true operations. Investors shall make a clear statement on the objectives for their conduct of business and consideration will be given in detail on each of such objectives.

If approval has been given by the relevant Ministry for the said enterprise to be established, the Industrial and Commerce sector with due jurisdiction shall issue an Enterprise Registration Certificate within 13 business days from the date of its receipt of documentation. However, if the objectives of that enterprise do not need to be further approved by any other Ministries, consideration could be made forthwith by the said Industrial and Commerce sector on its own and the Enterprise Registration Certificate must be issued within 10 business days from the date of receipt of such documents.

Once it has been duly registered in the Enterprise Registry, operations of the said business must commence within 90 days.[49] Operations of any business which is not registered in the Enterprise Registry will be subject to a fine of LAK1,000,000 to 10,000,000 per occasion (approximately THB4,000 – 40,000). Or, if it is an enterprise which has no

[47]Law on Enterprise, Section 16.
[48]Law on Enterprise, Section 17.
[49]Law on Enterprise, Section 22.

objectives to conduct the said business, it shall be subjected to be trained or fined from LAK1,000,000 – 5,000,000 per occasion (approximately THB4,000 – 20,000). Also, it shall be struck off the Registry if there is an involvement of improper registration of the enterprise.

Fees for enterprise registration will depend on the registered capital of the enterprise being registered as detailed in the table below:

Item	Registered Capital (LAK)	Fee (LAK)
1.	Less than 1,000,000	None
2.	from 1,000,001 - 10,000,000	20,000
3.	from 10,000,001 - 20,000,000	50,000
4.	from 20,000,001 - 50,000,000	100,000
5.	from 50,000,001 - 100,000,000	300,000
6.	from 100,000,001 - 400,000,000	500,000
7.	from 400,000,001 - 1,000,000,000	1,000,000
8.	from 1,000,000,001 - 10,000,000,000	2,000,000
9.	from 10,000,000,001 - 20,000,000,000	3,000,000
10.	from 20,000,000,001 or more	5,000,000

3.3 Application for Taxpayer ID Number

Enterprises that have been registered must submit documents to seek "**Taxpayer ID Number**" from the Tax Department under the Ministry of Finance's jurisdiction. This Taxpayer ID number will be subsequently entered in the Enterprise Registration Certificate. In this process, once complete documentation is submitted, it may take about 10 business days albeit such timeframe will rest at the Officials' discretion on a case-by-case basis.

Fees to register a Taxpayer ID number will be paid annually. This annual fee will be computed pursuant to the registered capital in accordance with the Table below:

Item	Registered Capital (LAK)	Fee (LAK)
1.	200,000,001 - 400,000,000	300,000
2.	400,000,001 - 1,500,000,000	400,000
3.	1,500,000,001- 2,000,000,000	500,000
4.	2,000,000,000 or more	600,000

3.4 Issuance of a Seal and Application for Authorization to use

Once the Enterprise Registration Certificate is received, the sector which issued it will send a document to the Public Security sector to have a seal further carved out for the enterprise. The seal will be octagon in shape bearing the name of that enterprise and the stamp of the name of the director whose picture is shown in the Enterprise Registration Certificate. According to the Law on Enterprise, the Public Security sector will use five business days to issue the seal.[50] A fee of LAK150,000 (approximately THB600)[51] shall be paid by the investor for issuance of the seal which will be issued once only and may not be duplicated under any circumstances. In the case the seal is lost or destroyed; evidences thereof must be produced to seek issuance of a replacement. Once a new seal is issued, the investor shall apply for authorization to use it as well.

3.5 License to Conduct Business Operations

The Business License will be issued only to enterprises conducting operations pursuant to rules issued by the Government. In other words, such various enterprises named in the Rules/Regulations governing Adjustment of Accounts for Businesses in the Categories of Controlled Businesses, Rules/Regulations governing Licenses for Incorporation of Controlled Businesses under the jurisdiction of the Department of Civil Engineering and Transportation and in Announcements governing Conditional Businesses. This Business License will be issued by the sector with jurisdiction over such matters. Enterprises required to be licensed for their conduct of operations may not carry out any operations in the Lao PDR without the Business License.

[50]Law on Enterprise, Section 21.
[51]Information as of 15 September 2014.

3.6 Payment for Shares

According to Enterprises Laws an ordinary partnership enterprise may pay for its shares either in money or in kind or even by labour.[52] For a limited partnership enterprise, however, shares may be paid only in money or in kind. As for the method of paying for a limited partnership enterprise's registered capital, it shall be made pursuant to agreement(s) reached by every shareholder in that enterprise. As for companies, the law requires that shares can be paid for in money or in kind and item(s) used for payment must have received at least three-thirds of resolutions of approval from its founders or shareholders attending the meeting unless determined otherwise.[53]

3.6.1 Payment for Shares Prior to Incorporation/Registration

Payments of shares before incorporation/registration are separated into several scenarios, as follows:

(1) For payment of shares in an general partnership enterprise, every shareholder shall make his/her payment in full before the enterprise is duly incorporated/registered;[54]

(2) Payment of a limited partnership enterprise's shares shall be in accordance with agreement reached by the various partners;[55]

(3) Payment of a limited company's shares may be made by share subscribers after the meeting of the Company's Establishment. In the case of cash payment, at least 70% of such must be made albeit 100% payment is required if it is to be made in kind;[56]

(4) Payment of a sole limited company's shares shall be paid in full by its shareholders, either in cash or in kind[57]; and

(5) Payment of a public company's shares shall be made in full on the date of the Company's establishment, either in cash or in kind.[58]

3.6.2 Payment for Shares Prior to Incorporation/Registration

Payment of shares after incorporation/registration of the enterprise can be made only in the case of limited companies in which respect a written notice shall be sent by its Director to give each shareholder at least 30 days advance notice of the date and sum

[52]Law on Enterprise, Section 44.
[53]Law on Enterprise, Section 99.
[54]Law on Enterprise, Section 44.
[55]Law on Enterprise, Section 76.
[56]Law on Enterprise, Section 101.
[57]Law on Enterprise, Section 177.
[58]Law on Enterprise, Section 188.

payable. Such payment, however, may not be set-off with debts payable by the Company unless it is specifically approved by special resolution(s) from the meeting of shareholders.[59]

4. State Procurement

There are rules governing procurement by the public sector in the PDR of Laos including their modus operandi in the Decree on the Procurement of Goods, Construction and Repairs and Services with the State's Funds (Revision) No. 03/Nor Yor, and other relevant Rules dated9 January 2004 ("**Decree on Procurement**").

4.1 Objectives of the Tender for State Procurement

Tender for the State Procurement is most vital for Work Units handling the State's investment which will be made for the purpose of infrastructural construction and development of institutions and human resources in order to set out groundwork for national economic development. There are three clusters in such State's Tender for Procurement, namely:

(1) Construction and repairs of bridges, buildings, docks/ports, roads and others;
(2) Goods such as various equipment, items/utensils, office equipment, daily items/supplies, textbooks, medical equipment and others; and
(3) Services such as experts in areas of consultancy and training, academic/technical assistance and other services.

4.2 Plans and Procedure governing Tenders for State Procurement

According to the system governing State Procurement, a Tender Plan shall be established out of studies and coordination between the relevant parties and then built into a detailed Plan of Tender for Procurement in which a reasonable timeframe and values will be laid down. After the State's Annual Fiscal Budget has been approved by the National Council, officials in the State's work unit which will be making such procurement or which is owner of the Project shall set up a Plan for Procurement of Goods, Construction, Repairs or Services in order to seek further approval from the party which has issued pertinent instructions. Steps of Tender in this procedure are seven in number, as follows

(1) Plan of Procurement and Items of Goods or Construction or Repairs required under the procurement shall be prepared and categorized accordingly for the Tender.

[59]Law on Enterprise, Section 102.

(2) Recommendation made to appoint a Tender Committee which will be officially appointed by relevant organizations to take charge and carry out the Tender starting from preparations for Tender to Announcement on Winner of the bid[60]

(3) Preparation of tender documentations and issuance of letters of invitations to participate in the tender

(4) Submission of tender and opening of tender envelopes.

(5) Tender evaluation by the Tender Committee.

(6) The Tender Committee's recommendation to name/approve the winner for the Tender (agreement to award the contract).

(7) Notice on Agreement to award the contract and the agreement signing.

4.3 Format of Tender

There are altogether 4 formats of Tender, as follows[61]

(1) Tender on a wide basis

(2) Tender on a narrow basis

(3) Tender by means of direct negotiations

(4) Tender by means of price comparisons

  (a) Tender by means of comparisons of domestic prices

  (b) Tender by means of comparisons of international prices

4.4 Tender participants

Participants competing under Procurement Tenders in the PDR of Laos consist of:

(1) Legal entities, companies and enterprises located in the PDR of Laos which duly conduct their operations pursuant to the law and have fully paid up their taxes/duties.

(2) Overseas companies which are interested and duly qualified may participate in the tender to compete in the State's Tenders for Goods, Construction, Repairs and Services on the State's own Funds.

(3) As for Tender for Procurement of Goods, Construction, Repairs or Services of high value, large scale projects and an overall comprehensive project for which the capacity of one single company may not be adequate, authorization can be made to have companies within the PDR of Laos joining together for the tender, or companies within the PDR of Laos participating in conjunction

[60] Decree on Procurement, Section 2.
[61] Decree on Procurement, Section 10.

with overseas companies to compete under a joint venture/consortium[62] in any specific project.

However, for each Tender, companies and products within the PDR of Laos must receive promotion pursuant to the following terms:

(1) For a domestic company within the PDR of Laos which is not a branch office of an overseas company with capabilities in areas of goods, construction, repairs and services with compatibility quality-wise with overseas companies – they will be granted special privileges on the same parameters as those for companies inside the PDR of Laos.

(2) State funds will not be permitted to be used for the purchase of goods manufactured overseas if they can be manufactured in the PDR of Laos and have the same/compatible qualities.

(3) For tenders on goods, construction, repairs and services with the State's Funds by using local budgets, rights will be given first to companies which are inside the PDR of Laos[63]

4.5 Lines of Tender

Lines of tender in each form are determined roughly under the Table below. However, various duties/taxes and fees are not included as yet in these financial lines.

Form of Tender	**Line (**LAK**)**
Tender on a wide internal basis	- Higher than 500,000,000 to 5,000,000,000 (Goods) - Higher than 500,000,000 to 25,000,000,000 (Construction-repairs)
Tender on a narrow basis	Higher than 50,000,000to 500,000,000
Tender by means of direct negotiation(s)	Lower or equivalent to 3,000,000
Tender on a direct negotiation basis (with approval on a case-by-case basis)	Higher than 3,000,000

[62]Decree on Procurement, Section 5.
[63]Decree on Procurement, Section 9.

Form of Tender	Line (LAK)
Tender on the basis of price comparisons	
1. Comparison of domestic prices a. Comparison on a simple form b. Price Comparisons	 - Higher than 3,000,000 to 50,000,000 - Higher than 50,000,000 to 500,000,000
2. Comparison of International Prices	- Lower or equivalent to 500,000,000 (Goods) (Not permitted for construction and repairs)
International Tender	- Higher than 5,000,000,000 (Goods) - Higher than 25,000,000,000 (Construction and Repairs)

4.6 Tender Bond

According to the Decree on Tenders, Tender Bonds are to be placed by bidders for every form of tender except for tenders by means of direct negotiations and by means of price comparisons. However, in view of the fact that the results of tender will become enforceable at least 30 days from the date the tender envelopes are opened, such tender bonds must, therefore, be applicable for a longer period than that in which the tender becomes effective. If the effective term for the Tender is extended in any way, such Tender Bond will likewise be extended for the same duration. However, if the winner of the Tender refuses to sign the contract with the Procurer without any reasonable justification, this Tender Bond will forthwith be forfeited without any rights of challenge whatsoever[64]

5. Public-Private Partnerships

Currently, there are no particular regulations concerning the criteria of public-private partnerships. Under normal circumstances, the government co-invests with the private sector in a large and significant project or a project that could greatly benefits the country. Upon entering into a public-private partnership, the government will offer land as funds in the investment and receive dividend as a return. The private sector investing in the Lao PDR needs not rent land from the government. The form of investment shall be as agreed upon.

[64]Decree on Procurement, Sections 20 and 21.

6. Relevant State Authority

The State's duly authorized authorities in relations to the performance of Trade Law are mainly the Ministry of Industry and Commerce and the Ministry of Finance which consist of internal units, as follows:

6.1 Department within the Ministry of Industry and Commerce[65]

(1) Permanent Secretary Office
(2) Personnel and Organization Department
(3) Foreign Trade Policy Department
(4) SME Promotion Department
(5) Inspection Department
(6) Import and Export Department
(7) Industry and Handicraft Department
(8) Domestic Trade Department
(9) Economic Research Institute for Trade
(10) Enterprise Registration and Management Department
(11) Planning and Cooperation Department
(12) Trade and Product Promotion Department

6.2 Department within the Ministry of Finance

(1) Cabinet of Ministry
(2) Personnel and Organization Department
(3) Budget Department
(4) National Treasury
(5) Tax Department
(6) Customs Department
(7) State Owned Enterprise Financial Management Department
(8) Finance Information Technology Center
(9) State Assets Management Department
(10) International Cooperation Department
(11) External Finance Department
(12) Fiscal Policy Department
(13) State Reserve Department

[65] Information from http://www.moic.gov.laas of 24June 2015

(14) Financial Inspection Department

(15) Accounting Department

Chapter 8
Taxation

1. Relevant Legislations

(1) Tax Law (Amended) No. 70/NA, dated 15 December 2015 ("**Tax Law**")

(2) Law on Value-Added Tax No. 52/NA, dated 23 July 2014 ("**Law on Value-Added Tax**")

(3) Customs Law (Amended) No. 04/NA, dated 20 December 2011 ("**Customs Law**")

(4) The Agreement between the Government of the Kingdom of Thailand and the Government of the Lao People's Democratic Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, entered into force on 23 December 1997 ("**DTA**")

2. Types of Tax

The types of tax of the Lao PDR are specified in Part II of Tax Law which can be grouped into 2 categories i.e., direct tax and indirect tax as follows:[1]

(1) Direct Tax[2], which consists of:
   (a) Profit tax
   (b) Income tax
   (c) Lump-sum tax
   (d) Environmental tax
   (e) Fees and Administrative charges

(2) Indirect Tax[3], which consists of:
   (a) Value added tax
   (b) Excise tax

Moreover, Lao PDR also has customs law, which will be described below under section 2.3 of this chapter.

[1] Tax Law, Section 11.
[2] Tax Law, Section 13.
[3] Tax Law, Section 12.

2.1 Direct Tax

Direct tax means tax paid by every taxpayer to the Government of the Lao PDR where such taxpayers are levied on the proceedings or operations of their business which generates income domestically or abroad. In this regard, tax burden is only imposed on the taxpayer unlike indirect tax. Direct tax is collected from the income base and assets obtained in accordance with the law. There are five direct taxes in the Lao PDR, namely, Profit Tax, Income Tax, Lump-sum Tax, Environmental Tax, and Fees and Administrative Charges[4], of which details are provided as follows:

2.1.1 Profit Tax[5]

Lao PDR imposes profits tax on the profit of enterprise as well as the profit of self-employed persons, derived from profits sourced in Lao PDR or in other countries. Profit means the profit from every type of business operation[6], in every level.

2.1.1.1 Tax Rate[7]

Tax rates for profit tax are categorized into 3 groups, namely:

(1) For enterprises having the status of legal entity[8], the rate flat at 24%. However, a company listed in the stock exchange is entitled to 5% deduction from the regular tax rate for 4 years after it is first listed.

(2) For enterprises having the status of legal entity which manufacture, import, and sell tobacco products (2% of which is contributed to the Tobacco Control Fund, according to Law on Tobacco Control).

(3) The profit tax rate applies to private enterprises[9] and freelancers and shall be collected based on progressive rates ranging from 0-24%, according to the following table.

[4] Tax Law, Section 13.
[5] Tax Law, Sections 26 - 28.
[6] Business operation means business in the fields of manufacturing, trade, and services.
[7] Tax Law, Section 29.
[8] Legal entity means an entity or organization registered as enterprise, having its own name, office premises, properties, rights and obligations as provided by law, such as partnership enterprise, state company, limited company, orpublic company.
[9] Private enterprise refers to a form of enterprise, whereby a single individual holds right of ownership.Private enterprise carries out business on the personal behalf of the enterprise owner and is liable for all debts of the enterprise without limitation.

Level	Profit Tax Base	Basis of Calculation	Tax Rates	Profit Tax	Cumulative Tax Payable
1	3,600,000and below	3,600,000	0%	0	0
2	3,600,000-8,000,000	4,400,000	5%	220,000	220,000
3	8,000,001-15,000,000	7,000,000	10%	700,000	920,000
4	15,000,001-25,000,000	10,000,000	15%	1,500,000	2,420,000
5	25,000,001-40,000,000	15,000,000	20%	3,000,000	5,420,000
6	Above40,000,001	-	24%	-	-

2.1.1.2 Compulsory Method of Tax Calculation[10]

Private enterprises, legal entities and freelancers[11] under the accounting-based tax declaration system, (except tax declarers under the fixed tax system) who have not submitted accurate accounting documents, shall be subject to a compulsory profit tax calculation. The calculation of compulsory profit tax is undertaken by seeking to the gross annual revenues multiplying by the gross profits of the business, then multiplying by the tax rates specified in section 2.1.1.1 above.

2.1.1.3 Deductible Expenses[12]

Before tax calculation, the law allows the following expenses to be deducted from the turnover.

(1) All expenses related to the business operation, which do not fall under section 2.1.1.4 of this chapter.

(2) The amount to be deducted is as follows:

[10] Tax Law, Section32.
[11] Freelancer means the provision of professional services or any activity carried out independently by working, physical labour, and intellect not being under any other individual, including activities related to the science, culture, art, education, [and] public health, such as teachers, scientists, attorneys, engineers, physicians, nurses, accounting consultants and experts.
[12]Tax Law, Section 35.

(a) Travel expenses for management/administrative works may be deducted at a percentage rate of zero point six (0.6%) of the total annual business revenues;

(b) Entertainment expenses for guests, telephone calls may be deducted separately at a percentage rate of zero point four (0.4%) of the total annual business revenues;

(c) Donations, contributions may be deducted at a percentage rate not exceeding zero point three (0.3%) of annual business revenues;

(d) Expense on advertisement may be deducted at a percentage rate not exceeding zero point five (0.5%) of annual business revenues.

(3) Fixed asset depreciation.[13]

2.1.1.4 Non-deductible Expenses[14]

(1) Profit tax expenses;

[13] Fixed assets consist of fixed intangible assets and fixed tangible assets. The calculation of depreciation deduction shall be based on the period of use, at the rates stated in the following table:

Depreciable Fixed Assets of Enterprises	Period of Use	Annual Deduction Rate
1. Fixed Intangible Assets		
- Enterprise design and establishment cost	2 years	50%
- Cost of searching and surveying mine, economic critique and techniques	5 years	20%
- Software used in any profession	2 years	50%
2. Fixed Tangible Assets		
- Building used in industry		
+ Used for 20 years or less	20 years	5%
+Used from 21 years or more	-	2%
- Building for business and residential purposes		
+Permanent buildings	20 years	5%
+Semi-permanent buildings	10 years	10%
- Machinery, excavators, clearing and hauling vehicles used in industry, agriculture, handicrafts and other construction work	5 years	20%
- Land and water transport vehicles	5 years	20%
- Equipment or sets of tools used for professional purposes or any works	5 years	20%
- Office equipment and supplies	5 years	20%
- Ships, travel ships, ferry and other ships of the same nature	10 years	10%
- Passenger or transport aircraft	-	Depending on Flight Hours

[14] Tax Law, Section 34.

(2) Value-added tax related to the purchase of fixed asset;

(3) Depreciation deducted pursuant to accounting standards;

(4) Outstanding Debt which the Debtor cannot perform and there is no documents or evident provided from the relevant authorities;

(5) Consumable expenses and fixed asset depreciation which is not listed as assets of the enterprise;

(6) Salaries which partnership enterprises pay to their partners who are not managers or employees of such enterprises, and salaries of the owners of private enterprises;

(7) Interest on loans taken by the partner for capital investment or share contributions;

(8) Interest on non-bank loans paid to partners;

(9) Interest on loans not directly related to the business operations of the enterprise;

(10) Expenses not directly related to business operations, such as, golfing, dancing, entertainment, gifts, prizes, etc.;

(11) Personal expenses of the enterprise owner or partners not authorized in the accounting year;

(12) Expenses related to business where receipts are not used or, wrong receipts are used or, expenses stated are higher than actual expenses;

(13) Expenses paid to other individuals lacking contracts or certified documentation;

(14) All categories of reserves deductions pursuant to accounting standards;

(15) Deduction of depreciation of assets pursuant to accounting standards (amortization of value of fixed assets, goods in stock, debt defaults, etc.);

(16) Losses on valuation of assets, foreign currency debts on accounts closing date;

(17) Deferred tax;

(18) All types of fine;

(19) Subsidy as prescribed in the investment contract mutually agreed upon by the investors and the government;

(20) Loss on foreign exchange occurred by the misappraisal of assets and liabilities in foreign currencies.

2.1.1.5 Payment of Profit Tax[15]

Profit tax payments made by private enterprises, legal entities, and freelancers must be made in four quarterly payments as follows:

(1) First quarter - not later than the 10th of April;
(2) Second quarter - not later than the 10th of July;
(3) Third quarter - not later than the 10th of October;
(4) Fourth quarter - not later than the 10th of January of the following year

Each tax payment is advance tax. After completion of annual accounting, taxpayer shall pay tax according to financial documents, which is the actual amount of tax to be paid. In the event that the profit tax paid is less than the actual tax payable, the taxpayer shall pay the shortage, and if the paid tax exceeds the actual tax payable, the excess profit tax shall be carried forward and offset against profit tax payable in the following year.

2.1.1.6 Withholding Tax

State investments or enterprises which undertake business operations activities in the Lao PDR, before making payments to individuals or legal entities registered abroad which operate and generate revenue, the project or enterprise owner must withhold profit tax to be made to the State Budget, calculating by means mentioned above, and must file separate tax declarations within 30 days from the date of withholding such tax.

2.1.1.7 Loss Carry forward

Private enterprises, individuals, and freelancers, who suffer annual losses, certified by the National Audit Authority or an independent audit company with the acknowledgement of the tax authorities, are entitled to carry forward such losses for deduction from profits for a period of 3 years. Upon expiration of such period, any remaining loss not so deducted may no longer be deducted from profits.[16]

2.1.2 Income Tax[17]

Income tax is collected on the income of individuals, or legal entities and all citizens[18] who generate income in the Lao PDR. An individual who has a residence in the

[15] Tax Law, Section 39.
[16] Tax Law, Section 39.
[17] Tax Law, Section 44.
[18] All citizens means Lao people, aliens, foreigners, stateless persons who live in the Lao PDR.

Lao PDR who goes to work and generates income in a foreign country must declare and pay income tax in the Lao PDR, if exempted from having to pay income tax in such foreign country.

2.1.2.1 Taxable Income[19]

(1) Income from salaries, wages, bonuses, overtime, position, title honoraria, annual allowances, Board of Director's meeting allowances and other monetary or material benefit;

(2) Income from dividends or distribution of dividends on profits or other benefits to the partners or shareholders, profits from the sale of shares of individuals, and/or legal entities;

(3) Income from a sale of share or from a share transfer of an individual or of juristic persons.

(4) Income from interest on loans, commission, individuals or legal entities' representative fees, income from securities received under contract or other binding obligations;

(5) Income from business related activities of government organizations, the Lao Front for National Construction, public organizations and social organizations;

(6) Income from prizes, monetary or material lottery winnings valued over LAK1,000,000;

(7) Income from leases, such as, land, houses, buildings, vehicles, machinery or other assets;

(8) Income from intellectual property, such as, patents, copyrights, trademarks or other rights of individual or legal entities;

(9) Income from the sale-purchase, transfer of land use, buildings or land with buildings.

2.1.2.2 Income Exempt from Tax[20]

(1) Salaries not exceeding LAK1,000,000;

(2) Salaries of diplomatic employees, employees of international organizations and foreign experts working in the Lao PDR as provided in agreements between the Government of the Lao

[19] Tax Law, Section 46.
[20] Tax Law, Section 47.

PDR and relevant parties, and pursuant to regulations of the Ministry of Foreign Affairs;

(3) Profit from the sale of shares of individuals or legal entities in the securities exchange;

(4) Marital support to the wife and children not over18 years of age, maternity, sickness, accident occurred during work, one-time allowances, pensions, per diems for students, as provided in the law;

(5) Dividends to partners or shareholders of a company registered in the securities exchange, unless specified in specific regulations;

(6) Income of securities companies with the purpose of fund raising by issuing shares or debentures, whether registered or unregistered in a securities exchange, with the authorization from relevant agencies;

(7) Wages of disabled persons certified by relevant authorities;

(8) Prizes, cash or material lottery winnings valued not exceeding LAK1,000,000;

(9) Income from the rent of business production units which declare taxes under the accounting system;

(10) Contributions from state and enterprise social security funds;

(11) Income from rendering public services, such as, artistic activities, literary activities, sports and other activities approved by relevant agencies;

(12) Interest on deposits, interest on government bonds or debentures;

(13) Life insurance premium;

(14) Monetary rewards or prizes paid by official authorities to those with a good record of monitoring, seeking out, defending against, combating against and preventing wrongful acts that violate the laws and regulations;

(15) Incentive payments to those with a good performance, deceased and disabled persons during the national revolutionary tasks, allowances for members of the National Assembly;

(16) Prizes for achievements in relation to scientific research and invention;

(17) Food and traveling cost, reserves and accommodation cost of employees, government officials assigned to professional

activities which use the state budget and assistance projects, in accordance with the budget expenditure agenda;

(18) Income from the sale-purchase of land, transfer of land use, buildings or land with buildings recorded in the assets lists of business production units which declare taxes under the accounting system and as an inheritance between direct relatives, such as father, mother, husband, wife and children.

2.1.2.3 Income Tax Rates[21]

(1) Income from salaries, wages, bonuses, overtime, position, title honoraria, annual allowances, Board of Director's meeting allowances and other monetary or material benefit, is subject to a progressive income tax rates from 0% to 24%, as provided in the following tables:

(Currency: LAK)

Level	Income Tax Base	Basis of Calculation	Tax Rates	Income Tax	Cumulative Income Tax
1	1,000,000 and below	1,000,000	0%	0	0
2	1,000,001-3,000,000	2,000,000	5%	100,000	100,000
3	3,000,001-6,000,000	3,000,000	10%	300,000	400,000
4	6,000,001-12,000,000	6,000,000	12%	720,000	1,120,000
5	12,000,001-24,000,000	12,000,000	15%	1,800,000	2,920,000
6	24,000,001-40,000,000	16,000,000	20%	3,200,000	6,120,000
7	40,000,000 and above	-	24%	-	-

[21]Tax Law, Section 48.

(2) Income from dividends or distribution of dividends on profits or other benefits to the partners or shareholders, profits from the sale of shares of individuals, and/or legal entities, is subject to tax rate of 10%;

(3) Income from a sale of share of individuals and/or legal entities is separated into 2 groups: (i) income from a sale of share of individuals and/or legal entities with evidence to show the capital of such sale is subject to a tax rate of 10% of the capital gain, and (ii) income from a sale of share of individuals and/or legal entities without evidence to show the capital of such sale is subject to a tax rate of 2 % of the sale price.

(4) Income from interest on loans, commission, individuals or legal entities' representative fees, income from securities received under contract or other binding obligations, is subject to tax rate of 10%;

(5) Income from business related activities of government organizations, the Lao Front for National Construction, public organizations and social organizations, is subject to tax rate of 10%;

(6) Income from prizes, monetary or material lottery winnings valued over LAK1,000,000 is subject to tax rate of 10%;

(7) Income from leases, such as, land, houses, buildings, vehicles, machinery or other assets, is subject to tax rate of 10%;

(8) Income from intellectual property, such as, patents, copyrights, trademarks or other rights of individual or legal entities, is subject to tax rate of 5%;

(9) Income from the sale-purchase, transfer of land use, buildings or land with buildings, other than as provided in 2.1.1.2 (18) above, is subject to tax rate of 5%.

2.1.2.4 Income Tax Payment

(1) Salary Income Tax Declarations[22]

Private enterprises, legal entities, and organizations who pay salaries to employees, civil servants, workers, and other individuals under contract or other binding obligations are duty bound to calculate and deduct income tax from the monthly

[22] Tax Law, Section 51.

salaries each month before making payment, and compile accounts and submit tax declarations of such deducted tax to the local tax authority before the 15th of the following month in order to pay income tax.

(2) Lease Income Tax Declarations[23]

Persons who receive income from leasing are duty bound to file tax declarations to their local tax authority within 10 days of receipt of the rent in order to calculate and issue a tax payment order and for payment of income tax. If it is deemed that the rent amount stated in the agreement are lower than standard prices or are not factual, the tax authorities have the right to inspect and recalculate the rent based on standard prices so provided, in order to calculate the real income tax.

(3) Other Income Tax Declarations[24]

Before making monetary payments or distributing other benefits to persons who generate income as specified in section 2.1.2.1, except (1) and (6), above, individuals, legal entities and organizations are duty bound to deduct income tax then compile accounts and submit such to their local tax authority within10 days from the date of payment of such income in order to make income tax payment.

For income on intellectual property, the income earner pays the tax, provided that the taxpayer deducts income tax and notifies the tax authorities for payment into the state budget through the national treasury within 10 days from the date of payment of the income, except where the contract determines otherwise.

For income from the sale-purchase or transfer of land title, the income earner pays the tax (the seller or income earner from the transfer of land title), whereby the buyer or the transferor of land title according to the contract deducts the income tax and notifies the tax authorities for payment into the state budget through the national treasury within ten days of payment of the income, except where provided otherwise in the agreement between the buyer and seller or the transferor and the transferee relating to collection and payment of income taxes.

If it is deemed that the declaration of the value of the sale-purchase or transfer of title is not factual, the tax officers have the rights to calculate at standard price in each area from time to time.

[23] Tax Law, Section 52.
[24] Tax Law, Section 53.

2.1.3 Lump Sum Tax

A lump sum tax is collected from individuals and legal entities which conduct small and medium-scale business production not under the value added tax system, and is paid in a lump sum under contract between the tax authorities and tax payer.[25]

2.1.3.1 Calculation of Fixed Tax[26]

The calculation of fixed tax is carried out by multiplying the annual income of business operations by the lump sum tax rate in section 2.1.3.2 below. Prior to the calculation of lump sum tax, the business unit producer shall summarize the annual income of the previous year and make an annual estimated plan as information for calculation. In the event that it is deemed that such data is not factual, the tax authorities in collaboration with the relevant sectors will undertake an on-site evaluation to determine the real business income and operations at the place of business.

2.1.3.2 Lump Sum Tax Rates[27]

Small and medium-scale business operators which generate annual revenue of less than LAK 50,000,000 shall perform as follows:

(1) From LAK12,000,000 and below, lump sum tax shall be exempted;

(2) From LAK12,000,001 to LAK50,000,000, lump sum tax shall be paid for each business activity at the primary rate not over LAK600,000/year, in accordance with the agreement of the Government, in order to be consistent with the size of the business and specific situation of each location;

(3) For small and medium-scale business operators which generate annual income from LAK50,000,001 to LAK400,000,000, the lump sum rate shall be applied as follows:

[25] Tax Law, Section 55.
[26] Tax Law, Section 56.
[27] Tax Law, Section57.

Annual Business Revenue Used as Basis for Calculation (LAK)	Rate of Fixed Tax for Each Type of Activity		
	Manufacturing	Trade	Service
50,000,001-120,000,000	3%	4%	5%
120,000,001-240,000,000	4%	5%	6%
240,000,001-400,000,000	5%	6%	7%

2.1.3.3 Lump Sum Tax Payment[28]

Lump sum tax shall be paid monthly, quarterly, bi-annually or annually as provided in the contract. In the event that the tax payer generates a higher or lower business income than provided in the contract, the tax officers in collaboration with the tax payer or relevant sectors shall calculate a unified and accurate tax amount to collect the excess tax and make a new lump sum tax contract for future implementation of tax payment.

2.1.4 Environment Tax[29]

Environmental tax is collected from individuals, legal entities and organizations which are permitted to operation the businesses to import or use the natural resources in Lao PDR which cause the pollution to the environment, damages to health, life of people, animal, plant and the balance of an ecosystem.

Individuals, legal entities and organizations including Lao, resident aliens[30], foreigners[31], stateless person[32] who are authorized to operate business, import or use natural resources that cause the environment pollution in the territory of the Lao PDR, are obliged to environmental tax payment aiming at disposal, remedy or destruction of pollution and waste to return to condition suitable for the good living in the society.

For any items subjected to tax payment, exemption, the target for collection, the basis of calculation and the rate of collection are stipulated in a specific regulation. However, there are currently no specific regulations on environment tax.

[28] Tax Law, Section 57.
[29] Tax Law, Section 58.
[30] Resident alien means a nation of other state which comes to settle in or reside in Lao PDR for a long period, and hold foreign identification card and household registration, and it is official recognized by his own state of such.This person is under management of Ministry of Defence and other relevant authorities.
[31] Foreigner means a nation of other state who temporary or extensively come in Lao PDR in order to carry out his duty and will return back when complete. This person is under management of Ministry of Foreign Affairs and other relevant authorities.
[32] Stateless person meansa person who lives in Lao PDR, which shall not mean Lao nation, and has no documentation proving his nation. This person is under management of Ministry of Defence and other relevant authorities.

2.1.5 Fees and Administrative Charges

Fees are direct obligations being state administrative rights collected from individuals, legal entities or organizations which operate in economic and social activities through state sectors in the form of issuing certificates and licenses.

Administrative Charges are service fee imposed from administrative service such as documentation services, education services for people especially in the investing and operating businesses in the Lao PDR, state agencies services including planning and proceeding works, etc. where said services providing to people by state sectors for non-profit social services and to support the state budget expenditure in order to increase amount of money in economic system. The rates of fees and administrative charges, including the collection and payment shall be performed in accordance with the Presidential Decree on Fees and Administrative Charges and other relevant regulations promulgated in each period.

2.2 Indirect Tax

2.2.1 Value Added Tax ("VAT")

The VAT is an indirect tax that is collected on the proportion of value added to goods[33] and services occurring in all processes, ranging from production, distribution, service supply to consumption; and is also collected on the value of goods and services imported into the Lao PDR. Value added tax obligations fall upon consumers of goods and services, including individuals, legal entities domestic and foreign organization that manufacture goods or provide service.

2.2.1.1 Scope of VAT

(1) Value Added Tax Liable Targets[34]

Goods and service used in manufacturing, business and consumption in the Lao PDR, including for self-consumption, non-business activities and free supply to others and one's own workers, are targets liable to value-added tax, except for the cases stipulated in section 2.2.1.2.

(2) Value Added Tax Payable Targets[35]

(a) Business operators, which refers to operators engaged in manufacturing goods and providing services, whose

[33] Goods means tangible or intangible property, susceptible of having a value, either movable or immovable, which is being held for sell, exchange or for other purposes.
[34] Law on Value-Added Tax, Section 11 (Amended).
[35] Law on Value-Added Tax, Section 31-32.

annual turnover is higher or equal to LAK400,000,000[36], or who have an annual business turnover lower than the threshold but who volunteer to enter the value-added tax system.

(b) Importers of goods and services, who are liable to value-added tax regardless of whether the importation is for business operations or self-consumption, or on a continuous or occasional basis;

(c) Those who are either resident or non-resident of Lao PDR shall be subject to VAT, as follows:

- When the VAT registrants receive service from the service provider outside Lao PDR or from the service provider not registered for VAT in Lao PDR, they shall deduct VAT on the service fee paid to the service provider and remit such VAT to the tax authority according to the procedure described under section 2.2.1.6.
- When a service is provided in Lao PDR. The revenues to be calculated shall be those generated through the permanent establishment in Lao PDR.

2.2.1.2 VAT Exemptions[37]

The goods and services listed below are all exempted from VAT:

(1) Importation and sale of the non-processed and non- primarily seasoned agricultural produce.

(2) Sale of living animals and non-living animals. For non-living animals, they must not be processed or be primarily seasoned. Parts of non-living animals must be kept fresh and remains not-decayed.

(3) Activities of sapling nurseries, afforestation, and plantation of industrial, fruit and medicinal trees;

(4) Importation and Sale of crop seeds andspecies of animals, vaccines and productions for making vaccines;

[36]Law on Value-Added Tax, Section 12 (Amended).
[37] Law on Value-Added Tax, Section 12.

(5) Raw materials for producing and seasoning agricultural products, pesticide, bio and scientific chemicals which are not dangerous to environment, health and lives of humans and animals. ;

(6) Importation and sale of equipment and machines for agricultural production;

(7) Importation of chemicals for scientific research and analysis by State administrative or business operators permitted by the government;

(8) Importation and sale of tax or postage stamps for official use;

(9) Importation of aircraft and equipment for air transport;

(10) Importation of fuel and other oils for the service of international air transport;

(11) Importation of goods for sale to diplomats, embassies, and international organisations in the Lao PDR in accordance with the authorisation of the Ministry of Foreign Affairs;

(12) Importation of uniforms, teaching materials, modern teaching and learning materials, computers, projectors and other materials in order to teaching as authorized by the relevant ministry;

(13) Newspapers, political magazines and non-business television and radio programmers that disseminate political policies not having the characteristics of a commercial;

(14) Educational operations such as childcare centres, kindergartens, primary and secondary schools, colleges, universities, vocational schools, and vocational training centres;

(15) Interests from saving banks, loan interests from business banks or financial institutions as authorized by the Central Bank of Lao PDR.

(16) Importation of gold bars as a security for printing the bills and importation of bills and coins;

(17) Health and Life Insurance;

(18) Service in examining and researching in humans and animals

(19) Importation and sale of traditional medicines, organs for transplantation, and aids for patients.

(20) Importation and sale of medical materials.

(21) Machineries for specific purposes, such as, fire engines, ambulances, vehicles equipped with repair facilities, outside television and radio broadcast vehicles, and others.

(22) Vehicles for national defense and public security;

(23) Personal effects of Lao diplomats, civil servants and students brought into the country following the completion of their overseas missions, training, or study.

(24) Goods and services supplied to grant aid projects, defined in agreements, treaties and contracts that the government has signed with the governments of foreign countries.

2.2.1.3 Basis of VAT Calculation[38]

The basis of value-added tax calculation is the value of goods and services liable to VAT, and the calculation can be made according to the following cases:

(1) For imported goods, the calculation is based on the value declared at import (CIF) plus customs duties, excise tax (if any), and the value of import-related services;

(2) For goods and services or for domestic consumption, including for self-consumption, consumption by others and employees and free supply, the calculation is based on the market sale price of goods and services together with excise tax (if any), excluding value-added tax.

(3) For services provided from a service provider who is of non-residence in Lao PDR, the calculation is based on price of service, excluding value-added tax.

(4) For imported goods by importers who are not from any country where value-added tax is not applied, the calculation is based on the value declared at import (CIF) plus customs duties, excise tax (if any), and thenet profit.

In calculating the value-added tax for goods and services, if there is additional income, such income will be added as part of basis for VAT calculation of business operators.

[38] Law on Value-Added Tax, Section 14.

2.2.1.4 VAT Rates[39]

(1) A 10% rate is applied to imported [goods and services] and domestically produced and consumed goods and services liable to VAT, including importation of natural resources which are not the finished goods

(2) 0% rate is applied to raw materials, chemicals, composited materials, machines and means of production which are of domestic products and are imported. A major condition is that imported goods and means must not be produced or manufactured in Lao PDR.

2.2.1.5 VAT Registration[40]

The application for VAT registration shall be submitted to the competent tax authority. Then, tax officers shall issue a VAT registration certificate and tax identification number to the tax payer within 15official working days.

2.2.1.6 Tax Filing and Payment Procedures of VAT[41]

VAT registered business operators shall file value-added tax returns on a monthly basis within the 15th of the following month, even if there is no input or output tax. Seller and service provider shall pay tax within the 15th of the following month. Importers of goods and services shall file value-added tax returns and pay value-added tax for every importation at the same time as the declaration of customs duties.

2.2.2 Excise Tax

Excise tax[42] is collected on the consumption of goods and certain categories of services, as stipulated in the law. Excise tax is collected from consumers of certain categories of goods imported, produced domestically and on services within the territory of the Lao PDR through business operators, who shall calculate and submit tax to the state budget.[43]

[39] Law on Value-Added Tax, Section 16 (Amended).
[40] Law on Value-Added Tax, Section 36.
[41] Law on Value-Added Tax, Section 32.
[42] Tax Law, Section 17.
[43] Tax Law, Section 17.

2.2.2.1 Payment of the Excise Tax[44]

Goods which are subject to excise tax are as follows:

(1) Inflammable fuel;
(2) Gas for vehicle;
(3) Alcohol, beer, alcoholic beverages;
(4) Instant beverages, such as, soft drinks, soda, stimulant beverages, mineral beverage;
(5) Fruit juice and other similar beverages;
(6) Cigarettes: shredded tobacco, boxed cigarettes, cigars;
(7) Utensils or ornaments made from crystal;
(8) All types of printed cloth;
(9) Furniture (Sofa) valued at LAK 10,000,000and higher;
(10) Perfumes and cosmetic products;
(11) Cards and other gambling equipment;
(12) Rockets, fireworks, crackers;
(13) Vehicles, motorbikes and cars;
(14) Vehicle spare parts and decorations;
(15) Speed boats, yachts, motorized sport boats including their engine and spare parts;
(16) Satellite receivers for television, audio and visual players, cameras, telephone, audio and visual recorders, musical instruments including their equipment and components;
(17) Air conditioners, washing machines and vacuum cleaners;
(18) Billiards or snookers tables, football tables, bowling apparatus;
(19) All types of game playing device.

Services which are subject to excise tax are as follows:

(1) Entertainment: bars, discotheques and karaoke;
(2) Bowling activities;
(3) Massage, sauna, and beauty salon activities;
(4) Phone services, cable television, digital television, internet;
(5) Golf activities;
(6) Lottery activities;
(7) Casino activities and slot-machines.

[44] Tax Law, Section 18.

2.2.2.2 Exemption of Excise Tax[45]

Goods and services exempt from excise tax are as follows:

(1) Goods which are subject to excise tax in accordance with section 2.2.2.1 above that are exported, as certified by customs officials[46]
(2) 90 degree alcohol specifically used in medical work;
(3) Goods imported or distributed, and service provided to students, researchers, employees, embassies and international organizations operated in the Lao PDR, pursuant to specific regulations;
(4) Rockets, fireworks, crackers imported by the state authorities to serve official celebrations;
(5) Activities of disable persons;
(6) Bowling, golf and lottery activities for charities as proposed by relevant agencies;
(7) Fuel oil;
(8) Traffic truck, fire truck and public transportation;
(9) Vehicles for farming and agriculture.
(10) Special and general locomotives
(11) Spare parts imported by automotive assembly plant and produce domestically to be finished vehicles.

2.2.2.3 Excise Tax Rates[47]

Excise tax rates are categorized by goods and services as follows:

(1) Goods

[45] Tax Law, Section 19.
[46] Tax officer means tax official who is acknowledged pursuant to appointment to undertake and perform any specific duty at a specific location or any work
[47] Tax Law, Section 20.

No.	Type of Goods Subject to Excise Tax	Percentage Rates		
		2016 - 2017		**1 January 2018 onwards**
1	Inflammable fuel: - super gasoline; - regular gasoline; - diesel; - aviation gasoline; - lubricant, hydraulic oil, grease and break oil	 35% 30% 20% 10% 5%		 39% 34% 24% 14% 9%
2	Gas for vehicle	10%		
		2016-2017	2018-2019	2020 onwards
3	Alcohol or alcoholic beverages: - Alcohol or alcoholic beverages containing alcohol level of 15 degree and over - Alcohol, wine and alcoholic beverages containing alcohol level less than 15 degree	 30% 25%	 50% 45%	 70% 60%
4	Beer	50%		
5	Instant beverages - Carbonated drinks, soda, sport drink, fruit juice and other similar beverages - Stimulant beverages	5% 10%		
6	Cigarette: - Cigars - Wrapped cigarettes; Packaged cigarettes - Instant cigarettes	 30% 30% 15%	 45% 45% 25%	 60% 60% 35%

No.	Type of Goods Subject to Excise Tax	Percentage Rates		
	- Other cigarettes	30%	45%	60%
7	Utensils or ornaments made from crystal	20%		
8	All types of printed cloth with the price from LAK 1,000,000	15%		
9	Furniture (sofa) with the price from LAK 10,000,000	15%		
10	Perfumes and cosmetic products	20%		
11	Cards and other gambling equipment	90%		
12	Rockets, fireworks, and crackers	80%		
13	Vehicles 1. Motorbikes: 1.1 Motorbikes driven by fuel oil - 110cc or less - from 111 - 150cc - from 151 - 250cc - from 251 - 500 cc - from 501 or more 1.2 Motorbikes driven by clean energy 1.3 Motorbikes' parts and spares 2.Cars: 2.1 Small cars driven by fuel oil: cars, jeep cars, vans, trucks - 1,000 cc or less - from 1,001 – 1,600 cc - from 1,601 – 2,000 cc - from 2,001 – 2,500 cc - from 2,501 – 3,000 cc - from 3,001 – 4,000 cc - from 4,001 – 5,000 cc - from 5,001 or more 2.2 Small-sized cars driven by clean energy: cars, jeep cars, vans, trucks	 20% 30% 40% 60% 80% 5% 5% 25% 30% 35% 40% 45% 70% 80% 90%		

No.	Type of Goods Subject to Excise Tax	Percentage Rates
	2.3 Small-sized cars (2-door pick-up trucks) of which the truck liner is of less than 50 % of the total length of the pick-up truck: - Pick-Up Truck run by the fuel oil - Pick-Up Truck run by the clean energy 2.4 Middle-sized vehicles: - Pick-Up Truck run by the fuel oil - Pick-Up Truck run by the clean energy 2.5 Large-sized vehicles: - Pick-Up Truck run by the fuel oil - Pick-Up Truck run by the clean energy 3. Spare parts for vehicles of all sizes.	10% 10% 5% 8% 5% 5% 3% 5%
14	Vehicle accessories	20%
15	Speed boats, yachts, motorized sport boats, including their components and spare parts	20%
16	Satellite receivers, audio and visual players, cameras, telephone, audio and visual recorders, musical instruments including their equipment and components	20%
17	Electrical equipment: air conditioners, washing machines, vacuum cleaners	20%
18	Billiards or snookers tables, bowling apparatus, football tables	30%
19	All types of game playing devices	35%

(2) Services

No.	Type of Services Subject to Excise Tax	Percentage Rates		
		2016-2017	2018-2019	2020 onwards
1	Entertainment services: bars, discotheques and karaoke	10%	20%	35%
2	Bowling business	10%		
3	Services relating to massages, sauna, and beauty salon	10%		
4	Telephone service, cable TV, digital TV, internet services	10%		
5	Golf activities	10%		
6	Lottery activities	25%		
7	Casino activities and slot-machine	35%		

2.2.2.4 Basis for Calculation of Excise Tax[48]

The basis for calculation of excise tax for each item shall be performed as follows:

(1) For general goods imported from abroad for manufacture, distribution or for self-consumption, take the declared value for customs (CIF) plus import tax and other fees (if any), multiply by the excise tax rate;

(2) For goods produced or produced under hired domestically or for self-consumption, take the wholesale or retail value (excluding value-added tax and the excise tax) of such goods produced by factories produced under hire domestically, multiply by the excise tax rate;

(3) For services, take the value of the service charge (excluding value-added tax and the excise tax) multiply by the excise tax rate.

[48] Tax Law, Section 21.

In calculating excise tax for imported cars manufactured or assembled in the country, the rate of excise tax as prescribed in the particular regulation is multiplied by the sale price.

2.2.2.5 Excise Tax Payment Declarations[49]

Importers, manufacturers, hirers for manufacturing, and service providers who are subject to excise tax are duty bound to make excise tax declarations as follows:

(1) Importers of general goods shall submit excise tax declarations each time of submission of import duty at the customs checkpoint.

(2) Manufacturers, hirers for manufacturing, and service providers shall submit excise tax declarations before the 15th of the following month to the relevant, local tax authorities concerned.

2.3 Customs

Customs duty means the monetary obligations that are paid to the State by individuals, legal entities and organizations undertaking export and import, transit and movement of goods through customs border checkpoints[50] at the rate specified in the customs tariff nomenclature.

2.3.1 Customs Territory[51]

The customs territory covers all territory of Lao PDR where the scope of functions of customs authorities is determined. Customs authorities are allowed to exercise their functions outside the customs territory in accordance with agreements or protocols in which the government of Lao PDR has signed.

2.3.2 The Customs Value of Exported Goods[52]

The customs value of exported goods is the actual value of goods, including transportation costs delivered to the customs border checkpoint of export.

2.3.3 Customs Value for Import

Customs value for import shall be the actual value of goods including transportation and/or insurance costs at the customs border checkpoint of import.

[49] Tax Law, Section 23.
[50] Customs border checkpoint means international customs checkpoints, local customs checkpoints and traditional customs checkpoints that authorize the entry and exit of passengers, vehicles and goods.
[51] Customs Law, Section 7.
[52] Customs Law, Section 12.

2.3.4 Declaration of Manifest and Conveyance Papers[53]

When the goods arrive at the Customs border checkpoint, the declarant or the transport service provider shall implement the following procedures:

(1) Submission of manifest or declaration according to prescribed forms by Customs within 24 hours;

(2) Submission of conveyance papers to the Customs Authorities for control and management as described in the Customs Law and regulations.

(3) Prohibition to unload goods from conveyance prior to submission of the manifest, except when they are authorized by Customs Authorities or in the case of force majeure.

2.3.5 Reporting of Personal Belongings of Passengers[54]

Personal belongings of passengers traveling through customs checkpoints by car, train, boat and airplane shall be under customs control. Passengers who possess goods in excess of the amount permitted by regulations shall correctly and fully declare these to Customs in a prescribed form.

2.3.6 Declaring Mailed Goods by Post[55]

Parcel post and mail imported, exported or in transit shall be subject to customs control. This control shall be end only if customs formalities are carried out in accordance with customs regulations. A legal entity running a business as a freight forwarder and dispatching parcels and mail shall be responsible for customs clearance on behalf of the goods owner as prescribed in Customs Law and regulations.

2.3.7 Detailed Customs Declaration[56]

The declarant shall submit a regular detailed customs declaration and/or an electronic detailed customs declaration with regard to imported-exported or transit goods, as follows:

(1) Fill out the information required in the detailed customs declaration form and sign it;

(2) The detailed customs declaration verified by the Customs Authorities shall be registered;

[53]Customs Law, Section 19.
[54]Customs Law, Section 20.
[55]Customs Law, Section 21.
[56]Customs Law, Section 22.

(3) Signature in the detailed customs declaration and/or electronic[57] detailed customs declaration has equal value;

(4) The detailed customs declaration that has been approved and registered shall not be subject to change except when the declarant has the information and evidence to validate the need for the Customs Administration to consider to modify the information before actual goods inspection by Customs Authorities;

(5) If the detailed customs declaration has been erased, struck out, or stained, it is considered invalid.

2.3.8 Customs Declaration Documentation[58]

(1) Detailed customs declaration;

(2) Invoice;

(3) Manifest;

(4) Packaging list (if any);

(5) Certificates of origin (if any);

(6) Export or import permit (if any).

2.3.9 Controlled and Prohibited Goods[59]

For reasons of national security, sanitation, phytosanitation, and environmental protection, certain goods are under the control of the Customs Administration, such as, explosive, narcotics, psychotropic substances and hazardous chemical substances. Lao PDR prohibits to exporting, importing, transiting, moving, purchasing, selling and being in possession of those goods.

2.3.10 Exemptions from Customs[60]

According to Customs Law, the following goods or things are exempted from customs:

(1) Imported goods, things exempted from customs

(a) Personal belongings of passengers;

(b) Certain kinds of items when changing a residency;

(c) Gifts of a delegation from overseas official visits;

[57] Electronic declaration means use of information and technology relating to goods and things through automatic tax declaration.
[58] Customs Law, Section 23.
[59] Customs Law, Section 30and 31.
[60] Customs Law, Section 53.

(d) Goods obtained from grant assistance sources and government borrowing;

(e) Essential items used for education, health, scientific study, samples and religious items;

(f) Special items used for national defence and public security.

The government shall specify a detailed list of goods that are exempted from customs duties; if necessary, the government is entitled to propose to the Standing Committee of the National Assembly to consider and identify a list of goods for further exemption of customs duties.

(2) Exemption of Customs Duties for Personal Belongings[61]

(a) Precious objects and foreign currencies with a value not more than as specified by the Bank of Lao PDR;

(b) All types of alcohol not exceeding 2litres, all types of beer not exceeding 5litres, all types of wine not exceeding 3litres;

(c) All types of cigarettes not exceeding 1carton (200cigarettes), cigars not exceeding 50cigars or tobacco leaves not exceeding 250grams;

(d) Perfume and fragrant oils not exceeding one item each.

(3) Exemption of Customs Duties for Certain Types of Items While Moving a Residency[62]

Students, civil servants and diplomats completing their mission abroad and foreigners intending to have permanent residency who import items and presents of Lao delegations returning from an overseas trip, in addition to motorized vehicles, are exempted from customs duties and other obligations, as follows:

(a) Certain items and in certain quantities that are not of a commercial nature;

(b) Necessary items for households;

(c) Goods received from inheritance.

[61]Customs Law, Section 54.
[62]Customs Law, Section 55.

2.3.11 Time and Detailed Customs Declaration Measures[63]

The declarant shall submit a completed declaration to Customs within 15official working days from the date of the Customs Authorities record for the goods according to the manifest.

2.4 Customs and Tax Privileges

2.4.1 Tax Privileges

The Lao PDR supports certain investments in relation to the form of the business and the area of the investment as specified in the Law on Investment Promotion 2009 which is classified by the type and level of significance and the area of investment.

Level of business significance is classified into:

Level 1 Businesses obtaining high-investment promotion such as 4 star hotels and educational institutions;

Level 2 Businesses obtaining mid-investment promotion such as motorcycle manufacturing; and

Level 3 Businesses obtaining low-investment promotion such as beverage production and auto-parts manufacturing.

Area of investment is classified into:

Area 1 Remote areas, backcountry areas and areas lacking public utilities;

Area 2 Areas with limited public utilities; and

Area 3 Cities and areas with full public utilities.

Privileges are shown as follows:

[63] Customs Law, Section 24.

Level of Business Significance	Area 1	Area 2	Area 3
Level 1	Taxable profit exemption for 10 years.	Taxable profit exemption for 6 years.	Taxable profit exemption for 4 years.
Level 2	Taxable profit exemption for 6 years.	Taxable profit exemption for 4 years.	Taxable profit exemption for 2 years.
Level 3	Taxable profit exemption for 4 years.	Taxable profit exemption for 2 years.	Taxable profit exemption for 1 year.

*** Source: Office of International Trade Promotion at Vientiane, Lao PDR

In this regard, privileges concerning exemption or allowance of profitable tax rate of every project commences on the first day of business operation. For business pertaining to research and generation of new technology, privileges commence from the day the project has profit. Investors must pay profitable tax for the normal rate after an expiry of privileges.

2.4.2 Customs Privileges

In certain cases, the Government provides privileges concerning exemption or allowance of profitable customs rates, such as exemptions or deductions on profitable customs rates for importation and exportation of goods in accordance with the Government policy specified in the Law on Investment Promotion, exemptions or deductions on profitable customs rates for importation and exportation of goods within a special economic zone in accordance with the laws relevant to the special economic zone and exclusive economic zone, etc.

2.5 Measures and Penalties for Violation of the Provision Concerning Tax and Customs

Tax laws and Customs laws are the main regulations setting out duty on tax and customs payment to the Government. Additionally, such laws also set out the following punitive measures for those who violate the law:

2.5.1 Punitive Measures for Violation of Provisions Concerning Tax

Customs law specifies measures and penalties for violation of provisions under Section 96 concerning tax which is divided into 3 parts, namely, punitive measures for

taxpayers, punitive measures for employees and tax officers, and punitive measures for individuals and other organizations.

2.5.1.1 Punitive Measures for Taxpayers

In case of committing a petty offence such as failure to submit a tax payment form, failure to declare customs payment, failure to hold an account, failure to apply bills, failure to affix stamp duty or failure to use taxpayer identification number, those who commit such violation will be instructed, warned and advised in order to perform correctly. In case of violating the law and consequently damaging the government budget, those who commit such violation must pay tax until fully paid and shall be fined under Section 74 of the Tax Law.

In the case that the period prescribed for tax payment is expired but the taxpayer fails to pay tax debts to the tax officer, the taxpayer will be governed as follows:

(1) The bank account of the taxpayer shall be deducted by the bank as proposed by the Tax Agency under Section 81(5) of the Tax Law;

(2) Relevant agencies are proposed to temporarily close down the business for 1 month;

(3) Requisition order or asset seizure including bank accounts shall be made within 15 days. If such period lapses, the business shall be closed down within 1 month and the relevant agencies shall repeal the enterprise registration certificate, concession registration certificate and other licenses;

(4) Notice shall be published for the sale of assets in order to pay duty debts. Any excess shall be returned to the owner. If the debts are not fully paid, the involved parties shall be responsible for the remaining amount except in the case of being adjudged by the court as insolvent; and

(5) In the case of a criminal offence having been committed such as destruction of evidence, forgery, concealment of income or concealment of a crime with regard to tax payment, bribery or giving reward, conspiracy of corruption, falsification of bill, receipt or other documents, libel, duress, or employee or tax officer abuse, the offender shall be prosecuted under criminal proceedings and shall compensate for damages.

2.5.1.2 Punitive Measures for Employees and Tax Officers

For petty offences which do not affect the revenue or dignity of the Tax Agency such as failure to perform duties assigned without reasonable cause, withholding documents or negligence of duty, those who commit a violation will be instructed, warned or disciplined according to the law.

In the case of a criminal offence such as a crime committed by a person in a position of authority, using violence or duress, requesting or accepting bribes which cause damages to the benefits of individuals, the community, the State or organizations, conspiring with business operators in violation of the law, forgery of bill, receipt or other documents, collecting taxes without authorization, paying personal expenses from duty collected instead of delivering it to the Government Budget, those who commit such violation shall be prosecuted under criminal proceedings. If such violation causes damages to another individual or organization, damages must also be compensated.

2.5.1.3 Punitive Measures for Individual and Other Organizations

In the case that there are violations of tax law such as refusing to give information, conspiring to cover up or support a business operator to commit an offence, giving or taking a bribe or reward, being corrupt, acting in any way that violates tax law, being libel, or threatening or abusing an employee, tax officer or taxpayer, those who commit such offences shall be penalized in accordance with instructing measures, fines, compensation measures or be punished for criminal offences depending on the degree of the crime.

2.5.2 Punitive Measures for Offenders of Provisions Concerning Customs

According to Law on Customs, provisions of measures and penalties are specified in Section 118 and 119 which are classified into 2 parts, namely, punitive measures for taxpayers and punitive measures for tax officers.

2.5.2.1 Punitive Measures for Taxpayers[64]

Taxpayers who violate provisions of the Law on Customs or other relevant regulations shall be instructed, warned, fined or prosecuted. Such taxpayers shall also compensate for damages under civil law which occurs from their act and shall be punished under criminal law depending on the degree of the crime committed in each case.

[64] Customs Law, Section 118.

2.5.2.2 Punitive Measures for Tax Officers[65]

Tax officers who violate tax law in which there is no damage to tax revenue shall be instructed and warned. In the case that the violation of tax law results in insignificant damages to tax revenue, such person who intentionally violates the law shall be punished in accordance with disciplinary action and shall compensate for the damages occurred. For those who violate tax law and consequently cause substantial damages to the State, community or individual such as abuse of power for personal benefit, exercise of power above authority, falsifies documents, accepts bribes or commits other criminal offences, shall be prosecuted based on the degree of the crime committed in each case.

3. Double Taxation Agreement

The Lao PDR has signed 15 double taxation agreements with the following countries: Belarus, Brunei, China, Indonesia, Iran, North Korea, South Korea, Kuwait, Malaysia, Myanmar, Russia, Singapore, Slovakia, Thailand and Vietnam. Currently, 8 double taxation agreements are in effect, which include the double taxation agreements with Brunei, China, North Korea, South Korea, Malaysia, Myanmar, Thailand, and Vietnam.

3.1 Issues to be Considered under Double Taxation Agreement between the Lao PDR and Thailand

Thailand and the Lao PDR entered into the Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income on the 23rd of December 1990 which is imposed on personal income tax and profit tax (in the Lao PDR) and income tax and petroleum income tax (in Thailand)[66]. The DTA stipulates some of the following incomes:

(a) Income from Immovable Property[67]

Income from immovable property applies to income derived from the direct use, letting or use in any other form of immovable property. Income derived by a resident of a Contracting State[68] from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

[65] Customs Law, Section 119.
[66] DTA, Article 3.
[67] Immovable Property shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property.
[68] Resident of a Contracting State means any person who, under the laws of that State, is liable to Tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion or a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

(b) Business Profits

The income or profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment[69] situated therein. If the enterprise carries on business as aforesaid, the profits of enterprise may be taxed in the other State but only in so far as attributable to that permanent establishment.

(c) Dividends[70]

Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner or the dividends the tax so charged shall not exceed 15% of the gross amount of the dividends.

(d) Interest[71]

Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed:

- 10% or the gross amount of the interest if it is received by any financial institution (including an insurance company); and
- 15% of the gross amount of the interest in other cases.

Notwithstanding the above provision, interest arising in a Contracting State and paid to the Government of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

(e) Royalties[72]

[69] Permanent Establishment includes especially a place of management, a branch, an office, a factory, a workshop, a mine, an oil or gas well, a quarry or any other place of extraction of natural resources, a farm or plantation, a warehouse, in relation to a person providing storage facilities for others, a building site, a construction, installation or assembly project or supervisory activities in connection therewith, where such site, project or activities continue for a period of more than six months, the furnishing of services including consultancy services by a resident of one of the Contracting States through employees or other personnel, where activities of that nature continue for the same or a connected project within the other Contracting State for a period or periods aggregating more than six months within any twelve-month period. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

[70] Dividends mean income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income shares by the laws of the State of which the company making the distribution is a resident.

[71] Interest means income, from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15% of the gross amount of the royalties.

(f) Capital Gains

Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in (a) above and situated in the other Contracting State may be taxed in that other State.

Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.

Gains derived by an enterprise of a Contracting State from the alienation of vessels, vehicles or aircraft operated in international traffic or movable property pertaining to the operation of such vessel or aircraft or vehicle, shall be taxable only in that State.

Gains from the alienation of any property, other than those referred to above shall be taxable only in the Contracting State of which the alienator is a resident.

(g) Independent Service Provider

Income derived by a resident of a Contracting State in respect of professional services[73] or other activities of an independent character shall be taxable only in that State: unless such person has a fixed base regularly available to him/her in the other Contracting State for the purpose of performing his/her activities, for a period or periods amounting to or exceeding in the aggregate 183 days within any twelve-month period; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State.

(h) Dependent Service Provider

[72] Royalties means payments or any kind received as a consideration for the alienation of or the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.
[73]Professional Services includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, dentists, lawyers, engineers, architects and accountants.

Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

Notwithstanding the above provision, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- the recipient is present in the other State for a period or periods not exceeding in aggregate 183 days within any twelve-month period;
- the remuneration is paid by, or an behalf of, an employer who is not a resident of the other State; and
- the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3.2 Elimination of Double Taxation[74]

3.2.1 Elimination of Double Taxation in the Lao PDR

Where a resident of the Lao PDR derives income which, in accordance with the provisions of this Agreement, may be taxed in Thailand, the Lao PDR shall allow as a deduction from Lao tax on the income of that resident an amount equal to the tax paid in Thailand. Such deduction shall not, however, exceed that part of the Lao tax, as computed before the deduction is given, which is attributable to such items of income.

Where the income derived from Thailand is a dividend paid by a company which is a resident of Thailand to a company which is a resident of the Lao PDR and which owns not less than25% of the shares of the company paying the dividend, the credit shall take into account the tax paid to Thailand by the company paying the dividend in respect of its income.

The term “tax paid in Thailand” shall be deemed to include the amount of Thai tax which would have been paid if the Thai tax had not been exempted or reduced under any special incentive law designed to promote economic development in Thailand, effective on the date of the signature of this Agreement or which may be introduced hereafter in modification of, or in addition to, the existing law.

[74] DTA, Article 23.

3.2.2 Elimination of Double Taxation in Thailand

Where a resident of Thailand derives income which, in accordance with the provisions of this Agreement, may be taxed in the Lao PDR, Thailand shall allow as a deduction from Thai tax on the income of that resident an amount equal to the tax paid in Lao PDR. Such deduction shall not, however, exceed that part of the Thai tax, as computed before the deduction is given, which is attributable to such items of income.

Where the income derived from the Lao PDR is a dividend paid by a company which is a resident of the Lao PDR to a company which is a resident of Thailand and which owns not less than 25% of the shares of the company paying the dividend, the credit shall take into account the tax paid to the Lao PDR by the company paying the dividend in respect of its income.

The term “tax paid in Lao PDR” shall be deemed to include the amount of Lao tax which would have been paid if the Lao tax had not been exempted or reduced under any special incentive law designed to promote economic development in the Lao PDR, effective on the date of signature of this Agreement or which may be introduced hereafter in modification of, or in addition to, the existing law.

4. Relevant Government Authorities

Authority governing general tax (such as profit tax, income tax, lump sum tax and environment tax) is the Department of Duty under the Ministry of Finance. Authority governing customs is the Department of Customs under the Ministry of Finance.

Chapter 9
Law on Finance and Banking

1. Relevant Legislations

(1) Law on the Bank of the Lao PDR No. 05/95/NA dated 14 October 1995 ("**Law on the Bank of the Lao PDR**")

(2) Law on Commercial Banks No. 03/NA dated 26 December 2006 ("**Law on Commercial Banks**")

(3) Decree on Implementation of the Law on Commercial Banks No. 275/PM dated 25 September 2009 ("**Decree on Implementation of the Law on Commercial Banks**")

(4) Decree on Establishment and Activity of the Bank of the Lao PDR No. 40/PM dated 6 April 2000 ("**Decree on Establishment and Activity of the Bank of the Lao PDR**")

(5) Decree on Pawn Shops No. 10/PM dated 2 February 2002 ("**Decree on Pawn Shops**")

(6) Law on Anti-Money Laundering and Counter-Financing of Terrorism No. 50/NAdated 21 July 2014 ("**Law on Anti-Money Laundering and Counter-Financing of Terrorism**")

(7) Decree on Microfinance Institutions No. 460/GoLdated 3 October 2012 ("**Decree on Microfinance Institutions**")

(8) Decree on Credits Leasing No. 11/PM dated 18 February 1999 ("**Decree on Credits Leasing**")

(9) Directive on Management of Credits and Savings Cooperatives No. 03/BOL dated 20 June 2008 ("**Directive on Management of Credits and Savings Cooperatives**")

(10) Guidelines for Implementation of the Decree on Pawn Shops No. 01/BOL dated 8 January 2003 ("**Guidelines for Implementation of the Decree on Pawn Shops**")

(11) Regulations Governing Payment and Utilization of Registered Capital by Financial Institutions No. 01/BOL dated 23 October 2012 ("**Regulations Governing Payment and Utilization of Registered Capital by Financial Institutions**")

(12) Guidelines for Reporting of Transactions Suspected of Being Money Laundering No. 66/AMLI dated 15 October 2007("**Guidelines for Reporting of Transactions Suspected of Being Money Laundering**")

(13) Notification No. 356/DBSdated 21 May 2014 Re: Temporary Suspension of the Application for Establishment of a Commercial Bank in the Lao PDR("**Notification No. 356/DBS**")

2. Bank of the Lao PDR

The Bank of the Lao PDR ("BOL") is the main bank responsible for overseeing the operations of commercial banks and financial institutions on a nationwide basis and for setting out laws, rules, and regulations for their effective and smooth operations. Currently, the BOL has four branch offices: Udomxay Branch, Savannakhet Branch, LuangPrabang Branch, and Champasak Branch.

2.1 Structure of BOL Board of Directors

The BOL Board of Directors consists of 7-9 members, as follows:

(1) The Deputy Prime Minister as Chairman;

(2) The BOL Governor as Vice Chairman;

(3) The Minister of Finance as Vice Chairman;

(4) The BOL Deputy Governor as member; and

(5) Another 3-5 members, selected by related sectors and being those with expertise and experience in agriculture, industry, trade, banking and finance.

2.2 BOL Operation

The BOL's main role is to give advice and recommendations to the Government on monetary matters and nationwide extension of credits by commercial banks. It also promotes and maintains the stability of Kip both inside and outside the country to ensure effectiveness and security of the Lao PDR's monetary and credits system.

Under the Law on the Bank of the Lao PDR, the BOL has the following rights and duties:

(1) To solely issue bank notes and coins, upon approval of the Government, as well as monitor the monetary situations nationwide;

(2) To supervise the overall monetary system and to act as a final lender for commercial banks and financial institutions;

(3) To implement the policy on management of foreign currencies and exchange rates;

(4) To sell its own bonds and to buy and sell bank notes directly with commercial banks and financial institutions;

(5) To approve the opening of its branch offices and those of the local commercial banks, foreign commercial banks, and financial institutions under its supervision upon approval of the Government;

(6) To oversee and monitor the business operations of commercial banks and financial institutions within its jurisdiction to ensure stability and expansion of those banks and financial institutions;

(7) To maintain and take care of the country's reserve currency;

(8) To gather from persons and agencies concerned both inside and outside the country and analyze the information about economy, finance, currencies and business operations of commercial banks and financial institutions with the aim of setting policies on monetary and other matters;

(9) To report and recommend to the Government on economic, monetary and banking issues;

(10) To represent the Government in international organisations and to cooperate and execute agreements involving finance, foreign currencies and international financial organisations, as assigned by the Government; and

(11) To perform such other duties as prescribed by law or as assigned by the Government.

3. Commercial Banks and Financial Institutions

Currently, there are 39 commercial banks in the Lao PDR. They include, (1) three State commercial banks, (2) one specialized bank (3) three commercial banks jointly invested with private sector,(4) seven private banks,(5) five commercial banks which are subsidiaries of foreign banks, and (5) twenty branch offices of foreign commercial banks. The rules regarding establishment of a commercial bank are as follows:

(1) Any person or organization who intends to set up a commercial bank must submit a petition to the Bank of the Lao PDR. In addition, any commercial bank intending to set up branches or subsidiaries in the Lao PDR must first be granted written permission from an authorized authority;

(2) Commercial banks must have a minimum authorized capital of one trillion Kip (approximately THB400,000,000). Each branch of a foreign commercial bank located in the Lao PDR must have a minimum authorized capital of LAK5,000,000,000 (approximately THB 200,000,000); and

(3) Commercial banks must be set up and operate in the form of a company according to the Law on Enterprise except for sole limited companies (companies having only one shareholder).

The authorized authority is the Bank of the Lao PDR.

On 21 May 2014, the BOL issued a notification of temporary suspension of the application for establishment of a commercial bank in the Lao PDR for the period 2014 – 2016. The purpose is to review and evaluate the existing commercial banks and to set relevant policies, rules and laws so that the commercial banks system will be improved in line with the social conditions of the Lao PDR and the international level. However, such temporary suspension applies to the establishment of a new commercial bank only and does not include the opening of branch offices of the foreign banks and those of the banks in the foreign bank group.

3.1 Types of Businesses of a Commercial Bank

Businesses of a commercial bank in the Lao PDR are divided into 2 types which are banking business and financial business. The details are as follows:

3.1.1 Banking business[1]

Banking business includes:

(1) Receiving deposits into current accounts, savings accounts, or fixed deposit accounts for 3 months, 6 months, one year, and more than one year, with or without interest;

(2) Extending credits in the form of short-term, medium-term, and long-term loans, discounting and rediscounting negotiable instruments, and providing guarantees, provided that credit facilities in other forms shall require an approval of the BOL;

[1]Law on Commercial Banks, Article 41.

(3) Providing payment and collection services;

(4) Issuing and managing means of payment such as cheques and credit cards;

(5) Buying and selling foreign currencies; and

(6) Providing safekeeping services for valuable items and documents.

3.1.2 Financial business[2]

Financial business includes:

(1) Issuing, buying and selling securities;

(2) Money broker;

(3) Insurance services;

(4) Financial leasing;

(5) Financial advisory services;

(6) Investment advisory services;

(7) Underwriting services; and

(8) Other financial business in accordance with the regulations of the BOL.

Financial leasing and insurance and underwriting services are required by law to set up a new entity separate from the bank.

In addition, the Decree on Implementation of the Law on Commercial Banks imposes the conditions for business operation of a commercial bank to the effect that the commercial bank must have a good financial standing and can comply with all rules and regulations regarding security and stability as well as other requirements for the operation of financial business.

3.1.3 Prohibitions

The Lao PDR imposes prohibitions[3] for a commercial bank regarding its business operation that the commercial bank shall not:

(1) Enter into or participate in any transaction that might enable it or a third party to control the finance market, the capital market, or the international finance market;

(2) Enter into a transaction that might cause disruption or give an unfair advantage or disadvantage to other commercial banks and other sectors;

[2]Law on Commercial Banks, Article 42.
[3]Law on Commercial Banks, Article 43.

(3) Demand or impose any improper or unlawful condition for compliance by any natural or legal entity before such person can receive any services provided by it or by another company in its group;

(4) Buy the assets of any company in its group or the securities underwritten in the past year by any company in its group. Moreover, the company that is regarded as company in the a commercial bank's group must be the company holding enough shares to have management power over that company; and

(5) Provide any credit enhancement for, or extend any credit to facilitate, the purchase of securities underwritten, placed or distributed by it or its affiliate(s).

3.2 Types of Financial Institutions

Due to the current economic growth in the Lao PDR, the financial institution business expands a great deal. Presently, there are 137[4] financial institutions in the Lao PDR, all of which are duly registered with the BOL's Department of Financial Institutions Supervision, and more financial institutions are likely to come into existence in the future.

Currently, there are 7 types of officially-certified financial institutions which are pawn shops, leasing companies, small-scale depository financial institutions, small-scale non-depository financial institutions, small-scale financial projects, credits and savings cooperatives, and international money-transfer companies.

Moreover, certain other financial establishments are registered upon approval of the Department of Financial Institutions Supervision, which recognizes the grouping of people to carry out activities similar to those of a financial institution without being legalized by any law or regulation. Such other financial establishments include the Fund for Economic Development Area 4 Bungkuang and the Employees' Savings Cooperative.

3.2.1 Pawn Shops

To operate the business of a pawn shop requires an approval of the relevant authority, which is either the BOL or its branch office, and a Business License. Besides, in order to ensure safety for the pawned items, a pawn shop must be in a suitable location and built according to standard. It must have a fireproof vault that can withstand the fire for at least 2 hours as well as other necessary equipment.

Any person wishing to be a pawnbroker must have the following qualifications:

(1) At least 25 years of age;

[4]Information as of 26 May 2015.

(2) Not having been criminally punished for theft, fraud or embezzlement; and

(3) Having a good financial standing and being trustworthy and accepted by people in the community.

A pawn shop must have an initial registered capital of not less than LAK50,000,000, consisting of cash and precious metals that can be converted into cash immediately. When approved to set up a pawn shop, the prospective pawnbroker must deposit money, as security, in the amount of 10% of the registered capital in his deposit account opened with the BOL or a branch office of the BOL or the bank assigned by the BOL to consider and approve the setting up of such pawn shop, within 7 business days from getting the approval. Such security deposit may not be withdrawn throughout the duration of the business operation, and the pawn shop may use not more than 90% of its registered capital.

In the pawn shop business, written pledge agreements must be made per form determined by the BOL and the pledge must be in Kip only. The pawn shop may charge interest on the pledge at a rate higher than the maximum lending rate chargeable by the State's commercial banks by not more than 3%. In the event of different lending rates, the pawn shop can choose the highest rate applicable. Interest is computed according to the number of days the pledge is taken.

In operating a pawn shop, the pawnbroker is prohibited from:

(1) Entering into a pledge agreement with an incompetent person such as a person of unsound mind or a person below eighteen;

(2) Taking in pledge the State's property, the property of a third party without its owner's permission, antiques which are the national property, weapons, poison of all kinds, forbidden objects, and illegally obtained property;

(3) Charging compound interest;

(4) Carrying out other business in the pawn shop;

(5) Allowing any customer to pawn his/her property for an amount higher than the rate determined by the BOL in each period, which rate is at present not more than 20% of the pawn shop's registered capital; or

(6) Taking the pawned property out of the pawn shop to make use of it or to have it modified.

As mentioned above, a pawn shop is not allowed to take in pledge any property that is obtained illegally. However, in the event that the pawn shop has received such property in good faith, not knowing that it has been obtained illegally, the bona fide owner of such property, if wanting to reclaim it, must pay the principal and interest to the pawn shop

and may sue the pledgor for such principal and interest. In the event that the pawn shop has knowingly taken the illegally obtained property, the owner has the right to reclaim such property without any compensation whatsoever to the pawn shop. The pawn shop, in turn, may take recourse against the pledgor but cannot sue him/her, and both the pledgor and the pawn shop may be subject to criminal punishment.

Leasing Company

According to the Decree on Credits Leasing, “credits leasing” means a lease with an initial term of at least one year where the lessee specifies the property and chooses the property’s owner without any efforts and decision of the lessor and where the lessee receives such property through a credits leasing agreement. Such credits leasing may be agreed, regardless of whether the rent will be the overall value or the substantial part of the value of the property or whether the lessee has the option of buying the property or renewing the lease for a definite duration or paying the rent. Though by its definition, the credits leasing must have an initial term of at least one year, in practice the lessee may repay the credits prior to the maturity date specified in the agreement.

A leasing company is a financial institution. To be eligible to operate the credits leasing business, the company must have the status of a legal entity (except in the case of a sole limited company which is not allowed to operate this type of business despite being a legal entity) and at least 5 founders. The company must have at least one major shareholder holding at least 20% shares who has experience in financial services. Since the credits leasing business is not limited to foreign nationals or legal entities, foreign investors can invest in this business. Any licensed legal entity may carry out all activities relating to the credits leasing business. For example, a licensed legal entity may buy any property for leasing, or provide any property for a lessee through a leasing agreement, or sell or transfer any property to a lessee or a third party during or in the last period of the lease term, all of which is under guarantee. In effect, “credits leasing” is similar to the “leasing” business in Thailand.

The legal entity seeking to set up the leasing company must have an initial registered capital of LAK500,000,000, with good financial standing and experience in this kind of business. A commercial bank may operate the credits leasing business but has to set up a separate entity which is financially independent of the bank. The commercial bank which has set up a credits leasing company or has co-invested in such company must not give any financial or servicing privileges to such credits leasing company, but shall treat and service it in the same way as the bank treats and services other customers.

3.2.2 Small-Scale Depository Financial Institutions

A small-scale depository financial institution is a financial institution that receives deposits from the general public, extends small loans[5] and provides other small-scale financial services. A foreign natural or legal entity can co-invest with a Lao natural or legal entity, according to the ratio determined by the BOL, in setting up a small-scale depository financial institution, though currently there is no regulation governing such ratio. A small-scale depository financial institution must be set up in the form of a company (with the exception of a sole limited company), with an initial registered capital of LAK3,000,000,000.

A small-scale depository financial institution has the following rights and responsibilities:

(1) To receive savings, fixed deposits, and other kinds of deposits from the general public, upon approval of the BOL;
(2) To extend small loans; and
(3) To provide such other services as authorized by the BOL.

3.2.3 Small-Scale Non-Depository Financial Institutions

A small-scale non-depository financial institution is a financial institution that extends small loans and raises funds in the form of borrowings or financial aid without returns from local and overseas sources. The investor shall operate this type of business in the form of a company (with the exception of a sole limited company), with an initial registered capital of LAK200,000,000. The business of a small-scale non-depository financial institution is reserved for Lao nationals only, so the foreign natural or legal entities cannot invest in this type of business in the Lao PDR.

A small-scale non-depository financial institution can enter into the following transactions:

(1) To extend small loans in Kip to its customers;
(2) To raise funds in the form of either borrowings or financial aid without returns from local or foreign organisations, upon written approval of the BOL;
(3) To open accounts and make deposits with the BOL or local commercial banks;
(4) To provide such other services as authorised by the BOL; and
(5) To comply with the anti-money laundering regulations as well as other regulations set out by the BOL.

[5]Small loans mean the loans have or do not have the mortgage security that having the financial amount not exceed LAK 10,000,000 or related the financial of Bank of Lao P.D.R as stipulated in the period of time

3.2.4 Small-Scale Financial Projects

A small-scale financial project is a financial institution in the form of a village development fund or a home bank or other project similar in form and pattern to a small-scale financial project, which is set up by a group of people or a legal entity and funded by an organization or an individual.

To set up a small-scale financial project, the investor shall apply to the BOL. If the BOL is of the opinion that the proposed business plan is feasible and beneficial to those who will participate in the project and is not against the policies, regulations and laws of the Lao PDR and that the project is funded by a person with a sufficiently good financial standing as shown in the business plan and is managed by qualified persons with knowledge and experience suitable for the project, the BOL shall then issue a license to operate such project.

3.2.5 Credits and Savings Cooperatives

A credits and savings cooperative is a business run by a group of people, and approved by the BOL, to carry out activities about credits and savings. Those activities include extending loans, receiving deposits, and providing other financial services to the cooperative's members in accordance with the law. A credits and savings cooperative must have the status of a legal entity and must obtain a license from the BOL. A license to set up a credits and savings cooperative is valid for 10 years.

Any group of people wishing to set up a credits and savings cooperative must be homogeneous occupationally, organizationally or geographically and must consist of persons who are of age, of Lao nationality, and domiciled in the Lao PDR. The business of a credits and savings cooperative is reserved for Lao nationals only, so foreigners cannot apply to set up such cooperative.

A new cooperative must have at least 10 founders and at least 100 members. However, a financial institution or a cooperative which has already been in business but wants to switch to a credits and savings cooperative must have no fewer than 250 members and deposits of at least LAK300,000,000 and must obtain an approval of the BOL. In both cases, there must not be any member holding shares, or any member and a third person jointly holding shares, in excess of 10% of the cooperative's initial registered capital, which at present must be at least LAK100,000,000 and in cash only. In addition, the share value shall be as determined in the internal rules and regulations of the credits and savings cooperative but must not exceed LAK 100,000 per share.

Shares of a credits and savings cooperative are not transferable, saleable or negotiable, but members can withdraw their money upon termination of their membership or resignation, provided, however, that such withdrawal does not affect the cooperative's liquidity and equity ratio.

A credits and savings cooperative can enter into the following transactions:

(1) To extend loans in Kip to its members on condition that any one member can take out a loan of not more than 10% of the cooperative's registered capital and that the relevant loan agreement must at least bear the signatures of the borrower and the cooperative's authorized person;
(2) To receive obligatory deposits and voluntary deposits from members; for this purpose, "obligatory deposit" means the deposit put up on a pro rata basis by the member who has taken out a loan from the cooperative as security against such loan and which can be withdrawn immediately after the member repays the loan in full, and "voluntary deposit" means the deposit made or withdrawn by a member at any time or as mutually agreed by the member and the cooperative;
(3) To raise funds in the form of either borrowings or financial aid without returns from local and foreign organizations or other legal entities;
(4) To provide payment or money transfer services within the country;
(5) To act as an insurance broker in selling insurance products to the members; and
(6) To fix interest rates for deposits and loans.

A credits and savings cooperative cannot enter into the following transactions:

(1) To operate credits leasing business;
(2) To buy and sell gold, precious metals, raw materials, and goods;
(3) To provide payment services via cheque accounts;
(4) To operate forward or foreign exchange businesses;
(5) To issue letters of credit or letters of guarantee, to offer and deal with trading of bonds, or to provide other forms of guarantee;
(6) To provide insurance services;
(7) To buy, sell or deal with real estate, except for the cooperative's own use;
(8) To buy, sell or possess financial products that have the characteristics of derivatives; or
(9) Other restrictions as imposed by the BOL.

3.2.6 International Money-Transfer Companies

An international money-transfer company is one of the financial institutions in the Lao PDR, but there is presently no specific regulation governing this type of business. Any person wishing to set up an international money-transfer company may apply to the BOL's Department of Financial Institutions Management.

4. Anti-Money Laundering Law

Presently, money laundering is one of the world's most serious problems. Every country is aware of the problem and has been making every effort to find the way to prevent and suppress it. The Lao PDR, likewise, has become an associate member of the Financial Action Task Force (FATF) which is under the Asia-Pacific Group on Money Laundering. In addition, the Lao PRD also enacted a law to prevent money laundering in the country. Currently, the main law directly applicable to money laundering is the Decree on Anti-Money

4.1 Definition of Money Laundering

According to the Decree on Anti-Money Laundering, "money laundering" means modifying, using, possessing, removing, exchanging or transferring money or property which a person, a legal entity or an agency knows or suspects that such money or property has been obtained illegally through commission of a criminal offence or has been obtained in order to conceal or hide the source of that money or the location of property or in order for such money or property to become legal.

The following criminal offences are considered main crimes for money laundering:

(1) Embezzlement;
(2) Theft and plunder;
(3) Murder or assault;
(4) Kidnapping and unlawful detention;
(5) Illegal trade;
(6) Forgery of cheques or illegal use of forged cheques or forged bonds;
(7) Forgery of documents or illegal use of forged documents;
(8) Violation of intellectual property;
(9) Corruption;
(10) Bribery;
(11) Prostitution;
(12) Human trafficking and illegal immigration;

(13) Manufacture, sale or possession of narcotics;
(14) Illegal trade in arms or explosives;
(15) Participation in a criminal organization and a group of people who collect protection fees;
(16) Terrorism and terrorism funding;
(17) Environmental crimes;
(18) Tax crimes;
(19) Insider trading and speculating stock;
(20) Violation of tax regulations;
(21) Extortion; and
(22) Pirating.

4.2 Transactions Suspected of Being Money Laundering

The Lao PDR has set out the rules and criteria regarding transactions suspected of being money laundering so that the institutions responsible for reporting offences relating to money laundering can identify those transactions. Such a transaction may be any transaction, or the customer's efforts in making any transaction, which does not tally with his/her past or usual business practices. The suspicion may be aroused by the customer himself/herself or by other person accompanying him/her while making such transaction. Those suspicious transactions include the following:

4.2.1 Money laundering by cash transactions

(1) There is an unreasonable increase in deposits, which does not tally with the usual business practices of an individual or a legal entity.
(2) A large and unusual sum of money is deposited and then transferred or withdrawn from the account. (Particularly, in the case of a short-term deposit and a transfer of money to certain destinations whether or not related to the customer)
(3) The customer deposits a moderate sum of money on a regular basis, but the aggregate value of the deposits is high.
(4) The customer exchanges a number of low-value bank notes for higher-value bank notes, thereby getting a lot of cash.
(5) The customer exchanges a large sum of cash for other currencies on a regular basis.
(6) The customer deposits counterfeit bank notes or financial papers or uses those notes or papers in other transactions with the bank.

(7) There are transfers of a large sum of cash into or out of the country.

(8) There are cash transactions that are made in such a way as to sidestep the requirements for reporting the transactions worth more than the threshold determined by the Anti-Money Laundering Intelligence Unit.

4.2.2 Money laundering through accounting process

(1) The customer opens several bank accounts and the total amount of all balances is large.

(2) The customer is unable to provide generic information or provides insufficient or incorrect information at the time of opening a bank account.

(3) A large sum of cash is withdrawn from an inactive account.

(4) A large sum of cash is withdrawn from a bank account immediately after the money is transferred to such account.

(5) There are efforts to avoid contacts with a company's agent or branch office, which contacts usually require the opening of bank accounts.

(6) Several persons transfer or credit money to a single account without enough justification.

4.2.3 Money laundering through international banking system

(1) The customer is recommended by a foreign bank which is situated in the country widely known for drug production or trafficking.

(2) Letters of credit and other means of moving money between countries are used for an international trade, but such international trade is not consistent with the customer's business operation or pricelist or other commercial paper.

(3) The customer regularly draws out a large sum of money, using such means that is not as clear as a transaction made at the bank.

(4) The customer regularly receives payments of large sums of money from the countries involved in production, sale and marketing for drug trafficking or related to terrorist organisations.

(5) There is an increase in the balance in the customer's account, which does not tally with the actual income of the customer's business, and such balance is transferred to an overseas account.

(6) There are transfers of money between countries without information about the origin of those transfers, and the transfers are made in a rush, for

example, the money being transferred into an account and then transferred out immediately without enough justification.

(7) The customer makes a complicated transfer of money for no explicable reason, and the transferred money is in cash, not withdrawn or deducted from the customer's bank account.

(8) There are regular purchases of traveller's cheques, drafts in foreign currencies, or negotiable instruments without economic justification.

(9) Traveller's cheques or drafts in foreign currencies are cashed on a regular basis without economic justification.

4.2.4 Money laundering involving employees or representatives of the institutions responsible for reporting

(1) Their behaviors are found to have changed, for example, living extravagantly.

(2) There are changes in their performance of duty. For instance, a bank's marketing officer can sell more banking products, or the sales volume is unusually high.

4.2.5 Money laundering through secured or unsecured loans

(1) The customer who has financial problems can repay his/her loan.

(2) The customer raises a loan by putting up property as security, but such property has an unknown origin or does not tally with the customer's financial standing.

4.3 Institutions Responsible for Reporting Transactions Suspected of Being Money Laundering

The following institutions are responsible for reporting to the relevant authorities any transaction suspected of being money laundering:

(1) Commercial banks;

(2) Small financial institutions;

(3) Insurance companies;

(4) Casino, games and lottery establishments;

(5) Companies extending loans and credits of all kinds;

(6) Pawn shops;

(7) Credits leasing companies;

(8) Money-transfer services companies;

(9) Companies or dealers for any means of payment such as credit cards, traveller's cheques, bank drafts and others;

(10) Securities companies or companies providing securities trading services;

(11) Currency exchange shops;

(12) Companies providing investment, management or fund management services in the name of other natural or legal entities;

(13) Real estate agent companies;

(14) Businesses of buying and selling precious metals and antiques;

(15) Law offices and Notary offices;

(16) Lawyers council;

(17) Auditing firm; and

(18) Other institutions as determined by BOL.

4.4 Anti-Money Laundering Measures

As a general rule, everyone has a duty to prevent money laundering, whether it is a natural or legal entity or an organization, but the institutions specified in Clause 4.3 above have the following direct duties in order to prevent money laundering:

(1) To specify plans having all the details required by law in order to prevent money laundering and terrorism funding[6];

(2) To comply with the principles regarding the assessment and management of risk incurred from money laundering which its mechanisms shall be set forth in the specific regulations and the terrorism funding[7];

(3) To find additional information of customers by requesting from them identity verification documents such as identification card, house registration, Enterprise Registration Certificate or other documents issued by the State which the mechanism of such duty shall be set forth in the specific regulations[8];

(4) To take a continuous interest in customers in order to ensure that the information given by them corresponds to their current information and that their transactions are correct and correspond to their transaction history as well as to determine information concerning the source of investment funds if necessary. Special attention is also required in business transactions with natural or legal entities or State agencies in a country that does not have laws on anti-money

[6]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 19.
[7]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 20.
[8]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 21.

laundering and terrorism funding or where its laws on anti-money laundering are not strict[9];

(5) To seek information concerning customers such as first name and surname, birthday, nationality, address and occupation or to seek information concerning name and address of the company, identity verification documents of director, information with respect to shareholders and business movement and size if such customer is an legal entity. However, if failing to obtain the necessary information, all business operations or business communications with such customers shall cease; as a result the transaction shall be deemed as having reasonable doubt and shall also be reported to the Anti-Money Laundering Office[10];

(6) To obtain information regarding customer transactions such as aim and objective with respect to their services and business communications they have with their institution[11];

(7) To contact any person having political status which specified institution shall have a suitable risk management system in order to learn whether the customer or beneficiary is the person with political status or not. If so, the institute shall proceed as follows[12]:

(12.1) Report to the Board of Directors or the management in order to request permission prior to their business transaction or transaction with their customers;

(12.2) Use suitable measures in determining the source of investment funds; and

(12.3) Continuously monitor the business movements and customer's business transactions;

(8) To contact the bank's representative in order to assess and examine the position of the bank currently in a business relationship with the financial institutions regardless of whether such bank has followed the Anti-Money Laundering and Terrorism funding objective plan or not. If such representative carries out any of the abovementioned violations, all business communications and transactions shall be ceased immediately;[13]

(9) To maintain transaction records, i.e. each service of wire transfer regarding transactions or mediums of the transfer. Financial institutes shall gather and

[9]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 22.
[10]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 23.
[11]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 24.
[12]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 25.
[13]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 26.

check the information regarding name, surname, address, account number and purpose of the transferor's transfer. In case where a financial institution receives the transferred money with no information or information is missing on the transferor, such financial institution shall refuse payment to the beneficiaries and transfer the money back to the transferring financial institution and report the case to the Anti-Money Laundering Intelligence Office for consideration;[14]

(10) To carefully keep information in order to provide such information to the Anti-Money Laundering Intelligence Office and other related organizations. In case such information is the certificates of the customer or the beneficiaries from the transactions, such information shall be kept for at least 10 years after the end of business ties with the customers, and if such information is the data on the transactions of the customer, such information shall be kept for at least 5 years from the day it was obtained;[15]

(11) To postpone transactions when it is suspected that the customer's transactions are activities of money laundering or financing of terrorism by postponing such transaction for 3 working days and reporting it to the Anti-Money Laundering Intelligence Office for consideration;[16]

(12) To report to the Anti-Money Laundering Intelligence Office in case the customer wishes to perform the following transaction:[17]

(12.1) Cash transaction that exceeds limit in value;

(12.2) Wire transfer that exceeds limit in value; or

(12.3) Any other transaction according to the stipulations of the Anti-Money Laundering Intelligence Office.

The BOL is responsible for setting the value of cash transaction or money transfer which is required for reporting. However, the values have not yet been issued as of this moment;

(13) To report to the Anti-Money Laundering Intelligence Office within 3 working days of any suspicious act of a customer leading to suspicion that a transaction may be related or connected to money laundering or the financing of terrorism;[18] and

(14) To keep secret reporting, i.e. the executives' officers and staff of the reporting entities shall keep secret of any transactional report of suspicion of money laundering and financing of terrorism or other information reported to the Anti-Money Laundering Intelligence Office.[19]

[14]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 27.
[15]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 28.
[16]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 29.
[17]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 30.
[18]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 31.
[19]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 32.

Regarding competent authorities that have the duty of reporting money laundering, if a transaction is detected, found or suspected that it is being used for money laundering or the financing of terrorism, provisional measures may be taken to seize, freeze funds or property, or request the court to freeze such funds or property in accordance with the law and it shall not affect the regular operations of the financial and monetary system.[20]

Moreover, the law lays out principles of protecting staff and authorities working on anti-money laundering and counter-financing of terrorism, including those participating in the work such as informants, information gatherers, witnesses, experts and their families against any revenge, and threats against life, health, freedom or damage to their dignity, reputation or private property.[21]

5. Relevant Government Authorities

The State organization in charge of banks and financial institutions in the Lao PDR is the BOL, having relevant agencies namely, the Department of Financial Institutions Supervision, in charge of the registration of establishment of various non-commercial bank financial institutions, and the Department of Commercial Bank Supervision, in charge of the registration of establishment of commercial banks, branches of international commercial banks and branches of domestic commercial banks. In addition, both agencies are also in charge of and inspect financial institutions and commercial banks in the Lao PDR in accordance with the roles and duties of each agency, and report the inspection to the BOL. Moreover, in the process of establishment of banks or financial institutions, the Ministry of Industry and Trade is also in charge of establishment of companies prior to being permitted to operate their business.

In terms of anti-money laundering and counter-financing of terrorism, the GOL is central to its management. The National Coordination Committee is then assigned to manage, monitor and inspect such matter.[22] However, since the National Coordination Committee is an organization established by the Decree on Anti-Money Laundering and Counter-Financing of Terrorism, promulgated in 2015, such committee has not yet been set up. Currently, only the Anti-Money Laundering Information Agency has been established under the Decree on Anti-Money Laundering (which is now repealed by the new Decree on Anti-Money Laundering and Counter-Financing of Terrorism). Since the National Coordination Committee has not yet been set up, the Anti-Money Laundering Information Agency remains in charge temporarily.

[20]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 38.
[21]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 11.
[22]Decree on Anti-Money Laundering and Counter-Financing of Terrorism, Article 53.

If the National Coordination Committee for Anti-Money Laundering and Counter-Financing of Terrorism is set up, such committee shall comprise of:

(1) The Deputy Prime Minister as Chairperson;

(2) The Governor of the BOL as First Deputy Chairperson;

(3) The Deputy Minister of Public Security as Second Deputy Chairperson;

(4) The Deputy Minister or Deputy Head of the relevant ministry or organization as Member(s).

Chapter 10
Transfer of Money to and from the Lao PDR

1. Relevant Legislations

(1) Law on Management of Foreign Currencies No. 55/NA, dated 22 December 2014 ("**Law on the Management of Foreign Currencies**")

(2) Presidential Edict on the Management of Foreign Currencies and Precious Metals No. 01/PC dated 17 March 2008 ("**Presidential Edict No. 01/PC**")

(3) Guidelines for the Implementation of the Presidential Edict on the Management of Foreign Currencies and Precious Metals No. 01/PC dated 2 April 2010 ("**Guidelines for the Implementation of the Presidential Edict No. 01/PC**")

(4) Decision on Amendment of Article 5 of the Guidelines for the Implementation of the Presidential Edict on the Management of Foreign Currencies and Precious Metals No. 261/BoL, dated 14 March 2012 ("**Decision No. 261/BoL**")

(5) Decree on the Management of Foreign Currencies and the Promotion on the Use of Kip dated 18 May 2007 ("**Decree on the Management of Foreign Currencies and the Promotion on the Use of Kip**")

2. General Principle for the Transfer of Money and Precious Metals to and from the Lao PDR

In general, the transfer of money and precious metals to and from the Lao PDR shall comply with the regulations of the Presidential Edict No. 01/PC. The Presidential Edict No. 01/PC aims to determine the principles for the management of foreign currencies and precious metals as well as maintaining the exchange rate of the Lao PDR Kip and foreign currencies. Its objective is also to promote the stability of national currency in order to support national economic and social development.

The Presidential Edict No. 01/PC classifies persons and legal entities into two categories, which are Residents of the Lao PDR and Non-residents of the Lao PDR.[1] The details are as follows:

[1] Presidential Edict No. 01/PC, Section 2.

(1) "Residents of the Lao PDR" means:

(a) Lao citizens domiciled in the Lao PDR;

(b) Lao citizens studying abroad or hospitalized in a foreign country;

(c) Lao authorities – officers based at Lao embassies, Lao consulates and international organizations established in a foreign country;

(d) Lao citizens who have resided outside the country not exceeding 1 year;

(e) State organizations and social organizations of the Lao PDR operating within and outside the country;

(f) Persons, Lao legal entities, or foreign legal entities within the Lao PDR, operating business which is legally permitted and registered under the laws of the Lao PDR and the representative offices of such legal entities located in foreign countries not exceeding 1 year;

(g) Foreigners who have worked in the Lao PDR for more than 1 year and are not authorities or officers of a foreign embassy or foreign consulate or international organization; and

(h) Foreigners or persons without nationality domiciled and earning a living permanently in the Lao PDR.

(2) "Non-residents of the Lao PDR" means:

(a) Persons and legal entities in a foreign country;

(b) Foreigners studying, travelling, visiting relatives and being hospitalized in the Lao PDR;

(c) Foreign embassy, foreign consulate, international organizations and foreign authorities or officers of the aforesaid organizations, foreign consultants and foreign experts based in the Lao PDR including their family;

(d) Foreigners who have resided in the Lao PDR for no more than one year;

(e) Representative office of foreign legal entities located in the Lao PDR for not more than 1 year; and

(f) Lao citizens who are not studying or hospitalized, residing in a foreign country for more than one year.

2.1 The Use of Foreign Currency in the Lao PDR

The Law on the Management of Foreign Currencies prescribes that persons domiciled in the Lao PDR and persons domiciled in a foreign country may hold lawfully acquired foreign currency, both in their possession or deposited in savings accounts with commercial banks in the Lao PDR.

The Presidential Edict prohibits a person and legal entity to directly pay or receive foreign currency for the payment of goods and services or for settling debts within the Lao PDR unless the approval from the government as proposed by the Bank of Lao PDR is obtained. If a holder of foreign currency needs to make payment within the Lao PDR, he shall exchange the foreign currency into Kip with commercial banks or currency exchange stores authorized by the Bank of Lao PDR prior to the payment.[2]

Nevertheless, if a person or legal entity who wishes to use foreign currency for the following objectives, such person or legal entity can make the payment in foreign currency within the Lao PDR by buying foreign currency from commercial banks or currency exchange stores. This shall be done in accordance with the regulations of the Bank of Lao PDR.[3]

(1) To pay for imported goods
(2) To pay for services directly related to import - export of goods such as transit transportation fee, insurance fee, and transit warehousing fee
(3) To provide loan repayment according to the agreement approved by the government or organizations authorized by the government
(4) To provide grants to a foreign country in accordance with the agreement approved by the government or organizations authorized by the government
(5) To transfer profits, dividends, capital, interests, and other service fees of foreign investors, and wages of foreign workers back to their countries or to the third countries in accordance with the Law on Promotion and Protection of Foreign Investment in the Lao PDR
(6) To invest in a foreign country in accordance with the permission of the government;
(7) To respond to the government budget
(8) To implement other objectives in accordance with the regulations issued by the Bank of Lao PDR such as hospitalization, studying, and visiting abroad.

[2]Presidential Edict No. 01/PC, Section 3.
[3]Presidential Edict No. 01/PC, Section 5.

2.2 Transfer of Money into the Lao PDR

2.2.1 Kip Currency

Residents of the Lao PDR and Non-residents of the Lao PDR traveling to the Lao PDR may carry no more than LAK20,000,000(approximately USD2,500). If the amount exceeds LAK20,000,000, an approval from the Bank of Lao PDR must be obtained.[4]

2.2.2 Foreign Currencies and Precious Metals

A person traveling to the Lao PDR may carry cash in foreign currencies and/or precious metals into the Lao PDR without any restriction. Any amount exceeding or equivalent to LAK100,000,000 (approximately USD12,700) must be declared to the customs officer at the check point so that the customs officer can issue a "Certificate of Importation of Foreign Currency and/or Precious Metals" to be used as evidence in the future.[5]

2.3 Transfer of Money from the Lao PDR

2.3.1 Kip Currency

Residents of the Lao PDR and Non-residents of the Lao PDR traveling from the Lao PDR may carry no more than LAK20,000,000(approximately USD2,500) out of the country. If the amount exceeds LAK20,000,000, an approval from the Bank of Lao PDR must be obtained.[6]

2.3.2 Foreign Currency and Precious Metals

A person traveling from the Lao PDR, who wishes to take out foreign currencies in cash and/or precious metals with the equivalent value of LAK100,000,000 (USD 12,700) or more, shall present the Certificate of Importation of Foreign Currency and/or Precious Metals as evidence of having brought such foreign currencies and/or precious metals into the Lao PDR or shall obtain an approval from the Bank of Lao PDR or from an authorized commercial banks before the money and/or precious metals can be brought out of the Lao PDR.[7]

[4]Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 13.
[5]Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 13.
[6]Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 13.
[7]Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 13.

3. Transfer of Money to and from the Lao PDR by Foreign Investors

3.1 The Import of Capital in Foreign Currency into the Lao PDR

3.1.1 The Transfer of Money into the Lao PDR via Money Transfer of Commercial Banks

The Presidential Edict stipulates that foreigners and foreign legal entities investing in the Lao PDR shall open an account with commercial bank established in the Lao PDR in order to transfer the money in foreign currency to be used as a capital for business operations.[8] This is for the purpose of monitoring such money as well. The capital in foreign currency shall be transferred through the commercial bank, where the amount of such money shall be in accordance with the amount of capital specified in the enterprise registration certificate or investment license[9] issued by the Ministry of Industry and Trade or the Ministry of Planning and Investment as the case may be. Nevertheless, it is clearly stated in the Presidential Edict that the investors can transfer the specified capital in foreign currency directly to the Lao PDR.

The transfer of capital in foreign currency must comply with the regulations specified by the Bank of Lao PDR. After the capital in foreign currency is transferred to the Lao PDR, the investors shall submit the application to the Bank of Lao PDR for the issuance of a Certificate of Capital Importation for the Investment in the Lao PDR. In addition, the foreign investors shall declare the importation of capital in foreign currency to the Bank of Lao PDR every year until the capital has been fully brought in according to the investment license so the Bank of Lao PDR can issue a complete certificate of capital importation. This is to be used as an evidence for the exportation of capital in the future.[10] The Department of Foreign Policy at the Bank of Lao PDR is responsible for the issuance of such certificate. The supporting documents to be filed with the application are as follows:

(1) Application form of the Bank of Lao PDR
(2) Notification on the transfer of money to the bank account
(3) Statement of the bank account
(4) Copy of the enterprise registration certificate
(5) Copy of tax identification or annual tax certificate
(6) Copy of the consent letter to borrow money from foreign country or the loan agreement (if any)

[8] Presidential Edict No. 01/PC, Section 25.
[9] The investment licenses are no longer issued at present.
[10] Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 22.

The Department of Foreign Policy shall consider whether such application for an approval to import the capital is in accordance with the regulations of the Bank of Lao PDR or not. Once the application is approved, the Bank of Lao PDR shall issue a certificate within 15 business days to confirm that such capital transfer is completed and there shall be a fee of LAK15,000[11] If the foreign investors transfer the capital for investment to the Lao PDR without any certification from the Bank of Lao PDR, it shall be deemed as the violation of law and shall be fined 10% of the imported money. If such violation still continues, the violator shall be fined 50% of the imported money[12]

3.1.2 The Carrying of Cash or Precious Metals into the Lao PDR for Capital Investment

3.1.2.1 The Carrying of Cash into the Lao PDR

When cash is brought into the Lao PDR for capital investment, a notification of cash importation shall be issued to the investor by the customs officer at the check point as well as the statement to certify the deposit account related to the imported cash shall be issued by the commercial bank established in the Lao PDR. In addition, the investors shall submit an application for a Certificate of Capital Importation to the Bank of Lao PDR once such money is deposited in the bank account of the commercial bank in the Lao PDR. The Bank of Lao PDR shall examine the aforementioned evidence of the capital importation and issue the real Certificate of Capital Importation to the foreign investors. If the cash brought into the Lao PDR does not have the above-mentioned evidence, the Bank of Lao PDR shall not issue a certificate of capital importation to the investors.[13]

The supporting documents to be filed to the Bank of Lao PDR together with the application for a Certificate of Capital Importation are as follows:[14]

(1) Application form of the Bank of Lao PDR
(2) Notification of cash importation issued by customs officer at the check point
(3) Statement of the deposit account related to the imported cash
(4) Copy of the enterprise registration certificate
(5) Copy of tax identification or annual tax certificate
(6) Copy of the consent letter to borrow money from foreign country or the loan agreement (if any)

[11] An inquiry with the officer from the department of Foreign Currency Management, the Bank of Lao PDR dated 5 September 2014.
[12] Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 31(7).
[13] Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 22.
[14] Bank of Lao PDR . The import of capital from foreign countries by the company operating business in the Lao PDR. 5 December 2013.

If the foreign investors bring in cash for capital investment without any certificate of capital importation, it shall be deem as the violation of law and shall be fined 10% of the imported money. If such violation still continues, the violator shall be fined 50% of the imported money.[15]

3.1.2.2 The Carrying of Precious Metals into the Lao PDR

Precious metals mean gold and silver bars which can be used for international payment.[16] In case the precious metals are brought into the Lao PDR for capital investment, a certificate of importation shall be issued to the investor by the customs officer at the check point in the same way as the importation of cash. The investor shall then submit the application to the Bank of Lao PDR for a real certificate of capital importation. The supporting documents to be filed to the Bank of Lao PDR together with the application for a certificate of capital importation are as follows:[17]

(1) Application form of the Bank of Lao PDR
(2) Copy of the import license
(3) Copy of the import invoice
(4) Copy of the enterprise registration certificate
(5) Copy of tax identification or annual tax certificate

3.2 Transfer of profits, dividends, principals, interests or capital from the Lao PDR to Foreign Countries

Foreign investors investing in the Lao PDR may transfer the money back to their countries or to the third country in 2 cases as follows:

3.2.1 Transfer of profits, dividends, principals, and interests

The foreign investors wishing to transfer profits, dividends, principals or interests to their countries or to the third country shall submit the following documents to the commercial bank.[18]

(1) Application to transfer the money
(2) Certificate of capital importation issued by the Bank of Lao PDR
(3) Statement of the bank account

[15]Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 30(7) and Section 31(7).
[16]Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 2.
[17]Bank of Lao PDR . The import of capital from foreign countries by the company operating business in the Lao PDR. 5 December 2013.
[18]Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section23.

(4) Loan Agreement (for the transfer of principal or interest to the foreign lender)

(5) Resolutions[19] to distribute dividend of the board of directors or shareholders' meeting

3.2.2 Transfer of Capital after the End of Investment Period

After the end of investment period or the business operation has been partly or wholly suspended, the investors may transfer their capital back to their countries or to the third country. For such case, the following documents shall be submitted to the Bank of Lao PDR.[20]

(1) Application to transfer the money

(2) Certificate of capital importation issued by the Bank of Lao PDR

(3) Agreement or notice not to extend the investment license or to suspend the business partly or wholly issued by the Ministry of Planning and Investment or the Ministry of Industry and Trade as the case may be (In general, the notice shall be issued by the Ministry of Industry and Trade, except for concession business, the notice shall be issued by the Ministry of Planning and Investment)

Nevertheless, whether the transfer of money is in accordance with 4.2.1 or 4.2.2, once the commercial bank has received the documents related to the transfer of money to foreign countries, the commercial bank shall propose the application to the Bank of Lao PDR within 1 business day. After the application is approved by the Bank of Lao PDR, the investors shall then be able to transfer the money to foreign countries. For the transfer of money in this case, the investors do not need to submit application or notify directly to the Bank of Lao PDR. The investors only need to prepare the complete set of documents and submit to the commercial bank.

In case it is the transfer of money to foreign countries by a natural person who has a deposit account with commercial bank in the Lao PDR, such person may transfer money without presenting any documents if the transferred amount does not exceed LAK100,000,000 (approximately USD12,700) or equivalent per time. If such person has no deposit account with commercial bank, he may use the copy of identification card, copy of house registration or copy of passport as a supporting document for money transfer.[21] However, if a person wishes to transfer money to a foreign country in an amount exceeding

[19] Law on Enterprises (Amended), Section 154 and 155.
[20] Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section23.
[21] Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 13.

LAK100,000,000 (approximately USD12,700) or equivalent per time, such person shall submit the aforementioned documents as well.

3.3 Exchange Rate System of the Lao PDR

The Presidential Edict stipulates that the Bank of Lao PDR is responsible for determining the exchange rate of Kip currency and foreign currencies on the daily basis. The Exchange Rate shall be calculated by market mechanism managed by the state and the Bank of Lao PDR shall notify the exchange rate to every commercial bank on the daily basis.[22] The Bank of Lao PDR has the duty to monitor the interbank foreign exchange market and may participate in the purchase and sale of foreign currency in such market to increase government's foreign currency reserve and to successfully implement the monetary policy.

Persons and legal entities may purchase or sell foreign currencies only with commercial banks or currency exchange stores authorized by the Bank of Lao PDR. Commercial banks may purchase and sell foreign currencies in both domestic and international markets in accordance with the regulations issued by the Bank of Lao PDR but the currency exchange stores may purchase and sell foreign currencies in domestic market only. It is noteworthy that the sale of foreign currencies to the public by both commercial banks and the currency exchange stores shall be within the financial amount determined by the Bank of Lao PDR.[23]

For the sale of foreign currencies to the public within the financial amount of LAK20,000,000 per day, the purchaser does not need to submit any supporting documents but only copy of identification card.[24] Nevertheless, for the sale of foreign currencies to the major customer at the financial amount exceeding LAK20,000,000 or equivalent per person per day[25], the purchaser of foreign currency, depending on the objectives for the purchase of foreign currency, shall submit the following documents:[26]

(1) Payment of goods in a foreign country in the form of Letter of Credit (LC), Telegraphic Transfer (TT), SWIFT Transfer, or Bank Draft.
    (a) Purchase requisition of foreign currency by the importer
    (b) Purchase order issued by the seller
    (c) Quotation issued by the seller

[22]Presidential Edict No. 01/PC, Section 4.
[23]Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section4.
[24]Notification on the Purchase-Sale of Foreign Currencies by the Currency Exchange Unit of Commercial Banks no. 57/BoL dated 6 March 2008, Article 3.
[25]Notification on the Purchase-Sale of Foreign Currencies to Major Customers No. 96/BoL dated 26 March 2012, Article 1.
[26]Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section5.

(d) Purchase and sale agreement (in case purchase orders and quotation are not available)

(e) Enterprise registration certificate and business license (Import-export)

(2) Transfer of transportation, insurance, and warehousing fee.

(a) Purchase requisition of foreign currency by service user

(b) Delivery notes (in case of transportation service)

(c) Insurance contract (in case of insurance service)

(d) Warehouse receipt (in case of warehousing service)

(e) Enterprise registration certificate and business license (import-export)

(3) Payment of capital and interest from a foreign country

(a) Purchase requisition of foreign currency by the borrower borrowing from a foreign country

(b) Foreign loan license issued by the Bank of Lao PDR

(c) Foreign loan agreement with repayment plan

(d) Certificate of capital importation specifying the import of capital in loan issued by the Bank of Lao PDR

(e) Relevant business/investment license

(f) Enterprise registration certificate.

(4) Transfer of profits and dividends of foreign investor.

(a) Purchase requisition of foreign currency by foreign investor

(b) Resolution of the shareholders' meeting[27] to distribute dividends or profits

(c) Relevant business/investment license

(d) Enterprise registration certificate

(5) Transfer of capital of foreign investors back to their country or the third country.

(a) Purchase requisition of foreign currency by foreign investor

(b) Certificate of corporate downsizing or capital decrease while the company still operates its business (in the case of the downsizing of the company)

(c) Certificate of capital importation issued by the Bank of Lao PDR

(d) Closure certificate, agreement for the purchase - sale of business, or share purchase certificate pursuant to the agreement of the board of executives or shareholders' meeting, or bankruptcy certificate issued by the court (in case the company is dissolved).

(6) Transfer of received interest or wages back to their country or the third country

(a) Purchase requisition of foreign currency by foreign investor or employee

(b) Employment contract or other contract relating to income

[27] Law on Enterprises (Amended), Section 154-155

(c) Deposit statement or bond certificate

(7) Transfer of capital for foreign investment

(a) Purchase requisition of foreign currency by authorized investor

(b) Foreign investment license issued by the authorized organization of the Lao PDR

(c) Investment license issued by the host country

(d) Certificate of capital exportation issued by the Bank of Lao PDR

(8) Medical treatment in a foreign country

(a) Purchase requisition of foreign currency of the purchaser;

(b) Foreign medical treatment license issued by the board of executives of a state or private hospital at district or capital level.

(9) Studying Abroad

(a) Purchase requisition of foreign currency by the purchaser

(b) A license issued by the Ministry of Education of the Lao PDR or admission certificate together with any expense receipts from the relevant educational institution in a foreign country.

(10) Overseas traveling

(a) Purchase requisition of foreign currency by the purchaser;

(b) Passport with visa issued by the Ministry of Foreign Affairs.

The Bank of Lao PDR shall not permit any persons to purchase and accumulate foreign currency in the domestic account. For other transactions, which require foreign currency for other international payment purposes other than those mentioned above, commercial banks may sell foreign currency but the purchaser of foreign currency must submit a correct and complete set of documents in accordance with the regulations.

4. Investment in Foreign Countries by Residents of the Lao PDR

Residents of the Lao PDR wishing to invest directly or indirectly in a foreign country shall be approved by the relevant authority, and the exportation of capital to be used for the investment shall be approved by the Bank of the Lao PDR. The following documents are required to be submitted to the Bank of the Lao PDR together with the application for approval to transfer money to invest in a foreign country:[28]

[28]Guidelines for the Implementation of the Presidential Edict No. 01/PC, Section 24.

(1) Application to transfer investment capital out of the Lao PDR;
(2) License to invest in a foreign country issued by the Ministry of Planning and Investment;
(3) Investment license issued by the host country; and
(4) Deposit account statement of the investor issued by the commercial bank where the investor has the deposit account.

5. Relevant State Authority

The primary agency with the authority relating to the transfer of money to and from the Lao PDR is the Bank of Lao PDR, who is responsible for managing, monitoring, certifying, issuing and implementing the regulations pursuant to the Presidential Edict.

5.1 Departments within the Bank of Lao PDR

(1) Administration Department
(2) Organization and Personnel Department
(3) Internal Audit Department
(4) Accounting Department
(5) Information Technology Department
(6) Currency Issuing Department
(7) Monetary Policy Department
(8) Commercial Bank Supervision Department
(9) Operation Department
(10) Financial Institution Department
(11) International Relations Department
(12) Printing House of the Bank of the Lao PDR

5.2 Agencies reported directly to the Bank of Lao PDR

(1) Lao Securities Commission Office
(2) Lao Securities Exchange (LSX)
(3) Asset Management Center
(4) Depositor Protection Fund
(5) Anti-Money Laundering Intelligence Unit
(6) Banking Institute[29]

[29] Information as of 31 May 2015.

Chapter 11
Securities and Securities Exchange Law

1. Relevant Legislations

(1) Law on Securities No. 21/NA, dated 10 December 2012 ("**Law on Securities**")

(2) Regulation Governing Reporting and Disclosure of Information No. 007/SEC, dated 3 April 2012 ("**Regulation Governing Reporting and Disclosure of Information**")

(3) Regulation on Share Offering No. 018/SEC, dated 27 July 2015 ("**Regulation on Share Offering**")

(4) Regulation on Bond Offering No. 019/SEC, dated 22 December 2014 ("**Regulation on Bond Offering**")

(5) Listing Regulations No. 24/LSX, dated 7 January 2011 ("**Listing Regulations**")

(6) Disclosure Regulations No. 22/LSX, dated 7 January 2011 ("**Disclosure Regulations**")

2. Laws Applicable to Securities

Currently, the law that defines the principles, regulations and measures relating to securities management and supervision is the Law on Securities, which has been in effect since 17 January 2013, governing various criteria and measures regarding the protection, control and follow-up of matters relating to securities for the goal of effectiveness, transparency and promotion of public participation, in order to raise funds and develop the Stock Exchange, continuously and steadily expand, as well as be a part of the socio-economic development of the Lao PDR.

However, despite the law on securities and exchange, in practice the matter is elaborate and exhaustive, with a number of things to consider. The existing securities law does not suffice when it comes to actual practices, thus justifying studying and laying down a number of regulations for suitability and clarity.

The Securities Exchange Commission ("**SEC**") is a body with the main role in studying and laying down regulations regarding securities, particularly the securities trading,

to bring them into line with the present social condition. Moreover, the Securities Exchange itself has the central role in laying down regulations for listing on the stock exchange as well.

By the end of 2014, regulations regarding securities trading were promulgated, namely, the Decision on Regulations for Public Offering, which is the main regulation that determines the conditions and procedures for public offering; and the Decision on Regulations for Issuance of Bonds, which is the main regulation that determines criteria and procedures of public offering of companies in the Lao PDR.

3. Securities Exchange

During the period 2006 – 2010, the National Assembly approved the State's 6th Five-Year Socio-Economic Development Plan, under which there was a plan for setting up the Lao Securities Exchange ("**LSX**") at the end of 2010. The Government assigned the Bank of the Lao PDR ("**BOL**") the task of implementing such plan. Accordingly, on 19 September 2007, a Memorandum of Understanding between the BOL and the Republic of Korea Stock Exchange was signed in Korea, and a Securities Market Establishment Committee was set up on 22 January 2008 to implement such project.

On 25 May 2009, the Government set up the SEC, and members of the Securities Market Establishment Committee became employees of the Office of the Securities and Exchange Commission, which commenced its operation on 2 July 2009. At the end of July 2009, a joint venture agreement between the BOL and the Republic of Korea Stock Exchange was signed, with the BOL and the Korea Exchange (KRX) holding 51% and 49% shares, respectively.

On 10 October 2010, the LSX was officially opened and became the Lao PDR's first capital market.[1]

The LSX can provide the following services:[2]

(1) Listing the securities

A securities issuing company can have its securities listed on the LSX if all conditions and requirements imposed by law are met. After its securities are listed on the LSX, the securities issuing company shall become a listed company and shall be subject to the regulations set out by the LSX.

[1] Lao Securities Exchange. Available at www.lsx.com.la.
[2] Law on Securities,Article 108

(2) Trading the listed securities

The LSX shall conclude the orders and the matching of orders according to priority in terms of time, price or amount.

(3) Clearing and settling the securities transactions

The LSX shall, at the close of each day, calculate the net results of the securities transactions and the money to be delivered to the members based on the matching of orders.

(4) Establishment and Management of the Risk Protection Fund

The Risk Protection Fund is a fund set up on the LSX to hedge against the risk of non-payment in the event that a member is unable to deliver the money it is supposed to pay. All members are required to make a contribution to the Risk Protection Fund in accordance with the regulations set out by the LSX.

(5) Monitoring the securities trading

To monitor the trading of securities, the LSX has a specific technical unit and an electronic system that can detect any unfair securities trading practices such as dissemination of false news, insider dealings, forged financial reports, and such other acts as specified in the relevant laws and regulations. The LSX shall report such unfair practices to the SEC.

(6) Other services

If the LSX wishes to provide services other than those mentioned above, for instance, improving the trading system, it must propose the matter for the consideration and approval of the SEC.

4. Public Offering of Securities

4.1 Form of Securities Public Offering

Currently, securities are offered in three different forms.[3]

(1) Initial Public Offering (IPO) or Public Offering (PO): the offering of securities which is widely advertised through the media without limitation to any specific group of investors and which is aimed at more than 100 investors;

[3]Law on Securities,Article 9.

(2) Private Placement (PP): the offering of securities to no fewer than 30 but no more than 100 strategic, institutional or individual investors, where the value, the frequency of offering, and the number of investors shall be as determined by the SEC; and

(3) Right Offering (RO): the offering of securities to the existing shareholders of a company in accordance with the ratio and method agreed at its shareholders' meeting.

Securities that can be traded on the LSX are:

(1) Stocks; and

(2) Bonds, which are divided into Government bonds and corporate bonds.

However, presently the 2 types of securities that can only be issued are stocks and bonds.

The aforementioned offering of securities must be done by a company offering of securities, which is a company that offers the sale of securities to investors for a purpose, e.g. to raise fund, to expand business, to change shareholding structure, to pay dividends or rewards or other purposes as determined by the SEC.[4] In addition, such offering must obtain prior approval by the SEC.

4.2 Qualifications and Criteria of Securities Issuing Companies

A company wishing to offer the sale of shares in each type shall be subject to the following conditions:

4.2.1 Offering of Shares

4.2.1.1 Public Offering

A company wishing to offer the sale of shares to the public shall be subject to the following conditions:[5]

(1) It must be a public company;

(2) It must be established and operated for at least 3 years, except such company which was demerged, merged or transformed from an original company that has operated for at least 3 years;

[4]Law on Securities, Article 8.
[5]Regulation on Offering, Section 6.

(3) The company must have an executive board, at least one-third of the total members of which are independent directors, approved by the meeting of shareholders;

(4) The company must have an internal inspection committee, comprising of at least 3 members appointed by the executive board. In addition, two-thirds of the internal inspection committee members shall be independent directors and at least one person shall be an expert in accounting or finance;

(5) There shall be plans for the public offering and the utilization of capital, all approved by the meeting of the executive board;

(6) There must be financial statements in the past year from the date of application to the SEC which is examined by an auditor company with an unconditional comment or comment not affecting the essence of the company's operations and financial status;

(7) There must be no changes having been made in the type of main business operations in the past 3 years;

(8) The company's income for the year prior to the application for eligibility approval must be at least LAK1,000,000,000, without accumulated loss, and its operations in the previous year has generated a net profit without overdue debt payment in principle and/or interest as indicated in a loan agreement;

(9) There must be a confirmation from a securities company of the company's ability to issue shares from a financial advisor and there shall be a list of the responsible financial advisors;

(10) There shall be a guarantee for the public offering between the company who wishes to offer the sale of securities to the public and the guarantor of the sale of securities;

(11) There must be a public offering plan, business operation plan and estimate of financial status for at least 3 years from the date of public offering, approved by the executive board; and

(12) Other conditions as imposed by the SEC.

4.2.1.2 Offering to Limited Persons

A company wishing to offer the sale of shares to limited persons shall be subject to the following conditions:[6]

(1) It must be a public company;

(2) It must be established and operated for at least 1 year, except for such company which was demerged, merged or transformed;

(3) The company must have an executive board, at least one-third of the total members of which are independent directors, approved by the meeting of shareholders;

(4) The company must have an internal inspection committee, comprising of at least 3 members appointed by the executive board. In addition, two-thirds of the internal inspection committee members must be independent directors and at least one person must be an expert in accounting or finance;

(5) There shall be plans for the offering and the utilization of capital, all approved by the meeting of the executive board;

(6) There must be financial statements in the past year from the date of application to the SEC which is examined by an auditor company with an unconditional comment or comments not affecting the essence of the company's operation and financial status;

(7) The company is able to create profit, having firm financial status and does not have overdue debt;

(8) There must be a confirmation from a securities company of the company's ability to issue shares from a financial advisor and there shall be a list of the responsible financial advisors;

(9) There must be an offering for sale to limited persons plan, business operation plan and estimate of financial status for at least 3 years from the date of public offering, approved by the executive board;

(10) The offered securities to limited persons shall not be sold or purchased within at least 6 months from the date of sale of such securities to limited persons; and

(11) There may be other conditions as imposed by the SEC.

[6]Regulation on Offering, Section 29

4.2.1.3 Rights Offering

A company wishing to offer the sale of shares to the current shareholders shall be subject to the following conditions:[7]

(1) There shall be plans for the offering and the utilization of capital, all approved by the meeting of executive board;

(2) There must be a confirmation from a securities company of the company's ability to issue shares from a financial advisor and there shall be a list of the responsible financial advisors;

(3) There shall be a guarantee for the public offering between the company who wishes to offer the sale of securities to shareholders and the guarantor of the sale of securities;

(4) There must be an offering for sale to shareholders plan, business operation plan and estimate of financial status for at least 3 years from the date of public offering, approved by the executive board; and

(5) There may be other conditions as imposed by the SEC.

4.2.2 Offering of Bonds

4.2.2.1 Public Offering

A company wishing to offer the sale of bonds to the public shall be subject to the following conditions:[8]

(1) It must be a public company or a limited company (except sole limited company);

(2) It must be established and operated for at least 3 years, except for such company which was demerged, merged or transformed from the original company and has operated for at least 3 years;

(3) There shall be plans for the public offering and the utilization of capital, all approved by the meeting of the executive board;

(4) There must be financial statements in the past year from the date of application to the SEC which is examined by an auditor company;

(5) There shall be a bank monitoring assets in order to follow-up and monitor the benefits of the bondholder;

[7]Regulation on Offering, Section 35.
[8]Regulation on Offering of Bonds, Section 8.

(6) The company shall have an adequate average profit for the past 3 years for the payment of bond interests of the bondholder;

(7) There must be a plan for the payment of principle and interest, indicating the source of funds for such payment;

(8) The company must be ranked or is guaranteed for the payment. In case the rank is lower than BBB, there must be a guarantor for such payment;

(9) In the event of the issuance of additional bonds, the company must have the ability to pay the principals and interest of the issued bonds upon their maturity;

(10) The remaining bonds must be worth less than 30% of the company's net assets in the latest summary of assets prior to the submission of offering to the SEC; and

(11) There may be other conditions as imposed by the SEC.

4.2.2.2 Offering to Limited Persons

The Company that wishes to offer for sale of bond to limited persons shall have the complete qualifications as one who conducts public offering. However, such company does not have to be established and operated for at least 3 years but only 1 year.[9]

4.3 Applying to be a Securities Issuing Company

A company wishing to issue securities must file an application, together with ancillary documents, with the SEC. Documents ancillary to the application for issuance of securities are the following:[10]

(1) Application as per form set out by the SEC;

(2) Copy of the Enterprise Registration Certificate or the Concession Certificate;

(3) Copy of the Taxpayer Certificate;

(4) The company's Articles of Association;

(5) Resolution of the shareholders' meeting approving the company's issuance of securities;

(6) List of the existing shareholders holding at least 1% shares;

(7) Confirmation from a securities company of the company's ability to issue shares or from a commercial bank of the company's ability to issue bonds;

(8) Property appraisal report, in the case of the issuance of bonds;

[9]Regulation on Offering, Section 28.
[10]Law on Securities,Article 11.

(9) Financial statements, consisting of an inventory of assets, statements of income, statements of cash flow, statements of changes in shareholders' equity, and accounting principles and methods, which have been examined by an independent auditor approved by the SEC;

(10) Prospectus;

(11) Underwriting Agreement made with a securities company; and

(12) Other relevant documents.

Upon receipt of the application for issuance of securities and the ancillary documents, the SEC will consider those documents within 45 days of such receipt. If the application is rejected, the SEC will notify the applicant in writing of such rejection, along with the reasons therefor. If necessary, the SEC may ask that the applicant provide additional information and documents, that the relevant auditor issue an audit certificate, or that the applicant or the securities company or any relevant agency meet with or provide information to the SEC.[11]

4.4 Public Offering of Securities

Upon each public offering, the securities issuing company must enter into an underwriting agreement with a securities company approved by the SEC. In the case of more than one securities companies entering into the underwriting agreement, those securities companies shall jointly underwrite by way of a joint agreement, with one of them representing them all.

Regarding the procedures for offering for sale of shares and bond, there are variations to the details as follows:

The procedures for Public Offering (PO) of shares are as follows:[12]

(1) The SEC announces its approval of the public offering.

(2) The offering price is fixed.

(3) The offering is advertised through the media.

(4) The securities are subscribed and the security deposit is paid. The underwriter shall first open the securities subscription for investors by clearly announcing the duration of such subscription. During the subscription period, the investors shall transfer the security deposit for the subscribed securities into the securities

[11]Law on Securities,Article 16.
[12]Regulation on Offering, Section 13.

issuing company's specific account opened in the Lao PDR and then notify the underwriter of such transfer.[13]

(5) The securities are allocated.

(6) In the event that any subscriber is not allocated the securities he/she has subscribed, the security deposit will be returned to him/her.

(7) The securities certificates are issued.

The procedures for Public Offering (PO) of bond are as follows:[14]

(1) The SEC announces its approval of the public offering.

(2) The offering is advertised through the media (this procedure is unnecessary for the offer for sale of bond to limited persons).

(3) For offer of sale of bond to the public, the sale of bond can be done in many forms, namely by bidding the value of bond, bidding interests or other form as approved by the SEC. The guarantor of the offer for sale of debentures shall notify the value and interest rate of the bond offered for sale including the form of bidding to investors through the media, and later conduct the bidding.

(4) The securities certificates are issued.

The offering must be completed within 90 days from the approval date. Failing that, the securities issuing company may ask the SEC for an extension, but the extension shall not be more than 30 days.

The securities issuing company shall report the outcome of the offering to the SEC in writing within 5 business days from the completion of the offering. The SEC shall approve of such outcome within 5 business days from receipt of such report so that the securities issuing company can use such approval as evidence when it registers the capital increase and can then utilise the proceeds of the sale. However, if the offered securities are sold by less than 80% of their total number, it shall be deemed that such offering is unsuccessful, and the securities issuing company must refund the investors within 5 business days from the date of approval of such outcome.[15]

In the event that the information provided proves to be untrue or the procedures for public offering are not followed, the SEC may order that the securities issuing company cease the offering of securities that might adversely affect the investors. If the securities issuing company fails to comply, the SEC may revoke such offering. The cessation and the

[13]Regulation on Offering, Section 17.
[14]Regulation on Offering of Bonds, Section 19.
[15]Regulation on Offering, Section 22.

revocation of the offering of securities will be set out in a specific regulation, which is not promulgated as yet.[16]

5. Listing of Companies on the Securities Exchange

5.1 Listed Companies

The securities issuing company wishing to list their securities on the LSX must meet the LSX's requirements and conditions regarding capital, business performance, financial standing, shareholding structure, and otherwise. After their securities are listed, the securities issuing companies shall become listed companies which are subject to the regulations of the LSX.[17]

Currently, there are 3 listed companies: EDL-Generation Public Company, Banque Pour Le Commerce Exterieur Lao, and Lao World Public Company. The LSX has been making every effort to encourage more listed companies in the succeeding years.

5.2 Qualifications of a Listed Company

A company wishing to list its shares on the LSX must have the following qualifications:[18]

(1) The company has been in operation for at least 3 years, as of the date of applying for listing eligibility review.

(2) The company shall be a public company.

(3) As of the date of applying for listing eligibility review, the company has at least 100,000 outstanding shares and a registered capital of at least LAK10,000,000,000.

(4) The company has more than 100 minor shareholders holding altogether more than 10% of the total outstanding shares.

(5) The company's revenues for the latest year must not be less than LAK30,000,000,000, and during the last 3 years, the company has generated a net income for two consecutive years and has made no loss in the present year.

(6) There is the auditor's unqualified report on the company's financial statements for the last 3 years.

(7) The company's shares must be transferable without restrictions.

(8) The company has entered into a depository service agreement with the LSX.

[16]Law on Securities,Article 19.
[17]Law on Securities,Article 109.
[18]Regulation on Registration of Securities, Section 14.

(9) There are share certificate forms.

(10) There is no pending lawsuit which might materially affect the company's management.

(11) The company has operated its business continuously and has projected a positive image of its future operation.

(12) The company has an effective working system.

(13) The company has an effective disclosure system by appointing officers who will be responsible for disclosing the company's information that might affect the investors' decision.

(14) Other qualifications deemed necessary by the LSX.

5.3 Listing on the Securities Exchange

5.3.1 Listing Eligibility Review

For an initial listing of securities, the company shall first file an application for listing eligibility review for the LSX's consideration and approval. Such application must contain the following particulars:[19]

(1) Reasons for filing the listing application;

(2) Company profile, which includes the date of incorporation, business background (e.g., company's name change, representatives, products, dealers, major buyers, merger, etc.), nature of business, company location, management and employment status, organisational structure, and shareholding structure;

(3) Details of the company's business, which include:

  (a) Current business conditions, e.g., market size, selling prices, international competitiveness, technology, recent developments and prospects, company's position in the industry, etc.; and

  (b) Current corporate conditions, e.g., characteristics of the company's business, main products and raw materials, sales volume and market share (both exports and domestic sales), productivity and facilities, major contracts, research and development, etc.;

(4) Financial status, which reflects the company's financial condition, business performance during the past 3 years, and financial ratio;

(5) Business projections for the next 2 years, dividend policy, and other matters relating to the company's performance in the near future.

[19]Regulation on Registration of Securities, Section 8.

In addition to the said application, the applicant shall also provide the following documents for the LSX's consideration:

(1) Financial statements for the past 3 years, which include balance sheet, statements of income, statements of retained earnings, statements of cash flow, and notes to financial statements;
(2) Auditor's report;
(3) The company's Articles of Association;
(4) A securities company's opinion on the company's financial condition;
(5) Statement of silent period for 6 months after completion of the listing;
(6) Business plan, which includes the projections of income for the next 2 years, policy on profit appropriation, and other matters that might affect the future prospects of the business; and
(7) Other documents deemed necessary by the LSX.

The LSX shall notify the applying company of the results of the eligibility review within 2 months of receipt of the application. However, if the company has been accused or notified by the public prosecutor, or if the SEC has notified the LSX, of any disciplinary measures such as restrictions on the issuance of securities or penalties imposed on the company, the LSX shall then reject the application for listing eligibility review.

5.3.2 Listing Application

If, after consideration, the LSX finds that the applying company is qualified for listing, the company shall file an application for listing, together with relevant documents, within 6 months of being so notified by the LSX. However, if the company, upon being notified of its listing eligibility, wants to offer its shares to the public, it shall file such listing application and the relevant documents before the closing date of the offering.[20]

5.3.2.1 Documents required for listing shares on the LSX:[21]

(1) Listing Application, with reasons therefore;
(2) Registration Statement;
(3) Document evidencing the payment for subscribed shares;
(4) Transcript of Corporate Registration;
(5) Copy of the agreement made with the securities company;
(6) Samples of all relevant share certificates;
(7) Report on the initial public offering (IPO);

[20]Regulation on Registration of Securities, Section 10.
[21]Regulation on Registration of Securities, Section 12(1).

(8) Share allocation report and transfer book;
(9) Written confirmation from the securities depository centre;
(10) Written confirmation from the SEC of the successful IPO; and
(11) Other documents deemed necessary by the LSX.

5.3.2.2 Documents required for listing bonds on the LSX:[22]

(1) Listing Application, with reasons therefor;
(2) Certificate of Incorporation;
(3) Samples of the relevant bonds;
(4) In the case of the bonds issued by a securities company, Letter of Guarantee or Sales Agreement relating to the public offering of such bonds;
(5) Report on the public offering of bonds; and
(6) Other documents deemed necessary by the LSX.

Companies applying for securities listing shall submit a Listing Agreement for each type of securities, except in the case of the Government bonds and the securities which have already been applied for listing. Such Listing Agreement shall be effective on and from the listing date.

6. Reporting and Disclosure of Information by Securities Issuing Companies and Listed Companies

6.1 Reporting and Disclosure of Information to the SEC

The securities issuing companies and the listed companies have the duty to report and disclose information in accordance with the applicable laws and are responsible for the contents of such reporting and disclosure. According to the Regulation Governing Reporting and Disclosure of Information, “reporting” means the reporting by the securities issuing companies and the listed companies of relevant information to the SEC for monitoring purposes and “disclosure of information” means the notifying of relevant information to the public. The contents of such reporting and disclosure include the company’s business operation, financial reports and other material information.

In order to effectively report and disclose information, the securities issuing company or the listed company shall appoint at least two officers to be responsible for such reporting

[22]Regulation on Registration of Securities, Section 12(2).

and disclosure, provided that one of the two officers must be its vice president in charge of financial matters. The SEC must be notified of the names of those officers in writing within 5 business days of their appointment. Such reporting and disclosure of information shall be certified by those officers.

There are 4 forms of the reporting and disclosure of information: normal, emergency, requested and voluntary[23] with the following details:

6.1.1 Normal Reporting and Disclosure of Information

Normal reporting and disclosure of information is the reporting and disclosure of information on a quarterly, half-yearly, and yearly basis.[24]

6.1.1.1 Quarterly reporting and disclosure

The securities issuing companies and the listed companies are required to report and disclose information for the first and the third quarters of the year within 45 days from the end of the first and the third quarters, respectively. The quarterly report shall include the summary of the company's business operation for that quarter and the financial statements certified by its accounting department, internal audit department, and directors. In the case of a group of companies, there must be both separate and consolidated financial statements.[25]

6.1.1.2 Half-yearly reporting and disclosure

The securities issuing companies and the listed companies are required to report and disclose information for the first half of the year within 60 days from the end of the second quarter. The report shall include the summary of the company's business operation for the first half of the year and the financial statements which have been examined by an independent auditor approved by the SEC and have been accepted by the company's BOD meeting. The half-yearly financial statements shall also include the company's information for the second quarter. In the case of a group of companies, there must be both separate and consolidated financial statements.[26]

6.1.1.3 Yearly reporting and disclosure

The securities issuing companies and the listed companies are required to report and disclose information for the year within 120 days from the end of each

[23]Regulation on Report and Disclosure, Section 7.
[24]Regulation on Report and Disclosure, Section 10.
[25]Regulation on Report and Disclosure, Section 10 Item 1.
[26]Regulation on Report and Disclosure, Section 10 Item 2.

fiscal year. The report shall include the summary of the company's business operation for the year and the financial statements which have been examined by an independent auditor approved by the SEC and have been accepted by the shareholders' meeting. Such annual financial statements shall also include the company's information for the fourth quarter. In the case of a group of companies, there must be both separate and consolidated financial statements.[27]

6.1.2 Emergency Reporting and Disclosure of Information[28]

The securities issuing companies and the listed companies are required to report and disclose information within 24 hours on a business day upon occurrence of any of the following events, which are deemed to have an effect on the rights and interests of the investors, their investment decisions, the change in securities prices, and the business operation:

(1) The company holding a shareholders' meeting and closing the share register book;

(2) The company acquiring and disposing of any property worth more than 5% of its net worth as well as related transactions and granting financial aid to other natural or legal entities;

(3) The company participating or canceling its participation in any co-investment, or merging, dissolving, selling or transferring any or all of its undertakings;

(4) There being the launch of a new major product, the development of technology, or the significant discovery about natural resources;

(5) The company issuing more securities or repurchasing securities;

(6) The shareholders' meeting passing resolutions approving, for example, the annual business plan, medium-term and long-term expansion plans, strategic plans, changes in accounting principles and financial reporting standards, loans the amount of which might affect the company's financial standing and results of operation;

(7) There being significant changes in capital expenditure;

(8) The company proposing to buy securities of other companies;

(9) The company paying or not paying dividends;

(10) There being changes in the company's board of directors, internal audit committee, executive committee, heads of the accounting department and the finance department, and the shareholders holding at least 5% shares;

[27]Regulation on Report and Disclosure, Section 10 Item 3.
[28]Regulation on Report and Disclosure, Section 11.

(11) The company failing to pay its debt at the time specified in any agreement;

(12) The movement in the company's deposit accounts being temporarily suspended, or such suspension being subsequently lifted;

(13) The company dissolving or ceasing its business operation, in whole or in part;

(14) The company changing its Enterprise Registration Certificate or Business Operation License, or such certificate or license being revoked;

(15) The company's president, vice president, directors, internal audit committee, executive committee, and heads of the accounting department and the finance department being subjected to disciplinary action or prosecuted for violating the law;

(16) The company going bankrupt or being adjudged bankrupt by the People's Courts;

(17) The company suffering serious damage caused by force majeure, social and economic situations, and otherwise;

(18) There being changes, in whole or in part, in the company's objectives or nature of business;

(19) The company entering into an agreement allowing outsiders to manage the company, in whole or in part;

(20) An event occurring or being likely to occur, which might affect the rights and interests of the company's shareholders, the investor's decisions, or the change in securities prices; or

(21) Such other events as determined by the SEC.

In addition, the securities issuing companies and the listed companies shall report and disclose information within 72 hours on a business day upon occurrence of any of the following events, which are deemed to have no direct effect on the securities prices and the investment decisions:

(1) A resolution approving the formation or dissolution of a branch office of the company;

(2) The relocation of the company's head office;

(3) Change of the company's auditor, including the auditor of any company in its group; or

(4) Securities trading by the company's president, vice president, directors, internal audit committee, executive committee, and heads of the accounting department and the finance department.

The securities issuing companies and the listed companies shall also report and disclose the minutes of their shareholders' meetings within 14 days from the dates of those meetings.

6.1.3 Requested Reporting and Disclosure of Information[29]

Requested reporting and disclosure of information is the reporting and disclosure of information by the securities issuing companies and the listed companies at the SEC's request upon occurrence of any event that might affect the rights and interests of the investors, the securities prices, or the stability of the capital market.

6.1.4 Voluntary Reporting and Disclosure of Information[30]

Voluntary reporting and disclosure of information is the reporting and disclosure of information by the securities issuing companies and the listed companies with the aim of providing the SEC and the investors with comprehensive and accurate information.

6.2 Disclosure of Information to the Securities Exchange

In the case of the listed companies, in addition to reporting and disclosing information to the SEC in accordance with Clause 6.1 above, they are also required to report and disclose information to the LSX. There are 4 forms of such reporting and disclosure of information: incidental, requested, periodical and voluntary.

6.2.1 Incidental Reporting and Disclosure of Information[31]

Upon occurrence of any of the following events, the listed companies are required to report the facts or their decisions to the LSX on the date of such occurrence:

(1) The bank notes or the cheques issued by the company being invalid, or the company's financial transactions being suspended or prohibited;

(2) The company dissolving in accordance with the Law on Enterprise;

(3) The company's main factory being closed or its production being suspended, or the said factory resuming its operation after the problem resulting in such suspension or closure has been solved;

(4) The company deciding to merge with another company or to transfer its undertakings or to split off from another company or to merge again after the split;

[29]Regulation on Report and Disclosure, Section 12.
[30]Regulation on Report and Disclosure, Section 13.
[31]Regulation on Disclosure, Section 7.

(5) There being confirmation that a lawsuit has been filed against the company, which will affect the company's business operation or the assets acquired or owned by the company, or the Court having ruled on such lawsuit;

(6) There being confirmation that an independent auditor has a qualified opinion in its report;

(7) The company being sued for violating the accounting standards, or the outcome of such lawsuit being confirmed; or

(8) The company withdrawing the listing of its securities.

Upon occurrence of any of the following events, the listed companies shall report the facts or their decisions to the LSX on the day following the date of such occurrence:

(1) There being confirmation of the change in the company's major shareholders;

(2) The company deciding to increase or reduce its capital;

(3) The company diluting or consolidating its shares;

(4) The company deciding to buy or sell its capital stock;

(5) The company deciding on payment of dividend or stock dividend;

(6) The company deciding on stock retirement;

(7) The company's Board meeting convening a shareholders' meeting, or the shareholders' meeting passing a resolution;

(8) The undertaking worth 10% or more of the company's income for the last fiscal year being suspended, or any part of or the entire undertaking or the business license being suspended;

(9) The company entering into a single sale agreement or a supply agreement worth 10% or more of its income for the last fiscal year, or such sale agreement or supply agreement being cancelled;

(10) The company deciding to invest in facilities or to improve the existing facilities or to separate its factory, which would cost 10% or more of its capital;

(11) The company deciding to buy or sell tangible assets whose value is 10% or more of its total assets in the last fiscal year;

(12) The company deciding to invest or cease investing in shares whose value is 10% or more of its total assets in the last fiscal year;

(13) The company suffering damage caused by natural forces, war, accident, fire or unexpected events, for an amount equaling or exceeding 10% of its total assets in the last fiscal year; or

(14) There being fraud or embezzlement by the company's employees, which has caused damage for an amount equaling or exceeding 10% of its capital, or such fraud or embezzlement proving to be true.

6.2.2 Requested Reporting and Disclosure of Information[32]

In the event there is a rumor about any of the events stated in Clause 6.2.1 above, the LSX may request that the relevant listed company report and disclose the information on the day that follows. Even if there is no such rumour, the LSX may request for the disclosure of information if there is a dramatic change in the prices or the trading volume of the company's securities. In that case, the company shall disclose the information on the day following such request.

However, if such event is unavoidable as provided for in the applicable laws or regulations and is caused by natural forces, war, accident, drastic changes in economic conditions, or otherwise, the LSX may consider making no such request.

6.2.3 Periodical Reporting and Disclosure of Information[33]

The listed companies are required to submit a half-yearly financial report within 45 days from the end of the six-month accounting period and to submit an annual financial report within 3 months from the end of the fiscal year.

6.2.4 Voluntary Reporting and Disclosure of Information[34]

In addition to incidental, requested and periodical reporting and disclosure of information, if the listed companies are of the opinion that it is necessary for the investors to be aware of certain information, which might have an effect on their decisions, then the listed companies may report and disclose such information within the day following the occurrence of such event.

7. Relevant Government Authorities

Mainly, the State organizations in charge of securities and securities exchange, the issuance of securities, and the listing on the securities exchange are the SEC, the LSX, and the Ministry of Industry and Commerce. Those organisations work in collaboration with one another, as follows:

[32]Regulation on Disclosure, Section 8.
[33]Regulation on Disclosure, Section 12.
[34]Regulation on Disclosure, Section 9.

7.1 Securities Exchange Commission

The SEC's main duty is to oversee the securities work nationwide, which includes the imposition of all rules and regulations applicable to securities transactions, the issuance of the License for Establishment and Revocation of the Securities Exchange, and the approval for the offering of securities.

7.2 Lao Securities Exchange

The LSX's main duty is to oversee the listing of companies on the securities exchange as well as to set out the applicable regulations and to consider the listing applications.

7.3 Ministry of Industry and Commerce

The Ministry of Industry and Commerce has an important role in the registration of public companies or, in some cases, the conversion of limited companies into public companies to prepare the way for becoming securities issuing companies. Besides, after completion of each offering of securities when the relevant companies are required to increase their capital, the Ministry of Industry and Commerce handles such capital increase

Chapter 12
Land

1. Relevant Legislations

Laws pertaining to Land in the People's Democratic Republic of Laos (Lao PDR) consist of:

(1) Law on Land No. 04/NA, dated 21 October 2003 ("**Law on Land**");

(2) Law on Urban Planning No. 03/99/NA, dated 3 April 1999 ("**Law on Urban Planning**");

(3) Law on Investment Promotion No. 02/NA, dated 8 July 2009 ("**Law on Investment Promotion**");

(4) Decree on Implementation of the Law on Land No. 88/PM, dated 3 June 2008 ("**Decree on Implementation of the Law on Land**"); and

(5) Decree on Leasing or Concession Land of State No. 35/PM, dated 25 May 2009. ("**Decree on Leasing or Concession Land of State**")

2. Holding/Occupying/Possession of Land in the Lao PDR

According to the general principles of the Law on Land, the land of the Lao PDR is considered to be under the communal ownership of the Nation in which the State is the Central Point which provides protection and takes care of as well as unifies Land as one throughout the country. The State is thus empowered to hand out land to individuals, families or various organizations to use or lease or to award land concessions as well as to assign the State's various work units to make use of such land too. It can be seen that only Lao people and legal entities will have the right to hold land. Other than this, aliens[1], people without nationality, foreigners and legal entities established by such entities who wish to make use of any plot of land can do so only by means of lease or concession[2].

[1] Section 4 of Decree on Immigration of Lao PDR and protection of Foreigners, define the term "Alien" as any person who is not a Lao national having residence in the Lao PDR and having lived in the Lao PDR for a long period of time. Such persons that are considered aliens must have an alien's identity card provided by the government officially recognizing the residence of such person in the Lao PDR. The term "Alien" differs from the term "Foreigner" in that the term foreigner means any person who holds a nationality other than Lao and enters into the Lao PDR for doing activities for a specific period of time. Foreigners will then exit the Lao PDR when such specific period of time ends.

[2] Law on Land, Section 3.

Where it is found that aliens, people with no nationality, foreigners and legal entities established by such entities have received the rights to utilize land[3], action must be expedited to rectify the situation on that land within three years from the date an order has been issued by the Government to rectify matters pertaining to land of aliens, people with no nationality, foreigners and legal entities established by such entities by transferring the rights of utilization over that land to Laotian citizens or State Organizations of the Lao PDR. If such transfer is not made within three years, the said land will become land under the State's protection albeit the State will still give such individual and/or legal entity the preferential right to apply for a lease or concession over it from the State.[4]

If it is the case of a Laotian citizen who, after having received the land use right of land, subsequently changes his/her nationality otherwise, s/he will be required to perform pursuant to the above rules as well which is to take action to transfer land to another person or to the Lao PDR' State Organization within three years as otherwise that piece of land will become land under the State's protection.[5]

Moreover, under laws on investment promotion, it is provided by the investment promotion policy that foreign investors may buy the right of land utilization from the State which, however, must not exceed 800 square meters at the most for the purpose of building a residential premise or office for that enterprise in addition to the lease or concession of land for the conduct of its business in the Lao PDR. In this respect, investors may file their applications with supporting documents such as Enterprise License or Concession Certificate and other documents to the Provincial or City Land Management Authority at the location of that land with an approval from the Ministry of Planning and Investment or the Ministry of Industry and Commerce which has issued that Enterprise License or Concession Certificate. However, purchase of the right of land utilization in such a case must be a purchase of land from the State that has already been earmarked for that purpose. Foreign investors may not buy the rights of utilization for land that has not been duly allocated by the State or purchase land directly from a Laotian citizen or legal entity. Terms governing the application to purchase the rights of land utilization from the State by virtue of the Investment Promotion Policy are as follows:[6]

(1) It has a registered capital of USD 500,000 or more with the value of investment brought into the country properly verified in full and correctly in accordance with the sum of the said registered capital by the Bank of the Lao PDR.

[3] This is the right to occupy and utilize land and is negotiable which is similar in nature to ownership under the Thai law.
[4] Decree on Implementation of the Law on Land, Section 34, Paragraph 1.
[5] Decree on Implementation of the Law on Land, Section 34, Paragraph 2.
[6] Law on Investment Promotion, Section 59.

(2) It must be land duly allocated by the State and only with an area of not more than 800 square meters.

(3) The objectives must be only for use as residence or office for the conduct of its business operations.

(4) Authorization is given only once per enterprise for the purchase of such rights of land utilization. Where an enterprise has two or more shareholders or expands the branch of its investment, it will still be granted the right to buy the rights of land utilization in the name of one legal entity only and such rights may be bought from the State only once.

Under laws on land, there are 8 classifications of land in accordance with its characteristics as detailed below[7]:

(1) Agricultural land which is earmarked for use in farming/plantation/agriculture, animal husbandry and agricultural research and trials including irrigational land[8];

(2) Forestry land which consists of land covered by forests or they may be land which are not covered by forests albeit declared by the State as forestry lands as prescribed by laws governing forests[9];

(3) Land in water areas which are land located on water surface or on boundaries around water sources[10];

(4) Industrial land which consists of boundaries or areas of land declared by the State as sites for factories including housing for labourers and include industrial areas, industrial zones, industrial estates, institutions or centres for industrial research/trials in scientific/technical areas, waste water treatment premises, premises for elimination of industrial residues/waste, sources for energy substances, electricity cable lines, gas and energy pipelines, water pipelines and other lands earmarked for industrial usage[11];

(5) Land for Transportation which consists of land used for route ways, road borders, water channels, reserved roadway boundaries, bridge installations, telephone cables line, sites of communications stations including airports, docks, truck stations and bus terminals, tunnels, rail lines, premises used to store items involving transportation and other lands used for other communications[12];

(6) Cultural land which consists of sites of natural heritages with historical significance, items of antiquity, archaeological sites, temples/monasteries,

[7] Law on Land, Section 11.
[8] Law on Land, Section 15.
[9] Law on Land, Section 19.

sites of natural scenery, cultural structures and other premises declared by the State as cultural land and tourist sites[13];

(7) Land for national security and protection of peace which are land used for maintaining national security and peace and order such as camp sites, offices, departments, housing for the purpose of national security and maintenance of peace and order[14];

(8) Construction land which is land earmarked for building houses, factories, offices, organizations and public premises[15];

However, there are certain categories of land for which the parameters of their possession for utilization purposes are determined by the State as detailed below:

(1) For agricultural land, the areas of such land are determined as follows[16]:

(a) For plantation of rice and animal husbandry with the parameters of holding not exceeding one hectare[17] per one labour in the family

(b) For cultivation of industrial plants and shrubs with the parameters of their holding not exceeding three hectares per one labour in the family.

(c) For those engaged in planting fruit plants, the parameters of their holding shall not exceed three hectares per one labour in the family.

(d) For utilization of vacant plots of lands or the various categories of forests which have switched to planting of crops/grasses, the parameters of their holding shall not exceed fifteen hectares per one labour in the family.

(e) With regard to the size and production capability, the labour shall receive the rights to use the agricultural land for various agricultural activities in case that all requirements as prescribed by the Government are satisfied by such labour.[18]

(2) In the case of forestry land, permission is granted by the State for individuals and families to use forestry land which are vacant or deteriorated forest land of not more than three hectares per one labour in the family. For a requirement to use more areas of land than that which is authorized, a proposal may be submitted to seek a lease or concession of land from the State.[19]

[10] Law on Land, Section 23.
[11] Law on Land, Section 27.
[12] Law on Land, Section 30.
[13] Law on Land, Section 33.
[14] Law on Land, Section 35.
[15] Law on Land, Section 38.
[16] Law on Land, Section 17.
[17] An area of one hectare is about six Rais
[18] Law on Land, Section 17.
[19] Law on Land, Section 21.

(3) In the case of construction land, permission will be granted by the State for individuals and families to use land for construction with an area of not more than eight hundred square meters per one member in the family.[20]

3. Category of Rights on Land Holding

On this issue of land holding in the Lao PDR, the category of rights on land holding can be classified under two main categories, i.e. the land use right and the right to use land which is separated in accordance with the nature and rights to be derived by the particular right holder from holding land in the various categories which are detailed below:

3.1 Land use right

Land use right is considered the right to hold land by an individual or legal entity in a manner of permanence (which may be compared to "title/ownership" under the Thai law) for which various rights held by the holder of the land use right under the law consist of the following:[21]

(1) The right of protection of land which means the right to keep the land for any of the objectives which are characteristically definitive in nature by an individual or legal entity.[22]

(2) The right to use land which means the right to use land under any particular objective in response to the requirements of the party granted such rights pursuant to the State's Land Allocation Plan.[23]

(3) The right of usufruct from land which means the right to collect the usufruct or revenue from land that s/he has been granted the land use right such as rental revenue derived from having put up that land as a contribution of shares or as collateral under a guarantee agreement.[24]

(4) The right to transfer land use right which means the right to give the land use right to another party whether such be by means of sale, hand-over or exchange.[25]

(5) Right of Succession on the land use right which means the right to receive land use right as the result of succession over land that has been developed,

[20] Law on Land, Section 42.
[21] Decree on Implementation of the Law on Land, Section 3.
[22] Law on Land, Section 54.
[23] Law on Land, Section 55.
[24] Law on Land, Section 56.
[25] Law on Land, Section 57.

to husband, wife, children, grandchildren, parents or relatives under the law after the death of the holder of such rights of land utilization.[26]

3.2 The Rights to Use Land[27]

Rights to use land mean the rights of an individual or legal entity who has been granted the right to use land under the State's Plan of Land Allocation. In the case of a legal entity being the party which receives such right to use land, it will have the right only to protect land and to use it. For an individual, on the other hand, besides receiving the right to protect land and the right to use it, s/he will also have the right to usufruct from such land and the right of succession on that plot of land as well. It can be seen that both individual and legal entity granted the right to use land may not transfer such land to a third party.

4. Documents showing the Rights Over Land

Documents which show the rights over land may be varied by the categories and objectives of their utilization as well as by allocation of the State's land which consists of 5 categories[28] as detailed below:

4.1 Land Title Deed

Land Title Deed is the uppermost document of entitlement used to confirm the highest land use right under the law and is the only major evidence pertaining to the land use right on a permanent basis in which only one copy will be duplicated from the Land Registry for delivery to the land owner for his/her records until further changes pursuant to various conditions set by the law, such as change of owner, etc.[29]

Only the party whose name appears in the Land Title Deed will be considered as the owner of the Land Title Deed and is entitled to hold the right to use such land as collateral under a guarantee agreement, becoming a shareholder, give, sell-buy, exchange, lease with rights of succession by inheritance albeit the party named in that Land Title Deed may, in exercising such rights, assign another party to take action in lieu via a written Power of Attorney which must be certified by the Notary Office or Head of the Village. Such Land Title Deed is comparable to Land Title Deed under the Thai law.[30]

[26] Law on Land, Section 58.
[27] Decree on Implementation of the Law on Land, Section 3.
[28] Decree on Implementation of the Law on Land, Section 16.
[29] Law on Land, Section 49.
[30] Decree on Implementation of the Law on Land, Section 16.

4.2 Land Survey Certificate[31]

Land Survey Certificate is a document certifying the rights to use land given by the State to an individual or the State's organization, political organization, Lao Front for National Construction, public organizations and the State's economic organizations for use in a variety of objectives pursuant to the category of land as provided by the law.

However, it is stipulated by law that entities awarded such Land Survey Certificate are not entitled to transfer, lease, give the concessions of, put such land up as contribution towards shares or submit it as a collateral under any guarantee agreement albeit that individuals awarded with such Land Survey Certificate will be entitled to protect, use, usufruct and the right of succession thereto only.

4.3 Land Certificate

Land Certificate is a document which gives confirmation on temporary usage of land which is issued by a government administration Authority or a municipality pursuant to the land allocation policy and hand-out of land-forests. However, if it transpires that the land has been developed for more than three years, the recipient of such Land Certificate may have right to apply for the Land Title Deed.[32]

Individuals or legal entities who receive the Land Certificate are entitled to succeed to the land certificate but are not entitled to transfer, invest, mortgage or lease such land certificate.[33]

4.4 Land Development Certificate[34]

This Land Development Certificate is a document issued by an authority involved in looking after utilization of land pursuant to the Land Development Plan that has been allocated in order to certify that such plot of land has been duly and fully developed.

4.5 Certificate of Land Ownership History[35]

This document gives certification on the acquisition of land to explain about its background of preservation and utilization.

5. Various juristic acts concerning Land and Registration

[31] Decree on Implementation of the Law on Land, Section 16.
[32] Decree on Implementation of the Law on land, Section 16.
[33] Law on Land, Section 49.
[34] Decree on Implementation of the Law on Land, Section 16.
[35] Decree on Implementation of the Law on Land, Section 16.

Every category of juristic acts concerning land for which a Land Title Deed has been issued must be duly registered for entry in the Land Registry Protection system. However, if it transpires that any juristic act is not duly registered, it will be neither enforceable nor has any validity under the law. Moreover, even though juristic acts pertaining to land may have been duly certified by an official Administrative Authority or other authorities, it may not be construed that such juristic act is duly acknowledged under the law.

If a juristic act is duly registered under the law, it will have the effect of being enforceable both on contractual parties and third parties including the various authorities.

There are two kinds of juristic acts pertaining to land which must be registered, i.e. registration of changes on the land use right and registration of movements on the rights to use land.

5.1 Juristic Acts involving land for which changes on the Land Use Right have been changed which must be registered.

Registration of juristic acts involving land for which changes on the land use right have been changed means registration which leads to the termination of the land use right of any person when such rights have fallen on another party, namely:

(1) Succession by inheritance under the law or by virtue of a will;
(2) Sale/purchase agreement;
(3) Exchange agreement;
(4) Agreement for Sale with the Right of Redemption;
(5) Gift Agreement;
(6) Gifts of property which means to give away his/her property to another person whiles/he is still alive subject to the condition that the recipient of such property will become the owner only once s/he has complied in full with the conditions that have been agreed with the current owner;
(7) Performance in accordance with the Court's order; and
(8) Transfer of the land use right as shares contribution.

The procedure to register movements of juristic acts pertaining to land use right are as follows:

(1) Owner of the Land use right or his/her proxy has filed a written application which is signed in certification by Head of the Village on which such land is located and submitted to the Provincial and City Land Management Authorities for verification of the Land Title Deed.[36]

(2) The Land Title Deed has been duly verified by the Land Chamber, Provincial and City Land Management Authorities by comparisons with the Land Registered Book, Land Survey Certificate and copies of relevant land documentation. If they consider it correct, a Deed of Confirmation on the Authenticity of the original Land Title Deed will be issued and duly recorded in the Book to Monitor Issuance of Deed of Confirmation on the Authenticity of the original Land Title Deed. The said Deed of Conformation will then be given to the applicant for further submission to the Notary Office or Head of the Village on which such land is located in order to have an agreement or various juristic acts pertaining to land duly executed.[37]

(3) The Notary Office shall take action to give its certification that the agreement or various documents are correct pursuant to the requirements of the owner of the land use right and counter-parties. However, it shall be deemed that any agreement and documents of which the correctness of their contents have been certified are enforceable between the contractual parties albeit they will not be acknowledged as yet by third parties as they must first be submitted for registration.

(4) The said agreement or document shall be taken to apply for registration on the land use right with the Provincial and City Land Management Authorities. A new Land Title Deed will be issued to the transferee as stated in that agreement or document while the old Land Title Deed will be stamped with a Cancellation endorsement and kept in the file for that particular plot. Before the issuance of the new Land Title Deed, the Provincial and City Land Management Authorities shall publish the notification at the Municipal Office and shall publish through the public newspapers and the public radio or television broadcast as the case maybe. If within 90 days from the date of signature on such notification there is no objection on the issuance of the Land Title Deed or there is an objection which has been already revised, the issuance of the Land Title Deed shall be made to the rights receiver in order

[36] Law on Land, Section 45.
[37] Law on Land, Section 46.

to claim his/her rights on his/her land[38]. Agreements or documents pertaining to land shall likewise be kept in the Registry books and in the file of that plot for evidences in the long-term.

5.2 Juristic Acts involving Land required to be registered concerning movements on the Rights to use land.

Movement of rights to use land means the grant of the rights to use land by holder of such rights albeit the owner of the right still retains the land use right over Land. However, such right will be subject to contractual limitations and juristic acts which create movements on the rights to use land are the following:

(1) Rental agreement.

(2) Guarantee agreement

(3) Gifts of property meaning giving away his/her property to another person while s/he is still alive subject to the condition that the recipient of such property will become its owner only once s/he has complied in full with the conditions that have been agreed with the current owner albeit such conditions have not as yet been fulfilled.

(4) Succession to the Rights of Lease, Guarantee Agreements and Agreement to Sell with the Right of Redemption.

(5) Ordered to perform pursuant to a Court's judgment.

Registration procedures on movements of juristic acts pertaining to the rights to use land are as follows:

(1) Owner of the land use right or his/her proxy has filed a written application which is signed in certification by Head of the Village on which such land is located and then submitted to the Provincial and City Land Management Authorities in the locality of the site of such land for verification of the Land Title Deed.[39]

(2) The Land Title Deed has been duly verified by the Land Chamber, Provincial and City Land Management Authorities on comparison with the Land Registered Book, Land Survey Certificate and copies of relevant land documentation. If they consider it correct, a Deed of Confirmation on the Authenticity of the original Land Title Deed will be issued and duly recorded in the Book to Monitor Issuance of Deed of Confirmation on the Authenticity of Land Title Deed. The said Deed of Confirmation will then be given to the

[38] Law on Land, Section 49.
[39] Law on Land, Section 45.

applicant for further submission to the Notary Office or Head of the Village on which such land is located in order to have an agreement or various juristic acts pertaining to land duly executed.[40]

(3) The Notary Office shall take action to give its certification that the agreement or various documents are correct pursuant to the requirements of the owner of the land use right and counter-parties. However, it shall be deemed that any agreement and documents of which the correctness of their contents have been certified are enforceable between the contractual parties, albeit they are not acknowledged as yet by third parties as they must first be submitted for registration.[41]

6. Lease of Land or Land Concession

An individual or legal entity, whether Laotian or otherwise, may utilize land by means of lease taken from either the private or public sector. In the case of legal entities, they may also seek land concessions from the State if they wish to utilize land for investment or for the operation of any project. Under the Lao PDR' law governing land, a period of lease or concession is stipulated pursuant to the categories of lessee and lessor as follows[42]:

(1) In the case of lease or concession of land from the State by aliens, people with no nationality and legal entities established by such entities, the term of lease or concession will be based on the nature, size and terms of the operations albeit not exceeding thirty years which is extendable, as appropriate, pursuant to the government's opinion.

(2) In the case of a lease of land that has already been developed by aliens[43], people with no nationality and legal entities established by such entities, the term of lease shall not exceed 20 years at the most which may be extended according to the opinion of the contractual parties and duly approved by the Provincial or City Administrative Authority of the locality in which is the site of that plot of land.

(3) In the case of lease or concession of land taken from the State by foreigners investing in the Lao PDR, it will be based on the nature, size and conditions of the project which shall not exceed the maximum of 50 years but also extendable as appropriate pursuant to the Government's opinion.

[40] Law on Land, Section 48.
[41] Law on Land, Section 51.
[42] Law on Land, Section 51.
[43] Decree on Implementation of the Law on Land, Section 3.

(4) In the case of land leased from Laotian nationals by foreigners making their investment in the Lao PDR, it will be based on the nature, size and conditions of the operations which shall not exceed the maximum of 30 years but also extendable, depending on the case, according to the agreement reached by the contractual parties with the approval of the National Land Management Authority.

(5) In the case of land lease within a Special Economic Zone and a Specific Economic Zone, the term of lease or concession is set for a maximum of not more than 75 years which may be extended according to the case pursuant to the approval granted by the National Assembly.

However, determination of the term of lease or concession of land in the Special or Specific Economic Zones under laws governing Land are still inconsistent with the law on investment promotion in view of the fact that under the latter, a term of lease or concession of land is set at the maximum of not more than 99 years.[44] Relevant authorities are aware of this issue albeit in practice and pursuant to interpretation by the relevant authorities, enforcement will be made pursuant to the law on investment promotion which is to say it will be subject to the enforcement of the law on investment promotion, i.e. term of lease or concession of land in the Special or Specific Economic Zones determined at the maximum of 99 years.

6.1 Lease of Land

6.1.1 Lease of Land from the Private Sector

Under laws of the Lao PDR, land may be leased by individuals and legal entities, both Laotian and otherwise, albeit such lease must be duly approved of by the Land Management Authority and the lease agreements must conform to laws governing contractual and extra-contractual commitments. In other words, they must be made voluntarily by both contractual parties, executed in writing with at least 3 witnesses, and so forth.

6.1.2 Lease of the State's Land

Generally, people entitled to lease land from the State[45] consist of Laotian citizens, aliens, people with no nationality, foreigners, organizations, the State's economic authorities, embassies or international organization, both local and overseas investors. Lessees of land are required to pay for land rental fees as prescribed by the law. Moreover, lease of land from

[44] Law on Investment Promotion, Section 42.
[45] Decree on Leasing or Concession Land of State, Section 4.

the State will be subject to different terms and requirements according to the category of objectives for the lease of land as detailed below:

6.1.2.1 Lease of the State's Land for industrial facilities and industrial estates.

Lease of land for the operation of industrial facilities and industrial estates may be done only in zones allocated by the State for that purpose with the Land Management Authority being responsible in accordance with the size of land.[46] In other words, permission will be granted by the Provincial and City Land Management Authorities for the State's land or not more than 50 hectares per enterprise to be leased for the operations of an industrial facility with a maximum lease term of not more than 30 years which may be extended in accordance with the case pursuant to agreement reached with the Industry and Commerce Department and other relevant authorities within the Province or Capital, and as agreed upon with the Provincial or City Administrative Authority. However, in the case of an industrial estate, permission will be granted for not more than 150 hectares of the State's land to be leased per enterprise with a maximum lease term of not more than 40 years which may be extended in accordance with the case pursuant to agreement reached with the Industry and Commerce Department and other relevant authorities within the Province or City, and as agreed upon with the Provincial or City Administrative Authority.

The National Land Management Authority will be the licensor.in case that land is leased for operating industrial facilities for an area starting from 50 hectare to 10,000 hectares per enterprise for a period of 30 years or more to the maximum of not more than 50 years. However, the lease period may be extended on a case-by-case basis in accordance with the agreement reached by the Ministry of Industry and Commerce, relevant authorities and local administrative bodies pursuant to the agreement with the Government. And, in the case of industrial estates, license will be granted by the National Land Management Authority for land to be leased from 150 hectares or more per enterprise with a lease period of 40 years and not more than 70 years which can be extended as applicable in the case pursuant to the agreement made by the Ministry of Industry and Commerce, relevant authorities and local administrative bodies as agreed with the Government.

However, if there is a need to lease the State's land for 10,000 hectares or more, it must be approved by the National Assembly pursuant to the Government's recommendation.[47]

[46] Decree on Leasing or Concession Land of State, Section 9.
[47] Decree on Leasing or Concession land of State, Section 10.

6.1.2.2 Lease of the State's Land for construction of housing and provision of services

Leasing of the State's Land for construction of housing and or provision of services must be conducted in zones allocated by the State for the purpose of commercial operations such as Trade Centres, hotels, houses, restaurants, public parks, tourist attractions, schools, hospitals, markets, bus or cargo terminals with the Land Management Authority be in charge of such leases.[48]

The Provincial and City Land Management Authorities may grant the license to lease the State's Land of not more than 15 hectares per enterprise with a lease period of not more than 30 years which may be extended as applicable in the case pursuant to agreement reached with the Department of Public Works and Transportation and as agreed with the Provincial or City Administrative Authority. The National Land Management Authority may grant the license to lease out the State's land from 15 to 10,000 hectares per enterprise with a lease term from 30 years or more for the maximum of not more than 50 years and may extend the lease depending on the case with the approval of the Ministry of Public Works and Transportation and the local Administrative Authority pursuant to agreement made with the Government. For an area of more than 10,000 hectares, however, it must be approved as well by the National Assembly on the Government's recommendation.[49]

6.1.2.3 Lease of the State's Land for Tourism

Lease of the State's land for the purpose of tourism may be done within zones allocated by the State as Tourism Zone for which licenses may be issued with prior authorization from the Land Management Authority and the Tourism Organization.[50]

In the case of lease of the State's Land to turn them into a tourism site at a local level, the Provincial and City Land Management Authorities will be the licensor and determine the maximum lease period of not more than 30 years which, however, may be extended, depending on the case, with the approval of the Tourism Department, Public Information and Cultural Department, Agricultural and Forestry Department and other relevant work units pursuant to agreement made with the Provincial or City Administrative Authority.

If the lease of the State's Land is to build a tourism site at a national level, the licensor will be the National Land Management Authority which will also determine the maximum lease period from 30 years to the maximum of not more than 50 years which

[48] Decree on Leasing or Concession Land of State, Section 12.
[49] Decree on Leasing or Concession Land of State, Section 13.
[50] Decree on Leasing or Concession Land of State, Section 16.

may be extended, depending on the case, on the approval from the National Tourism Organization, the Ministry of Public Information and Culture, the Ministry of Agriculture and Forestry, local administrative authorities and other relevant work units pursuant to the Government's agreement.[51]

6.1.2.4 Lease of the State's Land for Sports

Lease of the State's Land for sports may be done only within zones allocated by the State specifically for that purpose. Moreover, construction of various structures to provide facilities for the public and the sports community must receive the license from the Land Management Authority, Ministry of Public Works and Transportation and the National Sports Board. The Land Management Authority will be the party responsible for granting of the license to lease land with the Provincial and City Land Management Authorities being entitled to grant the lease of not more than 30 hectare of the State's Land per enterprise and to set a maximum lease period of not more than 30 years which may be extended, depending on the case, pursuant to the agreement with the Sports Board, Department of Public Works and Transportation and as agreed with the Provincial or City Administrative Authority.

The National Land Management Authority may grant the license to lease the State's Land from 30 hectares to 10,000 hectares per enterprise and to set a period of lease from 30 years up to the maximum of not more than 50 years which may be extended as applicable pursuant to the agreement with the Sports Board, the Ministry of Public Works and Transportation and as agreed with the local Administrative Authority pursuant to the Government's agreement. However, if there is a need to lease more than 10,000 hectares of land, it must be approved by the National Assembly on the Government's recommendation.[52]

6.1.2.5 Lease of the State's Land for diplomatic purposes or those of international organizations.

Leasing of the State's Land for diplomatic purposes or those of international organizations can be done in zones allocated by the State for this purpose and must be duly licensed by the National Land Management Authority and the Ministry of

[51] Decree on Leasing or Concession Land of State, Section 17.
[52] Decree on Leasing or Concession Land of State, Section 21.

Foreign Affairs[53], albeit to the maximum period shall not exceed 99 years as agreed with the Government.[54]

6.2 Land Concession

Land concession is the license granted by the State to a legal entity in order to utilize land pursuant to any particular conditions within a certain timeframe with proper and clear contractual commitments. In this respect, only legal entities can seek such land concessions from the State and the concessionaire will be under the obligation to pay a concession fee, natural resources fee and various fees as prescribed by the law[55].Land concession granted by the State will be subject, in brief, to the following procedure:

(1) Survey shall be made by the applicant for the concession of land in which it is seeking the concession for use in the conduct of its operations by making contacts through the Household Head (with an equivalent status of Village Head) based at the locality of land for which the concession is sought to verify if the land for which the concession is sought is the State's Land or is held by a Laotian citizen. In the case land under the application belongs to a Laotian citizen, talks must be made by the concession applicant with the party holding such land to seek his/her consent to hand the land over to the State in order to have the concession issued.

(2) The concession applicant shall submit an investment plan together with its application for the concession to the Department of Planning and Investment based in the province which is the location of land or to the Ministry of Planning and Investment, as the case may be, in order to apply for such concession.

(3) From this point onwards, the Ministry of Planning and Investment will coordinate with Land Management Authority in making pertinent consideration over the grant of the concession to the applicant for which the land concession must be signed with the Government in an agreement between the concessionaire and the State.

The Land Concession shall be classified by types of businesses as follows:

[53] Decree on Leasing or Concession Land of State, Section 24.
[54] Decree on Leasing or Concession Land of State, Section 25.
[55] Decree on Leasing or Concession Land of State, Section 4.

6.2.1 Concession of the State's Land for Agricultural and Crop Cultivation Operations

Land concessions for agricultural operations may be done only in agricultural areas for cultivation of economic crops earmarked by the State. However, for activities to grow industrial woods and fruits of the forest, they can be done in vacant plots of land or in areas deteriorated forests that cannot be self-rehabilitated which have been allocated by the State[56], as detailed below:

6.2.1.1 Concession of deteriorated forests for agricultural operations and for plantation of trees.[57]

In this case, Provincial and City Land Management Authorities may grant the concession of deteriorated forests which cannot be self-rehabilitated for not more than 150 hectare per project and to set the maximum concessionary period of not more than 30 years which, however, may be extended pursuant to agreements by the Province or City Agricultural and Forestry Department and as agreed by the Provincial or City Administrative Authority.

Furthermore, the National Land Management Authority may grant the license of land concession in such deteriorated forests from 150 hectares to 15,000 hectares per project with a concessionary period of more than 30 years to the maximum of 40 years. Such concession may be extended, depending on the case, pursuant to the agreement by the Ministry of Agriculture and Forestry and the local Administrative Authority pursuant to the agreement from the Government. However, if land concession is requested for more than 15,000 hectares, such request must be approved by the National Assembly on the Government's recommendation.

6.2.1.2 Concession of vacant plots of land for Agriculture and Plantation of Trees.[58]

In this case, Provincial and City Land Management Authorities may grant the concession of vacant plots of land for not more than 500 hectares per project and to set the maximum concessionary period of not more than 40 years which may be extended, depending on the case, pursuant to agreement by the Provincial or City Department of Agriculture and Forestry and as agreed by the Provincial or City Administrative Authority.

[56] Decree on Leasing or Concession Land of State, Section 26.
[57] Decree on Leasing or Concession Land of State, Section 28.
[58] Decree on Leasing or Concession Land of State, Section 29.

Furthermore, the National Land Management Authority may grant the license of land concession in such vacant plots of land from 500 hectares to 30,000 hectares per project with a concessionary period of more than 40 years but not more than 60 years at the most. Such concession may be extended, as applicable, pursuant to agreement by the Ministry of Agriculture and Forestry and the local Administrative Authority pursuant to the agreement from the Government. However, if land concession is needed for more than 30,000 hectares, such must be first approved by the National Assembly on the Government's recommendation.

As for rural and distant areas, a concessionary period may be set for more than 40 years but not more than 70 years at maximum which may be extended depending on the case.

6.2.2 Concession of the State's Land for mining operations

Areas of land for which concessions are granted for mining operations may be made only in land allocated for ores and minerals exploration, and must also conform to the requirements of law such as laws governing mineral ores, investment promotion, preservation of the environment, forestry and land.[59]Only the Government is entitled to grant the concession over the State's Land for mining operations, and the concessionary period for such ore exploration shall not exceed 20 years from the date of the grant of such concession. The concessionary period can be extended as applicable in accordance with the case and volume of mineral ores on the recommendation of the Ministry of Energy and Mines and pursuant to the agreement by the National Land Management Authority, Ministry of Agriculture and Forestry and the relevant authorities including the local Administrative Authorities.[60]

In this case, the Government is entitled to expropriate the rights to use the land by giving compensation with an appropriate amount to those relevant individuals and legal entities.[61]

7. Law on Urban Planning

Town planning involves rules and measures set out to protect utilization of land, construction and structures within boundaries throughout the country as well as at local levels to ensure that they correctly comply with the policies and law for the sake of

[59] Decree on Leasing or Concession Land of State, Section 30.
[60] Decree on Leasing or Concession land of State, Section 31.
[61] Law on Land, Section 71.

implementation of development of towns/cities along the direction set by the Economic and Social Plan and to ensure the maintenance of peace, safety, law and order in a city with good hygienic measures as well as maintaining archaeological and architectural sites which are the base of Culture and Environment for their preservation.

However, the Law on Urban Planning, which contains the general provisions, is the only law available in the Lao PDR controlling the urban planning systems. No specific laws or regulations have been promulgated. Currently, with reference to its policies, the State considers the application for constructing large buildings on a case-by-case basis.

General principles for urban-planning are that they must be systematic with good collaboration between relevant work units, local administrative authorities and the people and must be appropriately in line with the level of economic and social expansion in each area as well as creating peace, safety, rules and order, convenience, beauty and maintaining the traditions and cultures of the various tribes, nation and the environment.

Urban-planning can be divided into four levels, namely:

(1) Town-planning at the national level which will set out the overall direction in the long and medium term for boundaries throughout the land governing determination of areas/parameters for construction and expansion of cities/towns, zones for Economic-Cultural and Social Centres, forestry areas and reserved forests, natural resources, national security, peace-keeping zone, routes and others.

(2) Town-planning at regional levels which will set out the direction in the long and medium term in any of the country's regions concerning determination of boundaries/areas for construction and expansion of cities/towns which will be more detailed than town-planning at the national level.

(3) Town-planning at province levels which will set out the direction in the long and medium term in any of the country's province pertaining to the determination of boundaries/areas for construction and expansion of cities/towns which will be more detailed than the town-planning at a regional level.

(4) Town-planning at urban levels which will set out areas for construction and expansion of towns/cities by zoning areas into that of residences, offices/organizations, agriculture, industry, trade and services as well as routes for communications and transportation, cultural and sports zones, public parks, national security-peace keeping, public facilities, public utilities and others.

Land boundaries set out for town-planning for the purpose of developing them into towns will be called Town Planning Land consisting of the State's Land and land of various organizations or individuals. The State has the right to preserve or transfer land to be incorporated for use in the communal interest and future development such as construction of new communities, roads, industrial zones, agricultural zones, reserved forests, tourist zones, national security-peace keeping areas and others. However, for transfer of land of organizations or individuals which have already been developed to be incorporated for use in public interests, appropriate payment of compensation shall be made the State for them as well.

8. Relevant Government Authorities

Main work units which provide protection and look after land-related work consist of the Land Management Authority and the Ministry of Natural Resources and Environment depending on the location of that plot of land as they may rest under the jurisdiction of the Metropolitan City (if the land site is in the Vientiane Capital), or under the Provincial or City Authority which will mainly take charge in compiling various land-related data including registration of changes over the rights of land, issuance of Land Title Deeds or documents of title concerning land in each plot as well.

Moreover, in matters concerning land-concessions, the Ministry of Planning and Investment will take the main responsibility of giving consideration over the award of land concessions and the interested party and is thus considered the main central point of contact. From there, the Ministry of Planning and Investment will contact and coordinate with the various work units involved with activities to be conducted on that plot of land. For example, if land concession is for the purpose of conducting mining operations or electricity generation facilities, the Ministry of Energy and Mines will step in with an increased role over the concession of that plot. Or, if it is the case of land concession for agricultural purpose, the Ministry of Agriculture and Forestry will likewise be the work unit involved with the operation of that activity.

However, the Notary Office is considered another major work unit of importance as far as execution of agreement or various juristic acts to create binding commitments or changes on the rights of that plot of land is concerned in view of the fact that for an execution of agreement or juristic act, pertinent agreements/documents must be duly certified by the Notary Office for verification before they can be used at the next stage for the purpose of various registrations.

Urban planning was originally under the responsibility of the Ministry of Transport and Postal. However, the Ministry of Public Works and Transport was then established in order to separate transport operations and postal and communicational services. Therefore, urban planning was categorized to be the responsibility of the Department of Housing and Urban Planning under the Ministry of Public Works and Transport with state agencies responsible for the urban planning specifically i.e. the Division of Urban Planning and the Division of Urban Development which controls and supervises national urban planning. However, regional, provincial and city planning remain under the control and supervision of the Division of Housing and Urban Planning of each province with cooperation between other relevant offices in order to prepare the urban planning in accordance with the geography and particular objectives.

Chapter 13
Employment and Trade Unions in the Lao PDR

1. Relevant Legislations

(1) Law on Labour (Amendment) No. 43/NA, dated24 December 2013 ("**Law on Labour**");

(2) Law on Trade Union No. 12/NA, dated 25 December 2007 ("**Law on Trade Union**"); and

(3) Law on Social Security No. 34/NA, dated 26 July 2013 ("**Law on Social Security**").

2. General Principles

The current Law on Labour was enacted for application as replacement for the old Law on Labour in 2006 version. This Law on Labour is enforceable alike on both employees and employers in the private sector whether they be of Laotian or foreign nationality working in the Lao PDR who will all be required to comply with this Law on Labour[1]

In the Lao PDR, employers and employees are called differently from those in the Thai language. The employer will be called "Labour User" in Laotian while employees will be called "Labour Expenders" with opposite meanings to those in Thai such that we may get somewhat confused. For this report, therefore, the terms Employer and Employee as used in Thai will be used to avoid confusion.

General principles and basic criteria concerning employment of workers by various enterprises are set by this Law on Labour as follows:

(1) There must be an employment contract between Employer and Employee to ensure that both employer and employee receive equal benefits and that every employee is treated on an equal basis without discrimination as to their race, nationality, sex, age, religion, faith and economic situation in any way;

(2) Guarantee must be given by Employers on employment conditions as to work safety and fair payment of salary or wages and that they must be in compliance with the social security system;

[1] Law on Labour, Section 6.

(3) Guarantee must be given by Employer on its proportionate use of Laotian labour side-by-side partial foreign labour;

(4) Guarantee must be given by Employer on the rights of Employees to become members of Trade Union(s) or other social organizations;

(5) Labour shall be used by Employer in conjunction with their creation and development of skilled labour pursuant with the National Socio-Economic Development Plan and in line with demands in labour markets;

(6) Guarantee must be given by Employer on maintaining proper labour balance in line with economic structure;

(7) There may not be any forced labour under any circumstances; and

(8) Compliance shall be made with international agreements and treaties in which the Lao PDR is a party.[2]

3. Employment

3.1 Employment Agreement

Under this new Law on Labour, employment agreements may be executed in two forms, namely:

(1) In writing where either party or both hold the status of legal entities or organizations; and

(2) Verbally where both Employer and Employee are individuals in general.[3]

Employment agreements may be made with or without stipulation of term/duration. However, for a term agreement including an extension thereof, the term of such employment must not exceed 3 years as otherwise it will be construed as an agreement without a definite contractual term. To extend any employment contract, the other party must be given at least 15 days' notice and the agreement must agree on the extension within 60 days from the date of its termination unless there is a stipulation of time in the agreement pursuant to the term of the Project or Season as otherwise the said agreement will be considered to be one without a definitive term.[4]

[2] Law on Labour, Section 5.
[3] Law on Labour, Section 77.
[4] Law on Labour, Section 75, Section 76 and Section 94.

Employment agreements shall contain the following provisions:

(1) Names and surnames of Employer and Employee;
(2) Nature of work, rights, duties, responsibilities and duties under the Employee's specific skills;
(3) Salaries or wages of Employees;
(4) Period of agreement: date, month and year of commencement and termination of agreement;
(5) Current addresses of both employer and Employee;
(6) Method of payment of salaries or wages;
(7) Term for trial/test on the Employee's capabilities (probationary period);
(8) Welfare and other policies for Employees;
(9) Days of work, recess periods and holidays;
(10) Benefits to be received by employees after termination of the employment contract; and
(11) Other problems considered necessary by Employers and Employees which must be in line with the relevant rules and law.[5]

As for termination of employment contracts, it may be, in the case of term contract, terminated by agreement of the contractual parties or when either party commits a contractual default. The default party must pay compensation to the other party for damages occurred. In addition, if the Employer breaches the contract, the Employer is subject to pay compensation and other benefits to Employees as prescribed by law. If the Employment contract is without a definite period of time, such contract shall be terminated at any time with a condition that the Party shall notify the other Party of such termination 30 days prior to the date of termination for unprofessional-unskilled labourers or 45 days prior to the date of termination for professional-skilled labourers.[6]

However, although the law specifies that an employment contract without a definite period of time shall be terminated at any time with a condition that the Party shall notify the other Party, such termination shall explain and clarify appropriate reasons in order to support the termination. Those reasons provided shall lead to the obligations of the Employer in order to pay compensation to its Employee as prescribed by the labour law. In this issue, the law specifies reasons to terminate a labour contract in which the Employer is subject to pay compensation for its Employees.

The Employer is subject to pay compensation to its Employees when the Employer terminates the employment contract by the following reasons:

[5] Law on Labour, Section 78.
[6] Law on Labour, Section 80.

(1) The Employee lacks academic skills or the Employee's health is not in good condition as verified by the Medical Council. Although the Employee is transferred to work at other workplace which suits his/her capabilities and health conditions, he/she is still unable to work properly.

(2) The Employer is of necessity to reduce the number of Employees due to business and financial reasons. In this case, the Employer has already consulted on this matter with the Labour Union, the representatives of the Employees, or most of the Employees, and subsequently submitted a report to the Department of Labour Protection.

The Employer is subject to pay compensation to the Employee when the Employee terminates the employment contract by the following reasons:

(1) Although the Employee is treated by physicians or medical services, his/her health is still not in good condition as verified by the Medical Council. In addition, although the Employee is transferred to work at other workplace which suits his/her capabilities and health conditions, he/she is still unable to work properly.

(2) The Employee has asked the Employer to act in accordance with the employment contract many times, but the Employer refuses to do so.

(3) The Employer changes it business establishment to where the Employee is unable to work as verified in writing from the Labour Union or the Representative of the Employees or the Provincial Authority.

(4) The Employee is threatened or sexually abused by the Employer or the Employer allows those situations to happen.

In addition, in case that the Employment Contract is terminated by the Employee in accordance with (2) and (4) as mentioned above, the Employer is still subject to pay compensation and remuneration as well as other benefits remained as prescribed in the Employment Contract to the Employee.[7]

However, in some certain cases, the Employer is not subject to pay compensation to the Employee due to its termination of the Employment Contract. The law on labour specifies that the Employer is able to terminate the Employment Contract without obligations to pay compensation to its Employee, and in this case the permission from the Labour Management Department is not required[8]:

(1) The Employee purposefully causes damages to the Employer;

[7] Law on Labour, Section 82-83.
[8] Law on Labour, Section 86.

(2) The Employee breaches obligations as prescribed in the work rules or in the Employment Contract;

(3) The Employee leaves work for four consecutive days without due reason;

(4) The Employee is sentenced due to its intention to commit an offense to the Company, except in the case that the Employee commits the offence by negligence; or

(5) The Employee commits a wrongful act on other employees, in particular to female employees, albeit to acknowledgement of his warning notification.

According to the five reasons as mentioned above, the Employee has no rights to receive compensation; however, he/she is still entitled to receive remuneration in full from the Employer in accordance with the days he/she has already worked for the Employer.

However, Law on Labour prohibits employment contracts to be terminated by the request of the Employer under any circumstances for the following 8 scenarios as approval must be first obtained from the Labour Management Department only:

(1) Female pregnant Employee or with a child of less than 1 year old;

(2) An Employee in the process of recuperation or health rehabilitation pursuant to medical orders;

(3) An employee who is representing various employees or is Trade Union leader in that Union;

(4) An Employee under the process of litigation or being subject to incarceration pending Court's judgment;

(5) A sick Employee who is undergoing medical treatment and duly certified by a physician, or is suffering from a disaster;

(6) An Employee in the process of annual leave or work suspension with the Employer's approval;

(7) An Employee performing work in other locations as assigned by the Employer; and

(8) An Employee who is in the process of filing complaints or entering action in court against the Employer or cooperating with the State's officials in relation to compliance with rules and Law on Labour or labour conflicts within his/her own business entity.[9]

In addition, the law on labour specifies that the Employment Contract shall be terminated when:

[9] Law on Labour, Section 87.

(1) all conditions are achieved or all employer's assignments are completely done;

(2) the employment contract reaches its end as specified in the specific contractual period;

(3) the Employer and the Employee mutually agree to terminate the contract;

(4) the Employer or the Employee has died in case that the Employer or the Employee are individuals. If the Employee has died, it is deemed that the employment contract is terminated by the Employee; therefore, the Employer is subject to pay compensation in the amount of 50 percent of each case;

(5) the Employer is sentenced by the Court without parole due to his/her negligent offence.

3.2 Terms of Employment

3.2.1 Probation

As for terms of employment in the Lao PDR, after an employment contract has been executed, the employee's capabilities may be evaluated by the Employer which will be considered a probationary period, in order to ascertain if the Employee would have the capabilities to perform his/her work or not. If an Employee is not capable to perform during that period, it may be a condition for the Employer not to accept him/her for further employment. Probationary period is divided into 2 categories, as follows:

(1) Not more than 30 days for work not requiring any skills; and

(2) Not more than 60 days for work requiring skills.

However, such probationary period shall not include days taken by an Employee on sick leave or days of absence on reasons of necessity albeit the maximum period of such leave shall not exceed 10 days as otherwise the employment contract may be terminated by the Employer.[10]

3.2.2 Employment of Foreign Labour

For employment of labour in the Lao PDR, the employer, whether of Laotian or of foreign nationality, must primarily focus on employing Laotian workers, however, foreign employees may be employed if it is considered necessary for the specific nature of work albeit such employment of foreign labour must receive prior approval from the Labour Management Department. Ratio of employment of foreign labour is set by the law as follows:

[10] Law on Labour, Section 79.

(1) For unprofessional/unskilled work: not more than 15% of its total headcount; and

(2) For professional/skilled work: not more than 25% of its total headcount.[11]

3.3 Work Rules

Work rules[12] of any business entity in the Lao PDR will be enforceable only once they are approved by the Labour Management Department and must be made in the Laotian language and translated into the language of the country of its foreign employees, if any[13].These Work Rules shall contain the following provisions:

(1) Time of commencement and ending of work for the enterprise; locations of work or each job (if any) for the business enterprise;

(2) Hours of rest/recess, lunch breaks and rest time when necessary during working hours;

(3) Weekly holidays;

(4) Absence from work as the result of sickness and other cases of necessity;

(5) Prohibitions and safety and hygienic measures for work such as use of equipment/tools and personal safety tools to safeguard against work accidents and illnesses;

(6) Steps and method of solving labour conflicts and disciplinary measures;

(7) Benefits and rules for Employees.[14]

3.3.1 Working Hours

(1) Working hours shall not exceed 8 hours per day or 48 hours per week which, however, is not based on the category of salary or wage in any way;

(2) Regular working days must not exceed 6 days per week;

(3) For Employees who must carry out work which are characteristically dangerous and in dangerous or toxic premises such as radioactive or chemical environment or underground tunnels which may create an impact on physical health – their working hours may not exceed 6 hours per day or 36 hours per week[15];

[11] Law on Labour, Section .
[12] Work Rules are called “Internal Rules of Business Enterprise” in the Laotian language.
[13] Law on Labour, Section 63.
[14] Law on Labour, Section 64.
[15] Law on Labour, Section 51.

(4) For Employees working night shifts, they will receive additional specific pay of 15% of their normal working hours[16];

(5) Overtime work may not be conducted in excess of 3 hours per day or an aggregate of 45 hours per month and may not be carried out in 4 consecutive days except in cases of emergency which may endanger the business enterprise[17]. Payment of salary/wages shall be made by the Employer for overtime work as follows:

(a) For normal working days:

- during 17.00 hrs to 2200 hrs:150% of normal wage/salary; and
- during 22.00 hrs to 0600 hrs:200% of normal wage/salary.[18]

(b) For weekly holidays or official holidays:

- salary/wage for work on weekly or official holidays are computed at 250% of the normal wage/salary;
- during 16.00 hrs. to 22.00 hrs.: 300% of normal wage/salary; and
- during 22.00 hrs. to 06.00 hrs.: 350% of normal wage/salary.[19]

3.3.2 Weekly holidays

One day per week must be given by the Employer as Employees weekly holiday which may either be Sunday or any other day as agreed upon by Employer and Employee.[20]

3.3.3 Official holidays and traditional/religious holidays

Under the new Law on Labour, Employees have the right to official holidays with pay as follows:

(1)	National Day (2 December)	1 day
(2)	International New Year's Day (1 January)	1 day
(3)	International Women's Day (8 March)	1 day for women
(4)	Laotian New Year Day	3 days
(5)	National Teacher's Day (7 October)	1 day for teachers and

[16] Law on Labour, Section 116.
[17] Law on Labour, Section 53.
[18] Law on Labour, Section 114.
[19] Law on Labour, Section 115.
[20] Law on Labour, Section 54.

		educational administrators
(6)	National Day	1 day for foreign labour

In the case of an official holiday falling on a weekly holiday, a replacement holiday will be set in lieu. As for holidays for traditional/religious affairs, this shall be set pursuant to agreement made between Employer and Employee.[21]

3.3.4 Sick Leave

Employees on monthly salary pay may take sick leave of not more than 30 days per annum on provision of medical certification from a physician and will receive their full normal pay.

Employees on daily, hourly wages or according to the outcome of their work or on a lump-sum basis with an employment contract of over 90 days will also be paid their wages for their sick leave.[22]

3.3.5 Maternity Leave

(1) Employees may take leave for childbirth before and after delivery for at least 105 days and at least 42 days after childbirth and will receive full normal pay during such period.

(2) In the case of twins, at least 120 days may be taken for childbirth with full normal pay during that period.

(3) During a period of 1 year after childbirth, female employees may take off 1 hour per day to feed and look after their babies and may take them for vaccination.

(4) In the case of miscarriage, leave may be taken pursuant to the doctor's prescription for which they will receive full normal pay during that period.[23]

Although the law specifies the minimum maternity leave, the work rules of the Employer, in practice, specify that the Employee has the right to take maternity leave for childbirth and after delivery for not more than 105 days which is a standard criterion of maternity leave period for the Employee.

3.3.6 Annual Leave

(1) Employees may, after completing one full year of service, take annual leave of 15 days with full normal pay during that period.

[21] Law on Labour, Section 55.
[22] Law on Labour, Section 56.
[23] Law on Labour, Section 98.

(2) Employees whose work are characteristically dangerous or who work in dangerous premises will be granted 18 days of annual leave with full normal pay during that period.

(3) In the case where permission is not granted by the Employer for an Employee to take his/her annual leave, full pay must be made to the Employee pursuant to his/her full normal pay for the days in which she/he has not been granted permission to take such annual leave.[24]

3.3.7 Business Leave

Business leave of not more than 3 days per annum may be taken by an employee for whom she/he will receive full normal pay from the Employer. However, an application must be filed for such business leave and duly certified by the head of his/her work department. Business leave may be taken only under the following circumstances:

(1) His/her parent(s), spouse or child has fallen ill and hospitalized without anyone to look after them.

(2) His/her parent(s), spouse or child has died.

(3) His/her own wedding.

(4) His wife giving birth to a child or suffering from a miscarriage.

(5) He/she suffers from the impact of a severe disaster.[25]

3.3.8 Labour Welfare

Welfare to be derived by an Employee under the Law on Labour consists of:

(1) Retirement pay on reaching his/her retirement age for which he/she has been making payment of contributions for more than 15 years. If an Employee is of poor health and cannot work up until his/her retirement age, he/she must have made a payment of contribution for at least 3 years or more.[26]

(2) Social security to be mentioned in 3.4.

(3) An Employee medical check-up which will be provided by the Employer at least once a year. If an Employee has to work, or works in a premise which is hazardous to his/her health and has to work during night time, medical check-up must be arranged at least twice a year.[27]

[24] Law on Labour, Section 57.
[25] Law on Labour, Section 58.
[26] Law on Labour, Section 72.
[27] Law on Labour, Section 126.

(4) Medical treatment for Employees suffering from accidents or illness; the Employer or Social Security authority shall be responsible for expenses in relation to his/her treatment and funeral as well as subsidies for an Employee's death pursuant to Law on Social Security.[28]

3.4 Social Security System

Under the new Law on Labour, every business organization and every Employee in the Lao PDR must enter into the Social Security System and make their contributions towards the National Social Security Fund[29] for which they will receive Social Security subsidy in a variety of categories pursuant to rules on Social Security. Each month, an Employer is required to make a contribution towards the Social Security Fund at the rate of 5% of a self-insured Employee's salary while the said self-insured Employee has the duty to make another contribution of 4.5% of his/her salary into the Social Security Fund which would make an aggregate total of 9.5% of the self-insured Employee's salary.

However, there is a provision that such payment shall, currently, be collected into the Social Security Fund pursuant to the self-insured Employee's income out of his/her base salary of not more than LAK 2,000,000 (approximately USD 250) only.

Employee's contribution to the Social Security Fund shall be arranged in the following ratio:

[28] Law on Labour, Section 128 and Section 129.
[29] Law on Labour, Section 71.

Social Security Fund	Ratio of the Financial Contribution		
	Government Officers, Soldiers and Police	Employer and Employee	Self-employed Business and Voluntary Persons
Medical Fund	1.5	1.5	1.5
Fund for Subsidy for Work Accidents or Work-related Diseases or Temporary Loss of Performance	0.5	0.5	-
Short-Term Fund for Childbirth, Miscarriage, Disabilities and Family Members of the Deceased Insured Person	2.5	2.5	2.5
Long-Term Fund for Pension, Disabilities and Family Members of the Deceased Insured Person	12	5	5
Fund for Unemployment	-	2	-
TOTAL	**16.5**	**11.5**	**9**

The self-employed business and voluntary persons have no employers; therefore, it is not necessary to have a Fund for Work Accidents or Work-related Diseases or Temporary Loss of Performance or Fund for Unemployment.

3.4.1 Various categories of subsidy

At present, subsidies in Lao PDR are categorized into 8 types as follows:

(1) Medical Subsidy;

(2) Childbirth Subsidy;

(3) Subsidy for Work Accidents or Work-related Diseases or Temporary Loss of Performance or Disabilities;

(4) Subsidy for Sickness;

(5) Pension Subsidy

(6) Subsidy for Death;

(7) Subsidy for Family Members of the Deceased Insured Person; and

(8) Subsidy for Unemployment.

Details of those subsidies shall be provided as follows:

Benefits in Medical Subsidies	
Conditions	1. The Self-Insured Person is subject to pay a1-month counterpart fund or more during the last 6 months before receiving medical services for Work Accidents or Work-related Diseases or Childbirth or Miscarriage. 2. The Self-Insured Person is subject to pay a 3-month counterpart fund or more during the last 6 months before receiving the medical services for General Diseases or Work-unrelated Diseases.[30]
Person entitled to such subsidies	1. The Self-Insured Person 2. Husband or Wife or Child (who is under 18 years old and not more than 23 years old) of the Self-Insured Person. A child of the self-insured person shall be studying and shall not be married. In order to support their rights, the child is requested to show his/her student identity card or his/her annual transcript. (Hereinafter referred to as "Family Member") 3. If the child is registered by having both his/her father and mother as self-insured persons, that child shall be entitled to receive medical services only by referring to his/her father's side or to his/her mother's side. 4. If the Self-Insured Person has died or has stopped paying the counterpart fund, the Family Member is entitled to receive medical services for the next 3 months starting from the date in which the self-insured person is dead or the date in which the self-insured person has stopped paying the counterpart fund.
Rights	The Self-Insured Person and the Family Members are entitled to receive the medical services at the hospital as prescribed by law on medical services of which details are provided as follows: 1. The self-insured person and the Family Member shall receive the medical services at the hospital to which he/she has registered. In case of emergency, the Self-Insured Person and the Family Member is able to receive medical services at the partner hospital or the non-partner hospital to which he/she has registered in accordance with the following conditions: (1) In case of receiving medical services in the partner hospital, he/she is able to show the social welfare card or the health-secured card. In this case, the hospital or the partner hospital shall, among themselves, be responsible for the medical service fees. (2) In case of receiving medical services in the non-partner hospital,

[30] Law on Labour, Section 12.

Benefits in Medical Subsidies	
	the self-insured person shall inform the officers at the hospital to which she/he has registered, or at the National Social Welfare Organization or at the Local Social Welfare Service Center within 72 hours. In addition, the self-insured person is requested to show a medical receipt and a medical certificate at the hospital to which she/he has registered within 1 month in order that the registered hospital shall reimburse the medical service fee in an appropriate amount to her/him. In addition, in case that the health conditions of the self-insured person or the Family Members is significantly improved, she/he shall be transferred to the hospital to which she/he has registered. 2. In case that the self-insured and family members are in hospital more than 6 months, that hospital and the self-insured person are subject to pay for the medical fee as follows: (1) In case of 7 to 12 months, hospital is subject to pay for 70 percent of the medical fee, and the self-insured person or its family members are subject to pay for 30 percent of the medical fee. (2) In case of more than 12 months, hospital is subject to pay for 50 percent of the medical fee, and the self-insured person or its family members are subject to pay for 50 percent of the medical fee. (3) In case that the self-insured person of the family members use medicines which are excluded from list of medicines and use special room at hospital, the self-insured person or family members are subject to pay for differentials of prices. 3. There are some medical services in which the self-insured person and the family members are subject to pay themselves. The list is as follows: (1) Prevention and Remedy on Diseases which are already under the Responsibility of the Government such as Tuberculosis and Leprosy (2) Heart surgery (3) Haemodialysis (more than 5 times) (4) Thalassemia (5) Radiotherapy (6) Eyeglasses or Contact Lenses (Save for Work Accidence or Work-Related Diseases) (7) Denture or Orthodontic (8) HIV Drug Resistance (9) Annual Check-Up (10) Unnecessary Medical Check-Up and Surgery i.e. Genital Surgery,

Benefits in Medical Subsidies	
	Artificial Insemination, Sterilization, Beauty Surgery. 4. The self-insured person is entitled to receive medical service in oversea by the following cases: (1) There is an emergent and serious sickness to the self-insured person; therefore, the self-insured person is needed to receive medical service during his/her work in oversea for a short time. (2) The self-insured person is under the recovery at hospital in oversea and is allowed by the relevant partner hospital. In case of receiving medical services in oversea, the hospital, in which the self-insured person has selected while he/she registered as an insured person, is subject to pay for medical fee and, if necessary, such hospital is able to consult with the medical council on the issue of payment of medical fee.

Subsidies for Childbirth or Miscarriage	
Conditions	1. The self-insured person is subject to pay a contribution for 6 months or more to the Social Welfare Fund during the last 12 months. 2. If the self-insured person has delivered a child or has miscarried after being pregnant for more than 3 months, the self-insured person is required to show a medical certificate.
Persons entitled to such subsidies	1. Female self-insuredperson. 2. Unemployed wife of a self-insured person.
Rights	A female self-insured person or the unemployed wife of a self-insured person is entitled to receive subsidies for childbirth or for miscarriage as follows: 1. Pension for childbirth or miscarriage (1) The female self-insured person or the unemployed wife of the self-insured person is entitled to receive pension at the rate of 60 percent of the salary of the self-insured person; or (2) In case of adopting a child, the self-insured person is not entitled to receive any pension for childbirth or miscarriage. 2. Subsidies for childbirth or miscarriage (1) The female self-insured person, who is a governmental officer, a soldier or a policewoman and who is on maternity leave or on miscarriage leave, shall receive the full amount of salary in which she normally receives.

Subsidies for Childbirth or Miscarriage	
	(2) The female self-insured person, who is an employee in a business organization and is on maternity leave or on miscarriage leave within 3 and a half months, shall receive the full amount of the salary in which she normally receives. In this case, the Social Welfare Fund shall be responsible for paying 80 percent of the average salary for the last 6 months of the self-insured person. Differentials between social welfare, salaries or wages shall be paid by the employer. (3) The self-employed person and the voluntary person who enters into self-insurance for childbirth or for miscarriage shall receive subsidies at the rate of 80 percent out of the principal in which she voluntarily selected earlier. (4) In case that the self-insured person adopts a child who is of less than 3 years old as legally by law, she shall receive not more than 3 months subsidies in childbirth. In case that the female self-insured person fully receives subsidies in childbirth or in miscarriage as prescribed in (1) and (2), and her health is still not in good condition, she is entitled to extend her leave in accordance with the specific condition that she must present the medical certificate to the office for which she works. However, in case that such leave is due and the self-insured person is still unable to resume her work, the self-insured person is entitled to receive subsidies in sickness or in disabilities of which details will be subsequently provided.

Subsidies for Work Accidents or Work-related Diseases or Temporary Loss of Performance or Disabilities	
Conditions	1. The self-insured person is subject to pay a contribution for 1 month or more to the Social Welfare Fund during the last 12 months. 2. The self-insured person lacks the capability or is mentally disoriented due to work or commutation as verified by a medical certificate. 3. The self-insured person has a work-related disease as verified by medical certificate. 4. The self-insured person is disabled or has lost some body part due work accident or work-related disease as verified by a medical certificate.
Persons entitled to such subsidies	1. The self-insured person. 2. The guardian of the self-insured person (Type A).
Rights	1. Subsidies for Temporary Loss of Performance The self-insured person who has a work accident or work-related disease and is on sick leave shall receive subsidies for temporary loss of performance in accordance with the following conditions:

Subsidies for Work Accidents or Work-related Diseases or Temporary Loss of Performance or Disabilities

(1) At the first stage, the self-insured person shall receive subsidies at the rate of 70 percent out of his/her average last 6-month salary for 6 months;

(2) At the second stage, if the self-insured person receives subsidies as prescribed in (1) and his/her health is still not in good condition, he/she is able to enter clinical examination (check-up) and subsequently present a medical certificate to the office in order to receive subsidies for work-related accident or disease at the rate of 60 percent out of his/her average last 6-month salary for 6 months;

(3) In case that the self-insured person loses temporary performance due to other accident or work-unrelated disease (general disease), he/she shall receive subsidies at the rate of 60 percent out of his/her average last 6-month salary for 6 months.

2. Subsidies of Disabilities

According to the law on social welfare, disabilities are categorized into 8 groups as follows:

Group	Level of Disability	Payment of Subsidy
1	81-100 Percent	Per month
2	71-80 Percent	Per month
3	61-70 Percent	Per month
4	51-60 Percent	Per month
5	41-50 Percent	Per month
6	31-40 Percent	One Payment Only
7	21-30 Percent	One Payment Only
8	1-20 Percent	One Payment Only

(1) Subsidies for Disabilities (One Payment Only)

(a) The self-insured person who becomes disabled due to a work accident or work-related disease and who is also categorized into Type 6-8 shall receive subsidies for disabilities at the rate of the average last 6-month insured salary for 12 months multiplied by the percentage of the level of disability.

(b) The self-insured person who becomes disabled due to other accident or work-unrelated disease (general disease) and who is also categorized into Type 6-8 shall receive subsidies at the rate of the average last 6-month insured salary for 10 months multiplied by the percentage of the level of disability.

(2) Subsidies for Disabilities (Monthly Payment)

(a) In case that the self-insured person becomes disabled due to a work accident or work-related disease:

Subsidies for Work Accidents or Work-related Diseases or Temporary Loss of Performance or Disabilities	
	• The self-insured person who becomes disabled due to work accident or work-related disease and who is also categorized into Type 1-5 shall receive monthly subsidies at the rate of the average last 6-month insured salary multiplied by the percentage of the level of disability. • The self-insured disabled person who still performs his/her work and receives salary shall receive additional subsidies at the rate of 50 percent of the subsidies normally received. However, such additional subsidies shall be calculated from the amount of the current salaries when the type and level of disability is approved, regardless of whether the rate of salary will subsequently be increased. The self-insured disabled person who stops performing his/her work and who is also on leave in order to receive pension shall receive subsidies at the rate of 50 percent of the subsidies normally received. (b) In case that the self-insured person becomes disabled due to other accident or work-unrelated disease (general disease): • The self-insured person who becomes disabled due to other accident or work-unrelated disease (general disease) as categorized in Type 1-5 shall receive monthly subsidies at the rate of 90 percent of the average last 6-month insured salary multiplied by the percentage of the level of disability. • The self-insured disabled person who still performs his/her work and receives salary shall receive additional subsidies at the rate of 50 percent of the subsidies normally received. However, such additional subsidies shall be calculated from the amount of the current salary when the type and level of disability is approved, regardless of whether the rate of salary will subsequently be increased. The self-insured disabled person who stops performing his/her work and who is also on leave in order to receive pension shall receive subsidies at the rate of 25 percent of the subsidies normally received. (3) Benefits to the guardians of the disabled self-insured person (a) The guardian of the self-insured person in Type A shall receive monthly subsidies at the rate of 70 percent of the subsidies for disabilities as prescribed in (2). (b) If, in the following time, the self-insured person for

Subsidies for Work Accidents or Work-related Diseases or Temporary Loss of Performance or Disabilities	
	disabilities in Type 1 or in Special Type (Disabilities from Scarification to the Nation) has died, the guardian shall receive subsidies for one time at the rate of subsidies for 5 months in which the guardian normally receives. If the guardian has taken care of the self-insured person who is disabled for more than 5 years, he/she shall receive additional subsidies at the rate of 1 month for every 2 years of the time he/she has taken care of such self-insured person. (4) Support in equipment and artificial organs to the self-insured person in disabilities (a) The self-insured person who receives monthly subsidies as prescribed in (2) shall further receive support in equipment and artificial organs as the office is able to provide.

Subsidies for Sickness	
Conditions	1. The self-insured person is subject to pay a contribution to the Social Welfare Fund for 3 months or more during the last 6 months. 2. Salary has temporarily not been paid to the self-insured person since he/she is unable to resume his/her work caused by other accident, work-unrelated disease, childbirth or miscarriage. 3. A medical certificate is required to be presented.
Persons entitled to such subsidies	The self-insured person who fulfils all requirements as prescribed by laws.
Rights	The Social Welfare Fund is subject to pay subsidies to the self-insured person for sickness and leave starting from the date in which he/she is sick. The rate of payment is provided as follows: 1. The self-insured person shall receive subsidies for sickness at the rate of 70 percent of the average 6-month insured salary for not more than 6 months. 2. In case that the health of the self-insured person is still not in good condition and he/she is still under medical service, he/she shall receive subsidies for sickness at the rate of 60 percent of the average 6-month insured salary for not more than 6 months. 3. In case that the time period as prescribed in 1 and 2 are due and the health of the insured person has still not improved, the Social Welfare Organization shall calculate subsidies for the disability.

Subsidies for Pension	
Conditions	1. The self-insured person was a revolutionist in the year of 2518 B.E. The male self-insured person shall retire at the age of 60 years or more having worked for 25 years or more. The female self-insured person shall retire at the age of 55 years or more having worked for 25 years or more. If those who have worked more than 25 years but have health problems and have retired earlier for more than 3 years as previously mentioned, they shall receive less pension at the rate of 1 percent based on to the time of the early-retire period of 1 year. 2. The self-insured person was a revolutionist before the year of 2518 B.E. or the self-insured person has a Type 1-4 disability and has worked in a toxic-related business for more than 5 years or the self-insured person is a man who retires at the age of 55 years or the self-insured person is a woman who retires at the age of 50 and has worked for more than 20 years. 3. The self-insured person is a governmental officer, soldier or police officer. The male self-insured person shall retire at the age of 50 years or more and has worked for 20-25 years. And the female self-insured person shall retire at the age of 50 years or more and has worked for 20-25 years. If they have health problems and have retired earlier for more than 3 years as previously mentioned, they shall receive less pension at the rate of 1 percent to the time of the early-retire period of 1 year. 4. Male employees in business organizations, the self-employed person or the voluntary persons are the self-insured person who retire at the age of 55 and have 15-year working experiences or more. Female employees in business organizations, the self-employed person or the voluntary persons are the self-insured person who retire at the age of 50 and have 15-year working experiences or more. And their health is in bad condition and shall retire 3 years earlier or more as prescribed. They shall receive pension with a less amount at the rate of 1 percent to the early year of retirement. 5. The leave for pension shall be verified and confirmed by the relevant organizations.
Persons entitled to such subsidies	1. Monthly Pension (1) Those who act in accordance with conditions 1-5. 2. Pension for One Payment Only (1) The retired person comes of age as prescribed, but his/her condition in working experience is not fulfilled. (2) Those who quit their work and are unable to resume their work due to health problems.

Subsidies for Pension	
	(3) The self-insured person was a foreign employee and has returned to his/her country when the working contract ended.
Rights	The self-insured person is entitled to receive pension depending on the type of ratio as follows: 1. The ratio of pension for governmental officers, soldiers and police officers shall be divided into 3 types: (1) Pension for those who were revolutionists before the year of 2497 B.E. shall be at the rate of 80-100 percent; (2) Pension for those who were revolutionists during the year of 2498 B.E. to the year of 2517 B.E. shall be at the rate of 75-90 percent; (3) The self-insured persons, who have the following conditions, shall receive the pension at the rate of 75-85 percent. Conditions are as follows: (a) Persons having Type 1-4 disability; (b) Persons having worked in a toxic-related business for more than 5 years starting from the year of 2518 B.E. onwards and have worked for more than 20 years; and (c) Revolutionists from the year of B.E. 2518 onwards. 2. Ratio of pension for the self-insured person in business organizations, the self-employed person or the voluntary person shall be based on salary or average wage and calculation index. Pension for governmental officers, soldiers or police as mentioned in (1) and for the self-employed person or the voluntary person shall be calculated from the rate of pension multiplied by the highest insured salary received. The self-insured person who has worked more than then period of time as prescribed in the conditions shall receive additional pension at the rate of 1 percent per 1 working year. To illustrate, a self-insured person is a soldier and is categorized in Type (1). If he/she has 20-year working experience, he/she shall receive pension at the rate of 80 percent. And if he/she has working experience for more than 21 years, he/she shall receive pension at the rate of 81 percent. The rate of pension shall be increased not more than the maximum level in each type. Pension for the self-insured person in business organization, the self-employed person or the voluntary person shall be calculated from the pension points in full of the self-insured person multiplied by the average salaries of the self-insured person and multiplied by the index at the rate of 2 percent. However, pension of the self-insured person in the business organization shall not exceed 75 percent of the average salaries in whole. In addition, in case that the self-insured person does not fulfil requirements in order to receive a monthly pension, he/she shall receive pension in one payment calculated from the average salary of the last 6 months for 1.5 months multiplied by the number of working years or of the insured years.

Subsidies for Death	
Conditions	1. The self-insured person shall pay contribution to the Social Welfare Fund at least 3 months or more during the last 6 months. 2. There must be a death certificate as verified by law.
Persons entitled to such subsidies	1. The self-insured person. 2. A lawful husband or wife of the insured person. 3. Son/daughter of the insured person. 4. Successor of the insured person. 5. The authorized person.
Rights	Subsidies for Death consist of: 1. Subsidies for Funerals (1) The self-insured person has died: (a) Subsidies at the rate of salaries of the self-insured person for 12 months or at the rate of pension or wage or at the rate of subsidies for disability for 6 months; and (b) For the disabled who receive both salary and subsidies for disability, he/she shall choose to receive either subsidy for funeral or subsidy salary. (2) In case that the husband or wife of the self-insured person, those who take a leave for pension or the disabled has died: (a) The husband or wife of the self-insured person who takes leave for pension or the disabled person who is not the self-insured person has died, subsidies shall be calculated at the rate of insured salary of the pension or of the subsidy for the disability for the last 6 months of the self-insured person. (b) In case that both the husband and wife are self-insured persons and one of them has died, subsidies shall be calculated at the rate of salary of the self-insured person for 12 months. However, he/she shall not receive subsidies at the rate of the insured salary for 6 months of his/her spouse. (3) In case that a son/daughter of the self-insured person has died: (a) In case that a son/daughter, who is not more than 18 years of age, has died, subsidies for a funeral shall be calculated at the rate of 3 months of the insured salary, pension, subsidies for temporary loss of performance or subsidies for disability. (b) In case that a father or mother is the self-insured person, the subsidies for a funeral of a son/daughter shall be calculated from the insured salaries of the father or of the mother only. 2. Subsidies for Family of the Deceased Self-insured Person (1) Subsidies for family of the deceased self-insured person shall be calculated from the average of salary, pensions, subsidies for temporary loss of performance, or subsidies for disability for the last

Subsidies for Death	
	6 months, multiplied by the amount of working years or the amount of the insured years which are more than 15 years. (2) If the self-insured is single or a widow and has no son or daughter, his/her father, mother or siblings shall receive subsidies as the family of the deceased self-insured person.

Subsidies for family members of the dead self-insured person	
Conditions	Family members of the dead self-person are entitled to receive subsidies of the dead self-insured person when such dead self-insured person has paid contribution to the Social Welfare Fund for 5 years or more. Family members, who will receive such subsidies shall fulfil the following conditions: 1. In case of husband, he shall retire at the age of more than 60 years old. In case of wife, she shall retire at the age of more than 55 years. For both cases, either husband or wife as qualified shall not have income, pensions, subsidies for disabilities, and still have not remarry. This must be verified by the relevant organizations. 2. The legitimate child, adopted child or child of the family who is of less than 18 years and who is unemployed and does not receive a monthly salary. In case that son/daughter whose father and mother are the self-insured persons and one of them has died, such son/daughter is not entitled to receive subsidies. 3. Father shall retire at the age of more than 60 years old or mother shall retire at the age of more than 55 years old and both of them do not receive any income i.e. income from operating businesses, pension or subsidies for disabilities. And the self-insured person is the only child or the oldest son who takes care of his parent. 4. Parent whose son has died in battle or war.
Persons entitled to such subsidies	1. Legitimate husband or wife of the self-insured person 2. Legitimate child, adopted child or child of the family 3. Father or mother of the self-insured person
Rights	Details of subsidies to the family members of the dead self-insured person are provided as follows: 1. Subsidies to legitimate husband or wife of the self-insured person (1) The rate of subsidies shall be at 30 percent of the insured salaries or of pension or of subsidies for disabilities of the self-person. 2. Subsidies to legitimate child, adopted child or a child of the family of the self-insured person

Subsidies for family members of the dead self-insured person	
	(1) The rate of subsidies shall be at 20 percent of the insured salaries or of pension or of subsidies for disabilities of the self-person. (2) In case that the self-insured person has many children, the whole amount of subsidies shall collectively not be more than 60 percent of the insured salaries or pension or subsidies for disabilities. 3. Subsidies for parent of the self-insured person (1) The rate of subsidies shall be at 30 percent of the insured salaries or pension or subsidies for disabilities. (2) In case that parents are entitled to receive all subsidies, the whole amount of subsidies received shall not more than 50 percent of the self-insured salaries or pension or subsidies for disabilities. In case that legitimate husband and wife of the self-insured person, legitimate child, adopted child or a child of the family and parent of the self-insured person are entitled to receive subsidies, such subsidies to be received shall not collectively be more than 80 percent of the insured salaries, pension or subsidies for disabilities of the self-insured person. In case that each of them has died, ratio to receive subsidies shall be re-arranged but the whole amount rearranged shall not collectively be more than 80 percent of the insured salaries or pension or subsidies for disabilities. In addition, parent, whose child has died in battle or in war for the nation regardless that the child is a self-insured person or not, shall receive subsidies throughout their lifetime.

Subsidies for Unemployment	
Conditions	1. The dead self-insured person shall pay a contribution to the Social Welfare Fund at least 12 months during the last 12 months. 2. The self-insured person is unemployed due to bankruptcy of business organization or to termination of employment. 3. The self-insured person is unemployed due to decrease of employees caused by the economic crisis. 4. The self-insured person is unemployed more than 30 days as verified by the relevant organization. 5. Health of the self-insured person is in good conditions and the self-insured person is able to return to the labour market. 6. In case that such self-insured person has received subsidies for unemployment earlier, the self-insured person shall pay additional contribution. If the self-insured person meets the following conditions, he/she shall not receive the subsidies for unemployment:

<table>
<tr><th colspan="2">Subsidies for Unemployment</th></tr>
<tr><td></td><td>1. The self-insured person works in seasonal period or works for a project;
2. The self-insured person breaches the employment agreement or article of association;
3. The self-insured person voluntarily quits the job with personal reasons;
4. The self-insured person loses performance or become disabled;
5. The self-insured person is in vacation (In case of a teacher in private schools);
6. While the self-insured person is being received subsidies and later have a new job, the subsidies remained shall be cut off.</td></tr>
<tr><td>Persons entitled to such subsidies</td><td>The self-insured person who fulfils requirements as prescribed.</td></tr>
<tr><td>Rights</td><td>The self-insured person shall receive subsidies for unemployment at the rate of 60 percent out of the average salaries for the last 6 months. The calculation of subsidies shall be depended on the duration of payment of contribution as follows:

<table><tr><th>Duration of Contribution Payment</th><th>Duration of Receiving Subsidies</th></tr><tr><td>12-36 Months</td><td>3 Months</td></tr><tr><td>37-72 Months</td><td>6 Months</td></tr><tr><td>73-144 Months</td><td>9 months</td></tr><tr><td>145 Months or more</td><td>12 Months (in the maximum)</td></tr></table>
In addition, during receiving subsidies for unemployment, the self-insured person shall be trained by the Social Welfare Fund in order to expertise in professions and provide opportunities and suggestion in labour markets and relevant organizations.

The subsidies for unemployment shall be ended by the following reasons:
1. The duration to receive subsidies for unemployment is due;
2. The self-insured person rejects his work offer without any appropriate reason;
3. The self-insured person starts his/her new job;
4. The self-insured person has died.</td></tr>
</table>

3.5 Minimum Wages or Salary and their Payment

(1) The Employer shall make payment of a minimum wage or salary which is currently set at LAK 626,000 per month (approximately USD 78.25).

(2) Payment of wage or salary when the sum of such is definitely determined shall be made once per month at the scheduled period. For payment of wage pursuant to accomplishment of work, however, payment shall be made at least twice per month.

(3) Where the Employer's payment of salary or wage is delayed without adequate justification, an increment shall be paid if such has been agreed upon between the Employer and Employee.

(4) In the case of an Employee's childbirth or miscarriage, sickness or accident when there is a need to obtain advance payment, consideration shall be made by the Employer for such advance payment on a case-by-case basis. Deduction to repay such advance payment must not be made in excess of 20% of her salary or wage.[31]

(5) In the case of the operations of a business entity being suspended as the result of the Employer's fault, payment of wage or salary shall be paid to Employees at the rate of not less than 50% of their wages/salaries for the period in which there is such suspension of work.[32]

3.6 Minimum Wages or Salary and their Payment

It is the Employer's duty to make tax deduction from an employee's wage and salary and to give notification of an employee's income tax payment to the Department of Duties and Taxes under the Ministry of Finance's jurisdiction pursuant to rates of tax withholding for an employee's wage or salary. Rates of tax withholding will be the same for Laotian and foreign employees with rates of income tax being as listed below[33]:

(1) Income of less than LAK 1,000,000 to 1,000,000: tax exempted.

(2) Income from LAK 13,000,001 to 3,000,000: 5%

(3) Income from LAK 3,000,001 to 6,000,000: 10%

(4) Income from LAK 6,000,001 to 12,000,000: 15%

(5) Income from LAK 12,000,001 to 24,000,000: 20%

(6) Income from LAK 24,000,001 to 40,000,000: 25%

(7) Income from LAK 40,000,001 upwards: 28%

[31] Law on Labour, Section 110.
[32] Law on Labour, Section 111.
[33] Tax Law, Section 41.

3.7 Severance pay on termination of employment

3.7.1 Severance pay in case of definite/fixed pay of wage or salary

In the case of termination of employment between Employer and Employee, severance pay shall be paid by the Employer. An Employee on fixed-pay salary or wage will receive severance pay at the rate of 10% of his/her entire salary or his/her last lot of wage payment multiplied by the number of months that the said employee has been conducting work under such employ.

In the case where employment is terminated by the Employer without justification or in excess of the Employer's authority or where it is made by force, whether directly or indirectly, or the Employee's basic rights have been violated such that he/she cannot continue to perform work any further, or if a breach of the employment contract has taken place for which the Employee has made due protest which was, however, ignored by the Employer, then payment of compensation shall be made by the Employer to the Employee at the rate of 15% of the entire salary or last lot of his/her wage, multiplied by the number of months that the said Employee has been conducting work under such employ.[34]

3.7.2 Severance pay in case of an employee employed on an indefinite wages basis

In the case where an Employee is paid pursuant to the results of work he/she has accomplished or he/she receives pay that is not based on a fixed/definite basis, it is provided by the Labour Law that the last three months' pay prior to such termination be averaged out for use in computing severance pay.[35]

4. Labour Dispute Resolution and Labour Strike

In case where a labour dispute occurs in the Lao PDR, the employers and the employees must find a dispute resolution as prescribed in the labour law. While action is taken to resolve labour disputes, strikes may not take place under any circumstance except where the dispute is so serious that it is necessary to have three parties involved to solve them, i.e. Employees by their Trade Union, the Employer by the Chamber of Commerce and Industry and the State by the Department of Labour Protection under the Ministry of Labour. Only once a consensus is reached by these three parties can work be called off on a temporary basis to forestall any potential damages, such that work stoppage may begin.

[34] Law on Labour, Section 90.
[35] Law on Labour, Section 90.

Where a labour dispute arises in the Lao PDR, action shall be taken to settle the conflicts by the following methods:

(1) Compromise
(2) Remedial action in areas of services
(3) Remedy by the Labour Dispute Settlement Committee[36]
(4) Court's judgment
(5) Settlement of dispute with international characteristics[37]

However, where labour disputes cannot be settled by that method, strikes can be called for, however, they must not be in contravention of the law.[38] It is stipulated by the Constitution of the Lao PDR that the people have the right and freedom to assemble into groups and to pursue rallies as long as they are not in conflict with the law. However, to rally to make any demands or for any purpose, if such consists of more than 5 people, permission must be first sought from the relevant authorities, however, we found that today, no rallies or labour strikes has taken place before in the Lao PDR.[39]

5. The Unification and Formation of Trade Unions

5.1 Trade Union(s)

The Trade Union is an organization established under the law. Its roles and objectives are to protect national interests and to enhance labour relations between employers and employees, and amongst employees themselves. Every member of the Trade Union is able to participate in specifying and supervising policies. If employers and employees recognize and understand the reasons and the objectives in establishing the Trade Union as well as realize their roles, shared interests may finally be established. The 1st of February, 1956 marked the day of the establishment of the Trade Union of the Lao PDR. The law specifies that every level of the Federation of the Trade Union in the Lao PDR shall, among themselves, cooperate to celebrate this day every year.

Trade Unions in the Lao PDR are called by different names under Law on Labour and Law on Trade Unions. For instance, they are called "Employees Representative Organization" in the Law on Labour, and the "Governance Committee (Gammabarn)" in Law on Trade Unions in which trade unions are defined under the said law as public work units

[36] In the Laotian language, it will be called conflicts. The said Committee, therefore, has an official name of "The Committee to Solve Labour Disputes"
[37] Law on Labour, Section 148.
[38] Law on Labour, Section 154.
[39] Information as of 22 October 2014.

which represent Employees, be they Laotian or foreign nationals and hold equivalent status/role as those of other State Organizations and public organizations.

According to such law, the governmental sector and the business organizations must enhance Employees to establish the Trade Union for the purpose of introducing, protecting and building good relationships between Employers and Employees and also amongst Employees. The Trade Union shall represent the employees and their rightful interests. The Trade Union in the Lao PDR consists of the Trade Union in business organizations and the Trade Union in governmental sectors.

The Law on Labour provides that business entity that has been in operation for at least 6 months may establish its own trade union.[40] Moreover, it is also stipulated by Law on Trade Unions that the State has a policy to support and promote every business entity to set up their own trade unions in order to protect the interests of their Employees as well and that they must appoint any of their Employees to represent all Employees who are members of that particular trade union. In this respect, it is the duty of the State's authorities and every business entity to procure budgets and to provide facilities for the work of these trade unions such as work premises, conference rooms, hostels, vehicles and so forth.

As of 1956, around 45,274 Trade Unions have been established in the Lao PDR, averaging 767 unions each year. The number is likely to increase every year due to economic expansion and enhancement of labour employment.

Major roles of the Trade Union are about resolving disputes between Employers and Employees through peaceful negotiation. Such roles of the Trade Union are applied as follows:

(1) Legal Dispute Resolution

Upon Employers and Employees able to agree to negotiation resolutions in whole or in part, a memorandum of understanding must be made to be submitted to the Trade Union and the Labour Supervising Organization, i.e. the Ministry of Labour and Social Welfare or the local office of Labour and Social Welfare, within 5 days starting from the date which the memorandum of understanding is made, so that the Trade Union and the Labour Supervising Organization will therefore recognize such negotiations and operations as provided in that memorandum of understanding between such Employers and Employees.[41]

[40] Law on Labour, Section 164.
[41] Law on Labour, Section 164.

(2) Interest Dispute Resolution

Interest dispute resolution shall be made in accordance with the legal dispute resolution. If the Employers and the Employees have already made a memorandum of understanding but are unable to implement this MOU, such Employers and the Employees must file a petition to the Labour Supervising Organization for revision within 15 days. If such Labour Supervising Organization is unable to revise within the timeframe, the Employers and the Employees are able to file a petition to the higher Trade Union for consideration.[42]

5.2 Establishment of Trade Unions

In order to set up a trade union, a business entity must have at least 5 Employees and must file an application to set up its trade union to the Federation of Trade Unions if located in the Metropolitan City of Vientiane or to the Regional/District Trade Union of its location if not located in Vientiane, as follows:

(1) The Federation of Trade Union in the Ministerial Level will be responsible for establishing the Trade Union of organizations supervised by ministries i.e. companies and organizations in any project, etc.;

(2) The Federation of Trade Union in the District Level will be responsible for establishing the Trade Union of departments supervised by the district office i.e. companies and organizations in any project, etc.; and

(3) The Federation of Trade Union in the City Level will be responsible for establishing the Trade Union of companies, factories, schools, hospitals, small business enterprises, shops, hotels and employees who earn monthly salaries.

Processes in establishing the fundamental Trade Union are as follows:

(1) The Federation of Trade Union in the Ministerial, District or City Levels shall consult with the company's directors, business owner, factory owner, hotel owner or business organization on the issue of establishment of such Trade Union;

(2) The Federation of Trade Union in the Ministerial, District or City Levels shall meet staff or employees to publicize roles and responsibilities of the Trade Union representing the Employees who will become the Working Group of the

[42] Law on Labour, Section 46.

Trade Union, and shall propose this matter to the company's directors or factory owner;

(3) The Federation of Trade Union in the Ministerial, District or City Levels shall consult with the Working Group of the Trade Union in order to select representatives of the Employees to become the Working Group of the Trade Union, and such names to the company's directors, business owner, factory owner, hotel owner or business organization;

(4) The Federation of Trade Union in the Ministerial, District or City Levels shall make an agreement with the President of the higher Trade Union to officially certify and declare the establishment of the Working Group of the Trade Union;

(5) Such Working Group of the Trade Union shall find new members within a year. After that, the preparation meeting for the annual general meeting on selection will be held; and

(6) The Federation of Trade Union at the Ministerial, Provincial or District Levels which proposed or requested by the Trade Union, are entitled to establish or cease such Trade Union.

Members who earn a monthly salary of more than LAK 569,000 must pay a fee of 5,000 per month and members who earn a monthly salary of less than LAK 569,000 must pay a fee of LAK 3,000 per month either to the Federation of Trade Unions or the Regional/District Union as their membership applies to.

5.3 Trade Union Members

Trade Union members consist of the various Employees, workers, Employers and Intellectual students employing their physical or intellectual faculties for work. They may receive salaries, wages or educational subsidies and must have been duly registered in the trade union within that business entity or various work units. Those to become members of a trade union are subject to the following requirements:

(1) They must be Employees, workers, Employers or intellectual students without discrimination as to their sex, religious faith, political/socio-economic status, educational levels or tribes albeit they must hold Laotian nationality and are 18 years old or older.

(2) They must have the qualities, be progressive and well-disciplined and have been through training in the work process in areas of services and production.

(3) They agree to comply with the law and trade union's rules and activities.

(4) They are alert and have filled in the application form to be a member voluntarily on their own.

5.4 Trade Union's Rights and Duties

The rights of a Trade Union are as follows:

(1) To represent Employees, sign in agreements, propose changes or termination of employment contracts with Employers as requested by Employees when it is felt that such contracts are not fair.

(2) Register members of the Trade Unions for their protection as well as Employees in various business entities both in the Lao PDR and overseas.

(3) Participate in work of inspection to hinder and thwart off corruption or other events by organizations, the State's parties, the State's organizations or other public organizations pursuant to its proposals and roles/burden.

(4) Follow-up and monitoring conditions on the use of labour, work accidents, work-related illnesses, compliance with Social Security policies and welfares of every business entity to protect employee's rightful and fair rights and benefits.

(5) Join in with the State's political and socio-economic parties or other State organizations as well as voicing its opinion on the Party's policies, the State's rules and law, the State's national Socio-Economic Development Plan including the Production Plan for the business entity pursuant to its role and burden.

(6) Perform in compliance with other rights as set out in the rules/regulations and the law.

The rights of a Trade Union are as follows:

(1) Mobilize and unifying unity in one direction, study and train trade union members, Employees, workers, labourers and intellectual students so that they are alert on political issues and are conscientious in respecting and complying with the law.

(2) Support and build up trade union's members, employees in areas of politics, lines of thoughts, specific areas of knowledge, technical issues, rules and the law and improve, expand and protect members and various organizations under its jurisdiction.

(3) Support Employers in their responsibility to provide professional and technical training to upgrade craftsmanship and skills for Employees, ensure safety and

security in work premises and take Employees for physical check-ups pursuant to the rules.

(4) Give legal advice, accept submission and make compromise for disputes in areas of labour, rules, law and benefits between Employers and Employees.

(5) Coordinate, participate and make contacts with other State Organizations.

5.5 Federation of Trade Union

The Federation of Trade Unions in the Lao PDR is the representative of trade unions with the duty to protect the law rights and benefits of trade unions which are its members and to provide training/education to members so that they are good citizens, well-disciplined, politically alert and equipped with knowledge and capabilities. Moreover, the Federation of Trade Unions may participate in the follow-up, checks and protection of the State's Organizations and business organizations as well.

The Federation of Trade Unions shall convene the general meeting every 5 years or earlier if there is any necessity. The general meeting is convened to report the overall operation to the members and to have the members approved the operation plan for the next 5 years. Moreover, the Federation of Trade Unions regularly convenes the annual meeting to report the annual overall operation and to have the members approved the annually operation plan for next year.

In the Lao PDR, the 4 levels of the Federation of Trade Union are as follows:

(1) The Central Federation of Trade Union;

(2) The District, Metropolis, Ministerial or Organizational Federation of Trade Union i.e. the Federation of Trade Union of the Ministry of Education and Sports, the Federation of Trade Union of the Ministry of Science and Technology, the Federation of the Office of the Government, etc.;

(3) The City, Municipality and Departmental Federation of Trade Union i.e. The Federation of Trade Union of National University, The Federation of Trade Union of Ho, etc.; and

(4) The Fundamental Federation of Trade Union i.e. The Federation of Trade Union of the Faculty of Economics and Business Administration, etc.

6. Relevant Government

The primary agencies with the authority relating to the compliance of the Law on Labour are mainly the Ministry of Labour and Social Welfare with internal work units as follows:

6.1 Internal Work Units of the Ministry of Labour and Social Welfare

6.1.1 At Central Stages

(1) The Cabinet
(2) Personnel and Organization Department
(3) Inspection Department
(4) Labour Protection Department
(5) Department of Labour Skills and Work Procurement
(6) Social Welfare Department
(7) Pension, Loss of Limbs and Disability Department
(8) Social Security Department

6.1.2 At Local Stages

(1) Regional or Metropolitan Section of Labour and Social Welfare
(2) City or Municipality Section of Labour and Social Welfare[43]

[43] Ministry of Labour and Social Welfare. Available at http://www.molw.gov.la 19 October 2015.

Chapter 14
Insurance and Other Related Businesses

1. Relevant Legislations

The legislation that is governing the insurance and other related businesses is the Law on Insurance (Updated) No. 06/NC dated 21 December 2011("**Law on Insurance**").

2. Overview of the Insurance Business in Lao PDR

The insurance business in Lao PDR has started since 1990 together with the introduction of the first insurance law which is the Law on Insurance dated 18 December 1990. At the beginning, the insurance is not famous because it is a new business and most of people do not see any necessity of insurance. An updated Law on Insurance has been promulgated on 21 December 2011 in order to expand types of an insurance, widen the insurance businesses, allow an establishment of the representative office of the foreign insurance company, amend the procedure of a dispute resolution, change the governing authority, change the right and duty of the insurer and insurance buyer, and determine the prohibition in conducting insurance businesses, etc.

In Lao PDR, insurance will be made in a form of an "insurance agreement" which is the same concept as an "insurance policy" under Thai law.

Person involved in the insurance businesses in the Lao PDR are as follow:

(1) Insurer and Reinsurer who take the risk from the insurance agreement. This person must be a juristic person or entities under the Law on Investment Promotion of the Lao PDR;

(2) Insurance buyer (be equivalent to the assured person under Section 862 of the Civil and Commercial Code of Thailand) who entering the insurance agreement with the insurer. This person could be the same with the insured or the beneficiary;

(3) Insured who take his/her life, properties, or civil liability to be insured by the insurer. This person could be the same with the beneficiary (be equivalent to Section 865 of the Civil and Commercial Code of Thailand);

(4) Beneficiary who is the person that entitles to the compensation or any other benefits according to the insurance agreement;

(5) Representative office of the foreign insurance company;

(6) Insurance agent;

(7) Insurance broker;

(8) Insurance governing authority;

(9) Insurance auditing authorities.

Currently there are 14 insurance companies that registered with the Ministry of Finance. The type of an insurance are similar the type available in Thailand i.e. life insurance, health insurance (including medical), properties insurance, fire insurance, business interruption insurance, civil liability insurance, and reinsurance. There are 2 categories in entering an insurance agreement which are mandatory and voluntary as same as currently practice in Thailand. However, most of Lao's people do not interest in buying a voluntary insurance but will buy only motor insurance or mandatory insurance which will be discussed in details in this chapter.

3. Type of an Insurance

According to the Law on Insurance, there are 3 types of insurance in the Lao PDR as follows:

(1) Life insurance;

(2) General insurance;

(3) Reinsurance.

3.1 Life Insurance

Life insurance is an insurance that directly involved with life of the insurance buyer or the insured. Section 10 of the Law on Insurance determined 5 sub categories of the life insurance as follows:

(1) Entire life insurance – means an insurance made for the risk of an entire life of the insured in which the insurer have to pay compensation to the beneficiary on the death of the insured.

(2) Saving insurance – means an insurance made for the risk of the life of the insured within specified period with a condition that the insurer shall pay benefits along such period to the beneficiary if the insured is survive during the period specified in the insurance agreement.

(3) Hybrid insurance – means a type of an insurance that include a saving insurance with life protection insurance.

(4) Instalment paid insurance – means an insurance made for the risk of the life of the insured within specified period with a condition that the insurer shall pay compensation to the beneficiary in instalments according to the duration specified in the insurance agreement.

(5) Life protection insurance – means an insurance made for the risk of the life of the insured within a specified period with a condition that the insurer shall pay compensation to the beneficiary if the insured death within the period specified in the insurance agreement.

In this regard, the Ministry of Finance is authorized to determine additional type of the life insurance.

3.2 General Insurance

General insurance is an insurance made for the risk of the properties, civil liability, and any insurance other than a life insurance. There are 2 types of the general insurance which are:[1]

(1) Mandatory insurance – This is an insurance required by law. Currently, the Lao PDR has announced the Prime Minister Decision on the Law on Insurance no. 539/Gor Ngor dated 19 February 2014 in order to stipulated the requirement to apply for a mandatory insurance in the following cases:

(a) To insure the risk of a civil liability against third person for all vehicles that are registered in or being used in the Lao PDR;

(b) To insure the risk of a civil liability against third person for the businesses or properties as determined by the insurance governing authority;

(c) To insure the risk of a civil liability in other cases as determined by the insurance governing authority;

(2) Voluntary insurance – This is an insurance voluntarily entered by the insurance buyer. The insurance buyer has an option to freely choose the type, scope, sum insured according to the plan specified by the insurer.

Section 14 of the Law on Insurance has determined 12 types of the general insurance as follows:

(1) Accidental insurance and medication of the injured person;

[1] Law on Insurance, Section 11.

(2) Health insurance;
(3) Properties insurance;
(4) Insurance for the goods transited via road transportation, boat, train, or air transportation;
(5) Aircraft insurance;
(6) Motor insurance
(7) Fire insurance and explosive production insurance;
(8) State's properties insurance;
(9) Financial risk insurance;
(10) Business risk insurance;
(11) Agricultural and forestry insurance;
(12) Natural disaster insurance

In this regard, the Ministry of Finance is authorized to determine additional type of the general insurance.

3.3 Reinsurance

Reinsurance is an act to divide the risk of a general insurance by the insurer reinsures such risk to the reinsurer. There insurer could be either an insurance company established in the Lao PDR or a foreign insurance company. The reinsurance must be done in accordance with the rules of the relevant legislation in the Lao PDR or international rules. However, the insurer still obligated to pay compensation to the insured or beneficiary in the event that the reinsurer does not capable to pay such amount[2].

In order to conduct reinsurance, the insurer could reinsure with one or more reinsurers. The reinsurer could also choose to reinsure all or part of the insured risk. The reinsurance shall be made in accordance with the following conditions:

(1) it shall consistence with the nature of business of the reinsurer;
(2) the technical potential shall comply with the scope of business of the permitted reinsurer;
(3) the reinsurer shall have a good reputation in the insurance market either domestic or international or regional, shall have financial strength and being an experienced reinsurer.

When reinsurance is made, the reinsurer is obligated to inform the details of the reinsurance agreements and other information to the Ministry of Finance for the purpose to monitor, govern, and audit. The reinsurer could not demand the insurance buyer to directly

[2] Law on Insurance, Section 15.

pay an insurance premium to the reinsurer and the insurance buyer shall also not able to demand the reinsurer to directly pay a compensation, unless otherwise agreed in the insurance agreement.

4. Insurance Agreement

Insurance agreement is an agreement between the insurance buyer and the insurer. The insurance buyer shall be obligated to pay insurance premium to the insurer and the insurer shall also be obligated to pay compensation or other benefits to the insurance buyer, the insured, or the beneficiary. The Law on Insurance has stipulated 3 types of the insurance agreement which are as follows:[3]

(1) Private insurance agreement;

(2) Properties insurance agreement;

(3) Civil liability insurance agreement.

The insurance agreement will not legally valid until the general conditions are accepted by the parties, the insurance premium is paid, and the insurer has issued a written Certificate of Insurance to the insurance buyer. This Certificate of Insurance is construes an evidence of acceptance of the general conditions of the agreement. The Certificate of Insurance shall be made in Lao language with foreign language translation as deemed necessary.

4.1 Private Insurance Agreement

Private insurance agreement is an agreement concerning insurance for the risk of life (life insurance), health (health insurance), and accidental to body (accidental insurance). The insurer shall pay compensation if the insured is death, pay medical compensation if the insured is illness, or pay compensation if the insured is injured, being disabled or death from accident. The insurance buyer could buy insurance for the following person[4]

(1) The insurance buyer him/herself;

(2) Spouse, children, parents, or siblings;

(3) Other person that the insurance buyer has some relationship.

The insurance buyer shall inform the real age of the insured at the time of entering the insurance agreement because the insurer will use such information in calculating the insurance premium. If the insurance buyer informs incorrect age and that affect in the

[3] Law on Insurance, Section 52.
[4] Law on Insurance, Section 53.

insufficient insurance premium payable to the insurer, the insurer is entitle to demand the insurance buyer to pay the remaining premium. If the paid premium is exceeded, the insurer shall return such exceeded premium to the insurance buyer. However, if the real age of the insured is out of acceptable range, the insurer is entitled to cancel the insurance agreement and return the premium (after deduct all costs) to the insurance buyer.

The insurance buyer has an option to pay premium in lump sum amount or in instalment. The payment condition shall be stated clearly in the insurance agreement. The insurer is entitled to deduct the unpaid premium from compensation payable to the insurance buyer.

Section 57 of the Law on Insurance has allows the insurer to deny payment of compensation in the following cases:

(1) The insured committed suicide, unless the insurance agreement stipulated that the insurer will also pay compensation in this situation. In such case the insurer will have to pay a compensation according to the remaining balance and formula described in the insurance agreement;

(2) The insured is death or being disabled by an intension of the insurance buyer or the beneficiary;

(3) If there are many beneficiaries but one of the them has caused the insured to be death or disabled, the insurer is entitled to deny payment of compensation to such beneficiary but still obligated to pay compensation to the other beneficiaries.

4.2 Property Insurance Agreement

Property insurance agreement is an agreement concerning the insurance for risk of the properties which could be either a mandatory insurance or voluntary insurance. The insurer has an obligation to pay compensation to the insured or beneficiary according to the actual loss occurred to the insured property. The maximum compensation shall not exceeded the total sum insured specified in the insurance agreement[5].

Property insurance agreement will not include a damaged from depreciation or devalue of such property (unless otherwise agreed in the agreement). If the insured property is damage, the insurer shall remedy such damages by one of the following ways[6]:

(1) Fix or repair such damage;

[5] Law on Insurance, Section 59 and Section 60.
[6] Law on Insurance, Section 64.

(2) Replace the damaged property with the same property or equivalent value property;

(3) Pay compensation in lieu of the damage.

If the remedy has done according to item (2) or (3), the insurer is entitled to take the damaged property after being replaced or compensated. If the insurer and the insurance buyer could not agree on how to remedy, the insurer could proceed with payment of compensation according to item (3) above.

The insurer has an obligation to inspect the cause and damaged to the insured property immediately after the damaged is occurred. If the insurance buyer and insurer could not agree on the cause and damaged to the insured property, either party may propose the matter for the consideration of the third party. If an agreement to appoint the third party could not be reached, either party may propose to the People's court to appoint the third party. A decision of the third party regarding the cause and damage of the insured property is final.

In case the damage to the insured property is caused by a negligence of the third person, the insurer shall obligate to remedy such actual damage to the insured (but not exceeding the total sum insured). Then the insurer will subrogate the right of the insured to claims a damage from such third person who caused the damage. In this regards, the third person who caused damage is still obligated to responsible for the portion of damage that exceed the total sum insured.

4.3 Civil Liability Insurance Agreement

Civil liability insurance agreement is an agreement concerning the insurance for risk of the civil liability that the insured has to compensate to the third person and such third person has claimed for compensation from the insured within the period of the insurance agreement[7]

If damage occurred to the third person, the insurer may represent the insured in negotiating the remedies with such third person and may choose pay compensation to the insured or the third person directly.

4.4 Content of the Insurance Agreement

The insurance agreement shall contain the following contents[8]

(1) Name, surname, and address of the parties;

(2) Person or properties to be insured;

[7] Law on Insurance, Section73.
[8] Law on Insurance, Section38.

(3) Risk to be insured;

(4) Beginning time of the insured;

(5) Total sum insured;

(6) Insurance premium and method of payment;

(7) Condition and procedure to inform the damages;

(8) Period of the insurance and guarantee;

(9) Details of the event that will void the insurance agreement, losing of right, and pre-termination of the insurance agreement;

(10) Dispute resolution.

An amendment of the insurance agreement must be agreed by both parties and will legally binding only if the insurer has recorded such changed in the insurance agreement or issued a supplemental agreement.

4.5 Period to Claim for a Compensation

In order to claim for compensation, the insurance buyer, insured, or beneficiary shall make a claim within the following period[9]:

(1) Within 1 year from the occurrence date;

(2) If the insurance buyer does not acknowledge the incident mentioned in item (1), the 1 year period shall begin from the date that the insurance buyer acknowledge such incident;

(3) If the third person has claimed for an insured civil liability from the insurance buyer, the 1 year period shall begin from the date that the third person has initiated a claim.

4.6 Period to Pay a Compensation

The insurer shall obligate to pay compensation to the insured or beneficiary within the period specified in the insurance agreement. If the insurance agreement does not specified such period, a compensation shall be paid within 30 days from the date of submission of the complete documents[10]

[9] Law on Insurance, Section 46.
[10] Law on Insurance, Section 46.

4.7 Termination of the Insurance Agreement

The insurance agreement shall be terminated upon the occurrence of the following event[11]:

(1) The insurance agreement is expired without a renewal;
(2) Either party breach or does not follow the conditions of the insurance agreement;
(3) The insured property is lost or destroyed;
(4) The parties are mutually agreed to terminated the agreement;
(5) The insurance buyer provide fault information or dishonestly hidden the real intension of the insurance;
(6) The court makes a decision that the insurance agreement is void or the insurer is bankrupt.

4.8 Transfer of the Insurance Agreement

The insurer may transfer the insurance agreement to other insurer upon mutual agreement of both parties. The transfer of insurance agreement must comply with the following conditions[12]:

(1) The insurance agreement to be transferred must be the same type of the insurance;
(2) The right and obligation determined in the insurance agreement shall not be amended along the duration of the insurance agreement;
(3) The transferee of such insurance agreement must have appropriate financial strength and reserved fund according to the relevant legislation.

In order to transfer the insurance agreement, the transferor shall comply with the following procedures[13]:

(1) Propose the reason, transfer plan, and copy of the insurance agreement to be transferred to the Ministry of Finance;
(2) Waiting for the written approval from the Ministry of Finance;
(3) Conducting the transfer after obtain a written approval from the Ministry of Finance;

[11] Law on Insurance, Section 43.
[12] Law on Insurance, Section 49 and 50.
[13] Law on Insurance, Section 51.

(4) Disclose information regarding the transfer and issue a written notice to the insurance buyer within 30 days from the date that obtained written approval from the Ministry of Finance.

4.9 Prescription Period

Any litigation regarding the insurance agreement must be initiated within 3 years from the date that the dispute arises[14].

5. Rights and Obligations of the Insurer and Insurance Buyer

5.1 Rights and Obligations of the Insurer

According to the Section 101 of the Law on Insurance, the insurer shall have the following rights and obligations:

5.1.1 Rights

(1) Collect an insurance premium according to the insurance agreement;
(2) Demand a correct and complete information from the insurance buyer in order to make an insurance agreement;
(3) Suspend the compliance under the insurance agreement that made upon the incorrect and incomplete information;
(4) Deny payment of the compensation that is not stipulated in the insurance agreement;
(5) Subrogate rights of the insured in order to claim damages from the third person that cause the damages.

5.1.2 Obligations

(1) Provide a clear explanation to the person who interest in entering the insurance agreement regarding the conditions, rights and obligation of the insurance buyer;
(2) Issue an insurance agreement to the insurance buyer;
(3) Pay compensation according to the insurance agreement to the insured or beneficiary correctly and completely;
(4) Provide written explanation regarding a reason to deny payment of compensation;

[14] Law on Insurance, Section 48.

(5) Liaison with the insured within an appropriate period of time to provide remedy from an accident to the third person;

(6) Comply with obligation regarding state's funding and other obligations according to the law;

(7) Responsible in providing immediate remedy.

5.2 Rights and Obligations of the Insurance Buyer

According to the Section 102 of the Law on Insurance, the insurance buyer shall have the following rights and obligations:

5.2.1 Rights

(1) Demand the insurer to provide a clear explanation regarding the policy, conditions of insurance, and issue an insurance agreement;

(2) Suspend the compliance under the insurance agreement that made upon the incorrect and incomplete information;

(3) Demand a compensation according to the insurance agreement from the insurer

(4) Exercise any other rights stipulated by law.

5.2.2 Obligations

(1) Pay insurance premium

(2) Inform to the insurer regarding the losses or damages that is covered under the insurance within 5 days from the date of acknowledgment. If it is a loss from thief, the insurance buyer shall inform such incident to the insurer within 36 hours from acknowledgment. The parties may agree to provide more timeframe in informing an incident in the insurance agreement. The insured will not lose any right from the delay informing that is caused by the force major.

(3) Provide adequate information to the insurer for the purpose of entering an insurance agreement;

(4) Comply with any other obligations according to the relevant legislation.

6. Insurance Businesses

6.1 Type and Scope of Insurance Businesses

According to Section 19 of the Law on Insurance, the insurance businesses consist of the following businesses:

(1) Insurance or reinsurance;
(2) Risk management, protection and limitation of damages;
(3) Investigate the damages;
(4) Being an agent to investigate the damage, consider and provide remedy, and claim damages from the third person;
(5) Fund management and investment;
(6) Conduct any other businesses under the law of Lao PDR.

6.2 Establishment of the Insurance Businesses

In order to properly establish an insurance business, a complete application must be submitted to the One Stop Service Center of the Ministry of Planning and Investment and comply with the Law on Investment Promotion[15] which we already discussed in Chapter 6 of this report. The type of investment could be either a person or juristic person under the Law on Enterprise which we already discussed in Chapter 7 of this report. However, for the establishment of the insurance company, a type of investment must be a private company or public company only.

A timeframe for considering an application until announcing the result is 45 business days from the date of obtaining the application.

6.3 Qualification to Establish the Insurance Businesses

The insurance company in the Lao PDR shall have a registered capital of at least KIB 16,000,000,000 (approximately THB58,560,000). The Lao's government may impose a separate law to increase the minimum registered capital but could not reduce the minimum registered capital16. In addition, the insurance company will also have to place a security deposit at least one third of the total registered capital with the commercial bank in Lao PDR that has financial stability and inform such placement of the Ministry of Finance[17].

[15] Law on Insurance, Section 17.
[16] Law on Insurance, Section 21.
[17] Law on Insurance, Section.

Other than the qualification on the registered capital and security deposit, the applicant of the insurance businesses shall have the following qualification[18]:

(1) Have a good business background;
(2) Have a expertise and professional managements in insurance business;
(3) Have a qualified and professional staffs with a certificate of diploma on insurance businesses;
(4) Never being imprisoned by the Court on the offence of intentionally harm the economic;
(5) Have an appropriate office for conducting insurance businesses

6.4 Conducting Insurance Businesses by Foreign Insurance Company

Insurance businesses are not foreign restricted businesses in the Lao PDR. Therefore, a foreign insurance company could conduct its businesses in the Lao PDR without any restriction. There are 3 types of the foreign investment in insurance businesses as follows:

(1) Joint investment in Lao national insurance company;
(2) Wholly investment by foreign insurance company;
(3) Establish a representative office in Lao PDR.

Criteria to establish an insurance business in the Lao PDR by the foreign insurance company is the same with normal criteria but the following additional documents are required:[19]

(1) The articles of association and license to conduct insurance businesses of the co-investor;
(2) Joint venture agreement (if any);
(3) Summary of assets and financial statements of the past 3 years audited by an independent auditor of the joint investor;
(4) Letter of appointment of the managing director in Lao PDR;
(5) Full name, biography of the promoters, co-investors, and directors of the company to be established;
(6) Business plan for the next 5 years.

In case of an establishment of the representative office of the foreign insurance company in Lao PDR, other than a requirement according to the Law on Investment Promotion, the applicant shall also have additional qualification that (i) it shall have an

[18]Law on Insurance, Section 20.
[19]Law on Insurance, Section 32.

experience in insurance businesses for at least 5 years and (ii) it must been in contact with an entities of the Lao's government. The following additional documents are required[20]:

(1) An application to establish a representative office;
(2) Copy of the insurance business license issued by the home country of such foreign company;
(3) Assets summary and financial statement during past 3 years of such foreign insurance company or agent audited by an independent auditors;
(4) Letter of appointment of the responsible person of the representative office;
(5) Full name and biography of the responsible person of the representative;
(6) Introduction of such insurance company or broker and business relationship with the associations and entities established in the Lao PDR.

6.5 Revocation of the Insurance Businesses License

The Ministry of Planning and Investment may revoke the insurance businesses license if the insurer does not comply with the following conditions or prohibitions[21]:

(1) Could not comply with the criteria specified in the Law on Insurance;
(2) Could not follow the measure determined in a plan to improve the company business within the specified period;
(3) Severely breach the rules regarding compliances that is currently enforceable;
(4) Does not conduct insurance businesses after obtaining the license.

If the insurance businesses license is cancelled, the license issued to the branches of such insurance company will also be cancelled.

If case of the foreign insurance company, if the insurance business license if the home country is cancelled, the government of the Lao PDR will also cancelled the license issued for conducting insurance business in Lao PDR[22].

7. Businesses Related to Insurance

7.1 Insurance Agent

Insurance agent is a person or juristic person that is authorized by the insurer to conduct insurance businesses on behalf of the insurer. The insurer shall inform the name list of the sub ordinate insurance agents to the Ministry of Finance.

[20] Law on Insurance, Section 33.
[21] Law on Insurance, Section 26.
[22] Law on Insurance, Section 36.

7.1.1 Qualification of the Insurance Agent

Person or juristic person who which to apply for an insurance agent shall have the following qualification[23]:

(1) For a natural person:
   (a) Being a Lao citizen and domicile in Lao PDR;
   (b) Have the age of 18 years old or above;
   (c) Passed the training on the insurance businesses;
   (d) Never being imprisoned by the court on the ground of intentionally committed an offence;
   (e) Healthy.

(2) For a juristic person, it must be legally established according to the law.

7.1.2 Rights and Obligations of the Insurance Agent

The insurance agent shall have the following rights and obligations[24]:

(1) Offer and sell the insurance;
(2) Issue an insurance agreement;
(3) Collect insurance premium and convey to the insurer;
(4) Liaison to investigate or provide remedy if the insured incident is occur;
(5) Procure the replacement to the insurance buyer or the beneficiary completely and timely;
(6) Comply with any other obligations according to the insurance agreement.

7.1.3 Letter of Appointment the Insurance Agent

In order to preparing the letter of appointment the insurance agent, such letter shall consist of the following contents:

(1) Name, Surname, and address of the insurance agent;
(2) Name and address of the insured;
(3) Rights and obligations of the insurance agent;
(4) Agent service fee;
(5) Term of the appointment;
(6) Dispute resolution;
(7) Requirement of security deposit either money or assets.

[23] Law on Insurance, Section 77.
[24] Law on Insurance, Section 78.

7.2 Insurance Broker

Insurance broker is a person or juristic person that is authorized by the Ministry of Finance and Investment to act as a broker for the insurer and insurance buyer. Criteria to applying for an insurance brokerage license are the same with applying for the insurance business license which already discussed in item 6 above[25].

7.2.1 Scope of Business of the Insurance Broker

The Insurance Broker could conduct its business within the scope as follows[26]:

(1) Provide information to the insurance buyer regarding the insurer, type, and category of the insurance such as period of insurance, conditions and premiums;
(2) Provide consultation to the insurance buyer regarding the risk, type of insurance, period of insurance, conditions, or premiums;
(3) Negotiate and issuing an insurance agreement between the insurer and insurance buyer;
(4) Conduct any other task regarding the compliance with the insurance agreement as assigned by the insurance buyer.

7.2.2 Rights and Obligations of the Insurance Broker

The insurance buyer shall have the following rights and obligations[27]:

(1) Obtaining brokerage fee which already included in the insurance premium;
(2) Being protected in conducting brokerage business legally;
(3) Propose an opinion regarding the insurance business and governing of insurance business;
(4) Dishonestly conducting brokerage business;
(5) Protect confidentiality of the insurer and insurance buyer;
(6) Responsible to all damages occur to the insurer or insurance buyer as a result of its misconduct.

[25] Law on Insurance, Section 81 and 82.
[26] Law on Insurance, Section 83
[27] Law on Insurance, Section 83

7.2.3 Buying of Professional Liability Insurance

The insurance broker must buy professional liability insurance from any of the insurers within the Lao PDR in order to provide security in conduction its business.

8. Dispute Resolutions

If the dispute regarding insurance arises, the parties may mutually agree upon to choose the method of dispute resolutions as follows:

(1) Compromise;
(2) Conciliation;
(3) Administrative remedy;
(4) Resolve by the Economic Dispute Resolution Committee (the same with an arbitration in Thailand);
(5) Initiate a litigation to the People's court;
(6) Resolve by the international procedure according to the conventions or treaties that Lao PDR is a party.

9. Relevant Government Authorities

9.1 Insurance Governing Authority

The Lao government wills govern the insurance business via the Ministry of Finance which is a central authority to liaison with other related government sectors in order to governing the insurance business. The Department of Finance is appointed as the insurance governing authority with the following rights and obligations[28]:

(1) Study and create strategic plan, policy, legislation to govern the insurance business and propose the same for consideration of the government;
(2) Implement the strategic plan and policy of the government into a detailed plan or project of the Department of Finance according to its scope of authorities;
(3) Advertise and distribute laws and other juristic act regarding to its scope of authorities;
(4) Leading on specific academic profession and monitoring the compliance to the law and juristic act of the insurance activities according to its scope of authorities;

[28] Law on Insurance, Section 115.

(5) Monitoring the insurance businesses according to its scope of authorities;

(6) Create professional, appoint, transfer, remove, implement sanction, or impose penalties to the insurance professional according to its scope of authorities;

(7) Liaison with other government authorities and local administrative authorities regarding the insurance activities;

(8) Responsible in monitoring the compliance to the specific academic profession of the professional under its governing authorities;

(9) Contact with other foreign, regional or international entities regarding insurance activities according to its authorities or as assigned by higher agency;

(10) Routinely create summary and report to the supervising authority regarding the compliance of the insurance activities;

(11) Conduct any other rights and obligations as required by law.

9.2 Insurance Auditing Authorities

The insurance auditing authorities under this Law on Insurance are consisted of 2 authorities which are (1) internal audit authority and (2) external audit authority. These 2 authorities have differentiates as follows:

9.2.1 Internal Audit Authority

The internal audit authority is the same authority with the aforementioned insurance governing authority (Department of Finance).The rights and obligations of this authority are:

(1) Auditing the performance and responsibility of the insurance professional in every division regarding the compliance to the law, decision, order, and other related juristic act, working plan, profession, in order to ensure the best efficiency of the insurance business;

(2) Auditing the insurer and insurance broker according to the policy regarding the plan of insurance business, calculation and collection of insurance premium, and collection of the fee.

9.2.2 External Audit Authorities

External audit authorities are the National Assembly, National Government Auditing and Anti-Corruption, and National Auditing Office. Each of the authority will exercise its authorities according to the law relevant to insurance activities. They also closely monitor

the activities of the insurance professional in order to ensure the efficiency, transparent, and justice of the insurance activities.

9.2.3 Type of Auditing

The insurance audit authorities will conduct their auditing by the following method:

(1) Routinely auditing i.e. auditing according to the plan with a fix schedule;

(2) Extra auditing with prior notice i.e. out schedule auditing when necessary which the prior notice will be given;

(3) Immediately auditing i.e. out schedule auditing that conduct immediately and no prior notice is given.

Chapter 15
Law on Secured Transaction

1. Relevant Legislations

(1) Law on Secured Transaction No. 06/NA, dated 20 May 2005 ("Law on Secured Transaction")

(2) Decree on Implementation of the Law on Secured Transaction No. 178/PM, dated 20 June 2011 ("**Decree on Implementation of the Law on Secured Transaction**")

2. General Principles

Security is the assurance of the performance of obligations as prescribed by law or as specified in an agreement or a contract under the Law on Secured Transaction. Security is divided into two types: obligatory security and contractual security[1].

(1) Obligatory security secures the payment of debt or the performance of other obligations prescribed by law on the basis of humanity and national interests, for example, payments of wages, salary or other fringe benefits as provided for by the Labour Law; payments of taxes and duties; and other payments, excluding payments of debts or other benefits arising from an agreement or a contract between the Government and other persons or organizations; and

(2) Contractual security secures the payment of debt between a creditor and a debtor or the payment of debt by a natural or legal person for a debtor in the event that such debtor fails to perform its contractual obligations. Contractual security is divided into personal guarantee and security over property.

In addition to the Law on Secured Transaction, the Law on Contract and Tort is essential for the making of an agreement or a contract as the format, conditions and contents of such an agreement or contract must be in accordance with the provisions of the said Law. In general, a contract of security may be made either at the same time of making the principal agreement such as a loan agreement or on a later date. Also, it may be either incorporated in the principal agreement or made as a separate document.

[1] Law on Secured Transaction, Section 3.

In the event that a creditor is under both obligatory and contractual security, if the debtor fails to pay its debt or is adjudged bankrupt by the Court, the obligatory security shall have priority over the contractual security in regard to payment of debt.[2]

There are three types of contractual security:

(1) Personal guarantee: a guarantee by a natural or legal person;

(2) Movable security: a guarantee with movable property; and

(3) Immovable security: a guarantee with immovable property.

3. Personal Guarantee

Personal guarantee includes both a natural person and a legal person (Guarantor) who agrees, under a written guarantee, to pay a debt or make other payments for a debtor if the debtor fails to do so. The guarantor may also put up its movable or immovable property as additional security.

Several persons may stand guarantor for a single debt, and they are called co-guarantors. Co-guarantors may be involved in a single agreement or several agreements. Each co-guarantor may be responsible for any part or all of the debt as agreed. If each one of the co-guarantors agrees to be responsible for all of the debt, the creditor may demand that any one of them pay all of such debt. In the case of a partial guarantee, the creditor may demand from each co-guarantor payment of only such part of the debt guaranteed by such co-guarantor. If the debtor has paid any part of the debt, the creditor is still entitled to demand any of the co-guarantors to pay the balance if it is a full guarantee. In the case of the partial guarantee, the creditor may demand that each co-guarantor pay the balance proportionate to such part of the debt guaranteed by that co-guarantor.[3]

A personal guarantee agreement is binding on the guarantor on and from the date it is executed by the debtor, the guarantor and the creditor. A personal guarantee agreement does not require any registration.

3.1 Guarantor's Liability

Under a guarantee agreement, the guarantor may agree to be liable for any part or all of the debt, in which case the guarantor is bound to pay the debt as agreed in such agreement. However, the guarantor shall be liable for only the principal sum of the debt, unless specified otherwise in the agreement. If the debtor is able to pay only some part of

[2]Law on Secured Transaction, Section 7.
[3]Law on Secured Transaction, Section 28.

the debt, the guarantor shall be responsible for the balance but not exceeding the amount agreed by it.

When the debt is due, the creditor shall demand payment from the debtor first. If the debtor refuses or fails to pay, the creditor shall then be entitled to demand payment from the guarantor. The debtor and the guarantor have a duty to inform each other of the payment of debt. If the guarantor has paid the debt for the debtor, the guarantor shall become the creditor and shall be entitled to demand that the debtor pay to it the principal sum of the debt, the interest and the expenses incurred, in accordance with the agreement.[4]

3.2 Extinction of Guarantee

According to the Law on Secured Transaction, the guarantor shall be discharged upon occurrence of any of the following events:

(1) The debtor paying the debt in full;
(2) The guarantor performing all of its obligations under the agreement; or
(3) The provisions of the agreement between the debtor and the creditor being amended without consent of the guarantor.

4. Security

4.1 Movable Security

Movable security or pledge is where movable property is put up as security for the payment of debt or the performance of other obligations. A movable security contract must be made in writing in the form of either a handwritten or a typed document.

4.1.1 Types of Pledge

According to the Law on Secured Transaction, there are 5 types of pledge as follows: (1) Pledge of Physical Objects; (2) Pledge of Documents; (3) Pledge in Cargo; (4) Pledge of Non-tangible Objects; and (5) Pledge of Assets or Fruits of a Project Which Will Certainly Occur. However, this section shall deal only with tangible property as security.

4.1.1.1 Pledge of physical objects

A pledge of physical object is where the debtor either leaves a physical object with the creditor or a designated person as a pledge or expressly specifies an object

[4]Law on Secured Transaction, Section 27.

in the pledge agreement as security for the payment of debt while such object is still in the possession of the debtor. Such physical object must belong to the debtor or to a third person who has given his/her consent in writing to the use by the debtor of such object as a pledge, and such object must be in the possession of the creditor or a person approved by both parties. However, the pledged object may be in the possession of the debtor if it is clearly specified in the pledge agreement.[5]

The pledged object still belongs to the debtor, only that it must be in the possession of the creditor or the designated person throughout the term of the pledge. However, the creditor or the possessor of the property may not use the pledged object or receive its fruits without written consent of the debtor. If the pledged object is damaged through the fault of the creditor or the property possessor, such person shall be liable for the damage. If the pledged object is lost or stolen, the creditor or the property possessor shall be responsible for its recovery. In that case, no other creditor shall have the right to take possession of such object.

When the debt has been fully paid, the pledge agreement shall be deemed terminated, and the creditor or the property possessor shall return the property to the debtor. If the debtor fails to pay the debt within the agreed period of time, the pledged object shall become property of the creditor. If the value of the pledged object exceeds the amount due, the creditor may sell it and, after deduction of the principal sum and the interest from the proceeds of the sale, shall return the balance to the debtor. However, if after the enforcement of the pledge the proceeds are not sufficient to cover the amount due, the debtor is still liable for the difference.[6]

4.1.1.2 Pledge of documents

A pledge of document is where the debtor leaves a document of title for certain movable property with the creditor as security for the payment of debt. The debtor still has possession of the property and can continue to use it but cannot sell, transfer or re-pledge it. The debtor has a duty to keep such property in its previous condition throughout the term of the pledge agreement.

The documents eligible for the pledge are, for example, documents of title, share certificates, debenture certificates, bonds, etc.

However, though the law provides for the pledge of documents, in practice it is new to the relevant authorities and there is no clear way of dealing with the

[5] Decree on Implementation of the Law on Secured Transaction, Section 6.
[6] Law on Secured Transaction, Section 14.

matter, including the enforcement of the pledge in the event that the debtor or the pledgor breaches the pledge agreement.

4.1.2 Registration of Movable Security

A movable security contract which is made in writing is binding on the parties to the contract only. In order for the security to be binding on a third party, such security must be registered or possessed. Security can be registered either in a register book or electronically, and the Ministry of Finance is responsible for such registration.

The information essential for the registration of security is the details about the debtor such as name and address or, in the case of a legal entity, company name and the Enterprise Registration Certificate, details about the creditor, and details about the security itself such as the type and nature of the pledged property.

The registration of security shall be effective only if and when such registration is entered into the register book or the electronic system. The registration shall be valid for 5 years and can be renewed. When such period expires, all rights in the pledged property will be terminated unless rendered effective by other means, for instance, the possession of the property, or unless agreed otherwise. The registration shall be renewed during the 3 months prior to its expiry date, and when renewed, the security shall be valid for another 5 years.

4.1.3 Preferential Right

As regards preferential right in movable security, if several creditors are secured by a single item of movable property, those creditors will have preferential right in regard to payment of debt in chronological order of their possession, registration or control of such property, unless otherwise determined specifically. However, if several creditors are secured by a single item of property and such property is not registered, possessed or controlled, or if it is registered, possessed or controlled but such registration, possession or control is invalid, then the first creditor who has extended the loan shall have preferential right in such security over the other creditors.[7]

In addition, the law provides for preferential right in security in the following cases:

(1) The creditor who has extended a loan to the debtor to purchase the property has preferential right over the other creditors secured by the same property for a period of 14 days from the day such property is in the

[7] Decree on Implementation of the Law on Secured Transaction, Article 15

debtor's possession. If such period expires and the relevant security contract is not registered, the preferential right becomes extinct.

(2) The creditor who has given money or anything to the debtor to buy animal food or medicine for the debtor's pets has preferential right in those pets or the proceeds from the enforcement of the pledged pets over the other creditors, with the exception of the creditor who has extended the loan for the purchase of such pets in the first place.

(3) The crops being planted or growing which are put up as security have preferential right over any other security or security over immovable property, provided that the debtor legitimately possesses or uses the farming lands.

(4) The creditor who has given money or anything to the debtor for the 6-month preparation before growing crops or when the crops are growing or being harvested has preferential right over the other creditors in regard to such crops.

(5) The rights available to accessory things that are put up as security are secondary to all other rights available after they are fixed to the principal things, unless such accessory things are registered before the principal things.

(6) The rights available to ancillary things that are put up as security remain with them even if they have become part of the principal things in so far as those rights are enforceable.

(7) Liens created in the normal course of business have priority over any rights available to any security.

4.1.4 Enforcement of Pledge

If the debtor or the guarantor breaches the movable security contract, the creditor may enforce the security in any of the following manners:

4.1.4.1 Voluntary enforcement

Voluntary enforcement of a security contract is where the debtor agrees or allows, after the contract has been breached, the creditor to proceed in accordance with the methods and procedures set out in the security contract or as agreed in writing by the creditor and the debtor. Such methods and procedures can be either of the following:

(1) The creditor may take possession or control of the pledged property and decide how to enforce it, for example, to auction it off or to rent out or buy it, as specified in the contract or as agreed by the parties. However, such possession or control of the pledged property must not be violent or against the law, and the creditor must not do anything in violation of the law. For instance, the creditor may not enter the debtor's premises without permission, use violent force, or threaten the debtor to take possession of the pledged property.

(2) The creditor may proceed as provided specifically by law. For instance, if the pledged property is a deposit account, a secured sales and purchase agreement, or debt which the debtor has agreed in the security contract, and if the secured creditor is a bank where the debtor has opened such deposit account, such creditor may deduct the money from that account in payment of debt. If the secured creditor is an individual or a bank but not the bank where the debtor has opened the deposit account, the creditor may ask the bank controlling such deposit account to deduct or transfer the money from such account to the creditor's account.

4.1.4.2 Enforcement through judicial process

If the debtor does not agree with the voluntary enforcement, the creditor may bring the conflict to Court to seek court orders for the enforcement of the security contract. The methods and procedures shall be similar to those in civil cases. After consideration of the matter, the Court shall give orders for the management of the pledged property or the decision on how to enforce the pledged property or other provisional measures in the interests of the debtor. If the creditor has entered an action in Court and the Court has given an order, a ruling or a decision in respect of such action, such order, ruling or decision shall be implemented in accordance with the Law on Implementation of the Court's Decisions.

4.2 Immovable Security

4.2.1 General Principles

Immovable security is where immovable property or the right to use the debtor's immovable property such as land, house or factory is put up as security for the payment of debt or the performance of other obligations by placing the document of title or the document evidencing the right to use such immovable property in the possession of the creditor or a designated person. To put up the right to use immovable property as security, prior consent of the owner of such property must be obtained.[8] Immovable property which can be used as security includes the following:[9]

(1) Lands for construction, industry or agriculture, the use of which belongs to an individual or a legal entity;
(2) Lands and structures, e.g., houses and buildings;
(3) Condominium units; and
(4) Concession lands.

An immovable security contract must be made in writing by the parties in the presence of either (i) the registrar of the Notary Office or a head of village and three witnesses or (ii) three witnesses. However, if the immovable property does not belong to the debtor, a letter of consent must be first obtained from the owner of such property.[10]

A single item of immovable property can be put up as security several times, whether to one creditor or a number of creditors, if its value exceeds the total amount of debt, unless otherwise agreed by the parties. It is the debtor's duty to notify all creditors of the fact that several amounts of debt are secured by a single item of property.[11]

For avoidance of doubt regarding legal status, particularly when it comes to enforcement of the immovable property secured against the debts of several creditors, the law provides for preferential right as follows: the first creditor who has registered the security contract shall have preferential right over the other creditors, but if the relevant security contract is not registered, preferential right shall be given to the creditors who have extended the loan in chronological order.[12] However, the creditor who is given preferential right may waive such right in so far as it does not exceed the amount of debt owed to such creditor. The waiver, which will result in a change in chronological order and which applies to the

[8] Law on Secured Transaction, Section 20.
[9] Decree on Implementation of the Law on Secured Transaction, Section 48.
[10] Law on Secured Transaction, Section 21.
[11] Decree on Implementation of the Law on Secured Transaction, Article 50.
[12] Decree on Implementation of the Law on Secured Transaction, Article 51.

secured creditors only, must be made in writing, and the next creditor in chronological order must notify the debtor and the other creditors of such change in order.[13]

In addition, the secured creditor may transfer its security to an unsecured creditor who is owed by the same debtor, but such security shall not exceed the amount of debt owed by the debtor. The transfer must be made in writing, and the creditor to whom the security is transferred must notify the debtor in writing of such transfer. The security must also be registered in line with such change.

4.2.2 Registration of Immovable Security

An immovable security contract shall be registered at the land management office where the property is located. With registration, any legal movement involving such immovable property can be monitored as any change in or any use of the lands and structures will be recorded in the land register book. The procedures for registering an immovable security contract are as follows:

(1) The land title deed for such immovable property must be certified. In this regard, an application requesting certification of the title deed shall be filed with the provincial/city or district/municipal land management office where the land is located. The relevant land management office shall consider the application and issue a certificate of title deed within 3 business days from receipt of the application.

(2) After the land title deed is certified, the immovable security contract shall be certified at the Notary Office.

(3) After certified, the immovable security contract shall be registered at the provincial/city or district/municipal land management office where the land is located. At this stage, the official in charge shall record the relevant information in the land register book and on the back of the relevant title deed for the purpose of monitoring the movement of the rights over such immovable property. After registration, the security contract shall be legally binding, and the relevant creditor shall have preferential right in regard to payment of debt on and from the date of such registration.

However, upon termination of the immovable security contract, the creditor shall, within 5 business days, inform the land management office where such security contract is registered to revoke such registration.[14]

[13] Decree on Implementation of the Law on Secured Transaction, Article 52.
[14] Decree on Implementation of the Law on Secured Transaction, Article 60.

4.2.3 Enforcement of Immovable Security

As with the movable security, if the immovable security contract is breached, the creditor may enforce the security contract in any of the following manners:

4.2.3.1 Voluntary enforcement

Voluntary enforcement of a security contract is where the debtor agrees or allows, after the contract has been breached, the creditor to proceed in accordance with the methods and procedures set out in the security contract or as agreed in writing by the creditor and the debtor. Such methods and procedures can be any of the following:

(1) The creditor may take possession or control of the immovable property. To do so, the creditor must first notify the debtor in writing of the debtor's breach of contract and ask the debtor to vacate the property or offer other solution for the debtor's compliance within 60 days from being so notified, unless otherwise agreed by the two parties. Copies of such notification shall be sent to the owner of the property, the other creditors or the relevant authorities. The debtor must respond in writing within 15 days that it shall repay the debt or move out of the property or oppose the creditor's possession or control of the property, failing which the creditor shall be entitled to decide on the methods of enforcement of the immovable property as stated in paragraph (2) below.

(2) If the creditor has taken possession or control of the immovable property with the debtor's voluntary cooperation, the creditor may decide to enforce the property whether by auction or by renting it out or buying it, as specified in the contract or as agreed by the parties.

(3) The creditor is indemnified for damages incurred by it, as specified in the contract or as agreed by the parties.

4.2.3.2 Enforcement through judicial process

If the debtor breaches the contract and the creditor cannot enforce the security as stated in 3.2.3.1 above because the debtor has opposed the creditor's possession or control of the immovable property, the creditor may enter an action in Court so

that the Court can set certain measures and enforce the debtor to comply with the security contract. The entering of the action in Court and the setting of measures shall be in accordance with the Law on Civil Procedures and the Law on Implementation of the Court's Decisions.

5. Security over Other Things under the Lao Laws

As stated in section 3.1 about Movable Security, the Law on Secured Transaction divides the movable security into 5 groups. However, considering that there are tangible property and intangible property, this section shall categories things apart from those mentioned in section 3.1 as "other things."

5.1 Pledge of Inventory

A pledge of inventory is where the debtor puts up a certificate of inventory, which is negotiable, as security for the payment of debt, though the Government has yet to set out regulations and requirements regarding the pledge of inventory.[15] Therefore, even though the law allows the inventory to be pledged, it is quite impracticable since there are no regulations to justify the legal effects of this kind of pledge, particularly the enforcement of pledge.

5.2 Pledge of Intangible Property

Intangible property that can be pledged includes shares, intellectual property, deposits in banks, contractual rights, entitlement to property or objects, authorization, permission, certification or license to operate businesses. Similarly, there are as yet no regulations regarding the pledge of intangible property as well as the enforcement of pledge.

5.3 Pledge of Future Assets or Gains

The entitlement to future assets or gains can be sold or given to, or exchanged with, other persons,[16] though there are as yet no regulations or guidelines for this kind of pledge, either.

It can be said that the Lao PDR's security law is rather open in terms of the types and kinds of security as it permits tangible property, intangible property and certain kinds of rights to be used as security. However, such permission is only generalized without any specific

[15] Law on Secured Transaction, Article 17
[16] Law on Secured Transaction, Article 19

regulations or guidelines for its enforceability. It may take the relevant authorities some time to study the matter and set out regulations that will render this law more precise and practicable.

6. Relevant Government Authorities

The main organization in charge of security is the Notary Office, which has an important role in granting certification of security contracts to validate them. The certification granted by the Notary Office serves as assurance that the contents of such security contract are not against the law. If any conflict arises, the certified security contract shall be admissible in Court without the need to prove its genuineness. In addition, to register a security contract, the contract must be first certified by the Notary Office before other relevant authorities accept such contract for registration.

The Ministry of Finance is responsible for the registration of movable security contracts so that those contracts will be binding on third persons, whereas the registration of immovable security contracts is the responsibility of the Land Management Office, Ministry of Natural Resources and Environment. With the registration of immovable security contracts, the movement of the rights over the lands is recorded in the land register book, thereby providing information for the general public.

Chapter 16
Fuel Oil Trading in the Lao PDR

1. Relevant Legislations

Regulations regarding the overseeing of the importation and sale of fuel in the Lao PDR are:

(1) Decree on Importation and Exportation of Goods No. 114/GOL, dated 6 April 2011 ("**Decree on Importation and Exportation of Goods**");

(2) Decision on Protection Business of Import and Wholesale Fuel No.1785/MOIC.ITD, dated 7 September 2009 ("**Decision on Protection Business of Import and Wholesale Fuel**");

(3) Decision on the Protection of Retail Fuel Stations in the Lao PDR No. 1806/ MOIC.ITD, dated 8 September 2009 ("**Decision on the Protection of Retail Fuel Stations in the Lao PDR**"); and

(4) Decision on the Regulations in regard to Permitting the Import and Distribution of Fuel in Lao PDR No. 0237/ MOIC.ITD, dated 2 February 2012 ("**Decision on the Regulations in regard to Permitting the Import and Distribution of Fuel in Lao PDR**").

2. General Principles

Fuel is one of the strategic goods[1]that require the Government's control over its importation and sale as fuel oil is a means of production essential for the development of the fundamental utilities and the country's economy. Such control is based on market forces, so the importation and sale, whether retailing or wholesaling, of the fuel oil must be in strict compliance with the applicable laws and regulations.

The overall picture of the fuel oil trading in the Lao PDR is that the individuals or legal entities[2] who imports fuel oil shall sell it wholesale to Fuel stations or oil dealers under the importer's trademark so that the general public can buy the fuel oil retail. One Fuel station can sell fuel oil under only one trademark, and fuel oil trading must be in strict compliance

[1] Decision on Protection Business of Import and Wholesale Fuel, Section 2.
[2] Decision on the Regulations in regard to Permitting the Import and Distribution of Fuel in Lao PDR, Section 4.

with the applicable laws and regulations. The requirements relating to fuel oil trading shall apply to premium gasoline, gasoline and diesel oil.[3]

3. Importation of Fuel Oil

3.1 General Rules for Importation of Fuel Oil

The rules and criteria for importing goods into the Lao PDR vary with the types and kinds of the imported goods. In this regard, the Decree on Importation and Exportation of Goods stipulates measures to control on the importation of goods as follows:[4]

(1) The Prohibition in importing goods;
(2) The Approval before importing goods;
(3) The Certification on sanitary, phytosanitary as well as technical standardization;
(4) Trade Remedy Measures.

As fuel oil is goods under the List on Goods subject to Automatic and Non-automatic Import Licensing[5 and 6] where the Government intends to record statistics on the importation, and shall obtain prior import into Lao PDR, the fuel oil operator shall, before importing fuel oil, apply to the Department of Import-Export, Ministry of Industry and Commerce, for an import license and to the Department of Standards and Measurements, Ministry of Science and Technology, for technical standardization. The Department of Import-Export shall consider applications for import licenses transparently, fairly and without discrimination between local and overseas applicants. The following shall also be taken into consideration:

(1) The applicant having complied with all terms and conditions of the Decision on Management of Fuel Oil Import Business and Wholesale Services;
(2) The requirements about the number of fuel oil depots and Fuel stations, the safety measures, and the facilities and amenities;
(3) The applicant providing fuel oil services in barren and remote areas;
(4) The applicant having conducted good operation in the past, particularly having imported and sold fuel oil as usual at times of change in fuel oil prices; and
(5) The applicant having expanded its fuel oil trading or fuel oil depots to meet demand.

[3] Decision on the Regulations in regard to Permitting the Import and Distribution of Fuel in Lao PDR, Section 5.
[4] Decree on Importation and Exportation of Goods, Section 6.
[5] Notification on Goods subject to Automatic and Non-automatic Import or Export Licensing, Annex A: Goods subject to Automatic and Non-automatic Import Licensing, I Goods subject to Automatic Import Licensing, No. 2.
[6] Information in regard to obtaining Automatic and Non-automatic Import or Export Licensing is described in Chapter 3: Trading of Goods and Services by Foreigners.

According to the regulations of the Department of Import-Export, an Automatic Import License is currently valid for 1 year[7] and is renewable upon completion of the import of fuel oil in proposed quantity. In the event that the fuel oil has not been imported in proposed quantity within such period, the fuel oil operator can request for an extension of time.

In addition, the fuel oil operator shall pay import duty and value added tax as required by law, and the checkpoint official shall keep a record of the quantity of the fuel oil imported each time in the summary of imported items per form set out by the Department of Import-Export. Such summary shall be used as evidence in subsequent applications for import licenses.

3.2 Conditions for Setting up a Business Enterprise to Import Fuel Oil

A natural or legal person wishing to set up a business enterprise to import fuel oil in the Lao PDR shall meet the following standards and conditions:

(1) The proposed enterprise shall have a registered capital of at least LAK 10 billion (THB 36,500,000 approximately).

(2) There shall be a standard fuel oil depot with a capacity of at least one million litres and with safety standards as required by the relevant authorities.

(3) The proposed enterprise shall operate under a trademark or shall act as a fuel oil dealer operating under a trademark, and in either case, such trademark must be duly registered with the National Organization of Science and Technology.

(4) There shall be at least 5 fuel oil tank trucks with technical standards as required by the relevant authorities, and if more trucks are required, the proposed enterprise may hire them, but only from an authorized transport operator.

(5) There shall be a Fuel station or a fuel oil dealer operating under a registered trademark, which can accommodate the imported fuel oil according to the required technical standards.

(6) After obtaining the license to operate fuel oil trading, the proposed enterprise shall join the Fuel oil Trading Syndicate.

(7) The applicant must have experience and expertise in fuel oil trading or has employed a fuel oil expert as its advisor.

The application for an approval to set up a business enterprise shall first be submitted to the Ministry of Industry and Commerce for its consideration and verification of

[7] Decree on Import Licensing Procedures, Article 5.

the aforesaid conditions. Then, the relevant authorities shall conduct a field inspection at the applicant's office, fuel oil depot, Fuel station or fuel oil dealer. When satisfied that everything meets the required standards, they shall forward the matter to the authorities in charge of issuing Enterprise Registration Certificates.

3.3 Conditions for Fuel oil Import

In operating a fuel oil import business in the Lao PDR, the fuel oil operator shall comply with the following conditions:

(1) There shall be periodical and annual importing, selling and marketing plans, which are approved by the Department of Import-Export, Ministry of Industry and Commerce, and certified by the Department of Internal Trade in regard to the infrastructure and operation of such business.

(2) The fuel oil operator shall open a deposit account with a bank in the Lao PDR.

(3) The imported fuel oil must be of standard quality and in accordance with the regulations of the National Organization of Science and Technology.

(4) The fuel oil shall be imported only at the approved border checkpoint where the fuel oil operator's fuel oil depot is situated.

(5) The account payment shall be made to the Bank located in Lao PDR.

(6) The fuel oil operator shall sell the fuel oil at such retail and wholesale prices as fixed from time to time by the Government and shall procure that its Fuel station or fuel oil dealer strictly complies with the retail pricing and the duration determined by the relevant authorities.

(7) The fuel oil operator shall procure that there shall be at least 10-15 day reserves of fuel oil for its Fuel station or fuel oil dealer.

(8) The fuel oil operator shall expand its Fuel station or fuel oil dealer to remote areas.

(9) The fuel oil operator shall systematically and regularly report the fuel oil inventory, including the CIF, retail and wholesale prices, for each week, month, period and year to the Department of Internal Trade, Ministry of Industry and Commerce.

(10) The fuel oil operator shall operate its business in compliance with the applicable laws and regulations.

3.4 Sanctions against Violators

If any fuel oil operator is found to have operated in violation of the law, the Government shall impose sanctions, as follows:

(1) If the fuel oil operator and its Fuel station or fuel oil dealer conspire to increase the fuel oil price or to sell the fuel oil at a price higher than that fixed from time to time by the Government or at times of difficulty in any locality, the violator shall be liable to an imprisonment of 6 months – 2 years and a fine of LAK 1-5 million for each violation.

(2) If hoarding of oil is found at the Fuel station or the fuel oil depot for financial speculation or with the aim of causing social disruption, the violator shall be liable to an imprisonment of 1-4 years and shall be fined in accordance with the regulations of the tax authorities.

(3) If the fuel oil operator does not comply with the applicable laws and regulations, for example, failing to sell the fuel oil to its Fuel station or fuel oil dealer, or failing to comply with the regulations regarding the fuel oil pricing as set out by the Government, or failing to notify its Fuel station or fuel oil dealer in advance of any change in fuel oil prices, or failing to cooperate and facilitate the government official's inspection of the fuel oil inventory at the fuel oil depot or the Fuel station, it shall be liable to an imprisonment of 6 months – 2 years and a fine of LAK 1-10 million.

4. Sale of Fuel Oil

4.1 Fuel Oil Wholesaling

The requirements and conditions for the importation of fuel oil stated in Section 3 above also apply to the wholesaling of fuel oil since the fuel oil operator must sell the imported fuel oil to its oil dealer or Fuel station wholesale. However, though the Decision on Management of Fuel Oil Import Business and Wholesale Services is not explicit about the restrictions on foreign investment, the fuel oil wholesaling is a kind of wholesaling which is subject to the Decision on Wholesaling and Retailing Businesses, so no foreigner can operate the fuel oil wholesaling business.

4.2 Fuel Oil Retailing

The main regulation governing the retailing of fuel oil in the Lao PDR is the Decision on Management of Fuel stations in the Lao PDR No. 1806/MOIC.DTD dated 8 September 2009, which defines the overall picture of the fuel oil retailing. Likewise, the fuel oil retailing is subject to the Decision on Wholesaling and Retailing Businesses, and though the Decision on Management of Fuel stations in the Lao PDR does not impose restrictions on foreign operators, no foreigner can operate the fuel oil retailing business.

4.2.1 Standards and Conditions for Construction of a Fuel station

Any natural or legal person wishing to construct a Fuel station in the Lao PDR shall meet the following conditions:[8]

(1) The proposed enterprise shall have a registered capital of at least LAK 500 million for each Fuel station.

(2) The Fuel station shall be constructed in accordance with the technical standards set by the Ministry of Public Works and Transportation and other relevant authorities.

(3) The proposed enterprise has been authorized to act as an oil dealer or a Fuel station for a particular oil company.

(4) One Fuel station can be an oil dealer for only one trademark or only one oil company and may not act as an oil dealer for any other company prior to the expiration or termination of the contract made with the former company.

(5) The applicant must have relevant experience and expertise or has employed an expert as its advisor.

(6) The location of the proposed Fuel station shall be clearly determined and there shall be a detailed layout of the loading and discharging of oil, which layout is approved by the relevant authorities.

(7) There shall be a document of title or a lease right for the construction site of the proposed Fuel station as well as a confirmation from the relevant authorities that, for example, the construction site will not have an environmental impact or create a slum area or is in the Government's prohibited area.

[8] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 5

(8) Every Fuel station shall be equipped with sufficient foam fire extinguishers, together with a full set of fire-fighting equipment, to fight fire caused by oil.

The person wishing to construct a Fuel station shall apply to the Ministry of Industry and Commerce for enterprise registration by filing an application for an approval to construct a Fuel station, together with relevant documents. The relevant authorities shall then conduct an inspection at the proposed construction site, and when satisfied that everything meets the required standards and conditions, they shall grant an approval for enterprise registration in accordance with the regulation.[9]

4.2.2 Conditions for Business Operation

In addition to the conditions for construction of a Fuel station as aforesaid, the fuel oil operator shall conduct its business in compliance with the following conditions:[10]

(1) The fuel oil must be of standard quality and in conformity with the regulations set out by the National Organization of Science and Technology.

(2) The fuel oil operator shall buy fuel oil only from its parent company. Buying fuel oil from other companies is strictly prohibited.

(3) The fuel oil operator shall keep a detailed and systematic record of the fuel oil purchases from its parent company.

(4) The fuel oil operator shall keep a detailed and systematic record and summary of its day-to-day sale of fuel oil.

(5) The fuel oil operator shall strictly comply with the retail pricing and duration determined from time to time by the Government.

(6) The business hours of the Fuel station shall be from 6.00 to 19.00 hrs. For the Fuel station with 24-hour service, there shall be a sign to that effect and safety measures shall be taken in every respect.

(7) The fuel oil operator shall comply with the reporting requirements or shall cooperate with the State organizations in providing relevant information systematically.

(8) The fuel oil operator shall provide its Fuel station attendants with uniform. While serving the customers, the attendants must wear such uniform and must be well-mannered and honest.

[9] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 6.
[10] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 7.

(9) There shall be a signboard in front of the Fuel station, visible at a distance of 100 meters, which shows the current price of each kind of fuel oil.[11]

(10) The fuel oil operator shall procure that the oil quality and quantity are guaranteed and unadulterated, and the fuel oil operator shall have at least one inspecting equipment at its Fuel station to check the oil quality upon each change in oil prices, or when the customers make a complaint and request that the oil quality be checked, or in other cases.[12]

(11) The fuel oil operator shall procure that there shall be at least 2-day reserves of oil at its Fuel station. The fuel oil operator is not allowed to close its Fuel station on grounds of oil shortage.[13]

(12) The fuel oil operator shall comply with all applicable laws and regulations.[14]

4.2.3 Requirements and Conditions for the Proposed Fuel station

To ensure safety and fire precautions as well as to minimize traffic problems in urban areas, the construction of a Fuel station shall be in accordance with the following rules, conditions and technical standards:

(1) The site of the proposed Fuel station shall be a flat surface of not less than 500 square meters, with the frontage not less than 20 meters wide. There shall be an access road for the loading of oil, and safety measures, particularly fire precautions, shall be in place.[15]

(2) The site shall be at a distance of not less than 5 meters away from the living quarters and at least 100 meters away from the community centre such as school, hospital, marketplace, public park, sports field, theatre, cinema, nursery, kindergarten, bank, radio/television station, or Government place.

(3) The site shall be at least one kilometer away from other Fuel stations.

(4) The site shall be more than 50 meters away from an intersection, a curve or a bridge and must not be in close proximity to a road with a slope of more than 1/25 grade.

(5) No medium or high voltage electrical cable shall pass through the site of the proposed Fuel station.

[11] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 9.
[12] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 9.
[13] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 9.
[14] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 9.
[15] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 8.

(6) There shall be a drainage system in accordance with the technical and health standards (only in the case of a Fuel station with lubricating services).

(7) A sign showing the trademark (as oil dealer) shall be erected high up so that it can be seen from afar. One Fuel station can act as an oil dealer for only one fuel oil importer.

(8) Restrooms shall be provided at the Fuel station for customers.[16]

(9) There shall be a mini mart (if it is one of the conditions).[17]

(10) There shall be a rest area for road users (if necessary).[18]

(11) Lubricating and engine checking services shall be provided (if these are one of the conditions).[19]

4.2.4 Sanctions against Violators

To prevent the fuel oil operators from taking advantage of the customers, sanctions are imposed on wrongdoers as follows[20]:

(1) If the fuel oil operator increases the oil price or sells the fuel oil at a price higher than that fixed by the Government at times of natural disasters such as draught or flood or when there are difficulties in any locality, it shall be liable to an imprisonment of 6 months – 2 years and a fine of LAK 1-5 million for each violation.

(2) If the fuel oil operator hoards or hides oil at its Fuel station or any other place for financial speculation or with the intention of causing social disruption, it shall be liable to an imprisonment of 1-4 years and shall be fined in accordance with the tax regulations.

(3) If the fuel oil operator buys fuel oil of different brands or from other companies for which it is not a dealer, it shall be liable to an imprisonment of 6 months – 2 years and a fine of LAK 1-10 million for each violation.

(4) If the measuring instruments are found to have been counterfeited or modified or if the fuel oil operator uses the equipment of low standard with the intention of taking advantage of the customers, the operator shall be liable to an imprisonment of 6 months – 2 years and a fine of LAK 1-3 million for each violation.

[16] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 8.
[17] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 8.
[18] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 8.
[19] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 8.
[20] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 11.

(5) In the event of other violations or if the fuel oil operator has caused damage to other persons, it shall be liable for such damage. In the case of a criminal offence, the violator shall be liable to criminal punishment.[21]

5. Relevant Government Authority

The organization in charge of fuel oil trading is the Ministry of Industry and Commerce, which has an important role in enterprise registration, approval of the fuel oil importation, and management of the wholesaling and retailing of fuel oil in the Lao PDR. The Industrial and Commercial Department of each district will be the inspector and will investigate the site where there is an application for retailing approval or where the Fuel station carries out the retailing of fuel oil in the Lao PDR.

The Ministry of Science and Technology is another organization that has an important role in setting technical standards for the imported fuel oil as well as the standards of the Fuel stations to ensure quality and safety of the fuel oil.

[21] Decision on the Protection of Retail Fuel Stations in the Lao PDR, Section 12.

Chapter 17
Law on Intellectual Property

1. Relevant Legislations

(1) Law on Intellectual Property No. 01/NA, dated 20 December 2011 ("**Law on Intellectual Property**");
(2) Law on Contract and Tort No. 01/NA, dated 8 December 2008 ("**Law on Contract and Tort**");
(3) Civil Procedure Law No. 13/NA, dated 4 July 2012 ("**Civil Procedure Law**");
(4) Customs Law No. 04/NA, dated 20 December 2011 ("**Customs Law**");
(5) Penal Law No. 12/NA, dated 9 November 2005 ("**Penal Law**");
(6) Criminal Procedure Law No. 17/NA, dated 10 July 2012 ("**Criminal Procedure Law**");
(7) Law on Resolution of Economic Dispute No. 06/NA, dated 17 December 2010 ("**Law on Resolution of Economic Dispute**"); and
(8) Paris Convention for the Protection of Industrial Property, dated 28 September 1979 ("**Paris Convention for the Protection of Industrial Property**").

2. Types of intellectual property

The Law on Intellectual Property, dated 20 December 2011, provides protection for the following types of intellectual property:

2.1 Industrial Properties

The objective of the Law on Intellectual Property is to provide protection for creations and inventions that can be used in relation to commercial or industrial purposes and can impact and drive the national economy. Industrial properties[1]can be categorized as follows:

(1) Patent;
(2) Petty Patent;
(3) Industrial Design;
(4) Trademark;

[1] Law on Intellectual Property, Section 9.

(5) Trade name;

(6) Integrated Circuits;

(7) Geographical Indication;

(8) Trade Secret.

2.2 New Inventories of Plant

The Law of Intellectual Property provides protection to groups of plants having identical or similar breeding and plant life characteristics and having particular characteristics different from other plants in the same kind, which remains consistent and unchangeable in breeding. The law also requires the following criteria:

(1) The plant must be new and not have public recognition. To be able to file an application for protection of a plant variety, the plant breeding part or fruit must not be sold or given away to other persons within 1 year prior to the filing date of the plant variety application in the Lao PDR, or within 4 years prior to the filing date of the plant variety application, or within 6 years for perennial plant or grape vine from another territory;[2]

(2) The plant must be different from other breeds in its characteristics, which is well known at the time of application filing;[3]

(3) The plant breed must be consistent. The plant may be inconsistent due to its particular characteristics in breeding, but all countenance should be consistent according to the characteristics of the particular breed;[4] and

(4) The plant breed must remain unchangeable after the breeding or during its last stage in each cycle where such plant has a particular breeding cycle.[5]

2.3 Copyrights and Rights Relating to Copyrights

The Law of Intellectual Property focuses on providing protection for rights of individuals and entities in the creation of artistic work, literary work and scientific work appearing in any form.[6]

[2] Law on Intellectual Property, Section 69.
[3] Law on Intellectual Property, Section 70.
[4] Law on Intellectual Property, Section 71.
[5] Law on Intellectual Property, Section 72.
[6] Law on Intellectual Property, Section 88.

3. Industrial Properties

3.1 Patent

Patent means a certification or official document issued by the state organization[7] to protect a new invention or device, including the method of the invention. Such invention must be applicable in the industry. The patent shall be granted registration if it meets the requirement according to the Law of Intellectual Property. The invention must be new and must not have been existed or disclosed to the public in the Lao PDR or elsewhere in the world before the application filing date or before the priority date of the invention application*. Moreover, the patent must have an inventive step which is difficult to understand by people having skill in the industry and can be used in support for the benefit of industrial production, handicraft, agriculture, fishery, service providing, etc.

The Law of Intellectual Property states that an invention or device that is not new or is a living thing or has a component of an existing living thing, or thing that is not invention and does not contain element for academic amendment, but is only a scientific theory, mathematical theory, business plan, or method for human or animal diagnose, treatment and operation, especially biological method for production of animal and plant (not including microorganisms) is not eligible for being granted a patent.[8]

Certain patents may not be granted registration or may have limited use, such as, to prevent commercial benefit, to protect good culture and morals**,including protection of humans, animals or plant, health, or to prevent serious damage to the environment, or to protect the peace and social order of the Lao PDR.

3.1.1 Applying for Patents

The Law of Intellectual Property provides that an individual, entity or organization incorporated in the Lao PDR or other countries may apply for patent registration at the Department of Intellectual Property, Ministry of Science and Technology or at the organization for protection of international industrial property which Lao PDR is a member. For a foreign applicant or applicant who does not reside in the Lao PDR, an authorized agent with residential address in Lao PDR is required.[9]

[7] Law on Intellectual Property, Section 3.

* In Laos, it is referred as "วันบุริมสิทธิ"

[8] Law on Intellectual Property, Section 21.

** In Laos, it is referred as "ความเป็นระเบียบเรียบร้อยของสังคมและศีลธรรม"

[9] Law on Intellectual Property, Section 27.

3.1.2 Principles for obtaining protection

The Law of Intellectual Property indicates that when there are many applications for patents, petty patents or other relevant industrial properties, the examination shall be based on the first to file. Any applications filed with priority claim indicated will receive protection back to the first date of filing. The claiming of priority may be filed within 12 months from the first date of filing in another country for the same patent or petty patent.[10]

3.1.3 Documents required for registration of Patent

The Law of Intellectual Property requires the following documents to be submitted for application of a patent or petty patent[11]:

(1) Patent or petty patent application form;
(2) Power of Attorney specifying the name and address of the agent residing in Lao PDR if the application is to be filed by an agent;
(3) Complete detailed description of the invention or device for people in the relevant industry to be able to understand and apply the invention or device. Moreover, the method of application or manufacturing with the highest quality must be provided;
(4) Priority claim;
(5) Depiction of the invention or device;
(6) Brief description of the invention or device; and
(7) Official fee.

The Law of Intellectual Property allows the applicant to claim for priority on the application of patent or petty patent of the first application filed outside the territory (if any). An application form may be used to apply for one single invention or a group of several inventions or devices that, all together, combine into a single invention based on international class. The Department of Intellectual Property, Ministry of Science and Technology will accept an application that contains at least the following:

(1) Name, address and nationality of the applicant;
(2) Name of the inventor or designer;
(3) Description of the invention or device; and
(4) Official fee.

[10] Paris Convention for the Protection of Industrial Property, Article 4C.
[11] Law on Intellectual Property, Section 31.

An individual, corporation or organization wishing to obtain a patent or petty patent must follow all the requirements of the Department of Intellectual Property, Ministry of Science and Technology within the given timeframe.

3.2 Petty Patent

Petty patent means a certification or official document issued by the state organization to protect an invention,[12] similarly to the patent, though petty patent is for invention with lower technical level than a patent that has a solution for technical problem.

Petty patents eligible for granting protection must meet the requirements according to the Law of Intellectual Property. The invention must be new and must not be recognized or used within 1 year in the Lao PDR before the application filing date. Such new invention does not require a high level of technology or be able to support the benefit of industrial production, handicraft, agriculture, fishery, service providing, etc., but must have new technique in method use.[13]

The same rules for patents apply to petty patents for inventions or devices not eligible for granting protection.

The same conditions and procedures applied for patent registration, principles for obtaining protection, and documents required for registration of patent as elaborated in Item 3.1.1 to 3.1.3 above also apply to those involving petty patent.

3.3 Industrial Design

Industrial design means a pattern or shape of a product to be produced consisting of shape, design, drawing, colours, etc.[14] Industrial design eligible for granting registration must meet the requirements set forth in the Law of Intellectual Property. The design must be new, and must not have been disclosed to the public in the Lao PDR or other countries in the world before the application filing date or before the priority date of the invention application, and the design must be used as a design or attached to a product to transform its outside appearance.[15]

The Law of Intellectual Property specifies that industrial designs not eligible for registration are designs where the outer figure of the industrial design arises from its own technical figure and any industrial design contrary to social order and good morals.[16]

[12] Law on Intellectual Property, Section 3.
[13] Law on Intellectual Property, Section 14.
[14] Law on Intellectual Property, Section 3.
[15] Law on Intellectual Property, Section 15.
[16] Law on Intellectual Property, Section 22.

3.3.1 Applying for Industrial Design and principles for obtaining protection

Industrial Design application and obtaining protection follow the same principles as the Patents stated in 3.1.1 to 3.1.2 above. The only difference is that in the case where Industrial Design applicant may claim the priority date for the application in Lao PDR within 6 months from the date of first filing in another country.

3.3.2 Documents required for registration of Industrial Design

The Law of Intellectual Property requires the following documents to be submitted for application of an industrial design:[17]

(1) Industrial design application form;
(2) Power of Attorney specifying name and address of the agent residing in the Lao PDR if the application is to be filed by agent;
(3) Depiction or photograph(s) clearly showing the design;
(4) Brief description of goods related to the proposed design; and
(5) Official receipt.

The applicant may claim for priority from the first application that was filed in another territory (if any). An application may be used to apply for a single design or a group of related designs used to create the industrial design based on the same international classification. The Department of Intellectual Property, Ministry of Science and Technology will accept an application that contains at least the following:

(1) Name, address and nationality of the applicant;
(2) Depiction or photograph; and
(3) Official fee.

3.4 Trademark

Trademark means a mark or a combination of marks used as indication or in relation to goods to differentiate the goods from other sources. Marks can be classified in the following types:

(1) Collective Mark is a trademark to be collectively used by enterprises in the same group or by members of association, cooperative, state or private organization or group of persons.
(2) Certification Marks are trademarks of which the owner allows another person or organization to use with the goods or services of the other person or

[17] Law on Intellectual Property, Section 32.

organization to certify the characteristics associated with the source of origins, raw materials and methods for producing goods or methods for providing services, kinds, quality, safety; other characteristics of goods or other methods for providing services, kinds, quality, safety; or other characteristics of goods or services.

(3) Well-Known Trademarks are trademarks extensively and generally recognized in the territory of the Lao PDR, in any country, in any region and in the world.[18]

Trademarks that are granted registration must have distinctive character. A mark may consist of words, a person's name, forms, numbers, figures, shapes, color or group of colors, as well as a group of one or more marks, which is dissimilar to another person's registered trademark for the same type of goods and not to be used for the same, similar or relating classification of goods that is likely to cause confusion to the public of the source of the goods or goods that are in connection to another person.

In addition to the abovementioned principle, a mark must contain special characteristics and must not be descriptive to the type, quality, characteristic, amount, objection, value or origin of the goods, the manufacturing date or of a traditional language used every day, and must not mislead the public in understanding the goods.

The Registrar shall reject registration of a mark that consists of national emblems, national flags, seals, official marks, signs relating to cultures or places of worship, abbreviations or names of cities or districts of Lao PDR or of foreign countries without authorization from the relating government authority, or mark that consists of the mark of an international organization or agency, mark from an international agreement, official seal, or national or international organization symbol without authorization.

Marks used without permission and consisting of a name or picture similar to a person who is alive, a symbol of cultural origins, a monument, a historical symbol, a name or picture similar to a hero or leader, or a mark that is likely to cause disdain or be contrary to the peace, social order, security, culture and national tradition of the State, or consists of elements that are likely to cause damage or that shows an inaccurate relationship of a person (regardless of being alive or deceased), an institution, a belief, or national symbol, shall also be rejected from registration.

Moreover, the Registrar shall reject the registration of a mark that contains a false source of origin indication, though it indicates actual existing territories or districts as the source of the goods but deceives the public of the origin of the source of goods,

[18] Law on Intellectual Property, Section 3.

manufacturing, competitor's business or destroys trust in the place of manufacturing, industrial activity or competitor's business.[19]

3.4.1 Principles for application examination

The examination of applications serves the applicant who is the first to file. However, the applicant may enjoy the right that goes back to the priority date*** if the application was filed with priority claim within 6 months from the filing date of the priority application.[20] (Same as Industrial Design application)

3.4.2 Documents required for registration of Trademark[21]

The Law of Intellectual Property requires the following documents to be submitted for applying trademark:

(1) Trademark application form;
(2) Power of Attorney specifying name and address of the agent residing in the Lao PDR if the application is to be filed by an agent;
(3) Depiction of the trademark;
(4) Description of the trademark and goods or services. If the registration is for collective mark or certification mark, a detailed description of the mark must be provided; and
(5) Official fee.

The applicant may specify the priority date (if any) on the application. One trademark may be applied for registration in an international multi-class application, regardless of the number of specification of goods or services. The Department of Intellectual Property, Ministry of Science and Technology will accept an application that contains at least the following:

(1) Name, address and nationality of the applicant;
(2) Description of the trademark; and
(3) Official fee.

An individual, entity or organization must follow the criteria as set above within the timeframe given by the Department of Intellectual Property, Ministry of Science and Technology in order to have the trademark application filed.

[19] Law on Intellectual Property, Section 23.
*** In Laos, it is referred as "วันบุริมสิทธิ"
[20] Paris Convention for the Protection of Industrial Property, Article 4C.
[21] Law on Intellectual Property, Section 33.

3.4.3 Cancellation of trademark application[22]

An individual, entity or organization may file a request for cancellation of a registered trademark to the Department of Intellectual Property, Ministry of Science and Technology if he/she is able to prove that the mark has not been used consecutively for five years in the Lao PDR, or no actual use of mark has been found and only the name of the mark has been used, or there has been fraudulent use of the mark by the owner.

The owner of the mark may declare reasons for not using the mark.

3.5 Integrated Circuits

Integrated circuits means readymade or semi-finished goods that work electronically on their own or together with other goods consisting of elements that stimulate electronic reaction and connect all the parts or certain elements together placed on or in a semi-conductor.[23]

Layout design is any design or image made in any form to show the placement of layout design in 3-dimension.[24]

Integrated circuits, therefore, means the format, layout or picture created in any form or method to show the arrangement of electrical components or electric lines for the production of circuits, such as, layout design which is a drawing arrangement of the circuit and mask work, which is used in production of the circuits and photograph of circuit outline.

3.5.1 Principles for obtaining protection[25]

The Law of Intellectual Property states that integrated circuits receiving protection must be newly created by the designer and not be well-known within the industry. The integrated circuits that are not well-known in the industry includes the creator's rearrangement of elements, attachment, layout or circuit known among the industry as the creation of a new layout design that is not recognized by the industry.

The applicant is required to file an application for the registration of an integrated circuit before the date of first use for trade purposes or within 2 years from the date of first use.

[22] Law on Intellectual Property, Section 64.
[23] Law on Intellectual Property, Section 3.
[24] Ibid.
[25] Law on Intellectual Property, Section 17.

3.5.2 Documents required for registration for integrated circuits[26]

The Law of Intellectual Property requires the following documents to be submitted for application of integrated circuits:

(1) Application form;
(2) Power of Attorney specifying the name and address of the agent residing in the Lao PDR if the application is to be filed by an agent;
(3) Descriptions of the first date of use for trade purposes of the integrated circuit layout or the connecting integrated circuits;
(4) Drawings or photographs of the integrated circuit;
(5) Function descriptions of the circuit layout or objective of using the circuit when being used for trade purposes; and
(6) Official fee.

An application form for registration of integrated circuits is only applicable for one layout design of the circuit. The Department of Intellectual Property, Ministry of Science and Technology will accept an application that contains at least the following:

(1) Name, address and nationality of the applicant;
(2) Disclosure of information of the integrated circuit; and
(3) Official fee.

An individual, entity or organization must follow the criteria within the timeframe given by the Department of Intellectual Property, Ministry of Science and Technology in order to receive protection for the integrated circuit.

3.5.3 Timeframe for applying Integrated Circuits[27]

The application for integrated circuits is required to be filed within two years from the date of first use in commercial purpose in Lao PDR or in other countries, or from the date created. However, in either case, it shall not be more than fifteen years from the date created.

3.6 Source of Origin

Source of origin[28] is a sign or other indication for use to indicate or represent the origin of a country as the source of the product, which is an essential element that makes such product be of good quality and well-known from the mentioned region.

[26] Law on Intellectual Property, Section 34.
[27] Law on Intellectual Property, Section 64.

3.6.1 Principles for obtaining certificate of source of origin[29]

The objective for obtaining certificate of source of origin is to indicate the source of the product to show such product's individual characteristics from such origin, quality and reputation. The source of origin plays an important role in creating the quality and reputation or other characteristics of the product, such as cause of nature or human skills, know-how or experience of the local in such area that leads the product to have its own unique quality.

3.6.2 Documents required for registration for source of origin[30]

Applying for source of origin must contain the following documents:

(1) Application form;
(2) Power of Attorney specifying the name and address of the agent residing in the Lao PDR if the application is to be filed by an agent;
(3) Picture of the source of origin;
(4) Descriptions regarding the source of origin and geographical location;
(5) Products in relation to the source of origin and way of examination;
(6) Report on prominent point of the proposed source of origin and supporting evidence;
(7) Evidence showing protection obtained from the origin country for applications filed in another country; and
(8) Official fee.

An application for registration of source of origin is to be used only for a source of origin. The Department of Intellectual Property, Ministry of Science and Technology will accept and issue a filing date for applications that contain at least the following:

(1) Name, address and nationality of the applicant;
(2) Picture of the source of origin;
(3) Information regarding source of origin and geographical location;
(4) Products in relation to the source of origin and way of examination; and
(5) Official fee.

An individual, entity or organization must follow the criteria within the timeframe given by the Department of Intellectual Property, Ministry of Science and Technology in order to obtain registration of the source of origin.

[28] Law on Intellectual Property, Section 3.
[29] Law on Intellectual Property, Section 18.
[30] Law on Intellectual Property, Section 35.

3.6.3 Cancellation of source of origin application[31]

In the case where the applicant does not meet certain requirements of the registration, the applicant may submit their request to the Department of Intellectual Property, Ministry of Science and Technology to temporarily stop the use of the source of origin that has been registered. The Department of Intellectual Property, Ministry of Science and Technology shall inform the applicant to respond to the requirement within the given deadline. Should the applicant fail to meet the requirement, an order to stop the use of such source of origin shall be provided.

4. Copyrights and rights relating to copyrights

The Law of Intellectual Property has given definitions of copyrights and rights relating to copyrights as follow:

(1) Copyrights are a right of an individual, entity or organization on artistic or literary work, including scientific work created.[32]

(2) Rights relating to copyrights are the right of an individual in the field of performance, sound-image recording and broadcasting programs or decoded satellite programs.[33]

In addition to artistic, literary, scientific and performance works, computer programs and data compilation are also considered as types of copyrights as follow:

(1) Computer program is a set of instructions or anything used with the computers as to making a computer work or to generate any result no matter what the computer language and shall be protected as literary works. The computer program can be of both source code and object code.

(2) Data compilation is a compilation of data in electronic form or any other forms, using judgment and skill in selection or arrangement data and to be protected as literary works. This protection does not cover protection over raw information or raw materials used to create the works.[34]

4.1 Types of work that receive protection

Reference to the definition of copyrights and rights relating to copyrights, works created in the field of artistic, literary and scientific works appearing in any form shall receive

[31] Law on Intellectual Property, Section 66.
[32] Law on Intellectual Property, Section 3.
[33] Ibid.
[34] Law on Intellectual Property, Section 100.

protection. Derivative work shall receive the same protection as the original work. For performance, sound-image recording and broadcasting programs shall receive protection as work with rights relating to copyrights.

Works that are not considered as copyrights[35] are:

(1) Daily news or actual incidents characterized as news;

(2) Ideas, procedures, practicing methods or principles of mathematics; and

(3) Any juristic acts, administrative rules, judicial documents and official translations.

4.2 Owner of copyrights

According to the Law of Intellectual Property, the owner of copyrights is the person who created the work. In case of more than one person jointly creating the work, copyrights shall be among the joint-author, unless agreed otherwise.[36]

In regards to cinematic or dramatic work where there is more than one person in creating the work, such as, director, editor, compiler, cameraman, producer, author, set designer, sound designer, lighting designer, set decorator, film equipment manager, technician, etc., the joint-creators of the cinematic or dramatic work are considered as the copyright owners. The names of these people shall be clearly specified, unless certain conditions do not allow the names to be exposed or as agreed otherwise.[37]

Work created from hire of work shall be the copyrights of the employer, unless agreed otherwise.

Work created by an employee according to an employment contract shall be the copyrights of the employee who created the work and shall be entitled to benefits from such rights.

The person created the work shall obtain moral rights,38 though the person may not have economic rights. The copyrights owner may disclose and share the work, and use a real name, pseudonym or pen name on the work to claim as creator of the work. The right also includes opposition of use by others from inserting names onto the work, or prevention of others from referring the copyrights owner's name in work not belong to the copyrights owner or the work that has been modified by other person, and opposition against any modification of the work that damage the copyrights owner's reputation.

[35] Law on Intellectual Property, Section 90.
[36] Law on Intellectual Property, Section 95.
[37] Law on Intellectual Property, Section 96.
[38] Law on Intellectual Property, Section 97.

The creator of work or owner of the copyrights is entitled to economic rights[39]to earn benefits from the work created through use in commercial purposes and preventing unauthorized persons from reproduction or adaption, dissemination of the works to the public, renting the original of the works or making copies of computer programs, cinematographic or sound recorded works. Copyrights owner may also authorize and license to other persons rights to the work with or without conditions of use.

Artistic work or folklore is copyright protected, though a person may create work or receive benefits from the use of the original piece of the artistic work or folklore of the same kind. The collection of artistic work or folklore is also copyright protected and does not prevent other persons from collecting similar kinds of works or carrying on spreading the story, reproducing, changing or selling such native work.[40]

4.3 Owner of copyrights and rights relating to copyrights

As mentioned above, rights relating to copyrights are right of an individual in performance, sound-image recording and broadcasting programs or decoded satellite programs. Thus, owner of rights relating to copyrights are[41]:

(1) Performer;
(2) Sound-image recording producer; and
(3) Sound-image broadcasting organization.

The owner of rights relating to copyrights shall be protected by moral right as well as economic right, which is the same as in copyrights. Owner of rights relating to copyrights has got rights as follow (sorted by type of owner of rights relating to copyrights):

4.3.1 Performer's moral rights

Performer's moral rights[42] are separate from economic rights. The performer may claim for the right in a performance though the rights have been assigned to other person. The moral rights of the performer remain protected until the end of economic right, though the performer is dead. The successor of the performer may use the right after the performer if such right has not been assigned to another person.

[39] Law on Intellectual Property, Section 98.
[40] Law on Intellectual Property, Section 101.
[41] Law on Intellectual Property, Section 102.
[42] Law on Intellectual Property, Section 103.

4.3.2 Rights of performer

Performer's economic rights[43] which is the performer's absolute right in the work of performance are as follow:

(1) Live performance
   (a) Dissemination of sound and image of the performance to the public, except for a performance that has been previously disseminated.
   (b) Recording of the live performance
(2) Reproduction of performer's live performance on sound-image discs, directly or indirectly in any forms.
(3) Dissemination to the public the original or copy of sound recorded performance through sale or assignment of the right. Such right does not include sale or assignment of original or copy of performance after lawful sale or assignment authorized from the performer.
(4) Rental of original and copy of sound recorded performance to the public for benefit in commerce, though the performer has already disseminated or authorized for dissemination of the record.
(5) Dissemination of sound recorded performance to the public through wire or wireless communication system from place and time of choice by the public.
(6) Assignment of rights relating to the work with freewill by agreement or through inheritance.

4.3.3 Rights of sound-image recording producer

Rights of sound-image recording producer[44] which is the producer's absolute rights are as follow:

(1) Direct or indirect reproduction of sound-image recordings.
(2) Dissemination of original or copy of sound-image recordings through sale or assignment. However, such right does not include sale or assignment of both original and copy of sound recording after lawful sale or assignment with authorization from the producer of sound-image recording.

[43] Law on Intellectual Property, Section 104.
[44] Law on Intellectual Property, Section 105.

(3) Rental of original and copy of sound-image recording to the public for commercial purposes, though such sound-image record has been disseminated or authorized to be disseminated.

(4) Dissemination of sound-image recording to the public through wire or wireless communication system from place and time of choice by the public.

(5) Assignment of sound-image recording by the producer with freewill by agreement or through inheritance.

4.3.4 Rights of sound-image broadcasting organization

Rights of sound-image broadcasting organization[45] which is the broadcaster and the organization's absolute right to authorize the work are as follow:

(1) Recording own sound-image broadcastings.

(2) Reproducing own sound-image broadcastings.

(3) Publicizing own sound-image broadcasting using wireless communication technique.

(4) Broadcasting own sound-image broadcastings to the public through facsimile.

(5) The transfer of right of the independent producer in broadcasting by contract or by succession.

5. Structure of protection of Intellectual Property

Protection of intellectual property rights in the Lao PDR falls under the Law of Intellectual Property as well as the Paris Convention or other conventions relating to industrial property protection which the Lao PDR is a member of, for instance, the World Intellectual Property Organization (WIPO), the Patent Cooperation Treaty (PCT), the Berne Convention for the Protection of Literary and Artistic Works, the ASEAN Working Group on Intellectual Property Cooperation (AWGIPC) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs).[46] The Lao PDR will enter the Madrid Agreement Concerning the International Registration of Marks within the year 2015.

The conventions and international agreements shall have power over any clauses which are against or inconsistent to the Lao PDR's Law on Intellectual Property.

[45] Law on Intellectual Property, Section 107.
[46] World Intellectual Property Organization. *Lao People's Democratic' s members and treaties* (Online). Available at http://www.wipo.int/wipolex/en/profile.jsp?code=LA. (Accessed on 3 January 2014)

5.1 Protection of Industrial Properties

5.1.1 Scope of protection

Protection of industrial property rights are according to the abovementioned application procedure in 3.

Any person or entity who can receive protection over industrial properties must be a Lao PDR resident, person with residence in the Lao PDR, entity incorporated under the laws of the Lao PDR, person with Lao nationality, or person with residence in member country of the Paris Convention or other international agreement relating to industrial properties protection which Lao PDR is a member. This also includes persons, entities or organizations that run a business or commercial activities and resides in a member country of the Paris Convention or other international agreement relating to industrial property protection which the Lao PDR is a member.[47] These people shall receive equal rights in protection of industrial properties to the Lao PDR residents under the condition of having an authorized agent in the Lao PDR.[48]

The law provides that patents, petty patents, industrial designs and trademarks that have been officially displayed or publicly displayed shall have temporary protection through application submission within 6 months from the first date of display or service provided. The filing date shall be deemed as the first date of display of the product at such location. However, the application filed shall not be used to extend the timeframe of priority application filed in another country.[49]

All applications shall be preliminarily examined by the Ministry of Science and Technology for its complete information, form and to ensure the payment of the official fee has been made. The Ministry of Science and Technology shall then notify the applicant the filing date. In case the application filed does not meet the requirements or has been incorrectly filed, a notification requesting the applicant to file an amendment response within 60 days from the filing date will be issued. Once the application for protection of industrial properties is sufficient according to the law, the application will be published in the Trademark Office journal after 19 months from the date of filing.[50] If the Registrar examines the application and finds it acceptable for registration for protection without any opposition, the Ministry of Science and Technology will issue the applicant a notice of acceptance of registration and record the same on the protection record.

[47] Law on Intellectual Property, Section 26.
[48] Ibid.
[49] Law on Intellectual Property, Section 30.
[50] Law on Intellectual Property, Section 39.

5.1.2 Opposition and appeal

During the publication period, any person may file an opposition or cancellation request within 5 years from the publication date if they find they have better rights in the trademark, or the trademark has the characteristics which should not be acceptable for registration, or the application is unlawful.

As the Lao PDR is in the process of enacting ruling for dispute settlement relating to industrial properties, the steps or documents required for opposition and appeal are still not settled or effective. However, in practice, the person with better rights than the applicant or the person who finds that the application is unlawful, will be responsible to attest by submitting a statement together with evidence to the department of dispute settlement for intellectual property at the Ministry of Science and Technology.

5.1.3 Terms of protection in industrial properties

(1) Patents registration is valid for 20 years from the filing date. To maintain the registration, an annual official fee is required to be paid prior to the expiry date[51].

(2) Petty Patents registration is valid for 10 years from the filing date. To maintain the registration, an annual official fee is required to be paid prior to the expiry date[52].

(3) Industrial Designs registration is valid for 15 years from the filing date. To maintain the registration, an official fee is required to be paid every 5 years[53].

(4) Trademarks registration is valid for 10 years from the filing date. To maintain the registration, a renewal request can be filed every 10 years[54].

(5) Integrated circuits registration is valid for 12 years from the filing date.[55]

(6) Source of origins registration is valid forever from the filing date after a one-time official fee is paid[56].

[51] Law on Intellectual Property, Section 48.
[52] Law on Intellectual Property, Section 49.
[53] Law on Intellectual Property, Section 50.
[54] Law on Intellectual Property, Section 51.
[55] Law on Intellectual Property, Section 52.
[56] Law on Intellectual Property, Section 53.

5.1.4 End of industrial property rights

Terms of industrial properties shall be ended in the following instances[57]:

(1) Registration will be expired on the final day of the protection if no renewal or payment of official fee as indicated by law has been made.

(2) Registration shall be void if it appears, or if anyone informs that a certain part or the whole application does not meet requirements. Such certain part shall be void from the date of registration.

(3) Rights of industrial properties that are not used for commercial purposes will expire upon the court's decision.

5.2 Protection of copyrights and rights relating to copyrights

5.2.1 Scope of protection

Copyrights or rights relating to copyrights occur once there is a creation of work without official registration. The creator of the work may have the work recorded at the Ministry of Science and Technology for easy reference in case infringement or dispute over the right arises[58].

Once the application for recording of copyrights or rights relating to copyrights are submitted to the Ministry of Science and Technology and the application meets the requirement in law, a certification shall be issued for the owner of the copyrights containing name of the owner and work, as well as date of work created.

5.2.2 Terms of copyrights protection

The Law of Intellectual Property stated terms of protection of rights of copyrights shall begin from the date which work was created and end on the last day of the calendar year in the following terms[59]:

(1) Fifty years after the date of the creator's death or in case where there are more than one creator, the term shall end once the last co-creator is deceased, unless stated otherwise.

(2) Fifty years from the date of lawful dissemination for work using pseudonym or pen name, but the term shall be as provided in 1 for the following cases:

[57] Law on Intellectual Property, Section 45.
[58] Law on Intellectual Property, Section 93.
[59] Law on Intellectual Property, Section 109.

(a) The creator has used a pseudonym or pen name and it is obvious that the creator is related to the work.

(b) The creator, who has been using a pseudonym or pen name, disposes to the public of his/her identity within the term.

(3) Fifty years from the date of dissemination to the public for the first time cinematographic work with authorization from the creator. If no dissemination in 50 years from the date when work was created, the term of copyright shall be 50 years from the date when work was created.

(4) Twenty-five years from the date when work was created for applied arts. In case where there is an agreement or convention which the Lao PDR is a member or executed party, the term of copyright shall be as specified within such convention or agreement.

In case of convention or agreement that the Lao PDR is a member or executed party, the term of rights relating to copyrights shall be as specified on such convention or agreement.

5.2.3 Terms of rights relating to copyrights protection

The Law of Intellectual Property stated terms of protection of rights relating to copyrights shall be as follow[60]:

(1) Fifty years from the date of performance for the performer whose performance was sound-image recorded and the right shall end on the last day of the calendar year.

(2) Fifty years from the date of sound-image recording for the first time for the producer who produced the sound-image recording work and the right shall end on the last day of the calendar year for the work that has been disseminated. For work that has not been disseminated within 50 years from the date of the sound-image recording, the term shall end on the last day of the 50th calendar year from the date of the sound-image recording.

(3) Fifty years from the date of broadcast for the broadcaster and broadcasting organization and shall end on the last day of the 50th calendar year for the work that has been broadcasted.

[60] Law on Intellectual Property, Section 110.

In case of convention or agreement that the Lao PDR is a member or executed party, the term of rights relating to copyrights shall be as specified on such convention or agreement.

6. Intellectual Property infringement

6.1 Industrial property infringement

Anyone exercising rights as set out in Section 55-61 of the Lao PDR's Law of Intellectual Property without authorization from the owner of the industrial property is considered as infringement.

Sections 55-61 contain similar principles as indicated in the Trade Related Aspects of Intellectual Property Rights (TRIPs). The member of the World Trade Organization (WTO) is required to be under such convention, and that affects the drafting of the Lao PDR's Law of Intellectual Property, though the Lao PDR has only entered into TRIPs recently.

Sections 55-61 indicate rights of each kinds of industrial property owner as follow:

6.1.1 Patents and petty patents[61]

(1) The patent owner or petty patent owner may prevent other persons from producing, importing, offering for sale, selling or using the registered invention without the owner's authorization. This includes, right to prevent other persons from keeping the invention to offer for sale, to sell or to use without authorization from the patent owner or petty patent owner.

(2) The patent owner or petty patent owner may prevent other persons from using production methods of the protected device to use without authorization, including preventing other persons from doing as stated in 1 above to inventions registered for patent or petty patent without authorization from the owner.

(3) The patent owner or petty patent owner may exercise his/her right either as specified in 1 and 2.

(4) The patent owner or petty patent owner may protect his/her rights from infringement caused by any person, for example, claiming for compensation from damages caused by another person in a lawsuit, including stopping other persons from gaining benefits from the invention

[61] Law on Intellectual Property, Section 55.

that is registered for patent or petty patent and filing a lawsuit for any infringement occurred during court case proceedings.

6.1.2 Use of patents and petty patents without authorization from the owner[62]

The Ministry of Science and Technology may authorize a person, entity or organization to produce, use or import an invention or device registered for patent or petty patent as ordered by the Prime Minister without receiving authorization from the owner of the said patent or petty patent, if the following conditions are met:

(1) For the matter of fatal urgency, such as natural disaster, epidemic or war;
(2) For the non-commercial use by the government for common interest, especially in protection of the national, social good order, food or public health or any other urgent matters;
(3) After court's judgment where the court finds the benefit of using the invention or device necessary in solving a problem in trade competition; or
(4) To respond to the needs in using the invention or device in the Lao PDR if the rights owner is unable to do so.

Each authorization shall be considered based on appropriateness of the timeframe and the right of use should only be limited to within the scope of the objective of such authorization. The owner may file an objection against the authorization and proposed condition, as well as alternatives that are conforming to the national needs of the invention or device. The use of the right shall not be deemed as a monopoly and is not transferrable, except when transferring within the enterprise or there is good intention for such use.

Such authorization must give the rights owner reasonable payment considering from each individual case and economic value for the authorization. The order giving permission must specify the amount of payment or method used to calculate the value of payment including conditions on such payment. If the right owner finds the payment offer not agreeable, he/she may submit the a plaint to the Ministry of Science and Technology on the unreasonable amount for consideration, or in case where the amount is unacceptable, a request for consideration may be filed to the Ministry of Science and Technology within 60 days from the date informed.

[62] Law on Intellectual Property, Section 63.

6.1.3 Rights of industrial design owner[63]

The owner of industrial design has the right to stop other persons from producing, selling or importing goods that use the industrial design or shape of goods that is a result from reproduction or copying of the industrial design for commercial purposes without authorization.

The owner of industrial design may license the right to a person, an entity or organization who is not the owner of the industrial design to have the same right as the owner. Such licensing will cover parts of such industrial design as well. That is, the licensee shall also have the right to stop other persons from producing, importing, offering to sell, selling or using the registered industrial design without authorization from the owner. This includes the right to stop other persons from keeping any products that use the industrial design to offer to sell, sell or use the design in any way without permission. In addition, the owner also has the right over the method of production of the goods, that is, the right to stop other persons from using the manufacturing process of the industrial design without permission, including preventing other persons from producing, importing, offering to sell, selling, keeping or using the industrial design without permission.

6.1.4 Rights of trademark owner[64]

The owner of a trademark has the right to stop other persons from using trademarks that are identical, similar or relating to the same or similar type of goods, or other goods that have a connection with the owner's registered trademark as such use may cause confusion to public. The use of the same trademark for the same classification of goods is initially presumed to cause confusion to public. The trademark owner may also stop other persons from selling, advertising, importing or exporting goods under the owner's trademark. The owner may also protect his/her own benefits from infringement caused by other persons by filing a court case and requesting for compensation from damages caused by other persons who infringe the trademark.

6.1.5 Rights of integrated circuits owner[65]

Owners of integrated circuits shall have the same protection as patent owners, including the right to stop unauthorized persons from reproduction, wholly or partially, of the essential part of the circuits or commercial use. However, reproduction of circuits for use in evaluation, analysis, research or personal dissemination is not considered as infringement.

[63] Law on Intellectual Property, Section 56.
[64] Law on Intellectual Property, Section 57.
[65] Law on Intellectual Property, Section 58.

6.1.6 Rights of authorized person over source of origins[66]

The authorized person of a source of origins shall stop other persons from using the registered source of origins, using the source of origins as part of a trademark, selling, advertising, importing or exporting goods using the source of origins, as well as preventing all kinds of acts that could cause confusion or deceive the public that the products are from such source of origins. Moreover, the owner may stop the use of source of origins related to alcohol or white rum, though such use comes from translation or wordings for types, kinds of the products or from an identical or similar form to the source of origins.

The authorized person also has the right to prevent benefits as provided by law from infringements, such as, the right to file a court case and request for compensation.

Only the manufacturer operating business in the area registered as the source of origins may use the registered source of origins for the related goods.

Any infringement or presentation of goods that indicates or introduces a false source of origins and misleads the public that such goods are from the indicated source of origins shall be considered as unfair competition.

6.2 Copyrights and rights relating to copyright infringement

Any unauthorized acts of a person, entity or organization that does not have the moral right or economic right as specified by law under Section 99, shall be deemed as infringing upon copyrights and rights relating to copyrights.

Apart from copyright infringement as specified in Section 99, the following acts shall be considered as infringement of copyrights and rights relating to copyrights; avoidance of normal method in technology for use of performer or producer's rights or to limit such rights without permission, doing the same intentionally or with knowledge that such act is infringing copyrights and rights relating to copyrights without permission for deletion or amendment of information for electronic protection, or dissemination, import for dissemination, broadcasting to public, displaying, copying, communicating the performance or recording sound knowing that the information for electronic protection has been deleted or amended, including recording or disseminating the show through decoded or encoded satellite for commercial purposes.[67]

[66] Law on Intellectual Property, Section 59.
[67] Law on Intellectual Property, Section 92.

6.2.1 Rights of copyrights and rights relating to copyrights owner[68]

The creator of work or owner of copyrights or rights relating to copyrights is entitled by law in preventing the infringement against both moral right and economic right, such as right to file a court case or right to receive compensation from damage caused by other person.

6.2.2 Use of copyrights and rights relating to copyrights without authorization from the owner[69]

The following acts can be done without authorization and payment to the owner of work:

(1) Suitably using work that has been disseminated to public and under the stated objective with reference. This includes reference of work in newspapers and journals in the form of news summaries, which must indicate the source and name of the owner of the work.

(2) Suitably using the artistic or literary work on newspaper, broadcasting or recording sound or image for educational purposes in the extent that is not contrary to general practice and that the source and name of the owner of the work is indicated.

(3) Reproduction of picture of fine art, photography, other artistic kinds and applied art by photography which has been disseminated, introduced or communicated to the public and such reproduction has minimal impact to photography work and is not the main objective of such photography.

(4) Translation of literary work as braille or other letters for persons with visual disorders.

(5) Reproduction of computer programs that occurs during general use of the program, but such use must not be contrary to the copyrights owner's conditions.

(6) Reproduction of work that has been recorded electronically as back up, storing the information or editing the work lawfully, including missing, deleted or impaired work.

Uses that do not require authorization and payment to the owner but must be suitable and with indication of source are:

[68] Law on Intellectual Property, Section 59.
[69] Law on Intellectual Property, Section 111.

(1) Reproduction of articles relating to economy, politics or religion using broadcasting of sound and image media or communication to the public using newspaper or journal.

(2) Broadcasting image of the work.

Artistic or literary work that can be found or heard in an actual occurring event can be reproduced and disseminated to the public as a report of such events using photography, broadcasting of sound and image or communication to the public through wire. Such act must not be contrary to the owner of the work to seek benefits from such work and must not cause damage to the copyright owner's lawful benefits.

It is to be considered from actual occurring cases whether or not the use of work is suitable, which specific regulations are available. However, the regulations are not to be applied in the following cases:

(1) Reproduction and creation of architecture.

(2) Reproduction of work by avoiding all kinds of technology measures made to protect copyrights or rights relating to copyrights, deleting or amending electronic data relating to protection of copyrights without authorization.

6.2.3 Unfair competition[70]

The Law on Intellectual Property of Lao PDR indicates the definition of unfair competition in its section as, *"competition that is contrary to tradition in honesty in industry or commerce"*. Therefore, acts of unfair competition are:

(1) Directly using the source of goods or name of manufacturer, manufacturer operator or distributor or using the information illegally.

(2) Causing confusion in any way of the company, goods, industrial activities or competitor's business.

(3) Destroying the reputation of the competitor's company, goods, industrial activities or business with untrue facts.

(4) Deceiving the public by falsely reporting on the manufacturing procedure, quality or quantity of the goods.

In trademark, using counterfeits is an act that is considered as unfair competition. According to law in Lao PDR, counterfeit means fake or duplicate designs including packaging of the goods to be identical to another person's mark without authorization. This includes causing one to be unable to distinguish the difference or

[70] Law on Intellectual Property, Section 120.

distinctiveness of such counterfeit to the registered trademark. Such act is considered as infringement to the lawful trademark owner. Moreover, creating, selling, offering to sell, advertising, marketing, exporting or importing counterfeits is also considered as trademark infringement.[71]

In copyrights, the copying of copyrighted works or rights relating to copyrights created without permission from the copyright owner, the relating creator or the authorized person to use in the country where such work was created, or creating copyrighted works by one's own or using other works, including using tools to create film in cinema, making, selling, offering to sell, advertising, marketing, exporting or importing work that is infringing copyrights or any other acts not mentioned above shall be considered as copyright infringement.[72]

6.2.4 Violation of the Law on Contract and Tort

Section 157 of the Law of Intellectual Property stated measures to the infringer that allows a person, entity or organization that causes infringement according to the law to receive a warning, paying compensation, or sustain civil and/or criminal compensation as specified by law. The civil measures according to Section 161 provide that an infringer of intellectual property law must pay compensation for the act of infringement. The compensation shall be calculated together with the law on contract and tort.

A person shall be considered infringing industrial properties, copyrights or rights relating to copyrights if he/she is doing any kinds of act without the lawful right to these intellectual properties. Moreover, the person is also liable under civil Law on Contract and Tort as stated in Section 83, *"Any person who causes damage to another person by his/her own act shall be liable to compensate for damage he/she has caused, with the exception that such damage has arisen from self-defense or exercise of lawful duties or from a wrongful act of the victim"*. To be considered liable under Section 83 of the law on contract and tort, *"one must have caused or allow to lapse certain action that is violating the law and damaging other persons, either with or without intention."*

Type of damage is to be taken into account according to Section 84 when deciding what the violation of the law is. That is, *"the damage from violation must be certain and already occurred or to be occurred in the future. Damage that is likely to occur or may not occur in future is not in the definition of certain damage"*. The law of tort in the Lao PDR divides damages into 3 categories: property damage; life or health damage; and mental

[71] Law on Intellectual Property, Section 121.
[72] Law on Intellectual Property, Section 122.

damage.[73] Industrial properties and copyrights are considered as properties according to the law of tort of the Lao PDR, thus, violation of these properties shall cause liability for tort.

Law on contract and tort indicates the calculation of compensation for damages that it must be conformed to the incident and the act of the wrongdoer. Apart from compensation for damage, the wrongdoer may be liable for reimbursement to the right owner, such as loss of income, and additional costs that the right owner is obliged to bear arising from the wrongful act.[74]

From above, infringement of intellectual property is therefore, a violation of civil law if such action causes damage to another person.

6.2.5 Violation of intellectual property law in Penal Law

Section 162 of the Law on Intellectual Property provides a penalty of imprisonment of anywhere from 3 months to 2 years and fine of 500,000 to 10,000,000 LAK for any person who infringes upon intellectual property by causing fake or false goods, making amendments to or passing off of goods, or doing any act considered as unfair competition. Therefore, causing fake or false goods, making amendments to or passing off goods, or doing any act considered as unfair competition according to the unfair competition section of the Law on Intellectual Property is considered as a punishable offence under the penal code.

7. Dispute Settlement

Disputes relating to intellectual property fall under the Law of Intellectual Property together with Civil Procedure Law, Criminal Procedure Law and other related laws used for dispute resolutions.

The Law of Intellectual Property provides dispute settlement methods relating to intellectual property as follows:

(1) Conciliation;
(2) Mediation;
(3) Administrative settlement and administrative settlement in relation to disputes on state borders;
(4) Settlement by the economic dispute settlement board;
(5) Bringing the case to the people's court for judgment; and

[73] Law on Contract and Tort, Section 85.
[74] Law on Contract and Tort, Section 91.

(6) International dispute settlement.

When a dispute arises, the damaged party shall receive a remedy from one of the settlement methods above.

7.1 Conciliation

The owner of intellectual property and the infringer may enter into an agreement as specified in the Law on Contract and Tort to settle a dispute.

7.2 Mediation

The owner of the intellectual property may settle the dispute with the infringer by mediation at any time as long as it conforms to the regulations. The parties may go to the Intellectual Property Dispute Resolution Division, which is under the control of Intellectual Property Department, Ministry of Science and Technology to further mediation. However, relating regulations and rulings are currently being drafted to be used by the aforesaid department.

7.3 Administrative settlement and administrative settlement in relation to disputes on state borders

7.3.1 Administrative settlement

The owner of the intellectual property may request the Intellectual Property Protection Organization (Intellectual Property Department, Ministry of Science and Technology and the district or city of Science and Technology Department) for resolution of dispute to conform to the protection as given by Law on Intellectual Property.[75]

7.3.2 Administrative settlement in relation to dispute on state border

According to Section 32 regarding the procedures in protection of intellectual property rights under Customs Law, the owner of the intellectual property and the infringer may request the customs officer to assist in the dispute regarding intellectual property on the state border. Section 32 states, “If the owner of the intellectual property can provide convincing information that the import-export or transportation of goods across the border involves transportation of goods infringing upon trademarks or copyrights, the owner may compile a request to submit to the customs officer for inspection and temporary hold of the goods.” Additionally, Section 33 states, “the customs officer shall set out detailed regulations

[75] Law on Intellectual Property, Section 146-154.

for protection procedures as indicated in Section 32 of the same law, and they must be in accordance with the Law on Intellectual Property, agreements and international conventions that Lao PDR is a member." The wrongdoer will be charged a fine as prescribed by law.

7.4 Settlement by the Economic Dispute Settlement Board

The owner of the intellectual property and the infringer may request the Economic Disputes Settlement Board at any time to solve the intellectual property dispute in accordance with the Law on Resolution of Economic Dispute and other related regulations as decided by both parties. The procedures shall be as provided by the Law on Resolution of Economic Dispute.

7.5 Bringing the case to the people's court for judgment

The owner of the intellectual property and the infringer may file a plaint to the court for judgment in relation to intellectual property. According to the law, the people's court is the court that has jurisdiction in both civil and criminal cases. As there is no specific law, regulation or measure used for proceeding with intellectual property cases, the people's court will apply civil and criminal procedures to the proceedings.

Section 2 of the Civil Procedure Law states that, *"the civil proceedings of a conflict in a property case, for example, ownership over objects, money, gold, and intellectual property, and certain relationships under the civil law not related to property, such as, name, surname, title"*, and Section 37 states that, *"the procedure in filing a plaint of dispute, intellectual property, copyrights, trademarks, patents infringement and other act that causes unfair competition as indicated in the Law on Intellectual Property, shall be the duty of the related trade court."* Moreover, the related trade court can also consider plaints and issue writs to seize, hold or use any other measures of the Economic Dispute Settlement Board and the Law on Intellectual Property. The procedure by the court will be in accordance to the Law of Intellectual Property and internal trade practices.

Section 2 of the Criminal Procedure Law states, *"a criminal case is a case relating to the wrongful act or omission that causes damage to the state, economy or the Lao PDR's property, ownership of the state, mutual right of ownership, a person's ownership, life, health, title, pride, freedom, national peace and social order as indicated in the criminal law or other law of the Lao PDR with penalty specified."* Therefore, any acts that causes fake or false goods, makes amendments to or passes off goods, or does acts that leads to unfair competition in intellectual property and causes damages to another person shall fall under the jurisdiction of the people's court.

7.6 International dispute settlement

The Lao PDR's Law on Intellectual Property states in Section 131 that, *"the settlement of international intellectual property disputes shall proceed according to the agreement and/or convention that the Lao PDR is a member of"*. The Lao PDR is a party to the United Nation Conference on International Commercial Arbitration (or the New York Convention). Therefore, when international intellectual property disputes between the Lao PDR and a state member of the said convention arise, the rules and procedures of the convention shall apply.

8. Relevant Government Authority

The government provides protection over all kinds of intellectual property at the same level in the Lao PDR by having the Ministry of Science and Technology as the center to coordinate with other related agencies, such as the agencies of industry and trade, agricultural and forest, statement information, cultural and tourism, education and sport, public health, monetary and related local administrations.

Intellectual property protection organizations consist of:

(1) The Ministry of Science and Technology; and

(2) The district or city's Department of Science and Technology

The Ministry of Science and technology shall specify the regulations, agreements, orders, and recommendations and inform on the development of intellectual property related works, providing services in registration of intellectual property, issue or cancel certificates of registration and issue or cancel licenses for persons, entities and organizations engaged in intellectual property matters, and also other rights as indicated by law.

The district or city's Department of Science and Technology shall make and disseminate regulations, policies, and measures, or amend requests or contradictions and infringements of intellectual property based on the policy of the development of intellectual property from the Ministry of Science and Technology. This also includes performing according to its rights and obligations as prescribed by law.

Chapter 18
Mining

1. Relevant Legislations

(1) Law on Investment Promotion in the Lao PDR No. 02/NA, dated 8 July 2009 (the "**Law on Investment Promotion**");
(2) Law on Enterprise No. 11/NA, dated 9 November 2005 (the "**Law on Enterprise**"); and
(3) Law on Minerals No. 02/NA, dated 20 December 2011 (the "**Law on Minerals**").

2. Type of Minerals

According to Article 12 of the Law on Minerals, minerals are classified into 4 categories as follows:

(1) Metallic minerals including gold, silver, copper, zinc, iron, lead, tin and others;
(2) Non-metallic minerals including diamond, precious stone, emerald, limestone, rock containing mineral, gypsum, decoration stone and other minerals;
(3) Hydrocarbon minerals including coal, crude oil, natural gas and other minerals; and
(4) Liquid minerals including underground water in any form such as hot spring sources, mineral water sources and others.

3. Mineral Resource Areas

Mineral resource areas are divided into 4 areas as follows:

3.1 Areas Licensed for Mineral Activities

Areas licensed for mineral activities are mineral resource areas defined as priority areas for mineral activities in accordance with specified conditions and standards.[1]

[1] Law on Minerals, Section 15.

3.2 Reserved Areas

Reserved areas are mineral resource areas reserved for extraction of specific minerals or reserved for the development of an area of abundance of natural resources for the promotion of tourism.[2]

3.3 Restricted Areas

Restricted areas are areas where no mineral activities are allowed including:

(1) Dangerous areas including areas where unexploded ordinances exist or areas with severe pollution;

(2) Areas near or under building or public areas that have national importance including archaeological and historic sites, areas covered by basic infrastructure, areas that are important for national defense and security, and areas that are not appropriate for mineral activities; and

(3) Forest conservation areas, biodiversity conservation areas, auriferous animal sanctuaries, wildlife and upstream forest areas.[3]

3.4 Toxic Areas

Toxic areas are mineral resource areas where there is poisonous or toxic contamination in the region such as areas with arsenic, mercury and others.[4]

4. Mineral Activities

According to Article 19 of the Law on Minerals, there are 9 categories of mineral activities as follows:

(1) Searching;

(2) Exploration;

(3) Pre-Feasibility Study and Detailed Feasibility Study;

(4) Mining;

(5) Mineral processing;

(6) Selling and buying of minerals;

(7) Transportation or minerals;

(8) Rehabilitation and mine closure; and

[2] Law on Minerals, Section 16.
[3] Law on Minerals, Section 17.
[4] Law on Minerals, Section 18.

(9) Transfer of mining activities.

Details of each activity shall be elaborated next.

5. Application for Concession and Operation in Mining Business

Under Lao laws, the mining business is listed as one of the concession businesses in which an application for establishment shall be submitted to the Ministry of Planning and Investment (the "**MPI**"). In this regard, the applicant must be a legal entity.[5] Such legal entity may be in the form of a private enterprise, partnership or company in accordance with the Law on Minerals.[6]

Where the investor wishes to operate the mining business in the Lao PDR, the following steps shall be followed:

5.1 Application for Concession and Establishment of Legal Entity

5.1.1 Basic Data Collection

The investor intending to conduct the mining business shall submit an application along with relevant documents evidencing the investor's intention to collect basic data of a particular kind of mineral in a particular area to the Ministry of Natural Resources and Environment (the "**MNRE**"). The MNRE shall examine the availability of such particular area i.e. whether a concession for such area has already been granted or whether it is reserved or prohibited by law. After the area has been approved, the MNRE shall coordinate with local authorities and assign them in writing to join the basic data collection process with the investor. Such written assignment shall be valid for 30 days from the date of signature. In this regard, the investor should make an appointment with the relevant local authorities (such as the head of village) and other relevant sectors to join the data collection exercise. All costs arising due to the process shall be borne by the investor. When the collection of basic data is completed, the investor shall prepare a Basic Data Collection Report certified by the relevant local authorities who joined the data collection.

[5] Law on Minerals, Section 29.
[6] Please see Chapter 7 for details on type of enterprises under Lao laws.

5.1.2 Concession Agreement for Search and Exploration of Minerals

5.1.2.1 Submission of Application

After completing the Basic Data Collection Report, the investor shall apply for a Search and Exploration Concession by submitting an application along with other additional documents including, but not limited to, the Basic Data Collection Report, Search Plan, Search and Exploring Financial Plan, and Environmental Impact Assessment to the MPI. The MPI shall then obtain opinions from other relevant governmental authorities regarding the application.

5.1.2.2 Consideration by the Investment Promotion Committee

The opinions obtained from all relevant authorities shall be considered by the Investment Promotion Committee (the "**IPC**"). If the application is approved, the MPI shall ask for further approval from the Government. If the Government also approves the application, the investor shall be informed and called for negotiations on the Search and Exploration Concession Agreement.

5.1.2.3 Negotiation and Execution of the Search and Exploration Concession Agreement

Within 2 days after the MPI is informed of the approval from the Government, it shall invite the investor to participate in the negotiations of the Search and Exploration Concession Agreement between the investor and the Government. The investor must inform the MPI within 10 days of the date and time it wishes to arrange negotiations. If such 10 days have passed without the investor informing the MPI of negotiation arrangements or the investor fails to participate in the negotiations within 30 days from receiving an invitation from the MPI, the investor shall be deemed as having waived its application for Search and Exploration Concession.

During negotiations, significant points to be negotiated and finalized between the investors and the Government's representatives will be as follows:

(1) Term of Search and Exploration Concession Agreement – The term for conducting the search, exploration and Preliminary Feasibility Study (the "**PFS**") shall not exceed 6 years. This is in accordance with the Law on Minerals which specifies that the concession term for mineral search shall not exceed 2 years, the concession term for mineral exploration shall not

exceed 3 years, and the concession term for conducting the PFS shall not exceed 1 year.[7] However, if the investor wishes to extend the term of the Search and Exploration Concession Agreement, an application requesting for extension of the term must be submitted to the MPI at least 90 days before such agreement is terminated.

(2) Concession fees – The concession fees shall depend on the type of mineral and the stage the mining operation is in. For example, in case of barite mining, concession fees collectable for the search operation is 1 US Dollar/Hectare/Year, the concession fees collectable for the exploration operation is 2 US Dollars/Hectare/Year, and the concession fees collectable for conducting the PFS is 3 US Dollars/Hectare/Year.

After all crucial points have been negotiated, the MPI shall conduct a Negotiation Memorandum to be submitted to the IPC for consideration. After the IPC approves the Negotiation Memorandum, such Negotiation Memorandum shall be forwarded to the Government for further approval. In this regard, if approved by the Government, the Government shall issue a Power of Attorney granting powers to the MPI to be its representative for signing the Search and Exploration Concession Agreement with the investor. If the negotiation is not approved by the Government, written notification informing the result of the consideration shall be sent to the investor.

5.1.2.4 Deposit of the Guarantee

To secure the performance under the Search and Exploration Concession Agreement, the investor must deposit a guaranteed amount into the MPI's bank account. The amount of such guarantee shall depend on the type of mineral and size of the concession area.

During the mineral search, the investor is not allowed to have a joint venture or to transfer/sell its concession rights on performing mining operations. However, the investor may seek investments from other investors during the mineral exploration phase, but prior approval from the Government is required.

[7] Law on Minerals, Section 36.

5.1.3 Establishment of a Legal Entity

After the Search and Exploration Concession Agreement has been signed, the investor must establish a new legal entity to operate the mining business in accordance with the Concession. Such legal entity may be in the form of a private enterprise, a partnership or a company in accordance with the Law on Minerals. In this regard, the investor must apply for the issuance of the Concession Certificate at the MPI.

5.1.3.1 Submission and Certification of Articles of Association

The investor must submit the Articles of Association of the new legal entity to the MPI for consideration. After such Articles of Association has been certified by the MPI, the investor must also have it certified by the State Asset Management Department, Ministry of Finance. In this regard, an application as well as other material documents, as may be required by relevant officials, must be submitted to such authority. When the Articles of Association is certified by the State Asset Management Department, the investor shall submit the same to the MPI for further processing.

5.1.3.2 Enterprise Registration Number and Tax Identification Number

After the Articles of Association has been certified by all relevant authorities, the MPI shall coordinate with the Ministry of Industry and Commerce (the "**MOIC**") for an Enterprise Registration Number, and the Ministry of Finance (the "**MOF**")for a Tax Identification Number, to be included in the Concession Certificate. In practice, however, due to lack of official resources, the MPI shall issue cover letters attached to copies of the certified Articles of Association and other relevant documents for the investor to submit to and coordinate with the MOIC and MOF for Enterprise Registration Number and Tax Identification Number, respectively.

The investor shall be subject to the official fees as follows:

(1) Official Fees for Company Registration at the MOIC – The official fees for the company registration are based on the registered capital of the new company as follows:

	Registered Capital (LAK)	Fee (LAK)
1.	Below 1,000,000	None
2.	From 1,000,001 – 10,000,000	20,000
3.	From 10,000,001 – 20,000,000	50,000

	Registered Capital (LAK)	Fee (LAK)
4.	From 20,000,001 – 50,000,000	100,000
5.	From 50,000,001 – 100,000,000	300,000
6.	From 100,000,001 – 400,000,000	500,000
7.	From 400,000,001 – 1,000,000,000	1,000,000
8.	From 1,000,000,001 – 10,000,000,000	2,000,000
9.	From 10,000,000,001 – 20,000,000,000	3,000,000
10.	From 20,000,000,001 or above	5,000,000

(2) Official Fees for Tax Registration at the MOF – The fees for tax registration shall be paid annually. The amount of the fees for the first year of establishment shall be subject to the registered capital of the new company as follows:

	Registered Capital (LAK)	Fees(LAK)
1.	200,000,001 – 400,000,000	300,000
2.	400,000,001 – 1,500,000,000	400,000
3.	1,500,000,001 – 2,000,000,000	500,000
4.	2,000,000,001 or above	600,000

5.1.3.3 Issuance of Concession Certificate

When the investor receives the Enterprise Registration Number and Tax Identification Number from the relevant ministries, the investor must coordinate with the MPI to include such numbers into the Concession Certificate. The Concession Certificate will then be issued to the investor. In this regard, the investor shall be subject to the fees in the amount to 320,000 LAK.

5.1.3.4 Carving the Seal of the New Legal Entity

Together with the issuance of the Concession Certificate, the MPI shall also issue the Permission for Carving the Company Seal to the investor. The investor must submit an application along with its Concession Certificate and Permission for Carving the Seal to the Ministry of Public Security in order to carve the seal of the new legal entity. In this regard, the investor shall pay 10,000 LAK for the application form. In addition, the fees for carving the seal of the company shall be 5,000 to 10,000 LAK depending on the shape of the seal.

5.2 Mineral Search

Even though the Concession Certificate has been issued, the legal entity is still unable to perform the mineral search until it is granted the Mineral Search License which shall be issued by the MNRE. In order for the application to be approved, the investor must meet the following conditions:

(1) Being a company duly existing and incorporated to conduct the business of minerals;
(2) Having sound financial standing with sufficient sources of funding and collateral as required by the prescribed rules;
(3) Having a good and reliable business background; and
(4) Having technical expertise and experience in the field of mineral searching and exploration.[8]

In this regard, the legal entity must submit an application along with other additional documents such as documents evidencing the deposit of the guaranteed amount, documents evidencing the payment of the concession fees, search plan and documents evidencing the actual specified area to conduct the mineral search to the MNRE for its consideration. It should be noted that the permitted area for mineral search shall not exceed 300 square kilometres, and no expansion is allowed.[9]

After the Mineral Search License has been issued, the established entity shall be able to operate the mining business and perform the mineral search in accordance with the term and conditions as specified in the Search and Exploration Concession Agreement.

The term for mineral search shall not exceed 2 years from the execution date of the Search and Exploration Concession Agreement and may be extended for another 1 year. If the investor wishes to extend the Mineral Search License, the following conditions must be met:

(1) The Search and Exploration Concession Agreement and relevant licenses are still in force;
(2) The request for extension is made 3 months prior to the expiry date;
(3) The investor has fulfilled its financial obligations as well as its obligations to the locals and others in accordance with the law and the Search and Exploration Concession Agreement;
(4) The mineral search in the concession area shows at least 60% completion against the approved plan; and

[8]Law on Minerals, Section 35.
[9]Law on Minerals, Section 37.

(5) The plan to continue the mineral search has been approved by the MNRE.[10]

Without a request for extension, the concession on mineral search shall automatically terminate in which case the Mineral Search Report shall not be considered and the Government shall not indemnify the investor for any loss or expenses.

When the mineral search has been completed, the investor must prepare the Mineral Search Report and Exploration Plan, and submit the same to the MNRE. The MNRE shall hold a meeting for the investor to present the results of the mineral search and the plan for mineral exploration to all relevant authorities including the MNRE and the MPI. After the presentation, all relevant authorities shall jointly consider approving the continuation of the mineral exploration.

5.3 Mineral Exploration

If the results of the mineral search are approved by the relevant authorities, the investor shall move forward to mineral exploration by applying for a Mineral Exploration License. This license is required before the investor can conduct mineral exploration. The investor shall satisfy the following requirements:

(1) The investor must legally be incorporated and registered in order to operate the mining business;
(2) The investor must have financial stability, sufficient funding as well as collateral as prescribed by law;
(3) The investor must have a reliable background in operating business; and
(4) The investor must have an experienced expertise in mineral and mining.[11]

The investor must submit to the MNRE for its consideration an application along with other additional documents such as documents evidencing the deposit of the guaranteed amount, documents evidencing the payment of the concession fees, documents evidencing the actual specified area to conduct mineral exploration, and the Mineral Search Report. It should be noted that the permitted area for mineral exploration depends on the results of the mineral search, and shall not exceed 300 square kilometres.[12]

After the Mineral Exploration License has been issued, the investor shall be able to perform the mineral exploration in accordance with the term and conditions as specified in the Search and Exploration Concession Agreement.

[10]Law on Minerals, Section 36.
[11]Law on Minerals, Section 35.
[12]Law on Minerals, Section 35 and Section 37.

The term for mineral exploration shall not exceed 3 years. Such term is renewable but for a period not exceeding 2 years. If the investor wishes to extend the Mineral Exploration License, the following conditions must be met:

(1) The Search and Exploration Concession Agreement and relevant licenses are still in force;

(2) The request for extension is made 3 months prior to the expiry date;

(3) The investor must have fulfilled its financial obligations as well as its obligations to the locals and others in accordance with the law and the Search and Exploration Concession Agreement;

(4) The mineral exploration in the concession area shows at least 60% completion against the approved plan; and

(5) The plan to continue the mineral exploration has been approved by the MNRE.[13]

Without a request for extension, the concession on mineral exploration shall automatically terminate, in which case the Mineral Exploration Report shall not be considered and the Government shall not indemnify the investor for any loss or expenses.

At the beginning of the mineral exploration, the investor may have to import labourers and machinery for the exploration operation. In this regard, the investor may have to contact various ministries, for example, the Ministry of Labour, for the importation of labourers, and the MOIC and Customs Department, Ministry of Finance, for the importation of raw materials.

During the exploration period, the investor shall have the obligation to periodically report the progress of the exploration to the relevant authorities including the MNRE and the MPI.

When the mineral exploration has been completed, the investor must prepare the Mineral Exploration Report as well as the PFS, and submit the same to the MNRE. The MNRE shall hold a meeting in order for the investor to present the results of the mineral exploration (Mineral Exploration Report) as well as the preliminary plan for mineral digging (PFS) to the relevant authorities including the MNRE and the MPI. After the presentation, all relevant authorities shall jointly consider whether to approve the Mineral Exploration Report and the PFS. If approved, the MNRE shall issue a certificate of completion certifying the PFS to the investor, and the mineral search and exploration will have been deemed completed.

After completion of the search and exploration, the investor shall return to the Government the concession area which has no economic benefits, together with its geological data and mineral sites.[14]

[13]Law on Minerals, Section 36.

The concession area shall be returned upon occurrence of the following events:

(1) The concession is revoked as a result of a material violation of the contract or the law by the investor;
(2) The concession term expires;
(3) The investor no longer wants to search and explore minerals in such area; and/or
(4) The activity adversely affects the environment or the social interests of the Lao PDR.

The investor will not be indemnified against any loss or expenses incurred in connection with the return of the concession area, and no new concession area will be granted as compensation.[15]

If the investor chooses not to move on to the next process, the investor must inform the Government of such intention in writing within 30 days from completion of the search and exploration of minerals. If the investor wishes to continue the mining operation, the investor shall move on to the next process i.e. digging and dressing of mineral by preparing the Detailed Feasibility Study (the "**DFS**").

5.4 Digging and Dressing of Minerals

After the search and exploration of minerals is completed and the certificate certifying the PFS has been issued, the investor shall prepare the DFS specifying the detailed plan for mineral digging as preliminarily approved in the PFS. Such DFS shall be submitted to the Ministry of Energy and Minerals (the "**MEM**") for consideration.

5.4.1 Digging and Dressing Concession Agreement

After completing the DFS, the investor shall apply for a Digging and Dressing Concession by submitting an application along with the DFS and a plan for digging and dressing of minerals to the MEM. The MEM shall hold an internal meeting to initially consider the DFS and the plan for digging and dressing. If all required technical conditions are met, the MEM shall hold another meeting inviting all relevant authorities such as the MPI and the MNRE for joint consideration of the DFS and the plan for digging and dressing. The plan for digging and dressing may be approved at this stage, but the DFS shall be further considered by higher authorities. In this regard, the MEM shall prepare the Memorandum of the Meeting and submit the DFS to the Minister of Energy and Minerals for consideration. If approved, all relevant opinions as well as the Memorandum of the Meeting and the DFS shall be

[14]Law on Minerals, Section 38.
[15]Law on Minerals, Article 38.

forwarded to the MPI. The MPI shall ask for further approval from the Government. If the Government approves the DFS, the investor shall be informed and called for negotiations on the Digging and Dressing Concession Agreement. It should be noted that the approval for the DFS may be made with conditions. Amendments would need to be made before being approved by the relevant authorities. In this regard, the DFS shall be approved after being amended to reflect the details specified in the Concession Certificate, which shall be issued by the MPI after negotiations have been completed and the Digging and Dressing Concession Agreement has been signed.

Within 2 days after the MPI is informed of the approval from the Government, the MPI shall invite the investor to participate in negotiations of the Digging and Dressing Concession Agreement between the investor and the Government. The investor must inform the MPI within 10 days on the date and time it wishes to arrange the negotiations. If such 10 days pass without the investor informing the MPI of negotiation arrangements or the investor fails to participate in negotiations within 30 days from receiving the invitation from the MPI, the investor shall be deemed as having waived its application for the Digging and Dressing Concession.

After all crucial points have been negotiated, the MPI shall conduct a Negotiation Memorandum and submit the same to the IPC for consideration. After the IPC approves the Negotiation Memorandum, such Negotiation Memorandum shall be forwarded to the Government for further approval. If approved by the Government, the Government shall issue a Power of Attorney granting powers to the MPI to be its representative for signing the Digging and Dressing Concession Agreement with the investor. If the Negotiation Memorandum is not approved by the Government, written notification informing the result of the consideration shall be sent to the investor.

After the Digging and Dressing Concession Agreement has been signed, the Minister of Planning and Investment shall issue a special agreement allowing the investor to conduct the digging and dressing of the specified mineral. In addition, the MPI shall issue a new Concession Certificate to the investor.

5.4.2 Construction License

After receiving a Concession Certificate, the investor must apply for a Construction License with the Ministry of Public Works and Transportation. In considering license approval, the competent officer shall consider urban planning, the type of land to be constructed on as prescribed in the law on urban planning and other regulations on the use

of land, including any constructing conditions e.g. entrance and the exit of the building, infrastructural systems, height of the building, etc

5.4.3 Mining and Mineral Dressing Plant Construction License

The investor shall apply for the Mining and Mineral Dressing Plant Construction License at the MEM. In this regard, the investor must prepare all documents as required by the relevant officials including, but not limited to, Construction License, Permission for the Use of State Land, Environmental Certificate, Environmental Impact Assessment, and Financial and Technical Feasibility Study.

The Investor must periodically report the progress of the construction to the MEM. The construction period shall not exceed 4 years. When the construction is completed, the mining and mineral dressing plant must be examined and approved by the MEM. In this regard, a certificate certifying the completion of the construction shall be issued.

5.4.4 Digging License

Digging activities involve the opening up, digging, drilling, sucking, blasting, extracting, mobilizing and storing of minerals. Digging concerns two aspects of the business: construction work and mining work, both of which require state-of-the-art techniques and technology that are efficient and reduce environmental and social impact.[16]

The investor will be unable to conduct mineral digging until a Digging License has been issued. In this regard, the investor shall submit an application along with other additional documents such as the certificate certifying the completion of the mineral search and exploration, memorandum for the examination of the mining and mineral dressing plant, Environmental Certificate, map, Environmental Impact Assessment, and Financial and Technical Feasibility Study.

After obtaining the Digging License, the investor shall be able to perform the mineral digging. The concession term for digging shall not exceed 20 years from the approval date and can be extended for a period not exceeding 5 years as determined by the Government according to the size of the mine.

5.4.5 Dressing License

Dressing is the method or process of upgrading minerals and creating their economic value by crushing, extracting, smelting, cutting and polishing.

[16]Law on Minerals, Section 23.

In order to perform mineral dressing, a Dressing License must be obtained from the MEM. In this regard, the investor shall submit an application along with other additional documents such as the Digging License, certificate certifying the completion of the mineral search and exploration, memorandum for the examination of the mining and mineral dressing plant, Environmental Certificate, map, Environmental Impact Assessment, and Financial and Technical Feasibility Study.

5.5 Trading of Minerals

Trading is the agreement between the investor in minerals and a local or foreign company to make products out of such minerals.

In order to trade minerals, the investor shall apply for a Trading License at the MEM. In this regard, an application along with other additional documents such as the Digging License, Sale and Purchase Agreement, Concession Certificate, documents evidencing amount and type of the mineral wishing to trade, and a certification certifyinga result of the preliminary research of the mineral which is approved by the MNRE shall be submitted to the MEM.

The Trading License shall be valid until the term of the Digging License expires.

5.6 Mobilizing of Minerals

Mobilizing is the transport of minerals from one place to another within or outside the country. To mobilize minerals, the investor shall present all relevant documents, specify the route to take, pay all related fees and expenses, have the minerals weighed and the mineral samples collected for inspection, and comply with all other applicable laws.

To mobilize minerals, the investor is required to obtain a Mobilize License from the MEM. In this regard, an application along with other additional documents such as the Trading License and transportation plan shall be submitted to the MEM. In addition, the investor is required to have vehicles with qualified technical standards and a warehouse.

The Mobilize License shall have a term of 1 year and can be renewed.

To mobilize minerals, the MEM shall issue letters informing relevant authorities of the mobilizing of minerals. Such relevant authorities include the State Asset Management Department, Customs Department, Tax Department and Department of Energy and Mine where the mine is situated.

5.7 Area Rehabilitating and Pit Closing

After completion of mining operations, the investor shall rehabilitate the mining area in accordance with the environmental protection plan so that the area in question can be used for other purposes or activities. Upon cessation of mining operations, the investor shall close all pits, return the concession area to its natural state, and hand over the operation to the Government.[17]

5.8 Handing over the mining business

After the rehabilitation of the mining area and the closing of all pits, the investor shall hand over the operation, including the geological data and mineral sites, equipment, vehicles and other property, to the Government as required by the prescribed rules, without any compensation to the investor. If the Government refuses to take over the operation, the investor shall have the entire operation removed at its own expense.[18]

6. Relevant Governmental Authorities

Many governmental authorities are involved in order to conduct the mineral business in the Lao PDR. In this regard, several main responsible authorities are as follows:

(1) The Ministry of Planning and Investment is the responsible authority for which the application and other relevant documents for an approval of concession and establishment of a new legal entity must be obtained. The Ministry of Planning and Investment also plays an important role in coordinating between the Government and the investor for the consideration and negotiation of the Concession Agreement for the search and exploration of minerals, and for digging and dressing of minerals. When negotiations are completed, the Government shall grant MPI with a power of attorney to sign the Concession Agreement on its behalf.

(2) The Ministry of National Resources and Environment is the authority responsible for conducting research on qualifications and conditions of the investors. Such research includes the study of relevant applications and reports in order to give an opinion to the Government on the appropriateness to grant the concession for search and exploration of minerals. In addition, the Ministry of National Resources and Environment is also authorized to grant

[17] Law on Minerals, Section 27.
[18] Law on Minerals, Section 28.

licenses involving the search and exploration of minerals, and to approve relevant reports prepared by the investors.

(3) The Ministry of Energy and Mine is the authority responsible for conducting research on qualifications and conditions of the investors. Such research includes the study of relevant applications and reports in order to give an opinion to the Government on the appropriateness to grant the concession for digging and dressing of minerals. In addition, the Ministry of Energy and Mine is also authorized to grant licenses involving the digging and dressing of minerals, and to approve relevant reports prepared by the investors.

(4) The Ministry of National Resources and Environment is the authority responsible for monitoring the operations as prescribed by environmental law, including considering and verifying the environmental impact assessment (EIA) report. In addition, the Ministry of National Resources and Environment is still authorized to conduct research on the preparatory process of making the environmental impact assessment report as mentioned in Chapter 19.

(5) Other governmental authorities include local administrations, the Ministry of Finance, the Ministry of Industry and Commerce, and the Ministry of Public Security.

Chapter 19
Law on Natural Resources and Environment

1. Relevant Legislations

(1) Law on Environmental Protection No. 29/NA, dated 18 December 2012 ("**Law on Environmental Protection**");

(2) Ministerial Decision on the Approval and Declaration of List of Investment Projects and Activities that Shall Conduct Initial Environment No. 8056/MoNRE, dated 17 December 2013;

(3) Ministerial Instruction on Initial Environment Examination of the investment Projects No. 8029/MoNRE, dated 17 December 2013 Part 2; and

(4) Ministerial Instruction on Environment and Social Impact Assessment of the Investment Projects and Activities No.8030/MoNRE 17 December 2013 Part 2 ("**Ministerial Instruction No. 8030/MoNRE**").

2. Natural Resources

The natural resources in the Lao PDR, whether they are water resources, forests, wild animals, wild plants or mineral resources, are mostly considered national property. Each kind of resources is protected under certain laws and regulations. The Government agencies in charge of managing and protecting the natural resources are the Ministry of Agriculture and Forestry, the Ministry of Natural Resources and Environment, and the Ministry of Energy and Mines.

2.1 Forests

In the Lao PDR, forests are valuable natural resources with specific ecology, teeming with a wide variety of living things, water resources, forest lands, and plants and trees of all kinds, either growing naturally or grown by man. According to the applicable laws and regulations, natural forests and forest lands are national property managed by the Government on a nationwide basis. However, in the case of the plants or trees grown by persons or organizations in allocated areas either by themselves or at their expense with the knowledge of the authorities in charge of forestry, those plants or trees shall be property of the growers.

The Lao PDR's Government has a policy on investing in the protection, restoration and development of the forests and forest lands in parallel with the socio-economic development plan. In implementing such policy, the Government shall provide the basic necessities for the protection and conservation of the environment, water resources, and living things and for the people's living conditions and occupations in line with such policy. The Government shall also encourage the conservation, development and restoration of all kinds of forests and shall campaign for the afforestation in the decayed and barren forest areas so as to provide the industry and the handicraft business with raw materials. Other policies such as credit extension, tax exemption, or tax abatement shall also be pursued.

According to the laws and regulations applicable to forestry, there are three kinds of forests:

(1) Protection Forests: the forests that prevent the erosion of water resources, riversides and roadsides and the natural disasters as well as protect the soil quality, the nation's strategic areas, the environment and others;

(2) Reserve Forests: the forests that serve for the conservation of nature, wildlife, forest ecology, and other things that are valuable and useful for the nature, history, culture, tourism, the environment, and the scientific study and experiment. Reserve forests are divided into:
   (a) National forest reservations;
   (b) Provincial forest reservations;
   (c) District forest reservations; and
   (d) Village forest reservations.

(3) Production Forests: the natural forests and the forests grown by man to be used as the production zone for lumber business and forest products in response to the necessity for the socio-economic development and the economic well-being of the people.

It is the duty of every citizen and organization to protect the forests and the forest lands and to prevent them from decaying and becoming barren. Everyone must join forces to stand up against deforestation and forest land destruction of all sorts. Accordingly, the Government has set up the Forests and Forest Resources Development Fund. Financed by the State Budget, such Fund is supported by the projects that exploit certain natural resources, natural and legal persons, local and foreign social organizations, and others.

2.2 Water and Water Resources

According to the laws and regulations applicable to water and water resources of the Lao PDR, water and water resources are national property which is managed, overseen and distributed by the Government to all sectors. Only with permission from the responsible authorities can any natural or legal persons or organizations possess or use water or water resources in their activities or undertakings.

The right to use water and water resources in the Lao PDR is divided into three levels:

(1) Minimal Use: the non-commercial use of water and water resources which does not require permission but must not be prohibited by the Ministry of Natural Resources and Environment or the local administrative organization, either. The minimal use of water or water resources is for the following purposes:
   (a) Household consumption or cultural or sports activities;
   (b) Fishing, fish farming, or farming of other aquatic animals;
   (c) Digging of soil, rock, ore, sand, silt and plants which deposit or grow in the water or in the vicinity of the water resources; or
   (d) Production, agriculture-forestry, and animal husbandry for family subsistence.

(2) Medium Use: the use of water and water resources which requires permission, registration or contract with the relevant authorities. If such medium use is important, the Government's approval must be obtained first. The medium use of water and water resources is for the following purposes:
   (a) Construction of weirs or small dams or any obstacles to block or change the water courses, or construction of weirs or ridges across the waterways to make roads or small reservoirs for electricity production, irrigation, animal farming, fishing and others;
   (b) Digging of rock, ore, sand, soil, silt, minerals, trees or otherwise which deposit or grow in the water or in the vicinity of the water resources, which has little impact on the nature and the environment;
   (c) Installation of small pumps for production or provision of services and not for household consumption; or
   (d) Tourism, sports business, and culture-related business.

(3) Heavy Use: the use of water and water resources which requires permission, registration or contract with the relevant authorities and which also requires an economic-technical analysis, an environmental-social impact assessment, and corrective measures against such impact. The heavy use of water and water resources is for the following purposes:

(a) Construction of medium and large reservoirs for irrigation, consumption, and power production;

(b) Construction of buildings, factories or works, or installation of large equipment or machinery in the vicinity of the water resources; or

(c) Production process of the industrial works.

2.3 Wildlife

On 30 May 2004, the Lao PDR became a party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) or widely known as the Washington Convention.

According to the Lao PDR's laws and regulations applicable to aquatic and wild animals, the Government promotes and encourages the conservation, protection, development and improvement of the breeds and strains of aquatic and wild animals by setting policies, laws, rules, regulations; providing funds, know-how, technology; and imposing certain measures in order to increase those animals' denizen to meet economic, social and environmental demand and for the betterment of the people's lives. The Government also encourages natural and legal persons and local and foreign organizations to invest in such conservation, protection, development and improvement by setting policies on credit extension, tax exemption or tax abatement.

According to the laws and regulations applicable to aquatic and wild animals, there are three types of aquatic and wild animals:

(1) Prohibited Aquatic and Wild Animals: the rare and endangered animals which are of great value and vital importance to the socio-economic development, the environment, and the scientific study. The use of this type of aquatic and wild animals definitely requires an approval of the Government, in which case the Ministry of Agriculture and Forestry shall act on behalf of the Government.

(2) Protected Aquatic and Wild Animals: the animals which are useful to the socio-economic conditions, the environment, the people's well-being, and the scientific study. The use of this type of aquatic and wild animals requires management, monitoring, conservation, protection and control.

(3) General Aquatic and Wild Animals: the animals which can breed naturally and which are important to the socio-economic development, the environment, and the scientific study. This type of aquatic and wild animals can be used in accordance with the law, provided that there must be assurance that those animals will not face extinction and that there will be no adverse effect on the ecology and the environment.

In addition, the Fund for Preserving Aquatic and Wild Animals is to be established. Such fund will be classified as the same fund for developing forest and natural resources.

3. Environment

Recently, a new Law on Environmental Protection has been promulgated in the Lao PDR with more detailed provisions than the previous one. The new law contains broader topics on environmental protection, for example, pollution control, toxic chemicals, waste control and disposal, and the issuance of certificates relating to the environment and the disposal of toxic waste. Moreover, there are provisions regarding restoration and use of natural resources as well as preventive measures for environmental emergencies and disasters.

The Law on Environmental Protection provides that every natural and legal person domiciled and situated in the Lao PDR has a duty to protect the environment, to make no environmental impact, and not to cause environmental degeneration.[1] Whoever causes harm to the environment in the Lao PDR shall be legally responsible.

According to the Law on Environmental Protection, activities involved in the protection of the environment are the following:

(1) Envirvonment safeguard;
(2) Pollution control;
(3) Toxic chemical control and waste disposal;
(4) Environment-related certification and approval; and
(5) Promotion of public participation.[2]

3.1 Environment Safeguard

The safeguard of the environment is to block and prevent any event that is about to occur or is occurring or has occurred due to nature forces or human activities, which will

[1]Law on Environmental Protection, Section 7.
[2]Law on Environmental Protection, Section 13.

destroy or degenerate the environment.[3] This Law defines 11 fields of activities for the safeguard of the environment, as follows:

(1) Overall environmental management planning;
(2) Strategic environmental assessment;
(3) Preventive measures against natural disasters;
(4) Initial Environmental Examination (IEE);
(5) Environmental Impact Assessment (EIA);
(6) Environmental management in family businesses;
(7) Green technology;
(8) Containment of effects from construction and other businesses;
(9) Safeguard of environment against accidental discharge of chemicals;
(10) National standardization of the environmental quality; and
(11) Environmental condition reporting.[4]

The important activities concerning any natural or legal person conducting business in the Lao PDR are the Initial Environmental Examination (IEE) and the Environmental Impact Assessment (EIA). There is an internal regulation regarding the matter in line with international standard.

According to the regulation regarding IEE and EIA, the EIA is an estimation of the impact of any development project and activity on the environment as well as the setting of procedures and measures to correct and minimize the impact on the environment, the society and the nature. The EIA shall be in accordance with the rules and procedures set out by the Ministry of Science and Technology and the Ministry of Natural Resources and Environment.

The projects subject to the regulation regarding IEE and EIA are divided into two groups:

(1) Group 1: Small-scale investment projects which have little impact on the environment or the society; and
(2) Group 2: Large-scale investment projects which are highly complicated or have a great impact on the environment and the society.

The grouping of the investment projects is set out in the regulation regarding the certification and the official listings of the investment projects subject to IEE or EIA. Those investment projects involve five main businesses: energy, agriculture and forestry, processing

[3]Law on Environmental Protection, Section 14.
[4]Law on Environmental Protection, Section 17.

industry, infrastructure and servicing, and mining[5]. The investment projects are grouped in accordance with the following criteria:

(1) According to the listings of the investment projects, there are the projects that require an IEE and those that require an EIA.

(2) In respect of an investment project which does not fall into either group but is likely to have an impact on the environment and the society, the project developer shall submit the documents relating to such project to the Ministry of Natural Resources and Environment, which shall consider the submission on a case-by-case basis. Such an investment project is, for example,

  (a) a new investment project which does not fall into either the group that requires an IEE or the group that requires an EIA but is likely to have an adverse effect on the environment and the society or has a cumulative or transboundary impact;

  (b) the investment project which has already been approved but wishes to increase its production capacity or change its production process; or

  (c) the investment project which is likely to have an impact on reserve forests, protection forests, production forests, bio-diversity conservative areas, cultural and historical heritage zones, and other prohibited areas.

In regard to the assessment of the environmental impact, the project developer shall submit the documents relating to such project to the Water Resources and Environment Administration to consider and determine if such investment project requires an IEE or EIA. The project developer shall be notified of the result of the consideration in writing within 15 business days.

3.1.1 Initial Environmental Examination (IEE)

The initial environmental examination is the study, survey and research on the information concerning an investment project to estimate the slight environmental impact and to set certain measures to prevent and minimize such impact.[6] A small-scale investment project which has little impact on the environment shall be required to conduct an IEE, the procedures for which are as follows:

[5] Ministerial Agreement on the Endorsement and Promulgation of List of Investment Projects and Activities Requiring for Conducting the Initial Environmental Examination or Environmental and Social Impact Assessment No. 8056/MONRE, dated 17 December 2013

[6] Law on Environmental Protection, Section 21.

3.1.1.1 Preparation for an IEE Report

(1) Studying the environment in terms of its physical, biological and socio-economic conditions and estimating a possible impact of the proposed investment project, based on the information provided by relevant sectors, local administrative organizations, and other sources as well as the information gathered from the fieldwork and from those affected by the investment project and other concerned parties;

(2) Following the recommendation for participation without threats, coercion, bribery and false information;

(3) In collaboration with the local administrative organization and the authority in charge of investment projects, arranging for meetings to be held at village level to explain about the investment project, the expected benefits, and the possible impact of the project on the environment and the society; and gathering the opinions of those attending for the preparation of an IEE report;

(4) Preparing the IEE report which shall consist of measures to prevent and minimize impact on the environment and society, including the environmental protection and monitoring plan and the social protection and monitoring plan;

(5) In collaboration with the local administrative organization and the authority in charge of investment projects, holding meetings at village level with the participation of those affected by the investment project and other concerned parties, to consider and approve the first draft of such IEE report; revising such draft on the recommendation of the meetings; and distributing the revised draft to the affected villagers and the concerned parties for their comments so that the drafted report will be revised once again before the meetings at district level are held; and

(6) In collaboration with the local administrative organization and the authority in charge of investment projects, holding meetings at district level to consider and approve the IEE report which has been revised on the recommendation of the village-level meetings(in the case of local investment, the

revised IEE report shall be in the Lao language, but in the case of foreign investment, the said report shall be in the Lao and the English languages) and then submitting such IEE report to the authority in charge of investment projects for its review.

The IEE report submitted for review shall be accompanied by all relevant meeting minutes and affixed with the signatures of the consulting company which has prepared such report and the project developer[7].

3.1.1.2 Preparation for the IEE Plan (to be considered with the IEE Report)

(1) The project developer shall write the IEE plan in Lao language and such plan is deemed as part of the environmental initial report. The project developer shall act in accordance with such plan verified by the local administrative organization.

(2) If the local administrative organization finds that such IEE plan does not specify specific problems or measures in resolving those problems with sufficiency or such plan is unable to achieve its goals, the local administrative organization shall deliver a notification to the project developer to revise such plan and subsequently return it to the office for reconsideration when the plan is completely revised.

(3) During 6 months before the project is commenced, the project developer shall summarize the price and outcomes of the plan, investigate the environment and areas in which the project will be occurred, improve the place in accordance with the timeframe as set, and finally submit such plan to the local administrative organization to verify and authorize the relevant working teams/companies and provide a license to operate the project.

(4) During operating of the project, the project developer shall review and revise the IEE Plan every 2 – 5 years (the duration of such review and revision shall be mathematically based on the complexity and difficulty of the project as prescribed in the environmental certificate). And finally, the project developer

[7] Ministerial Instruction on the Process of Environmental and Social Impact Assessment of the Investment Projects and Activities No. 8029/MONRE, dated 17 December 2013, Part II

shall submit such reviewed and revised plan to the local administrative organization for consideration and verification[8].

3.1.1.3 Review of the IEE Report and of the IEE Plan

(1) The project developer shall submit an application, together with the revised IEE report approved by the district-level meetings, to the authority in charge of investment projects.

(2) The authority in charge of investment projects shall check out the IEE report for its accuracy and completeness within 10 business days and shall notify the project developer of the result of such check, which shall be either of the following:

(a) If the IEE report is accurate and complete, the project developer must send 15 copies of such report, together with the report in an electronic form, to the authority in charge.

(b) If the IEE report is found to be inaccurate and incomplete, the project developer must revise it or submit a new report.

(3) The review of the IEE report shall complete within 50 business days from the day the project developer has sent complete documents to the authority in charge. After that, the authority in charge shall, within 5 business days, forward such report to the local administrative organization and the relevant agencies for their comments. The local administrative organization and the relevant agencies shall make comments on the report and return it to the authority in charge within 20 business days, failing which they shall be deemed to have approved of the report or waived their right to comment on the report. Then the authority in charge shall hold a technical meeting to allow the project developer to explain about the report and, if necessary, conduct a field inspection and then make a final wrap-up before submitting the report to the Natural Resources and Environment Administration.

(4) The Natural Resources and Environment Administration shall consider the IEE report and order either:

[8] Ministerial Instruction on the Process of Environmental and Social Impact Assessment of the Investment Projects and Activities No. 8029/MONRE, dated 17 December 2013, Part II

(a) that an environmental certificate be issued in acceptance of such IEE report; or

(b) that the project developer revises such report and later submits it to the office for new consideration;

(c) that the project developer revises such report or, if the Water Resources and Environment Administration is of the opinion that the said project is complicated or has an adverse effect on the environment and the society, conduct an EIA; or

(d) that such IEE report be rejected if, for instance, it is found to have contained inaccurate information or concealed the probable adverse effects on the environment and the society[9].

3.1.2 Environmental Impact Assessment (EIA)

The environmental impact assessment is the study, survey, research and estimation of the positive and negative impacts, in the short and long term, of an investment project on the environment, the society and the nature, including the recommendation for suitable options and the plans to protect and monitor the environment, the society and the nature in order to prevent and minimize such impacts.[10]

In applying for an approval for investment or project development in the Lao PDR, which requires an IEE or an EIA, the applicant shall submit either the IEE or the EIA report to the Department of Environmental and Social Impact Assessment, Ministry of Natural Resources and Environment, so that such Division will consider issuing an environmental certificate to that project. It can be said that prior to executing a concession agreement or a construction contract or applying for a business license, the company must first obtain an environmental certificate.

3.1.2.1 Preparation for the EIA Report

The project developer shall identify the scope of the study and the information essential to the assessment of the environmental impact conducted by the investment project as well as the scope of the work required during the course of such assessment, and shall propose them for consideration and acceptance of the Natural Resources and Environment Administration before proceeding with the EIA. The Natural

[9] Ministerial Instruction on the Process of Environmental and Social Impact Assessment of the Investment Projects and Activities No. 8029/MONRE, dated 17 December 2013, Part II

[10] Law on Environmental Protection, Section 22.

Resources and Environment Administration shall review those scopes within 15 business days and then notify the project developer of its comment in writing.

The project developer shall then:

(1) follow the scopes of the study and the work required for the EIA as approved by the Natural Resources and Environment Administration;

(2) gather the information about the physical and socio-economic conditions of the investment project from the local administrative organization and the relevant agencies, from fieldwork, and from discussions with those affected by the investment project and other concerned parties at village, district, provincial or city level;

(3) study and identify direct and indirect impacts on the people living in the vicinity of the investment project;

(4) in collaboration with the local administrative organization in order to arrange the village-level meetings to be held to explain about the overall condition of the investment project, the expected benefits, the possible impacts of the project on the environment and the society, and the measures for preventing and minimizing such impact and to gather comments from those meetings to use for the preparation of an EIA report;

(5) prepare the following documents:

(a) an EIA report; and

(b) an IEE plan;

(6) in collaboration with the local administrative organization, hold village-level meetings with the participation of those affected by the investment project and other concerned parties, to consider and approve the first drafts of the EIA report, the environmental protection and monitoring plan, and the social protection and monitoring plan; revise them on the recommendation of the meetings; distribute the revised drafts to the affected villagers and other concerned parties for their comments; and revise the said report once again; and

(7) in collaboration with the local administrative organization, hold meetings at district level with the participation of the affected villagers, concerned agencies at provincial or city level, mass

organizations, and other district-level organizations, to consider and approve the EIA report which has been revised on the recommendation of the village-level meetings (the EIA report revised at district level shall be in either the Lao or the English language, but the overview of the environmental and social protection and monitoring plans shall be in the Lao and the English languages); and then submit such EIA report to the Natural Resources and Environment Administration for its review.

The EIA report, the environmental protection and monitoring plan, and the social protection and monitoring plan to be submitted for review shall be accompanied by all relevant meeting minutes and affixed with the signatures of the consulting company which has prepared such report and the project developer[11].

3.1.2.2 Preparation for the EIA Plan (to be considered with the EIA Report)

(1) The project developer shall prepare the EIA Plan separately written in Lao language which is considered as part of the EIA report, and shall strictly comply with such plan once it is approved by the Natural Resources and Environment Administration.

(2) If, during the construction and the project term, the Natural Resources and Environment Administration is of the opinion that the environmental protection and monitoring plan does not identify the problems and does not set preventive and corrective measures in line with the actual situations or is likely to fail, the Natural Resources and Environment Administration shall notify the project developer in writing and give it time to revise such plan and to submit the revised plan to the Natural Resources and Environment Administration for consideration again.

(3) During the 6 months prior to the commencement of the project, the project developer shall conclude the implementation of the environmental protection and monitoring plan in the course of the construction or the survey, revise it in line with the project term, and submit the revised plan for consideration and approval

[11] Ministerial Instruction on the Process of Environmental and Social Impact Assessment of the Investment Projects and Activities No. 8030/MONRE, dated 17 December 2013, Part II

of the Natural Resources and Environment Administration before the authority in charge of investment projects issues a business license.

(4) During the course of the project, the project developer shall review and revise the environmental protection and monitoring plan every 2-5 years (depending on the complexity of the investment project, such period to be specified in the relevant environmental certificate) and shall submit the revised plan for consideration and approval of the Natural Resources and Environment Administration[12].

3.1.2.3 Review of the EIA Report and EIA Plan.

The procedures involved in the review of the EIA report and the environmental and social protection and monitoring plans are as follows:

(1) The project developer shall submit an application, together with the revised EIA report, the revised environmental protection and monitoring plan, and the revised social protection and monitoring plan approved by the district-level meetings, to the Natural Resources and Environment Administration for its consideration and issuance of an environmental certificate.

(2) The Natural Resources and Environment Administration shall check out the said report and plans for their accuracy and completeness within 10 business days and shall notify the project developer of the result of such check, which shall be either of the following:

(a) If the EIA report, the environmental protection and monitoring plan, and the social protection and monitoring plan are accurate and complete, the project developer must send 15 copies of such report and plans, together with the same in an electronic form, to the Natural Resources and Environment Administration.

(b) If the said report and plans are found to be inaccurate and incomplete, the project developer must revise them or submit a new report.

[12] Ministerial Instruction on the Process of Environmental and Social Impact Assessment of the Investment Projects and Activities No. 8030/MONRE, dated 17 December 2013, Part II

(3) The review of the EIA report, the environmental protection and monitoring plan, and the social protection and monitoring plan shall complete within 95 business days in general cases and 120 business days in the case of complicated investment projects, from the day the project developer has sent complete documents. After that, the Natural Resources and Environment Administration shall, within 5 business days, forward such report and plans to the authority in charge of investment projects, the local administrative organization and the relevant agencies for their comments, which shall be given within 50 business days, failing which they shall be deemed to have waived their right to make a comment on the report. Then, upon the time mutually agreed upon, the Natural Resources and Environment Administration shall hold a technical meeting with the participation of all agencies concerned to allow the project developer to present the said report in brief. Subsequently, the Natural Resources and Environment Administration shall conduct a field inspection in collaboration with the local administrative organization and the relevant agencies.

(4) The Natural Resources and Environment Administration shall, after reviewing the revised report, notify the project developer in writing to hold meetings at provincial or city level in collaboration with the local administrative organization. The project developer shall make a final revision of the said report and plans on the recommendation of those meetings and send it for the consideration of the Natural Resources and Environment Administration.

(5) The Natural Resources and Environment Administration shall review the said report and plans, and shall have one of the following decisions:

(a) Providing an environmental certificate issued in acceptance of the EIA report, the environmental protection and monitoring plan, and the social protection and monitoring plan or that the project developer revises such report and plans;

(b) Informing the developer to revise the report and plans in written form;

(c) Rejecting such report and plan if, for instance, it is found to have contained inaccurate information or concealed risks and the adverse effects such risks might have on the environment and the society.

Apart from the processes as mentioned above, there are additional processes available in order to revise the report and plans i.e. founding a team of domestic and international experts in order to revise such report and plans, etc.[13]

3.2 Environment-Related Certification and Approval

3.2.1 Environmental Certificates

The environmental certificates are the documents issued by the Natural Resources and Environment Administration in acceptance of the results of, and the measures set out in, the assessment of the impact on the environment, the society and the nature. An environmental certificate shall be valid throughout the concession term or the term of the investment project. However, if an investment project fails to proceed with the construction within 2 years after obtaining an environmental certificate, such environmental certificate shall become invalid and no longer enforceable.

If the project developer wishes to extend the project term, it may apply for such extension to the Natural Resources and Environment Administration during the 3 months prior to the expiration of the existing environmental certificate.

In addition, during the 6 months before the completion of the construction, the project developer shall conclude the implementation of the measures to minimize the environmental and social impact or of the environmental and social protection and monitoring plans during the construction and the investment project and shall revise such measures or such plans in line with the project term before submitting them for consideration and approval of the Natural Resources and Environment Administration.

During the course of the project, the project developer shall review and revise the measures to minimize the environmental and social impact or the environmental and social protection and monitoring plans every 2-5 years (depending on the complexity of the investment project) and submit the same for consideration and approval of the Natural Resources and Environment Administration.

[13] Ministerial Instruction on the Process of Environmental and Social Impact Assessment of the Investment Projects and Activities No. 8030/MONRE, dated 17 December 2013, Part II.

4. Relevant Government Authority

The State organizations in charge of the implementation of the law on natural resources and environment are the Ministry of Natural Resources and Environment and the Ministry of Agriculture and Forestry. Each Ministry has its internal agencies, as follows:

4.1 Department within the Ministry of Natural Resources and Environment

4.1.1 Central Level

(1) The Cabinet
(2) Organization and Personnel Department
(3) Inspection Department
(4) Planning and Cooperation Department
(5) Land Planning and Development Department
(6) Land Administration Department
(7) Water Resources Department
(8) Environment Quality Promotion Department
(9) Pollution Control Department
(10) Forest Resources Management Department
(11) Geology and Minerals Department
(12) Meteorology and Hydrology Department
(13) National Disaster Management and Climate Change Department
(14) Environmental and Social Impact Assessment Department
(15) Natural Resources and Environment Institute
(16) Lao National Mekong Committee Secretariat
(17) Natural Resources and Environment Information Centre[14]

4.1.2 Local Level

(1) Provincial or City Division of Natural Resources and Environment; and
(2) District or Municipal Division of Natural Resources and Environment[15]

[14] Ministry of Natural Resource and Environment. Available at: http://www.monre.gov.la. (Accessed on 17 October 2014)
[15] Ministry of Natural Resource and Environment. Available at: http://www.monre.gov.la. (Accessed on 19 October 2014)

4.2 Department within the Ministry of Agriculture and Forestry

4.2.1 Central Level

(1) The Cabinet
(2) Organization and Personnel Department
(3) Inspection Department
(4) Planning and Cooperation Department
(5) Agriculture Department
(6) Irrigation Department
(7) Livestock and Fishery Department
(8) Forestry Department
(9) Forest Inspection Department
(10) Agricultural Land Management Department
(11) Agricultural Extension and Cooperatives Department
(12) National Institute of Agricultural and Forestry Research; and
(13) Scientific and Technical Council of Agriculture and Forestry

4.2.2 Local Level

(1) Provincial or City Division of Agriculture and Forestry; and
(2) District Office of Agriculture and Forestry[16].

[16] Information as of 19 October 2014

Chapter 20
Dispute Resolution

1. Relevant Legislations

(1) Agreement of the Minister of the Ministry of Justice on Establishment and Operation of the Village Mediation Sector No.210/MOJ, dated 19 October 2009 (the "**Agreement on Establishment and Operation of the Village Mediation Sector**").

(2) Law on People's Court (Amended) No.09/NA, dated 26 November 2009 (the "**Law on People's Court**").

(3) Law on Judgment Enforcement No.04/NA, dated 25 November 2008 (the "**Law on Judgment Enforcement**").

(4) Law on Economic Dispute Resolution No.06/NA, dated 17 December 2010 (the "**Law on Economic Dispute Resolution**").

(5) Law on Public Prosecutor No. 10/NA, dated 26 November 2009.

(6) Constitution of the Lao People's Democratic Republic, dated 6 May 2003 (the "**Constitution of the Lao PDR**").

The laws and regulations concerning dispute resolution in the Lao PDR can be separated into 3 types: (i) Dispute Resolution by Administration Mediation Procedure; (ii) Dispute Resolution by Arbitration; and (iii) Court System and Dispute Resolution by the Court.

2. Dispute Resolution by Administration Mediation Procedure

When a dispute occurs in the Lao PDR, complainants have regularly chosen to resolve disputes via mediation rather than to file proceedings to the court due to past popularity of matters being brought to the Head of the Village[1] or seniors in the village for resolution. The Lao PDR currently has established the People's Court organization; an organization of the State with the role and function to judge a variety of cases. Nevertheless, citizens regularly choose to bring disputes to the Head of the Village for mediation since usually neither party to a dispute feels like a winner or loser but that an advantage or

[1] The Head of the Village is the leader of the Village Administrative Organization and the village is the smallest local administrative unit decided by the Municipal or municipality.

disadvantage will be placed upon them upon resolution of the dispute being decided. The Government of the Lao PDR views that mediation in the village has been a positive and effective means of dispute resolution and therefore supports the establishment of Village Mediation Sectors in every village.[2]

2.1 Village Mediation Sector

Village Mediation Sectors are sectors established in each village for mediating disputes under the influence of the Village Administrative Organization of the Justice Office of the respective province or municipality.

2.1.1 Structure of the Village Mediation Sector

Each Village Mediation Sector consists of: 1 chief, 1-2 deputy chiefs, and the committees of the following organizations:

(1) The Lao Front for National Construction of the village;
(2) The Village Administration Organization;
(3) The Old Combatant Union;
(4) The Women's Union of the village;
(5) The Lao Revolutionary Youth of the village;
(6) An honorary person or representative of the tribe in the village; and
(7) The Public Security of the village.

The term of the Village Mediation Sector is 3 years; the same as the term of the Head of the Village. The Village Mediation Sector has the right to charge service fees from the complainants in each dispute mediation.[3]

2.1.2 Disputes the Village Mediation Sector has right to mediate

The Village Mediation Sector has the right to mediate the following disputes:[4]

(1) Disputes related to civil issues;
(2) Disputes related to commerce issues;
(3) Disputes related to family issues;
(4) Disputes related to children issues that are:
    (a) civil issues related children; or

[2]PhimaneeSaivongsa. *Fundamentals of judicial organization*. (n.p., 2005), p. 130-1.
[3]Agreement on Establishment and Operation of the Village Mediation Sector, Article 6.
[4]Agreement on Establishment and Operation of the Village Mediation Sector, Article 7.

(b) criminal issues were a child is the offender of a minor offence[5] or major offence[6] but is not a serious offence were punishment is less than 3 years imprisonment as provided by law; and

(5) Disputes related to Criminal Law that are not serious offences to the society and the injured person does not file proceedings to the court but submits the offence to the Village Mediation Sector for consideration and compromise. These are following disputes:

(a) physical violence between close relatives without serious injury or physical disability;

(b) desecration of a corpse;

(c) infringement to cousin's proprietary rights;

(d) trespass on residence; and

(e) reveal confidential information of the complainant.

2.1.3 Village Mediation Sector Prohibitions

The Village Mediation Sector has the following prohibitions:[7]

(1) Serious offences shall not be brought to mediation (except offences provided under the Criminal Law in item 2.1.2);

(2) Disputes that conflict with public or State interests shall not be mediated;

(3) Fines or penalties[8] shall not be imposed; and

(4) Cases that the People's Court or the Committee of Economic Dispute Resolution has already ruled on shall not be mediated again.

2.2 Methods to Mediating Disputes

The Village Mediation Sector shall mediate disputes with the following methods and procedures:[9]

(1) Upon receiving a submission or request of a citizen, the Village Mediation Sector must inform the dispute to the other party within 7 days, and investigate, collect data and evidence for reference in the mediation procedure;

(2) The Village Mediation Sector shall specify the date and place and invite both parties and witnesses to attend the mediation procedure;

[5] Minor offences are offences punishable under the law by public criticism or fine.
[6] Major offences are offences punishable under the law by re-education without deprivation of liberty, and imprisonment from 3 months to 10 years, and fines.
[7] Agreement on Establishment and Operation of the Village Mediation Sector, Article 15.
[8] Penalties can divided into 2 types: (i) the principal penalties separated into public criticism, re-education without deprivation of liberty, deprivation of liberty, and death penalty; and (ii) the additional penalties separated into fines, confiscation of items, confiscation of property, deprivation of election rights, and house arrest.
[9] Agreement on Establishment and Operation of the Village Mediation Sector, Article 13.

(3) The complainants and witnesses must participate in the mediation procedure at the same time. Each mediation procedure may be conducted when more than half of the total numbers of members of the Village Mediation Sector are present. If necessary, the Village Mediation Sector may invite additional parties or citizens to attend the mediation process to offer other comments.

(4) For mediation issues regarding children, a parent or guardian of the child must be present;

(5) If the accused fails to participate in the mediation procedure more than 3 times without reasonable cause, the Village Mediation Sector must deliver the request or submission back to the complainant to be promulgated to the authority under the justice system;

(6) Each mediation process must take written record. The detail of record must be clearly written and include the names of the members, the participant, the place, date and time, the event of the dispute, testimony of the complainant, deal and indecision;

(7) The record must be read before the complainants, witnesses and other participants;

(8) The Village Mediation Sector, the complainants and witnesses must sign in the record as evidence;

(9) If the complainants disagree with the results, the Village Mediation Sector will submit the dispute to the Village Foundation Party to resolve. If the Village Foundation Party cannot resolve the dispute, the Village Foundation Party shall send the record and dispute to the Justice Office of the Municipal Office to resolve. The Justice Office of the Municipal shall then have the option to suggest the complainant to file proceedings to the People's Court or submit to the Economic Dispute Resolution Office or the Economic Dispute Resolution Center to mediate or arbitrate.

If the complainants disagree with each other, the matter may be brought to the Village Mediation Sector but not more than 3 times.[10] The Village Mediation Sector can charge mediation fees to the complainants in the amount of LAK100,000 or approximately THB400 per dispute. Thus, each party to the dispute shall be responsible for half of the fee that is LAK50,000[11] or approximately THB200. The Village Mediation Sector must note disagreeable issues in the record and submit the same to the People's Court to judge or the Economic Dispute Resolution Office or the Economic Dispute Resolution Center to mediate or arbitrate depending on the intention of the complainants.

[10]Agreement on Establishment and Operation of the Village Mediation Sector, Article 13.
[11]Agreement on Establishment and Operation of the Village Mediation Sector, Article 6.

2.3 Result of Mediation

A record of the mediated dispute that the complainant agrees to shall be enforced immediately.

A record of indecision of the dispute shall be used as documentation for the Village Foundation Party and the Justice Office of Municipal to consider and/or for prosecution by the relevant organization.[12]

Aside from the Village Mediation Sector, the People's court can mediate disputes the complainants file to the court in every stage of consideration and every court proceedings. As provided by the laws of the Lao PDR, the Economic Dispute Resolution Office or the Economic Dispute Resolution Center is a State sector which has the role to mediate or arbitrate economic disputes.[13] This is further described in the topic "**Dispute Resolution by Arbitration**"

3. Dispute Resolution by Arbitration

In the Lao PDR, the "Economic Dispute Resolution Center" is regarded as an arbitration body responsible for resolving conflicts or economic disputes arising among and between juristic persons, individuals or juristic persons and individuals. However, the Economic Dispute Resolution Center cannot enforce an arbitral award by itself. The litigants must request the People's Court to enforce the resolution of the Economic Dispute Resolution Center.

3.1 Conditions for the Resolution of an Economic Dispute

3.1.1 Conditions of Economic Dispute

The conditions of an economic dispute to be resolved by the Economic Dispute Resolution Center are as follows:

(1) The dispute shall be related to economy and trade;

(2) The disputing parties have agreed in a contract;

(3) The dispute has not been referred to the People's Court for consideration or the court has not rendered a final decision; and

[12] Agreement on Establishment and Operation of the Village Mediation Sector, Article 15.

[13] As provided by the Law on Economic Dispute Resolution, Article 2, the economic dispute is the dispute concerning the advantages between two juristic persons, a juristic person and an individual or two individuals in the country and foreign countries that occur due to a breach of contract, business operation or production.

(4) The dispute is not related to the violation of laws and regulations concerning the stability of the State, social security and public order, or the environment.[14]

3.1.2 Organization Responsible for Economic Dispute Resolution

The following organizations are responsible for economic dispute resolution:

(1) The Economic Dispute Resolution Center; and

(2) The Economic Dispute Resolution Offices.[15]

3.1.3 Supporting Documents

The documents to be included in the claim for Economic Dispute Resolution are as follows:

(1) The claim consisting of the name and surname, age, occupation, nationality, current address and place of business of the litigants or representatives, cause of dispute, cost of dispute and litigants' proposal;

(2) Relevant contracts;

(3) A written agreement of the disputing parties to submit the dispute to the Economic Dispute Resolution Centre or Offices, if any; and

(4) Any relevant documents as evidence.[16]

3.1.4 Expenses relating to Economic Dispute Resolution

Expenses relating to Economic Dispute Resolution consist of:

(1) Service Charges

The collection of service charges shall be in accordance with the provisions of the relevant legislation on charges. The disputing parties shall equally share the payment of the service charges prior to the conducting of the mediation of an economic dispute unless otherwise agreed. With regard to arbitration, the disputing parties are responsible for the payment of service charges in accordance with the arbitral award of an arbitration panel.[17]

(2) Fees

Fees are the expenses incurred in the mediation or arbitration process, and the requester is responsible for those expenses prior to the time of claim submission.[18]

(3) Labor Costs

[14]Law on the Resolution of Economic Dispute, section 16.
[15]Law on the Resolution of Economic Dispute, section 40.
[16]Law on the Resolution of Economic Dispute, section 18.
[17]Law on the Resolution of Economic Dispute, Section 54.
[18]Law on the Resolution of Economic Dispute, Section 55.

Labor costs are those costs related to payment to mediators, arbitrators or experts. The labor costs are agreed upon the disputing parties, mediator or experts.[19]

3.1.5 Procedures for the Resolution of an Economic Dispute

The procedures for the resolution of an economic dispute are as follows:

(1) Submission of Claim

Individuals or organizations shall submit a claim and the relevant documents to the Economic Dispute Resolution Center or the Office the parties find convenient and mutually agreed upon. In the event that there is no agreement, the dispute shall be re-submitted to the place where the dispute arose.[20]

(2) Consideration of Claim

Within seven days from the date of receipt of the claim, the Center or Offices for Economic Dispute Resolution shall have examined the claim and summoned the disputing parties to discuss and agree on the type of resolution to be used. If a party does not respond to this invitation without a valid reason, the claim will be declared null and void. The claim will be returned to the claimant.[21]

(3) Types of Resolution of Economic Disputes:

(a) Resolution by mediation; and

(b) Resolution by arbitration.[22]

(4) Results of Economic Dispute Resolution consist of:

(a) a mediation agreement;

(b) an agreement reached by the disputing parties before an arbitral award; and

(c) an arbitral award of an arbitration panel.[23]

The disputing parties are obliged to implement the results of the resolution of an economic dispute within 15 days from the date of the agreement or the arbitral award. Any disputing party who is at a disadvantage because of the non-implementation of the result of the economic dispute resolution, shall have the right to request the People's Court to issue an order to enforce the result of the economic dispute resolution.[24]

[19]Law on the Resolution of Economic Dispute, Section 56.
[20]Law on the Resolution of Economic Dispute, Section 17.
[21]Law on the Resolution of Economic Dispute, Section 20.
[22]Law on the Resolution of Economic Dispute, Section 15.
[23]Law on the Resolution of Economic Dispute, Section 48.
[24]Law on the Resolution of Economic Dispute, Section 49 and 50.

3.2 Procedures of Dispute Resolution by Economic Dispute Resolution Center or Office

With reference to the types of Resolution of Economic Disputes, disputing parties are entitled to dispute resolutions by way of mediation or arbitration. The principle issues are as follows:

3.2.1 Dispute Resolution by Mediation

Mediation is the resolution of an economic dispute between disputing parties through compromise, negotiation and discussion with the use of a single mediator or a group of mediators as a neutral party.[25]

(1) Selection and Appointment of a Mediator

In the resolution of an economic dispute by mediation, the disputing parties have the right to select a single mediator or a group of mediators, but there must always be an odd number. The selection must be made from the list of mediators and arbitrators within 15 days from the date of the agreement. The Center or Offices for Economic Disputes Resolution must appoint a mediator within 7 days from the date receiving the list of mediators with the offer of the disputing parties. If a selection cannot be made, the Center or Offices for Economic Dispute Resolution shall select a mediator within 10 days.

In the event that the disputing parties select three mediators, each party shall select one mediator within 15 days from the date of the agreement. If one of the disputing parties is unable to select a mediator, the Center or Offices for Economic Dispute Resolution shall select a mediator within 10 days. After this, the two selected mediators shall select a third mediator as the chairperson within 15 days. If the two mediators are unable to select a third mediator, then the Center or Offices for Economic Dispute Resolution shall select the third mediator within 10 days.[26]

(2) Recusal and Challenge of a Mediator

A mediator has the right to recuse him/herself from mediation if he/she is a relative of a disputing party, has an interest in the dispute, has a dispute with either party or is otherwise unable to perform his/her duties.[27]

[25]Law on the Resolution of Economic Dispute, Section 22.
[26]Law on the Resolution of Economic Dispute, Section 23.
[27]Law on the Resolution of Economic Dispute, Section 24.

(3) Mediator Procedures

Mediation shall start within 15 days from the date of appointment of the mediator(s) and shall be conducted in the presence of the disputing parties or their representatives. The disputing parties have the right to present the various issues, information or evidence relevant to the dispute and to propose a way to resolve the dispute to the mediator(s) during the mediation process.[28]

When mediation is unable to resolve the dispute, the disputing parties have the right to propose arbitration to the Center or Offices for Economic Dispute Resolution. The mediators for such dispute have no right to act in the arbitration panel. In the event that the disputing parties do not agree to use the Center or Offices for Economic Dispute Resolution for arbitration, the parties have the right to bring the claim before the People's Court.[29]

(4) Termination of Mediation

(a) The disputing parties are able to come to an agreement;

(b) One or both of the disputing parties fails to participate in the mediation without having a valid reason;

(c) The disputing parties are unable to come to an agreement; or

(d) The death of a disputing party without a successor occurs.[30]

3.2.2 Dispute Resolution by Arbitration

An arbitral award is the decision of an arbitration panel on the resolution of an economic dispute.[31]

(1) Selection and Appointment of Arbitrators

In the resolution of an economic dispute by arbitration, the arbitration panel shall comprise of three or more arbitrators in accordance to the agreement of the disputing parties. However, the number of arbitrators shall be an odd number. The selection of arbitrators shall be conducted in accordance with the principles for the selection of mediators as described above.[32]

(2) Recusal and Challenge of Arbitrators

Recusal and challenge of arbitrators shall be performed in the same manner as the recusal and challenge of a mediator as determined above.[33]

[28]Law on the Resolution of Economic Dispute, Section 25.
[29]Law on the Resolution of Economic Dispute, Section 27.
[30]Law on the Resolution of Economic Dispute, Section 26.
[31]Law on the Resolution of Economic Dispute, Section 29.
[32]Law on the Resolution of Economic Dispute, Section 30.
[33]Law on the Resolution of Economic Dispute, Section 31.

(3) Submission of Information and Evidence

The disputing parties shall submit to the arbitration panel the information and evidence related to the economic dispute.

In the event that it proves necessary to determine the veracity of the information and evidence, the arbitration panel may invite an expert(s) to verify such information and evidence.[34]

(4) Duration of Arbitration

The resolution of an economic dispute by arbitration shall be successfully completed within three months from the date of the appointment of the arbitration panel. In the event that the dispute is particularly complicated or for any other reason, the Center or the Office for Economic Dispute Resolution shall inform the disputing parties of the reason for the delay.[35]

(5) Measures for the Protection of the Interests of the Disputing Parties

During the arbitration process, if the disputing parties request the seizure or confiscation of any property in order to protect their rights and interests, the arbitration panel may send a request to the People's Court to issue an order within seven business days of the date of receipt of such request if the panel deems it necessary.[36]

(6) Rights of the Disputing Parties to Agree before an Arbitral Award

During the arbitration, the disputing parties may agree to resolve the dispute before the arbitral award. Such agreement by the disputing parties shall be in writing and be signed by both disputing parties, the arbitration panel and the Head of the Center or Office for Economic Dispute Resolution of that arbitration. The agreement of the disputing parties before an arbitral award can be enforced the same as the award by an arbitration panel.[37]

(7) Arbitral Awards

For an award by an arbitration panel where the arbitration panel is unable to reach a unanimous decision, the arbitral award will be based on a majority vote. The arbitral award must be read out in the presence of the disputing parties or their representative(s) and shall be effective from the date of the issue of the arbitral award or the date when the disputing parties are informed of the arbitral award if one of the disputing parties fails to appear for the reading of the arbitral award without a valid reason.[38]

[34]Law on the Resolution of Economic Dispute, Section 32.
[35]Law on the Resolution of Economic Dispute, Section 33.
[36]Law on the Resolution of Economic Dispute, Section 34.
[37]Law on the Resolution of Economic Dispute, Section 35.
[38]Law on the Resolution of Economic Dispute, Section 36.

(8) Refusal of an Arbitral Award

A disputing party has the right to submit a request to challenge an arbitral award to the People's Court within 15 days from the date of receipt of the arbitral award in any of the following circumstances: the disputing parties did not agree to arbitrate the dispute or the agreement was cancelled; the arbitration process was not in accordance with the law and regulations on economic dispute resolution that the disputing parties had agreed on in the contract; the information and evidence submitted to the arbitration panel and on which the arbitral award was based was falsified or the arbitration panel accepted money, property or other inducements to distort the course of justice; or the arbitral award exceeded or was less than the claim of the disputing parties.

(9) Enforcement of the Arbitral Award

The Arbitral Award shall be read in front of the disputing parties or its agents and shall be effective on the date in which the Arbitral Award is announced or on the date in which the disputing parties are informed when one of the disputing parties does not present to the court without due reasons.[39]

The disputing parties are obliged to the Arbitral Award and are subject to act in compliance with the Arbitral Award within 15 days starting from the date in which the Arbitral Award is announced or from the date in which the disputing parties are informed. If one of the disputing parties does not act in compliance with the Arbitral Awards leading to damages occurred, the damaged party is entitled to ask the Court to render a judgment in order to enforce such Arbitral Award.

3.3 Enforcement of Foreign or International Arbitral Awards

The Lao PDR is a member of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention 1958),[40] which was countersigned on 17 June 1998 and was put into effect on 15 September 1998.[41] The Lao PDR shall recognize and implement the arbitral award of a foreign or international economic dispute resolution organization when the following conditions are met:

(1) The relevant parties must be nationals of the country which is a party to the New York Convention 1958;

(2) Such arbitral award is not contrary to the Constitution or any laws relating to national security or peace and social order of the Lao PDR; and

[39]Law on the Resolution of Economic Dispute, Section 36.
[40]Convention on the Recognition and Enforcement of Foreign Arbitral Awards, United Nation, New York, 1958 (the " New York Convention").
[41]Information from http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention_status.html [2557, ตุลาคม18]

(3) The party who has the obligation to pay the debt has assets, businesses, shares, deposits or other property in the Lao PDR.

When recognized by the People's Court of the Lao PDR, such arbitral award of the foreign or international economic dispute resolution organization shall be implemented in the Lao PDR.[42]

4. Dispute Resolution by Court

4.1 Principles of Court Proceedings

Apart from the aforementioned structure and court jurisdiction of the People's Court, the Law on the People's Court is implemented to ensure the 8 general court proceedings as follows:

(1) Ensure the equality of the citizen before the laws and the courts;
(2) Ensure the legitimate rights of the citizen to take action to the courts;
(3) Ensure the independence of court proceedings;
(4) Respect and comply with the law on court proceedings;
(5) Ensure the Judicial Tribunal;
(6) Apply Lao language in court proceedings;
(7) Ensure that the court proceedings shall be heard in public; and
(8) Respect and strictly comply with the final decision.

4.2 The Civil Adjudication

4.2.1 The Civil Adjudication of Judicial Tribunals in Trial Proceedings

The judicial tribunals which have the power in civil proceeding are as follows:

(1) Civil tribunals are entitled to proceed the following cases:
    (a) Disputes in relation to ownership right and inheritance;
    (b) Disputes in relation to civil cases apart from commercial disputes;
    (c) Disputes in relation to monitoring compensation; and
    (d) Disputes in relation to executive matters.
(2) Labour tribunals are entitled to proceed the following cases:
    (a) Disputes in relation to labour contracts;
    (b) Disputes in relation to funds raised for the purpose of unfair termination contract;

[42]Law on the Resolution of Economic Dispute, Section 52.

(c) Disputes in relation to compensation accrued from accidents from working or disease arising from working;

(d) Disputes in relation to employees' salaries or wages; and

(e) Other disputes in relation to labour.

(3) Commercial tribunals are entitled to proceed the following cases:

(a) Partnership contracts;

(b) Contracts in relation to business, commerce and commercial documents;

(c) Commercial loans;

(d) Bankruptcy of state enterprises and reorganizations;

(e) Import and export of goods and insurance; and

(f) Disputes and complaints in relation to infringement of Intellectual Property.

(4) Family tribunals are entitled to proceed the following cases:

(a) Disputes in relation to marriage and divorce;

(b) Complaints in relation to alimony;

(c) Complaints in relation to spousal and parental support including mature children who are of incompetent and unsound mind;

(d) Family matters;

(e) Complaints in relation to custody of children;

(f) Deprivation of parental and child rights;

(g) Being a stepchild;

(h) Child and parent verification;

(i) Child interests; and

(j) Damages arising from non-compliance with engagement, sex before marriage and other matters.

(5) Juvenile tribunals are entitled to proceed the following cases:

(a) Compensation accrued from the act of children under the age of 18;

(b) Child labour;

(c) Interaction between children; and

(d) Breach of child rights.

For juvenile case proceedings in which a child becomes a fully competent person or is 18 years of age, the Juvenile tribunals shall be considered until the end of process. For any appeal or annulling, the Juvenile tribunals of the higher court shall further be considered.

4.2.2 Adjudication Participants and Litigants in Trial Proceedings

(1) Participants in adjudication are as follows:

(a) Litigants consisting of plaintiffs and defendants;

(b) A third party participating in a case in order to protect his own rights and interests in relation to existing trial proceedings in which they may not have a direct plaintiff or defendant but participating as a plaintiff or a defendant;

(c) Witnesses;

(d) Experts;

(e) Translators; and

(f) Attorneys or other protectors.

(2) Conditions of the litigants are as follows:

(a) Natural person

A person who is a litigant in trial proceedings shall not be under the age of 18 nor of unsound mind. In case a person is under the age of 18 or of unsound mind, a parent or guardian shall attend the adjudication as a litigant.

The participants in adjudication must be representatives or agents appointed legally.

(b) Organization or juristic person

An organization or juristic person shall be duly registered under the laws of the Lao PDR or related country.

(c) International litigant

A person, organization or juristic person duly registered under the laws of the Lao PDR filing a complaint against a person, organization or a foreign juristic person, shall comply with the judicial treaty if there is a treaty. In the event that there is no such treaty, the complaint shall be made through the Ministry of Foreign Affairs in order to submit a litigation file to the relevant authorities of the defendant's domicile for further proceeding.

(d) Participation in replacement of previous litigant

The replacement in trial proceedings where the previous litigant has died, was dismissed, became bankrupt or authorized another person to proceed the trial on their behalf, such successor or designated person shall propose a letter together with documents declaring such problems to the People's Court adjudicating such case for the approval of such replacement.

(3) Conditions of witnesses are as follows:

A witness shall be a person who witnessed the incident. A person who is in debt, dumb, of unsound mind, a child under the age of 18, or an immediate cousin of any litigant are entitled to testify for information but, such testimony is not regarded as witness testimony.

4.2.3 Period of Adjudication

The Period of Adjudication in civil procedures in each court level is as follows:

(1) Court of First Instance - Adjudication shall be completed within 9 months from the date on which a judge receives a case;
(2) Court of Appeals - Adjudication shall be completed within 4 months from the date on which a judge receives a case; and
(3) Annulling Court - Adjudication shall be completed within 3 months from the date on which a judge receives a case.

In order to extend the period of adjudication, judges shall propose such extension to the relevant court president for approval within 3 months, except where the case is complicated.

4.2.4 Dismissal

The Court shall dismiss a case in the following situations:

(1) The dispute has not been settled at the mediation as required by law;
(2) The commercial dispute has not been settled at the mediation center or the economic dispute resolution center as required by law;
(3) The dispute is out of the Court of First Instance's jurisdiction;
(4) A complainant is an incompetent person or unauthorized person; or
(5) A complaint is incomplete or unlawful.

4.2.5 Period of Appeal

Litigants are entitled to appeal, and the Chief of the People's Public Prosecutors is entitled to object to the decision of the Court of First Instance within 20 days from the date on which such decision was rendered in front of the litigants (or deemed as such), and from the date on which the decision was acknowledged in the absence of the litigants.

For the court injunction and the court ruling rendered by the court of first instance, the litigants are entitled to appeal within 7 days from the date on which they acknowledge such injunction or ruling.

Litigants or the Chief of the People's Public Prosecutors shall file the request of appeal or objection to the court of appeal through the Court of First Instance where such decision was rendered. In the event that the Court of First Instance where the decision was rendered rejects such appeal or objection, the litigants or the Chief of the People's Public Prosecutors may directly file such requests to the Court of Appeals.

4.2.6 Period of Cassation

The Annulling Court is the final court according to the law. Litigants are entitled to appeal, and the Chief of the People's Public Prosecutors is entitled to object to the decision rendered by the Court of Appeals within 30 days from the date on which such decision was rendered in front of the litigants (or deemed as such) and from the date on which the decision was acknowledged in absence of the litigants.

For the court injunction and the court ruling rendered by the Court of Appeals, the litigants are entitled to appeal within 10 days from the date on which they acknowledge such injunction or ruling.

Litigants or the Chief of the People's Public Prosecutors shall file the request of cassation or objection to the Annulling Court through the Court of Appeals where such decision was rendered. In the event that the Court of Appeals where the decision was rendered rejects such cassation or objection, the litigants or the Chief of the People's Public Prosecutors may directly file such requests to the Court of Cassation.

4.3 Criminal Adjudication

4.3.1 Adjudication Participants and Litigants in Trial Proceedings

Participants in adjudication are as follows:

(1) Suspected person means a person who is suspected of committing a criminal offense, but the Investigation Organization or the Prosecutor Organization is unable to issue an order to open the investigation to investigate such suspected person;

(2) Alleged offender means a person who is brought into trial proceedings by an order to open the investigation of the Chief of Investigation Organization or the Chief Prosecutor except where filing a case to the court directly;

(3) Defendant means an alleged person who was filed to the court;

(4) Injured person means a person whose health, life, object or mind is damaged by the act of another;

(5) Civil Plaintiff means a person who makes a civil complaint in a civil case against an alleged offender, defendant or person responsible in order to receive compensation;

(6) Responsible person in a civil case means a person or an organization who is liable to pay compensation accrued by the wrongful act of the alleged offender or defendant who is under his protection;

(7) Witness;

(8) Attorney or other guardians;

(9) Expert means a person who has knowledge and experience in a specific subject which is approved by a relevant institution capable of giving information in relation to his specific subject;

(10) Specialist means a person who specializes in one matter and is capable of giving opinions to a problem being proven by a criminal proceedings organization; and

(11) Translator.

4.3.2 Organizations of Criminal Proceedings

Organizations of criminal proceedings are as follows:

(1) Investigation Organization;

(2) Prosecutor Organization; and

(3) The People's Court.

4.3.3 Investigation Organization

(1) Categories of investigation organizations:

(a) The Police Investigation Organization has the rights and duties to undertake investigations in every wrongful act which is under its power;

(b) The Military Investigation Organization has the rights and duties to undertake investigation regarding military wrongful acts committed during times of duty, on or in military bases, camps, military departments, plants, factories and restricted military compounds;

(c) The Investigation Organization of the Revenue Authority has the rights and duties to undertake investigations in any breach of rules and regulations regarding the State's revenue system;

(d) The Forest Investigation Organization has the rights and duties to undertake investigations in breach of criminal law, Law on Forest

and the Law on Aquatic and Wild Animal which are criminal offenses; and

(e) The Anti-Corruption Investigation Organization has the rights and duties to undertake investigations in relation to corruption.

(2) Cause of investigation:

(a) A complaint or notification of a person or a juristic person regarding a wrongful act is filed;

(b) A wrongdoer surrenders himself; or

(c) The Investigation Organization or the Prosecutor Organization discovers the possibility of a wrongful act.

(3) Cease of investigation:

An Investigation shall be temporarily ceased in the following events:

(a) The alleged offender is hiding or avoiding trial proceedings or the alleged offender's address has not been found;

(b) It is not certain who is the wrongdoer; or

(c) The alleged offender is suffering from a severe illness or is of unsound mind by obtaining a certification from a doctor.

In the event that there are many alleged offenders, but the cause of ceasing investigation does not involve all alleged offenders, the investigation shall be ceased only for the alleged offender who triggers the cause of ceasing.

(4) Period of investigation

The Investigation Organization shall adjudicate a complaint or notification within 5 days from the receipt of such complaint or notification. Such period of time shall not be longer than 10 days for the complicated case.

4.3.4 Public Prosecutor Organization

The Public Prosecutor Organization has the important rights and duties in criminal cases, i.e. filing complaints, opening investigations and filing against wrongdoers and applying an approach not to allow the wrongdoer to escape trial proceedings.

The Chief of the Investigation Organization shall adjudicate cases received from the Investigation Organization no later than 15 days and issue the following orders:

(1) If deemed that the investigation is not complete, the case shall be returned to the Investigation Organization;

(2) If there is any cause for ceasing the investigation, the order to cease the investigation shall be issued;

(3) If any measurement applied is not compliant with the nature of the case, the Chief Prosecutor is entitled to amend, add or dismiss such measurement; and

(4) If there is sufficient evidence, the case shall be filed against the alleged offender.

The period of adjudication and ascription on the appeal and annulling of the Prosecutor Organization shall be no later than 30 days from the receipt of the case file.

4.3.5 The People's Court

(1) Criminal adjudication at first instance

Courts that have power to adjudicate criminal cases are as follows:

(a) The People's Municipal Courts have the power to adjudicate criminal cases at first instance where the highest level of suspended sentence specified by law does not exceed 3 years, except cases where a juvenile is the offender; and

The People's Provincial and City Courts have the power to adjudicate criminal cases at first instance that is not within the jurisdiction of the People's Municipal Court such as the criminal cases at first instance where suspended sentence exceeds 3 years and every offense of a juvenile. In this regard, the Court will receive the criminal case file only if the Chief of Prosecutor Organization issues an order with specific time in the trial proceedings in the Court of First Instance. The Court of First Instance shall proceed with the trial within 30 days from the receipt of such order from the Chief of Prosecutor.

(2) Criminal adjudication on appeal

Courts that have power to adjudicate criminal cases on appeal are as follows:

(a) The People's Provincial and City Courts have the power to adjudicate cases on appeal where the People's Municipal Courts have already rendered the decision at first instance; and

(b) The People's Regional Court has the power to adjudicate criminal cases where the People's Provincial and City Courts have already rendered the decision at first instance.

An appeal on any court's orders shall be submitted to the Court of First Instance where the decision was rendered under the following conditions:

(a) An appeal to the Court of First Instance's order or ruling shall be undertaken within 7 days from the date of acknowledgment; and

(b) The decision of the Court of First Instance with 20 day period of appeal from the date of reading or acknowledgement of the decision.

The Court of Appeals shall adjudicate cases within 45 days from the receipt of case files.

(3) Criminal adjudication on annulling

Courts that have power to adjudicate criminal cases on annulling are as follows:

(a) The People's Regional Court has the power to adjudicate criminal cases on cassation where the People's Provincial and City Courts have already rendered a decision on appeal; and

(b) The Supreme Court has the power to adjudicate criminal cases on cassation where the People's Regional Court has already rendered a decision on appeal.

An annulling on any court's order shall be submitted to the Court of Appeals where a decision shall be rendered under the following conditions:

(a) An annulling on the Court of Appeals' order or ruling shall be undertaken within 7 days from the date of acknowledgment; and

(b) Any objection to the decision of the Court of Appeals must be within 45 days from the date of reading or acknowledging the decision.

The court on annulling shall adjudicate cases within 30 days from receipt of the case files.

4.3.6 Cases filed directly to the court

Court cases filed directly to the Court are where the Chief of the Prosecutor Organization files offenders to the court without opening an investigation.

(1) Conditions of cases to be filed directly to the court

(a) The punishment of a petty offence or minor offence is less than a 3 year sentence in accordance with the law; and

(b) Complete evidence.

(2) Procedures of filing a case directly to the court

(a) Upon the conditions having been satisfied, the Chief of the Prosecutor Organization shall submit the case file together with the property in dispute and the offender to the Chief of the Prosecutor Organization within 48 hours. For outlying municipals,

submission shall be made within 7 days from the date of incident or notification.

(b) The Chief of the Prosecutor Organization shall file a case to the court directly within 48 hours upon the receipt of the case file; and

(c) The Court of First Instance shall adjudicate the case within 48 hours upon receipt of the file from the Organization of the Chief Prosecutor. In this regard, an appeal is allowed whereas an annulling is not permitted.

4.4 Judgment Enforcement

Upon the People's Court having rendered an order43, ruling[44], decision[45], judgment[46] and final decision[47], the Judgment Enforcement Office shall enforce such instruction, order, judgment and final court judgment within 30 days from the date of receipt of such instruction, order, judgment and final court judgment or from the date acknowledged by the litigants.[48]

Court judgments and other judicial acts to be enforced by the judgment enforcement officers are as follows:

(1) Orders, rulings and final decisions in civil cases at first instance and on appeal of the People's Local Court and civil case of the People's Supreme Court which have not been requested and sent to the lower courts for re-adjudication;

(2) Orders, rulings and final decisions in criminal cases at first instance regarding civil compensation, fine, confiscation, and re-education without deprivation of liberty and final decision on appeal of the People's Local Court and the People's Supreme Court which has not been requested and sent to the lower courts for re-adjudication;

(3) Temporary enforcement of court decision or judgment;

(4) Final order, ruling and final decision made by foreign courts which the People's Court of the Lao PDR acknowledges and enforces; and

(5) Mediation settlement agreements and judgments made by domestic and international Economic Dispute Resolution Committees in accordance with

[43]Law on the People's Court, section 3 describes that court order means administrative judicial acts such as orders to issue mediation settlement agreements, [or] to seize or confiscate.
[44]Law on the People's Court, section 3 describes that court ruling means one of the court order in relation to the ruling of the jurisdiction of court and chambers such as the non-acceptance of the case for consideration.
[45] Law on the People's Court, section 3 describes that the court decision means the court decision at first instance.
[46]Law on the People's Court, section 3 describes that the court judgment means the court decision on appeal or cassation.
[47]Law on the People's Court, section 3 describes that the court final decision means the decision or judgment of the court which was not appealed or objected by the plaintiff, defendant or third party or the Public Prosecutor does not object, nor request for the overrule of the judgment on cassation of the appellate courts or the People's Supreme Court.
[48]Law on Judgment Enforcement, section 23.

the treaty into which the Lao PDR enters and is approved by the People's Court.[49]

In this regard, the aforementioned orders, rulings and final decisions and juristic acts are strictly enforceable to persons, juristic persons and other organizations. All shall respect and have duties to cooperate and assist where necessary to the judgment enforcement officers.[50]

4.4.1 Judgment Enforcement Agencies

Judgment enforcement in the Lao PDR consists of 2 agencies which are the Judgment Enforcement Offices and the Judgment Enforcement Units.[51]

4.4.2 Procedure and Measures in Enforcing Civil Judgments and Criminal Judgments Relating to Civil Compensation, Fines, Confiscation of Property and Items, and Re-education without Deprivation of Liberty

Procedures and measures in enforcing civil judgments and criminal judgments relating to civil compensation, fines, confiscation of property[52] and items[53], and re-education without deprivation of liberty shall be implemented as follows:

(1) Judgment enforcement procedures consists of 4 processes as follows:
   (a) Adjudicate the final judgments and other judicial acts in order to prepare for the enforcement;
   (b) Summon litigants to notify them of the terms of the judgments and to advise and encourage them to comply therewith;
   (c) Take actual steps to enforce the judgments; and
   (d) Certify that the enforcement of judgment is complete.[54]

(2) The judgment enforcement offices are as follows:
   (a) The judgment enforcement office of the People's Provincial and City Courts of First Instance; and
   (b) The judgment enforcement unit for judgments and the People's District and Local Courts and for decisions of the People's Provincial and City Courts of Appeal.

[49] Law on Judgment Enforcement, section 4-5.
[50] Law on Judgment Enforcement, section 6.
[51] Law on Judgment Enforcement, section 13.
[52] Confiscation of property is to take all or part of properties used in crime, and the wrongdoer has the ownership right over them to become the state's properties without any compensation.
[53] Confiscation of item is to confiscate items used in crime, for used in crime or receive from committing act intentionally to be belonged to the state. In the event that such items belong to someone else, they will be confiscated provided that the owner of the items knew the wrongdoing or the state deems confiscation is for the purpose of social protection.
[54] Law on Judgment Enforcement, section 25.

The judgment enforcement offices are able to implement judgment enforcement of the People's District and Local Courts in the event that there is no judgment enforcement unit or upon the proposal of judgment enforcement units.[55]

(3) Enforcement shall be terminated in the following cases:

(a) The person subject to enforcement has complied with the judgment in full;

(b) The obligee renounces his right. If an obligee is summoned three times but fails, without reason, to present himself to the judgment enforcement officers, his right is deemed to be renounced;

(c) The person subject to enforcement dies without leaving any assets, rights or obligations to legal heirs; and

(d) The judgment or decision is modified, cancelled or terminated to the effect that the litigant no longer has any obligations.[56]

(4) Material matters for judgment enforcement:

(a) Order to issue judgment enforcement

Judgment Enforcement Offices or units shall issue orders that are deemed necessary, but shall not order detention or imprisonment to accelerate the repayment of debts.[57]

(b) Effectiveness of orders of judgment enforcement agencies

Orders of the judgment enforcement agencies which are legally issued within their rights and duties to enforce judgments and other juridical acts have the same power as court instructions and are binding on all individuals and organizations.

Intentional non-compliance with such instructions or using threats, violence or other forms of force to hinder the operation of the judgment enforcement officers or other persons involved in the enforcement shall be regarded as criminal offences and punished by imprisonment and fines.[58]

(c) Assets that cannot be attached or confiscated

The following assets shall not be attached or confiscated to repay debts: Objects of veneration of the debtor, daily food and medicines of the debtor, objects regularly used by the debtor and the debtor's dependents such as clothes and sleepwear and tools necessary for the debtor to undertake minor occupations.[59]

[55]Law on Judgment Enforcement, section 24.
[56]Law on Judgment Enforcement, section 29.
[57]Law on Judgment Enforcement, section 30.
[58]Law on Judgment Enforcement, section 31.
[59]Law on Judgment Enforcement, section 32.

(d) Expenses of judgment enforcement

A litigant who loses a case is responsible for any expenses incurred in the enforcement of the judgment in accordance with the regulations issued by the law on court fees.[60]

4.4.3 Judgment Enforcement of Imprisonment in Criminal cases

A prisoner who is sentenced to prison including those who are temporarily discharged or detained shall be brought into prison at the re-education center.

Causes for the suspension of judgment enforcement are as follows:

(1) The person subject to enforcement is critically ill as evidenced by a medical certificate. After recovery, the person shall continue serving the sentence;

(2) A woman who is pregnant or has a child under the age of 1 year shall have judgment enforcement suspended until her child reaches the age of 1 year;

(3) A prisoner who is sentenced to under 3 years and is a main worker of the family is entitled to request for 1 year suspension provided that such sentence will render onerous consequences to his family; and

(4) A prisoner who is necessary to serve a public office who is certified by the prisoner's organization is entitled to request for 1 year suspension unless his offence endangers society or the peace of the nation.

The suspension period shall not be calculated in sentences.

4.4.4 Judgment Enforcement of Death Penalty

After the final decision or judgment of death penalty, the court shall submit such decision or judgment together with the case file to the President of the People's Supreme Court and the Chief of Prosecutor Organization to verify the case file within 60 days in relation to the correctness of the decision or judgment of the death penalty. The President of the People's Supreme Court shall issue an order to verify the correctness of the decision or judgment of the death penalty if deemed correct. If deemed incorrect, the Chief of Prosecutor Organization shall propose an objection in accordance with the regulations of reconsideration of adjudication. The decision or judgment of the death penalty shall be enforceable after the President of the People's Supreme Court renders an order.

[60]Law on Judgment Enforcement, section 35.

A prisoner who is sentenced to death is entitled to request for forgiveness from the President of the Lao PDR within 30 days from the date of acknowledgment of the President of the People's Supreme Court's final decision or judgment of the death penalty.

The death penalty shall be enforceable after 1 year from the date on which the President of Lao PDR rejects the forgiveness or the People's Supreme Court issues an order. If there is no request for forgiveness, the court's president who adjudicates the case at the first instance shall issue an order to enforce the death penalty.

4.4.5 Causes of the Suspension of Judgment Enforcement

Enforcement of a judgment shall be temporarily suspended in any of the following cases:

(1) The person subject to enforcement is mentally ill or is in a situation where it is necessary to suspend enforcement, e.g. critically ill;
(2) The case is re-opened as imposed by laws;
(3) The person subject to enforcement has left their domicile with whereabouts unknown;
(4) The person subject to enforcement dies but still has heirs;
(5) The public prosecutor requests suspension; or
(6) The final judgment, discording with the grounds, is unable to be practically enforced.

4.4.6 Causes for Amendment, Cancellation or Termination of Judgment Enforcement

The causes for amendment, cancellation or termination of judgment enforcement shall include:

(1) Improper enforcement of a judgment; and
(2) Violation of procedures and measures relating to judgment enforcement.

In the event that enforcement is amended, cancelled or terminated, whatever has been seized or performed must be returned, rehabilitated, compensated for or repaired in order to restore things to their actual condition prior to enforcement.[61]

[61]Law on Judgment Enforcement, section 42.

4.5 Re-opening a case

Re-opening a case is to bring back the court's final instruction, order, judgment and decision in accordance with the request of litigants or the Chief of Prosecutor Organization for legitimacy.

The People's Supreme Court has the sole right to consider re-opening a case in accordance with the request of the Chief Prosecutor Organization based merely on new evidence.

4.5.1 Causes of Re-opening a Case

Based on the principle of new evidence, the causes of re-opening a case are as follows:

(1) Witnesses giving false testimony or an expert giving false opinions, or the false translation or evidence causing a wrong decision;
(2) The judge or public prosecutor is bias, resulting in a wrong decision;
(3) There is new evidence in relation to the case which has not been proposed to such case, and the requester was not aware of such evidence at the time of previous adjudication;
(4) There are other events indicating new incidents which the court was unaware of at the time it rendered such judgment or decision; or
(5) There is a proposal to re-open a case of a person who did not participate in the adjudication of final decision and such person's lawful interest was in breach.

4.5.2 Period of Re-opening a Case

Litigants are enabled to propose the re-opening of a case within 1 year from the date on which the final decision or judgment is rendered. In the event that a third party did not participate in adjudication, the proposal shall take place from the acknowledgement of such judgment or decision.

The Chief of the Public Prosecutor Organization is entitled to propose the re-opening of a case at any time for legitimacy reasons.

4.5.3 Categories of Decision of Re-opening a Case

The categories of the People's Supreme Court's decision for re-opening a case are as follows:

(1) Cancellation of the proposal of the Chief of the Prosecutor Organization; and

(2) Cassation on the court's final judgment or decision prior to submitting the case file to the Court of First Instance for re-adjudication.

4.5.4 Adjudication at Re-opening a Case

After the People's Supreme Court renders the decision to re-open a case, the case file shall be submitted to the Court of First Instance for re-adjudication in accordance with the process stipulated by law. In this regard, the court of first instance shall fully re-adjudicate the case in accordance with the rules of adjudication by taking into consideration both old and new evidence of the case file.

4.6 Enforcement of Foreign Court

4.6.1 Foreign Court Decision Recognized by the Courts of the Lao PDR

The Courts of Lao PDR may recognize and enforce a judgment of the court from a foreign court that is fully enforceable through the embassy, consul or representative of the Lao PDR in the foreign country, which is necessary to be translated into the Lao language under the following conditions:

(1) The decision of the country which is a party of an international treaty into which the Lao PDR entered as well;

(2) The decision is not related to sovereignty nor conflicts with the sovereignty of the Lao PDR; and

(3) The decision is not related to peace and order of the Lao PDR.

In this regard, litigants or the Chief of the Prosecutor Organization is entitled to request for appeal or objection to the foreign court's decision which the court of the Lao PDR must uphold or reverse within 20 days from the date of acknowledgment of the Lao PDR court's decision.

4.6.2 Decision of Foreign Courts not Recognized by the Lao PDR's Court

The court of the Lao PDR shall not recognize or enforce the decision of foreign courts under the following conditions:

(1) The decision is still in trial proceedings in which final decision has not yet been rendered;

(2) The loser in the decision has not yet participated in the adjudication in the foreign country;

(3) The case under the adjudication of the foreign court falls under the jurisdiction of the Lao PDR's court;

(4) The decision is contrary to the constitution and laws of the Lao PDR; and

(5) Other issues in relation to decisions of foreign courts.

4.6.3 Request and Support Documents of the Request for Recognition of a Foreign Court's Decision

A requester who desires the court of the Lao PDR to enforce a decision of a foreign court shall submit a request and supporting documents conducted in the Lao language and certified by the court registration office through the Ministry of Foreign Affair in order to propose the same to the Ministry of Justice prior to proposing to the People's Supreme Court. The supporting documents are as follows:

(1) A request for recognition of a foreign court's decision shall contain the following content:

  (a) Name, surname and address of the requester;

  (b) Name, surname and address in the Lao PDR of the loser in the decision of the foreign court;

  (c) A request stipulating the amount of outstanding debt or assets; and

  (d) A signature of the requester;

(2) The decision of the foreign court;

(3) Certification of the foreign court stipulating that the decision is final and fully enforceable;

(4) Relevant treaty into which the Lao PDR has entered; and

(5) Other relevant documents.

5. Court System

The constitution of the Lao PDR expressly endorses the right of its citizens, as well as the rights of foreigners and stateless persons, to file claims in the court if their individual or collective rights have been violated.[62] In addition, the constitution of the Lao PDR implements the People's Court as the organization to adjudicate cases,[63] and the Public

[62]Constitution of the Lao People's Democratic Republic, Section 50.
[63]Constitution of the Lao People's Democratic Republic, Section 80 and 85.

Prosecutor to oversee and monitor compliance with the law as well as give orders for prosecution before the court.[64]

5.1 Courts and Court Jurisdictions

The People's Court is the sole judicial organization having the powers to examine and adjudicate cases in the Lao PDR respectfully and strictly in compliance with the laws.[65] The People's Court has the following rights and duties:

(1) Educate, mediate and adjudicate cases;
(2) Publicize, broadcast laws and regulations, and discover and eliminate the causes and conditions leading to violation of the laws;
(3) Enhance the people's knowledge regarding the political regime, and maintain discipline in the society to comply with the laws and regulations;
(4) Coordinate with the relevant organizations, both domestically and internationally, in order to perform their duties;
(5) Coordinate and collaborate with foreign countries on legal and judicial matters; and
(6) Conclude and report their operations and performance to high-level officers regularly.[66]

The People's Court's decisions consist of 3 levels: Decision at first instance; Decision on appeal; and Cassation decision[67] (equivalent to the Supreme Court of Thailand). The final judgment shall be enforceable and cannot be challenged except under specific circumstances.[68]

The system of the Lao PDR's court comprises of:

(1) The People's Supreme Court;
(2) The People Regional Courts (The Appellate Courts);
(3) The People's Provincial and City Courts and Juvenile Courts;
(4) The People's Municipal Courts; and
(5) The Military Courts.

The appellate courts, the people's provincial and city courts, the juvenile courts, and the municipal courts are local courts[69]. Each court has the duties detailed below.

[64]Constitution of the Lao People's Democratic Republic, Section 86.
[65]Law on the People's Court, Section 2.
[66]Law on the People's Court, Section 18.
[67]Law on the People's Court, Section 5.
[68]Law on the People's Court, Section 16.
[69]Law on the People's Court, Section 19.

5.1.1 The People's Supreme Court

The People's Supreme Court, located in Vientiane, is the highest judicial body of the Lao PDR and has the role of adjudicating cases and administering local courts and military courts across the country as provided by law. The People's Supreme Court has the following rights and duties:

(1) To review on cassation appeals from the decisions on appeal of the appellate court required by the litigant or by the objection of the Public Prosecutor;

(2) To re-examine the final order, ruling, decision and judgment of the lower court;[70]

(3) To advise the people's local courts[71] and the military courts of jurisprudence[72] and details of the laws under the scope of its responsibility;

(4) To supervise and examine the legal correctness and uniformity of the proceedings of the local courts and military courts;

(5) To provide commentaries on the resolutions passed by the General meeting of judges in order to ensure that the lower People's Court and military courts gain a proper understanding of such resolutions and implement such resolutions in accordance with their terms;

(6) To guide research on and propose the drafting of laws or regulations and legal interpretations to the National Assembly Committee for consideration;

(7) To guide the appointment of judges, judge trainees, court registrars and court officers; and

(8) To regularly conclude and report any action and discharge of their duties to the National Assembly.

The structure of the People's Supreme Court consists of the President of the Court, the vice-president of the Court, judges, the General Assembly of Judges, the Judicial Tribunals (equivalent to a chamber of judges in the Thai court system) and administration sectors.

The President of the People's Supreme Court shall be appointed or removed by the National Assembly based on the recommendation of the President of the State. The term

[70]Conclusive Order means a judgment to which the plaintiff, the defendant and the third party did not appeal or annul, and the People's Public Prosecutor did not reject as such. It also means the judgment in the annulling stage either of the People's Regional Court or of the People's Supreme Court.

[71]The People's Local Court means the People's Regional Court, the People's Provincial and City Court, the Juvenile Court and the People's Municipal Court.

[72]Jurisprudence means the judgments of the People's Supreme Court in relation to the criminal issues in which the penal code specifies ambiguously or the civil, trade, family and juvenile issues in which the civil code specifies ambiguously. Jurisprudence shall be used by every level of Court as a reference and compliances.

of office of the President of the People's Supreme Court shall be 5 years; the same as the office of the National Assembly. The vice-presidents of the People's Supreme Court shall be appointed or removed by the President of the State based on the recommendation of the President of the People's Supreme Court. The judges of the People's Supreme Court shall be appointed or removed by the Standing Committee of the National Assembly based on the recommendation of the President of the People's Supreme Court[73].

The General Assembly of Judges is the executive committee of only the People's Supreme Court, comprising of the President, Vice Presidents, Chiefs of the Court's Chambers, and certain Supreme Court judges. The General Assembly of Judges is appointed by the National Assembly Standing Committee on the recommendation of the President of the People's Supreme Court. The members of the General Assembly of Judges do not exceed 15 in number. The General Assembly of Judges shall meet at least once every 3 months.[74] The General Assembly of Judges has the following rights and duties:

(1) Study and draft laws and other legal acts of the People's Courts;
(2) Study and draft advice of the People's Supreme Court on the enforcement of law and the legal proceedings by the People's Courts to ensure correctness and uniformity throughout the country;
(3) Study and draft the advice of the People's Supreme Court on jurisprudence;
(4) Study the death sentences passed by the People's Local Courts and the Military Courts and propose the same for the rulings of the President of the People's Supreme Court;
(5) Study the propositions of the People's Supreme Public Prosecutors that certain cases be retried;
(6) Study the appointment or removal of the Vice Presidents of the People's Supreme Court so that the President of the People's Supreme Court can propose the matter for the consideration of the President of the State;
(7) Study the appointment, transfer or removal of the judges of the People's Supreme Court as well as the presidents, the vice presidents and the judges of the People's Regional Courts, the People's Provincial and City Courts, the Juvenile Courts, and the People's Municipal Courts so that the President of the People's Supreme Court can propose the matter for the consideration of the National Assembly Standing Committee; and

[73]Law on the People's Court, Section 37.
[74]Law on the People's Court, Section 32.

(8) Study and draft reports of the President of the People's Supreme Court on the court work for submission to the National Assembly Meeting and the National Assembly Standing Committee.[75]

The Judicial Tribunal of the People's Supreme Court consists of the Penal Judicial Tribunal, the Civil Judicial Tribunal, the Trade Judicial Tribunal, the Family Judicial Tribunal, the Juvenile Judicial Tribunal, and other judicial tribunals.

5.1.2 The People's Regional Court

The People's Regional Court is one of the People's Courts, responsible for trying, at the appellate stage for the cases ruled at the preliminary stage by the People's Provincial and City Courts and the Juvenile Courts and appealed against by the parties or the People's Supreme Public Prosecutors, and trying, at the annulling stage, the cases ruled at the appellate stage by the People's Provincial and City Courts and sought annulment by the parties or objected to by the People's Public Prosecutor. The People's Regional Courts are situated in the North, the Central and the South of the Lao PDR. The People's Regional Courts have the following rights and duties:

(1) Rehear and reconsider cases of the People's Provincial and City Courts, at the appellate stage, in accordance with the relevant procedures and with consent of the Council of Judges of the People's Regional Courts;[76]

(2) Explain the advice of the People's Supreme Court on law and the Jurisprudence to the People's Provincial and City Courts, the Juvenile Courts and the People's Municipal Courts to ensure correctness and uniformity in enforcing the law;

(3) Forward orders, rulings and judgments to the People's Supreme Court and the People's Regional Public Prosecutors for inspection; and

(4) Summarize and report about their movements and discharge of duties to the People's Supreme Court on a regular basis.

The structure of the People's Regional Court consists of the President of the Court, the vice-president of the Court, judges, the Council of the Judges, the Judicial Tribunals (equivalent to a chamber of judges in the Thai court system) and the administration sectors.

The President, the Vice President and judges of the People's Regional Court are elected or removed by the National Assembly Standing Committee on the recommendation of the President of the State.[77]

[75] Law on the People's Court, Section 32.

[76] Judicial Tribunal of the People's Regional Court consists of the President, Vice President, Head of Judicial Tribunal, and a number of the judges of the People's Regional Court.

The Council of the Judges of the People's Regional Court consists of the President, the Vice-President, Leader of the Judicial Tribunal, and certain judges of the People's Regional Court. The General Assembly of the Judges shall be appointed into and removed from the office by the President of the People's Supreme Court on the recommendation of the President of the People's Regional Court have the rights and duties to conduct research and consider significant problems i.e. the death sentence within its jurisdiction and prepare documents for presentation to the General Assembly of Judges and other groups of judges.[78]

The Judicial Tribunals of the People's Regional Court consist of the Penal Judicial Tribunals, the Civil Judicial Tribunals, the Trade Judicial Tribunals, the Family Judicial Tribunals, the Juvenile Judicial Tribunals, and other judicial tribunals.

5.1.3 The People's Provincial and City Courts and Juvenile Courts

The People's Provincial and City Courts are eligible to examine and adjudicate cases at the preliminary stage which are not under the jurisdiction of the People's Municipal Court, and also for examining and adjudicating cases in the appellate stage which was decided by the People's Municipal Court and was later appealed by the parties to the case or was objected by the state prosecutors. The Provincial and City Court shall be established in each province or in the city of the Lao PDR.[79] Apart from the authority examining and adjudicating the cases as mentioned earlier, the People's Provincial and City Court have the following rights and duties:

(1) To rehear and reconsider the People's Municipal Courts cases which, in their opinion, are important or exceptionally complicated in accordance with the relevant laws and with consent of the President;

(2) To forward to the People's Region

(3) al Courts the cases ruled at the preliminary stage by the People's Municipal Courts which, in their opinion, are complicated and confusing, nonetheless, under consent of the President of the People's Regional Court being first obtained;

(4) To explain the advice of the People's Supreme Court on laws and the Jurisprudence to the People's Municipal Courts to ensure correctness and uniformity in compliance with the laws;

[77] Law on the People's Court, section 37.
[78] Law on the People's Court, section 33.
[79] The Lao PDR has 16 Provinces and 1 City (Vientiane).

(5) To forward orders, decisions and judgments to the People's Court in the higher level and to the People's Public Provincial and City Public Prosecutors for examination;

(6) To submit orders, decisions and judgments to the Judgment Enforcement Office, and in the case of imprisonment sentences, such orders, decisions and judgment shall be submitted to detention centers, prisons or relevant rehabilitation centers;[80] and

(7) To summarize and submit a report of performance to the People's Court at the higher level.

The organizational structure of the People's Provincial and City Court consists of the President of the Court, Vice-President of the Court, Judge, and the Council of Judges, and the Judicial Tribunals (equivalent to a chamber of judges in the Thai court system).

The President of the Court, the Vice-President of the Court and Judges of the People's Provincial and City Court shall be appointed, transferred or removed from the office by the National Assembly Standing Committee in accordance with the recommendation of the President of the People's Supreme Court.[81]

The President Council of Judges of the People's Provincial and City Court consists of the President, the Vice President, the Leader of the Judicial Tribunal, and some of the Judges. The President Council of Judges shall be appointed into and removed from office by the President of the People's Supreme Court on the recommendation of the President of the relevant People's Provincial and City Court, and has the rights and duties to conduct research and consider significant issues (e.g. the death penalty in its jurisdiction) and to prepare documents for presentation to the General Assembly of Judges and to the People's Supreme Court.[82]

The Judicial Tribunal of the People's Provincial and City Court shall consist of the Penal Judicial Tribunal, the Civil Judicial Tribunal, the Trade Judicial Tribunal, the Family Judicial Tribunal, and other judicial tribunals.

The Juvenile Court is a specialized court established in each province or in the city of Vientiane, and is entitled to examine and adjudicate cases in the preliminary stage for criminal cases of which the accused is a juvenile and for civil cases concerning juveniles. Nevertheless, at present, the Juvenile Court has not yet been established in practice. The law appoints that the Juvenile Court of the People's Provincial and City Court is entitled to examine and adjudicate cases concerning children. The Juvenile Judicial Tribunal of the

[80] A law enforcement unit of the Lao PDR.
[81] Law on the People's Court, section 37.
[82] Law on the People's Court, section 33.

People's Supreme Court is entitled to examine and adjudicate cases concerning juveniles both in the annulling and resurrecting stage.[83]

5.1.4 The People's Municipal Courts

The People's Municipal Court is eligible for examining and adjudicating cases in the preliminary stages in which, in the jurisdiction of the People's Municipal Court:

(1) the amount involved in the case does not exceed LAK 300,000,000 (or approximately THB 1,200,000) and the case involves a spouse, post-nuptial property, debts, parent or offspring; and

(2) the highest punishment of confinement imposed by law in the case does not exceed 3 years, with the exception of cases involving juvenile crime.[84]

The People's Municipal Court shall be established for a city or a municipal or the combination thereof. This area shall be specified by the specialized laws. Apart from the authority to examine and adjudicate cases mentioned, the People's Municipal Court has the rights and duties to:

(1) reconcile the parties to the case;

(2) forward orders, rulings, decisions and judgments to the higher courts and the People's Municipal Public Prosecutors for inspection;

(3) send conclusive orders, rulings, decisions and judgments relating to the punishment of confinement to the Judgment Enforcement Office and to the relevant places of detention, places of confinement, reformatories and community centers/camps;[85] and

(4) Summarize and report about their movements and discharge of duties to the higher courts on a regular basis.[86]

Structures of the People's Municipal Courts consist of the President, the Vice-President, the Council of Judges, the Judicial Tribunals and administrative sectors.[87]

The President, Vice-President, and Judges shall be appointed, transferred and removed from the office by the National Assembly Standing Committee on the recommendation of the President of the People's Supreme Court.[88]

The Council of Judges of the People's Municipal Court consists of the President, the Vice-President, the leader of the Judicial Tribunals and certain judges. The Council of

[83] Law on Juvenile Case Procedures, section 78-79.
[84] Law on the People's Court, section 27.
[85] Judgment Enforcement Office is a law enforcement unit of the Loa PDR.
[86] Law on the People's Court, section 27.
[87] Law on the People's Court, section 31.
[88] Law on the People's Court, section 37.

Judges shall be appointed and removed from office by the President of the People's Supreme Court with recommendation of the President of the relevant People's Municipal Court, having the rights and duties to conduct research and consider significant questions, e.g. death sentences, within its jurisdiction and study and prepare documents to be submitted to the General Meeting of Judges and the People's Supreme Court.[89]

The Judicial Tribunals of the People's Municipal Court consists of the Penal Judicial Tribunal, the Civil Judicial Tribunal, and other judicial tribunals.

5.1.5 The Military Court

The Military Court is one of the People's Courts, responsible for trying criminal cases involving crime committed within the jurisdiction of the military or in military compounds.[90] The Military Court consists of the Regional Military Court and the High Military Court.

5.2 The People's Public Prosecutor

The People's Public Prosecutor is the government institution responsible for monitoring the enforcement of law by other government institutions as well as the citizens of the Lao PDR.[91]

The institutional structure of the People's Public Prosecutor consists of the following structure:

(1) The People's Supreme Public Prosecutor;
(2) The People's Regional Public Prosecutor;
(3) The People's Provincial and City Public Prosecutor;
(4) The People's Municipal Public Prosecutor; and
(5) The People's Military Public Prosecutor.

Each stage shall consist of the Chief of the People's Public Prosecutor, the Deputy-Chief of the People's Public Prosecutor, the People's Public Prosecutor, the assistants to the People's Public Prosecutor and the Administrative Officers.[92]

The Chief of the People's Public Prosecutor shall have a term of office of 5 years, and shall be appointed or removed by the National Assembly on the recommendation of the President of the State. The Deputy-Chief of the People's Public Prosecutor shall be appointed, transferred or removed by the President of the State on the recommendation of the Chief of the People's Public Prosecutor. The Chief and Deputy-Chief of the People's

[89]Law on the People's Court, section 33.
[90]Law on the People's Court, section 28.
[91]Law on the People's Public Prosecutor, section 9.
[92]Law on the People's Public Prosecutor, section 24.

Regional Public Prosecutor, the People's Provincial and City Public Prosecutor, and the People's Municipal Public Prosecutor as well as the People's Public Prosecutor, the assistants to the People's Public Prosecutor and the Administrative Officer shall be appointed, transferred or removed by the Chief of the People's Supreme Public Prosecutor.[93]

Roles of the People's Public Prosecutor in order to monitor law enforcement shall be classified into 6 issues as follows: to monitor general law enforcement, to monitor law enforcement by investigatory institutions, to submit cases to the Court, to monitor law enforcement during trial proceedings, to monitor the execution of judgments, and to monitor law enforcement in the prisons, penitentiaries and rehabilitation centers.

5.2.1 Monitoring General Law Enforcement

In order to monitor general law enforcement, the People's Public Prosecutor is entitled to monitor performances and law enactments of government institutions, the Lao Front for National Construction[94], public organizations, social organizations, government officers and citizens of the Lao PDR, and for legality of rules and regulations enacted by the relevant institutions/organizations. In the case of the occurrence of law violations, the People's Public Prosecutor shall, in all respects, suggest the relevant institutions / organizations to amend such rules or regulations and in the event of the occurrence of criminal violations, the Chief of the People's Public Prosecutor shall bring offenders into criminal proceedings in order to maintain efficiency and practicality of performance of the People's Public Prosecutor. The People's Public Prosecutor, by law, is entitled to request persons or agents of the relevant institutions / organizations to give testimony in relation to the violation of such. In addition, the People's Public Prosecutor has the right to give recommendations to the relevant institutions / organizations to terminate laws, rules or regulations which are not in compliance with general law, and to suggest ministries, government institutions, the Lao Front for National Construction, public organizations and social organization to prevent and to cope with such violations and their causes.[95]

Agreements, orders, recommendations and notifications of the People's Public Prosecutor in all stages within its authority shall be enacted in general to the government organizations, the Lao Front for National Construction, public organizations, social organizations, the government officials as well as the citizens of the Lao PDR.

[93] Law on the People's Public Prosecutor, section 26.
[94] The Lao Front for National Construction is one of the political institutions of the Lao PDR of which purpose is to continue significant tasks of the Free Lao Front and the Lao Freedom Front.
[95] Law on the People's Public Prosecutor, section 39.

5.2.2 Monitoring Law Enforcement by the Investigatory Institutions

Apart from the power to monitor general law enforcement, the People's Public Prosecutor is also entitled to monitor law enforcement by the investigatory institutions during investigating proceedings by examining the legality of the investigation on homestead, of detentions, of arrests, of temporary confinements, of temporary release, of other measures and to verify the investigation order or non-investigation order of the head of the investigatory institution that there is adequate evidence and legality.[96]

In order to monitor law enforcement by the investigatory institutions, the law on the People's Public Prosecutor gives the following rights to the People's Public Prosecutor:

(1) To request criminal files, exhibits and other information in relation to offences from the investigatory institutions;
(2) To attend criminal investigations or, if necessary, the People's Public Prosecutor may per se proceed such investigation;
(3) To terminate illegal or unreasonable orders by the investigatory institutions;
(4) To provide written recommendations on measures used in investigating, searching and arresting offenders as well as classifying their allegations;
(5) To issue orders i.e. orders on confinement, arrest, temporary detainment, temporary release and homestead investigation in relation to flagrant offenses or non-emergencies;
(6) To extend the period of investigation and specify a period of temporary detainment prescribed by law;
(7) To submit the case files to investigatory institutions and to provide additional recommendations on investigations;
(8) To order the investigating officers who the violate law on trial proceedings to be removed from such proceedings; and
(9) To issue orders in opening the investigation and ceasing the investigation due to lack of evidence, as well as ceasing trial proceedings.[97]

In this case, orders and recommendations of the Chief of the People's Public Prosecutor shall be applied only by the investigatory institutions.[98]

[96]Law on the People's Public Prosecutor, section 41.
[97]Law on the People's Public Prosecutor, section 42.
[98]Law on the People's Public Prosecutor, section 43.

5.2.3 Submitting Cases to the Court

The People's Public Prosecutor, who is a representative of the State to serve as a plaintiff in the criminal case, is entitled to issue a prosecution order against offenders and subsequently submit cases and evidence attached to the Court. In the event that the case is a petty offense/misdemeanor case or a case of which term of sentencing is not more than 3 years and the People's Public Prosecutor sees that there is enough evidence to try the case, the People's Public Prosecutor may directly issue the prosecution order to the Court without any investigation.[99]

5.2.4 Monitoring Law Enforcement During Trial Proceedings

In order to monitor law enforcement during criminal proceedings, the People's Public Prosecutor has the right to attend court proceedings to declare offenses, examine court proceedings in compliance with the law, verify judgment corrections under its own accusations and specify penalties and other measures that are appropriate to the offences. The People's Public Prosecutor is entitled to propose an objection to the court's indecisive judgment rendered by a court that is equivalent or inferior to the People's Courts, and also to withdraw such proposal before the higher court renders judgment if that judgment is not in compliance with the law or not proper. In case of receiving new evidence, the People's Public Prosecutor has the right to re-open a case.[100]

In order to monitor law enforcement during civil, trade, family and juvenile court proceedings, the People's Public Prosecutor is entitled to serve as plaintiff for cases it files to the court. Such filing shall be performed where there is no injured person to file the case. In case that the injured person files the case to the Court or acts as a plaintiff to the case, the People's Public Prosecutor shall be entitled to examine the submitted files, to make a written declaration, to attend the court proceedings, and to give a verbal statement to the Court.[101]

5.2.5 Monitoring the Execution of Judgments

The People's Public Prosecutor is entitled to monitor the execution of judgments by:

(1) proposing that the executing officers[102] submit the results or the progress report in relation to the execution of judgments, or to execute the court judgment;

[99] Law on the People's Public Prosecutor, section 45.
[100] Law on the People's Public Prosecutor, section 47.
[101] Law on the People's Public Prosecutor, section 48-49.
[102] According to the law of the Lao PDR, the word "the Officers of the Judgment Enforcement Office" is used.

(2) examining the legality of implementations, e.g. the performances in compliance with law, the payment of civil remedy, the payment of court fees, the tax payment and fines, the confiscation, and the criminal penalties; and

(3) proposing changes, terminations or suspensions of cases which are not enacted in compliance with orders or court judgments.

The executing officers shall act on the recommendation of the People's Public Prosecutor within 30 days from the day of receiving the recommendation.[103]

5.2.6 Monitoring Law Enforcement in Prisons, Penitentiaries and Rehabilitation centers

In order to monitor law enforcement in prisons, penitentiaries and rehabilitation centers, the People's Public Prosecutor has the following rights and duties:

(1) To examine that the detainment, the confinement, the transfer, and the surrender of detainees to be rehabilitated outside (the release of offenders, defendants or prisoners shall be in compliance with the law);

(2) To investigate that the places of detainment, confinement, penitentiary, rehabilitation and other related facilities are in compliance with court measures;

(3) To investigate that files in relation to detainment, confinement, release, rehabilitation and other related performances are in compliance with court measures;

(4) To examine and protect the rights of detainees, of confined persons, of rehabilitated persons, and to interrogate them;

(5) To investigate whether the performances of officers who are responsible for detainees, confined persons and rehabilitated persons are in compliance with the law. In case officers violate the law, the People's Public Prosecutor is entitled to give cautionary notice and if the officers violate the criminal law, the People's Public Prosecutor is entitled to bring such officers into criminal proceedings;

(6) To place orders in relation to releasing detainees, confined persons and rehabilitated persons if the detainment, confinement or rehabilitation is not in compliance with the laws;

[103]Law on the People's Public Prosecutor, section 51.

(7) To consider, select, classify and file a list of prisoners who fulfil all requirements in order to receive amnesty, as well as to investigate performances of the ordinance on amnesty of the President of the State;

(8) To examine the list of offenders, of defendants, of rehabilitated persons, of prisoners, of those allowed to be rehabilitated outside the places and of prisoners allowed to transfer confinement; and

(9) To examine legality of orders and regulations of institutions/organizations in relation to places of detainment, confinement, imprisonment and rehabilitation.[104]

In case those detainees, confined persons, defendants, prisoners or those in rehabilitation have any complaint on matters, the relevant institutions shall submit such complaint to the People's Public Prosecution for consideration within 48 hours from the date of receiving the complaint.[105]

[104]Law on the People's Public Prosecutor, section 53.
[105]Law on the People's Public Prosecutor, section 54.

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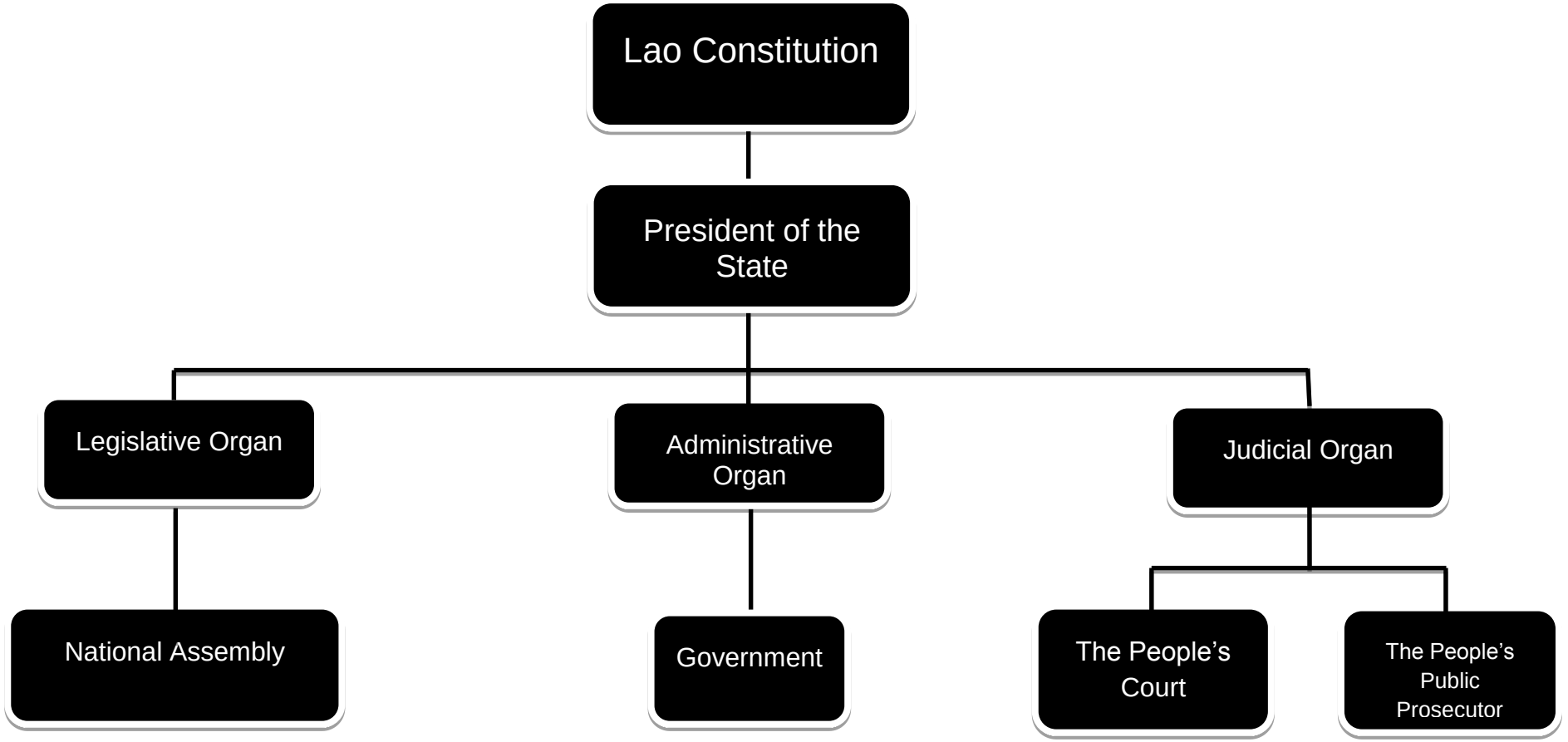
Appendix

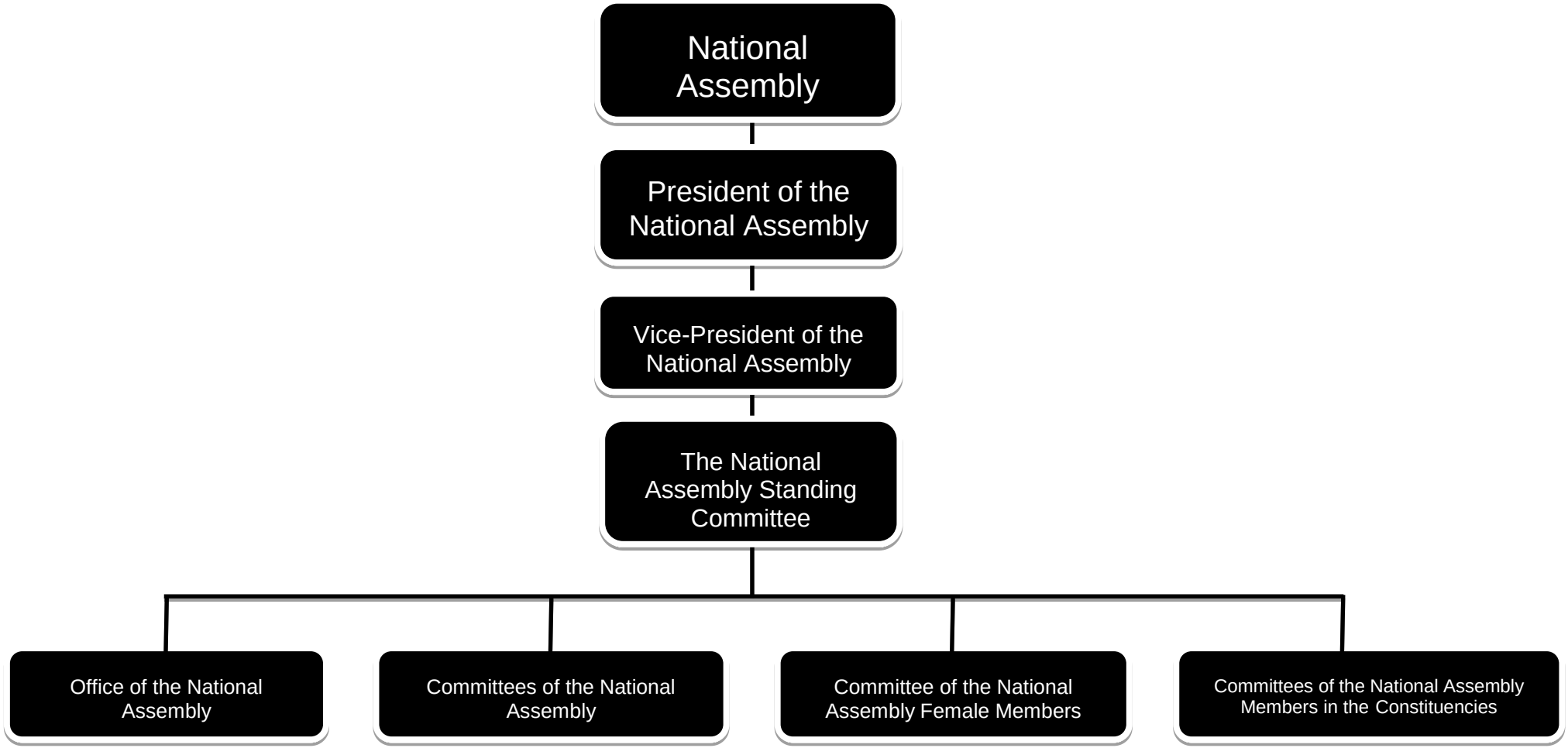
Appendix I

Central Administration Structure



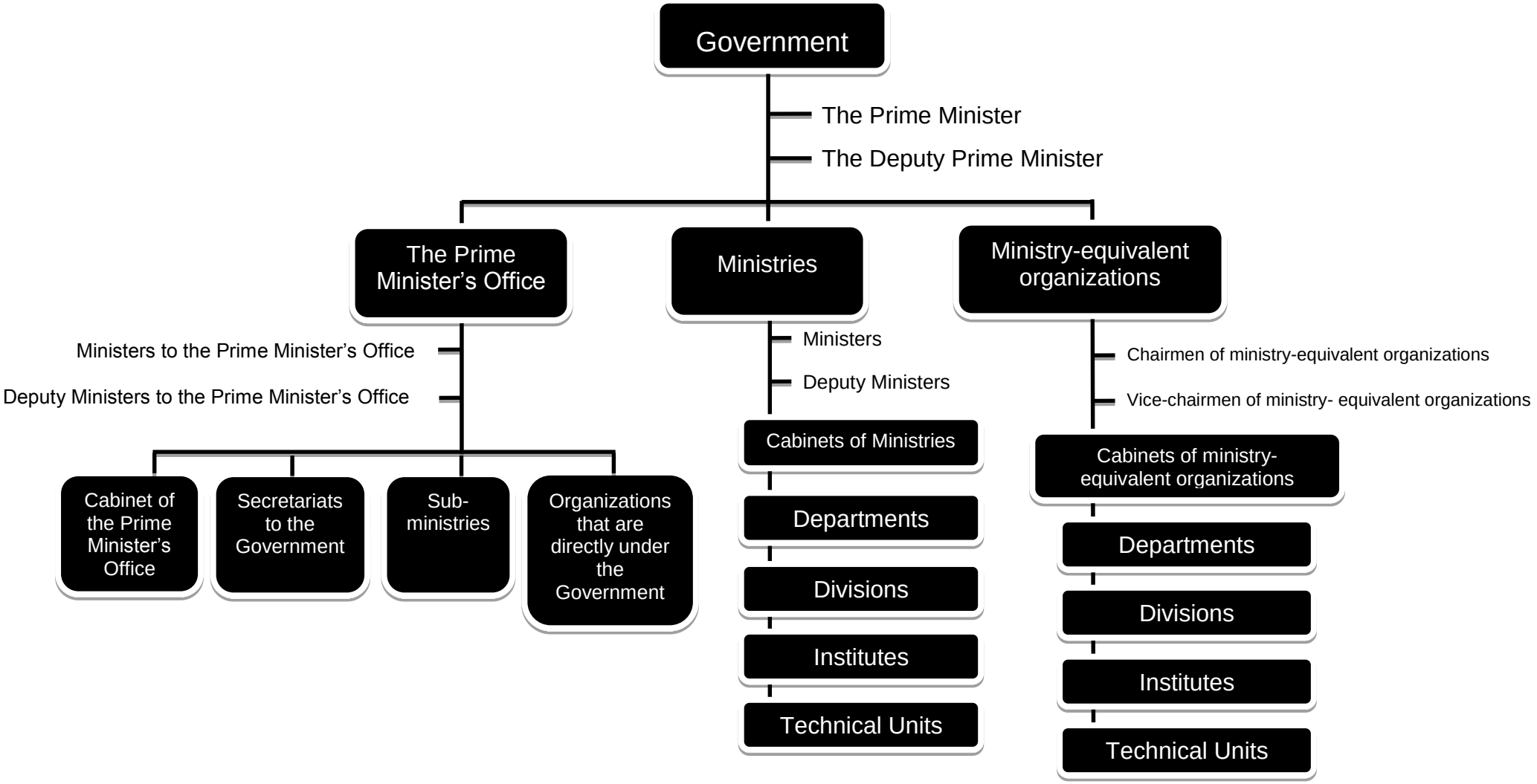
Appendix II

National Assembly Structure



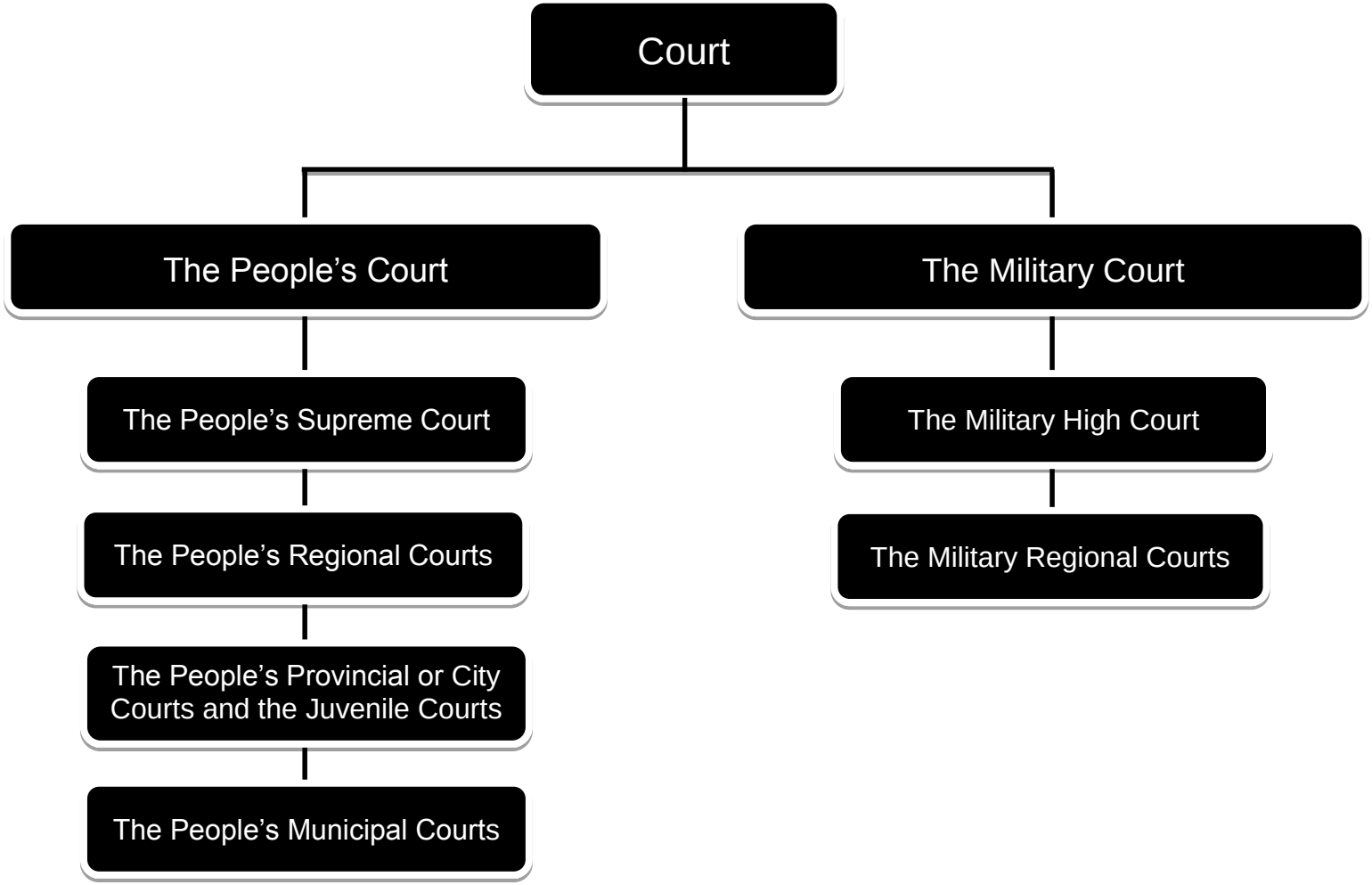
Appendix III

Government Structure



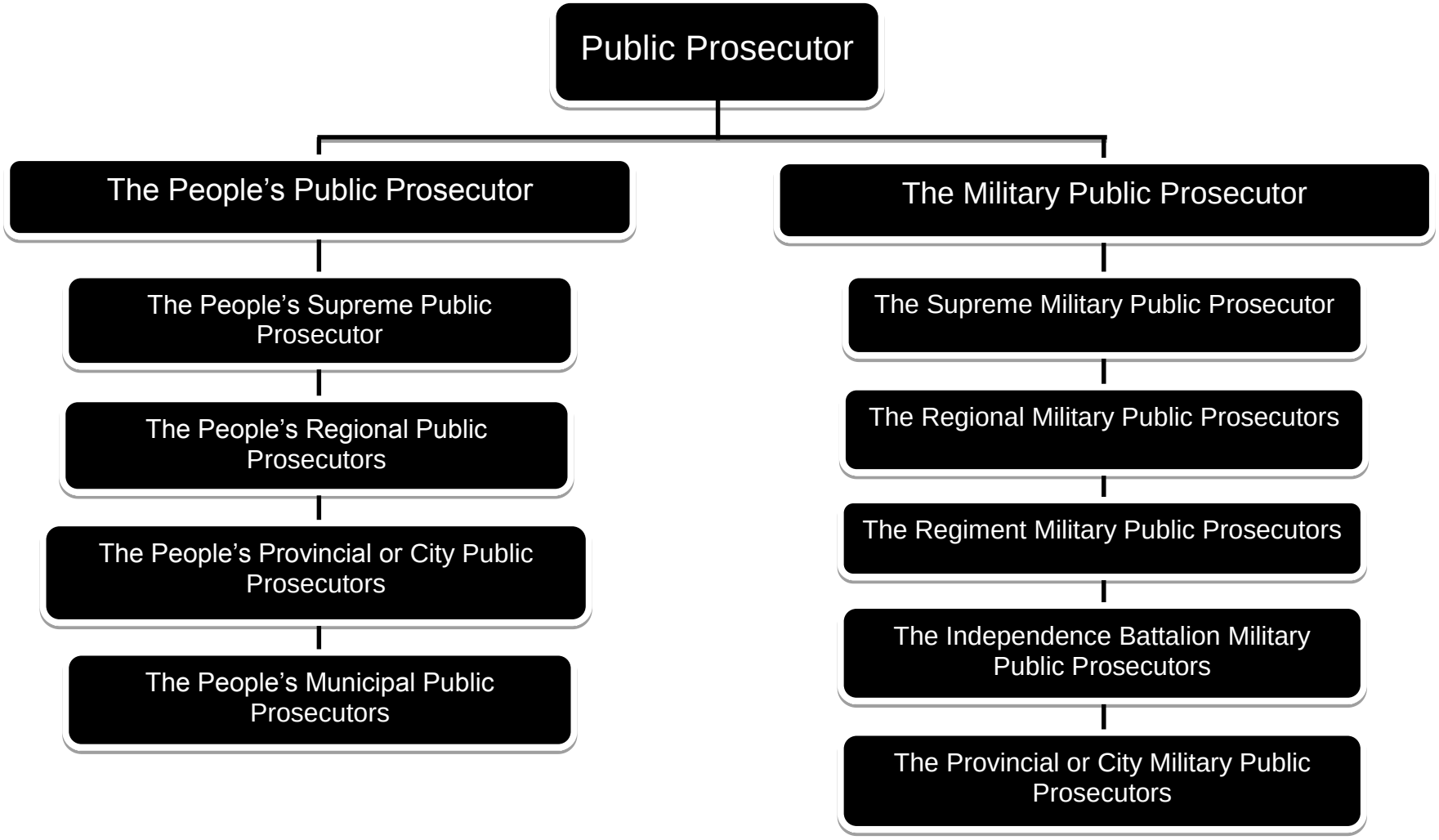
Appendix IV

Court Structure



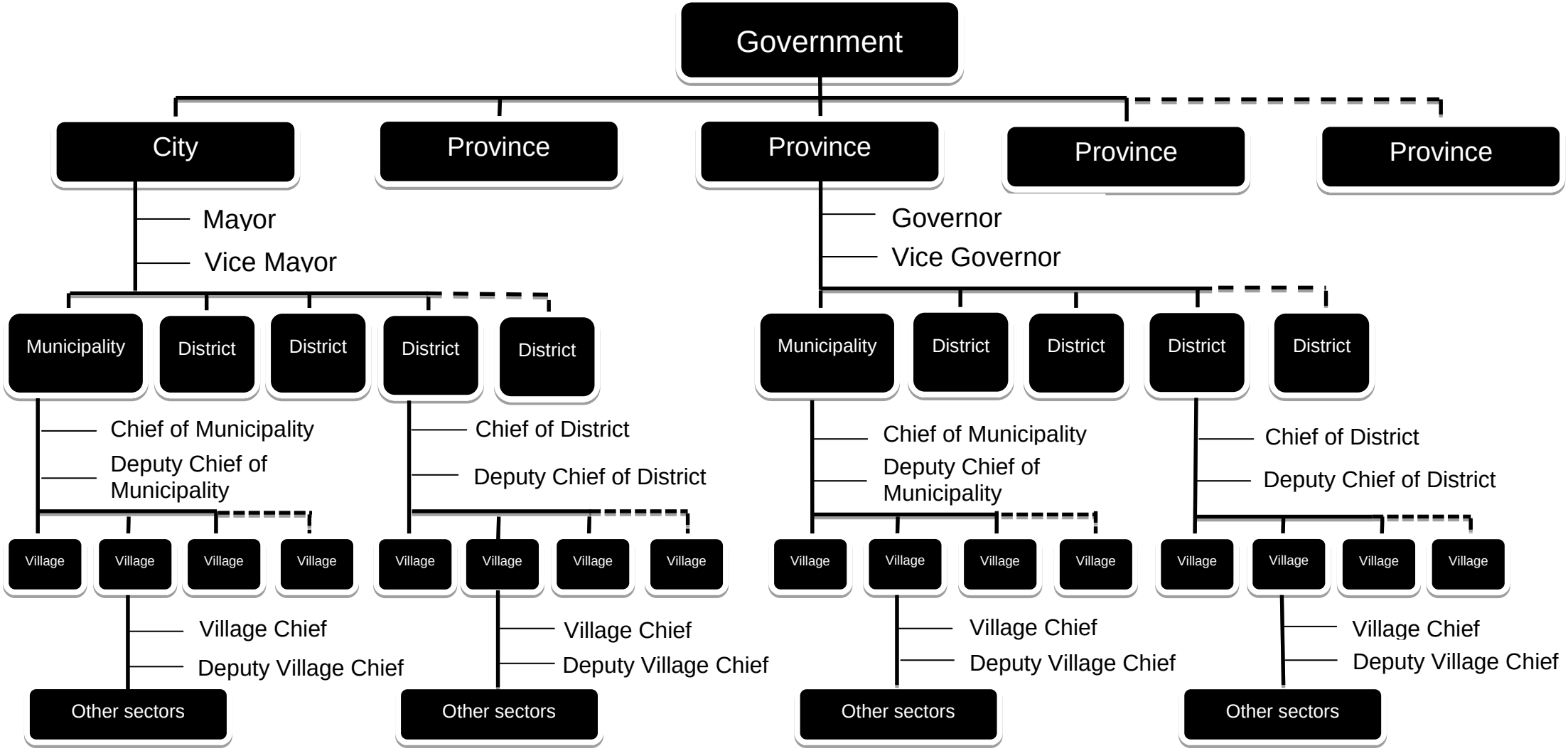
Appendix V

Public Prosecutor Structure



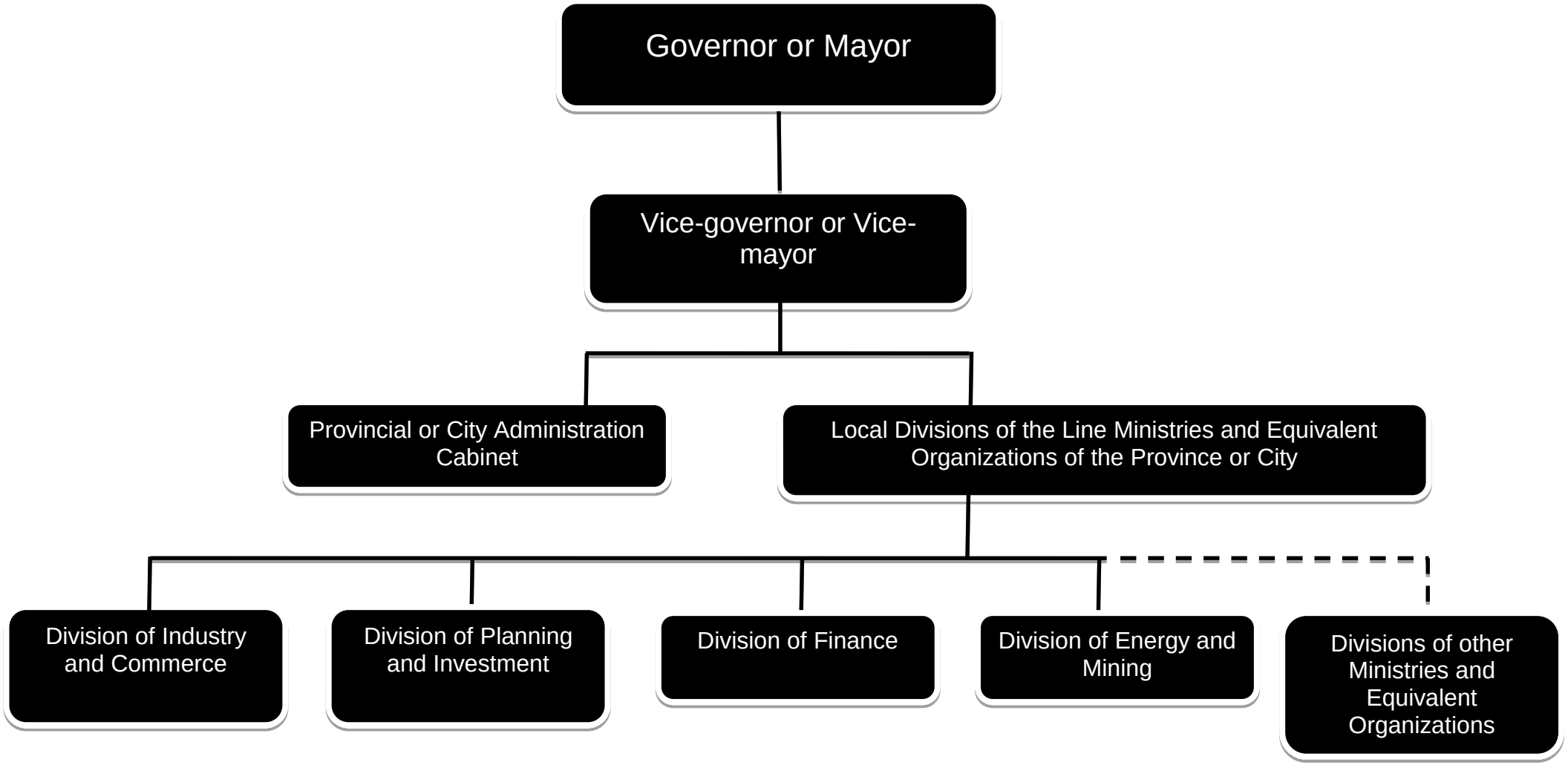
Appendix VI

Local Administration Structure



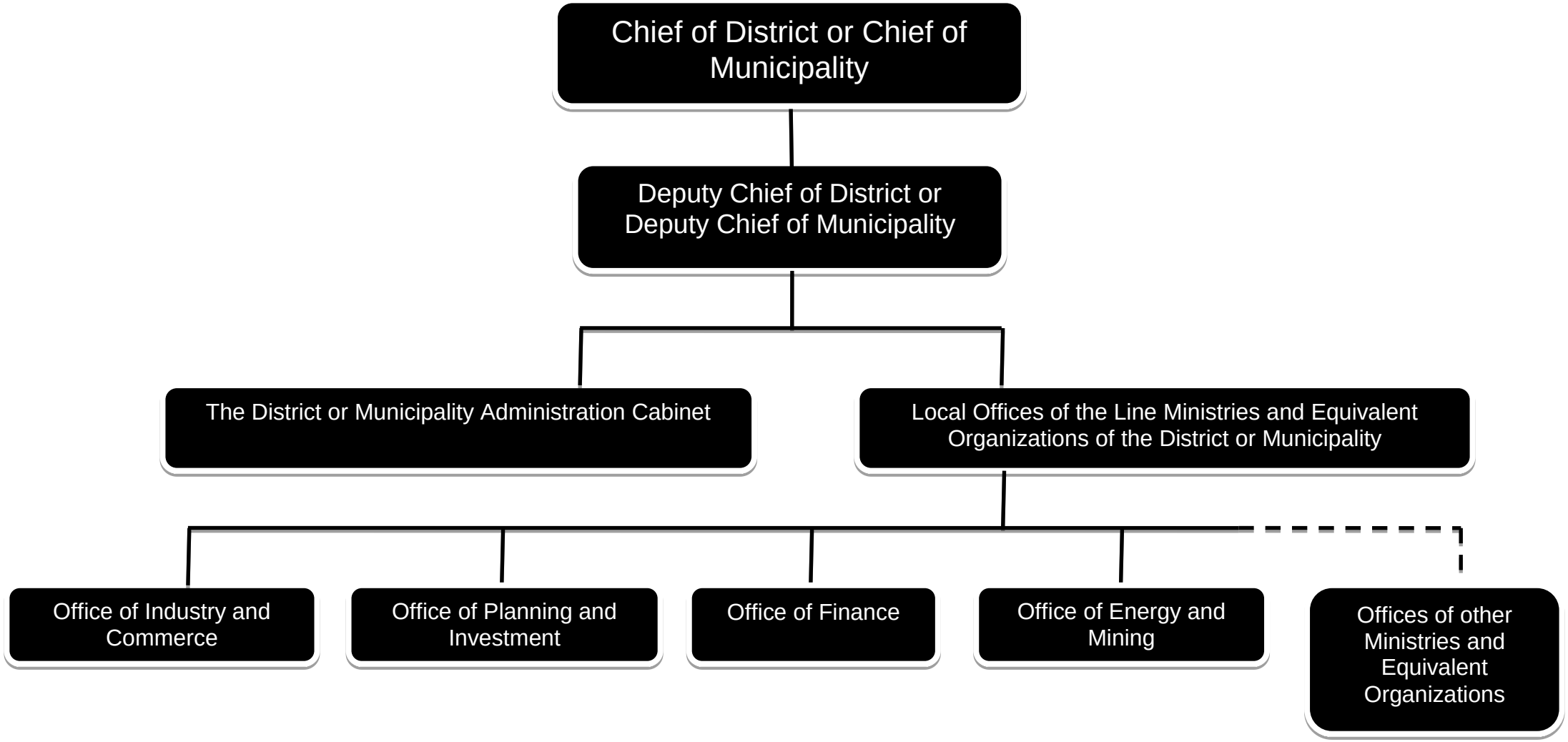
Appendix VII

Provincial Administration Structure



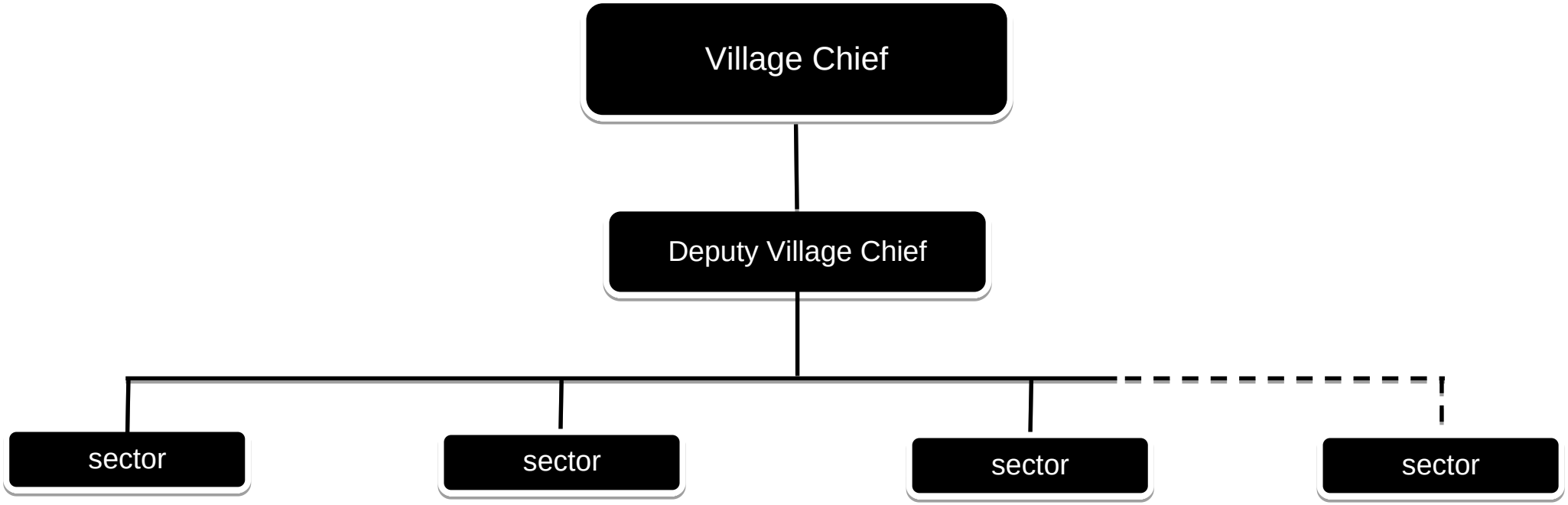
Appendix VIII

District Administration Structure



Appendix IX

Village Administration Structure



Appendix X

NATIONAL ROAD NETWORK
CHINA
MYANMAR
VIETNAM
LAOS
THAILAND
CAMBODIA
P. PHONGSALI
P. LOUANGNAMTHA
P. OUDOMXAI
P. BOKEO
P. LOUANGPHABANG
P. HOUAPHAN
P. XIANGKHOANG
P. XAIGNABOURI
P. VIENTIANE
P. VIENTIANE Municipality
P. BORIKHAMXAI
P. KHAMMOUAN
P. SAVANNAKHET
P. SARAVAN
P. XEKONG
P. CHAMPASAK
P. ATTAPU
Lantui
Pakha
Taicheng
Xiengkok
Pakbeng
B. Dan
Pahang
Namno
Namkan
Kooncua
Ban Pao
Thakhek
Dansavan
Vangtao
Veunkham
LEGEND
CAPITAL OF LAO PDR
PROVINCIAL CAPITAL
DISTRICT
BITUMINOUS
CONCRETE
EARTH
GRAVEL
PLANNED ROAD
RIVER
1:2962596
30 0 30 60 km
GIS DATA 220905-NAT.ROAD_MAPS-
Nationat road 2013-
nroad_surtype_cover _a3
Department Of Roads
Technical Devision 09/2014

Appendix XI

List of Bilateral Treaties Concerning the Promotion and Protection of the Investment which the Government of the Lao PDR is entered into with Governments of Other Countries

1) Agreement between the Lao PDR and Australia on the Reciprocal Promotion and Protection of Investments, dated 6 April 1994;

2) Agreement between the Government of the Lao People's Democratic Republic and the Government of the Kingdom of Cambodia on Promotion and Protection of Investment, dated 24 November 2008;

3) Agreement concerning the Encouragement and Reciprocal Protection of Investments between the Lao PDR and the People's Republic of China, dated 31 January 1993;

4) Agreement between the Lao PDR and the Republic of Cuba on the Promotion and Reciprocal Promotion of Investments, dated 28 April 1997;

5) Agreement between the Government of the Lao PDR and the Government of Kingdom of Denmark concerning the Promotion and Reciprocal Protection of Investments, dated 28 September 1998;

6) Agreement between the Government of the Lao PDR and the Government of French Republic concerning the Promotion and Reciprocal Protection of Investments, dated 12 December 1989;

7) Agreement between the Lao PDR and the Federal Republic of Germany concerning the Encouragement and Reciprocal Protection of Investments, dated 09 August 1996;

8) Agreement between the Government of the Lao PDR and the Government of the Republic of India for the Promotion and Protection of Investment, dated 09 November 2000;

9) Agreement between the Government of the Lao PDR and the Government of the Republic of Indonesia concerning the Promotion and Protection of Investments, dated 18 October 1994;

10) Agreement for the Liberalization, Promotion and Protection of Investment between the Government of the Lao PDR and the Government of Japan, dated 12 January 2008;

11) Agreement on the Promotion and Reciprocal Protection of Investments between the Government of the Lao PDR and the Government of the Democratic People's Republic of Korea, dated 20 August 1997;

12) Agreement for the Encouragement and Reciprocal Protection of Investments between the Government of the Lao PDR and the Government of the State of Kuwait, dated 05 August 2008;

13) Agreement for the Promotion and Protection of Investments between the Government of the Lao PDR and the Government of Malaysia, dated 08 December 1992;

14) Agreement concerning the Encouragement and Reciprocal Protection of Investment between the Government of the Lao PDR and the Government of Mongolia, dated 03 March 1994;

15) Agreement between the Government of the Lao PDR and the Government of Union of Myanmar for the Promotion and Reciprocal Protection of Investments, dated 05 May 2003;

16) Agreement on Encouragement and Reciprocal of Investments between the Lao PDR and the Kingdom of the Netherlands, dated 16 May 2003;

17) Agreement between the Lao PDR and the Islamic Republic of Pakistan on the Promotion and Protection of Investment, dated 03 April 2004;

18) Agreement between the Government of the Lao People's Democratic Republic and the Government of the Philippines on the Promotion and Protection of Investments, dated 08 June 2007;

19) Agreement on the Promotion and Reciprocal Protection of Investments between the Government of the Lao PDR and the Government of the Russian Federation, dated 06 December 1996;

20) Agreement between the Government of the Lao PDR and the Government of the Republic of Singapore on the Promotion and Reciprocal Protection of Investments, dated 14 March 1997;

21) Agreement between the Government of the Lao PDR and the Government of the Kingdom of Sweden on the Promotion and Reciprocal Protection of Investments, dated 29 August 1996;

22) Agreement between the Government of the Lao PDR and the Government of Swiss Confederation on the Promotion and Reciprocal Protection of Investments, dated 04 December 1996;

23) Agreement between the Government of the Lao PDR and the Government of the Kingdom of Thailand for the Promotion and the Protection of Investments, dated 22 August 1990;

24) Agreement for Promotion and Protection of Investments between the Government of the Lao PDR and the Government of the United Kingdom of Great Britain and Northern Ireland, dated 01 June 1995;

25) Investment Incentive Agreement between the Government of the Lao PDR and the Government of the United States, dated 03 March 1996; and

26) Agreement for the Promotion and Protection of Investments between the Government of the Lao PDR and the Government of the Socialist Republic of Vietnam, dated 14 January 1996.

Appendix XII

Court System in Lao PDR