Authentic in Lao Only

LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

National Assembly

No. 73/PO
22 October 2004

DECREE
of the
PRESIDENT
of the
LAO PEOPLE'S DEMOCRATIC REPUBLIC

On the Promulgation of the Amended Law on the Promotion of Investment

Pursuant to the Constitution of the Lao People's Democratic Republic in Chapter VI, Article 67, Paragraph 1 regarding the promulgation of the Constitution and laws adopted by the National Assembly.

Pursuant to the Resolution of the National Assembly of the Lao People's Democratic Republic No. 11/NA, dated 22 October 2004 regarding the adoption of the Amended Law on the Management of Foreign Investment.

Pursuant to the Proposal of the National Assembly's Standing Committee No. 27/NASC, dated 10 November 2004.

The President of the Lao People's Democratic Republic
Decrees that:

Article 1. The Law on the Promotion of Foreign Investment is hereby promulgated.

Article 2. This decree shall enter into force on the date it is signed.

Vientiane, 15 November 2004

President of Lao People's Democratic Republic

[Seal and Signature]

Khamtay SIPHANDONE

LAO PEOPLE'S DEMOCRATIC REPUBLIC
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

National Assembly

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22 October 2004

LAW ON THE PROMOTION OF FOREIGN INVESTMENT

CHAPTER I
General Provisions

Article 1. Objectives

The Law on the Promotion of Foreign Investment defines the principles, regulations and measures regarding the promotion, protection and management of foreign investment in the Lao People's Democratic Republic, with the aim of enhancing relationships and economic cooperation with foreign countries, [enhancing] the utilisation of financial resources and knowledge to increase production capacity for the purpose of industrialisation and progressive modernisation as well as to contribute to gradually improving the people's living conditions, and to strengthen and to develop the country.

Article 2. Definitions

Foreign investment means the importation of capital, which includes assets, technology and expertise, into the Lao People's Democratic Republic by foreign investors for business purposes.

Foreign investor means a foreign individual or legal entity investing in the Lao People's Democratic Republic.

Domestic investor means Lao individuals or Lao legal entities, or aliens or apatrids[1] residing in the Lao People's Democratic Republic who take part in joint ventures or co-operate with foreign businesses.

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[1] Readers may wish to refer to the Law on Lao Nationality for the distinction between aliens and apatrids (i.e., persons residing in the Lao People's Democratic Republic but who are unable to certify their nationality).

Asset means currency, materials[2] and intellectual property.

Foreign investment enterprise means a one hundred percent foreign investment enterprise, a joint venture or business cooperation by contract established in the Lao People's Democratic Republic.

Article 3. Promotion of Foreign Investment

Foreign investors may invest in production, [and] business in all sectors and zones of investment in the Lao People's Democratic Republic, except in business activities which are detrimental to national security or cause a negative impact on the environment in the present or long term, or are detrimental to health or fine national traditions. [3]

The State supports foreign investors investing in [the] sectors and zones of investment as provided in Articles 16 and 17 of this law by establishing policies on customs [and] taxes, [by issuing] regulations [and] measures, [and] by providing information, services and other facilities to foreign investors.

Article 4. Protection of Foreign Investment

The assets and investment of foreign investors in the Lao People's Democratic Republic shall be fully protected by the laws and regulations of the Lao People's Democratic Republic against seizure, confiscation or nationalisation, except if necessary for a public purpose, in which case the foreign investors shall be compensated in accordance with the laws and regulations.

CHAPTER II
Forms of Foreign Investment

Article 5. Forms of Foreign Investment

Foreign investors may invest in the Lao People's Democratic Republic in the following forms:

1. Business cooperation by contract;
2. Joint ventures between foreign and domestic investors; [and]
3. One hundred percent (100%) foreign-owned enterprises.

Article 6: Business Cooperation by Contract

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[2] The term "materials" is typically used to refer to tangible things.

[3] The Lao word for this term connotes both customs and traditions.

A "business cooperation by contract"[4] is a business arrangement between domestic and foreign legal entities without establishing a new legal entity in the Lao People's Democratic Republic.

The objectives, forms of cooperation, business term, rights and obligations, responsibilities and benefits of each party must be determined in a contract.[5]

Article 7. Joint Ventures

A "joint venture"[6] is an enterprise established and registered under the laws of the Lao People's Democratic Republic, operated and jointly owned by foreign and domestic investors. The organisation, management, operation and the relationship between the shareholders of the joint venture are set out in an agreement made by both parties and in the articles of such joint venture.

Foreign investors investing in a joint venture must contribute at least thirty percent (30%) of the [joint venture's] registered capital. Capital contributed in foreign currency must be converted into Kip based on the exchange rate of the Bank of the Lao People's Democratic Republic on the day of the capital contribution.

Article 8. One Hundred Percent (100%) Foreign Owned Enterprise

A one hundred percent (100%) foreign owned enterprise is an enterprise established in the Lao People's Democratic Republic in which the investment is made by a foreign investor only. Such enterprise may be incorporated as a new legal entity or as a branch of a foreign investment enterprise.

Article 9. Registered Capital

The registered capital of a foreign investment enterprise must not be less than thirty percent (30%) of its total capital. During the business operation of a foreign investment enterprise, the assets of the enterprise must not be less than its registered capital.

Article 10. Representative Offices

A foreign legal entity established under the law of another country may establish a representative office in the Lao People's Democratic Republic to collect information, study the feasibility of investment and coordinate matters for the purpose of applying for investment.

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[4] The quotation marks have been added and are not in the original.

[5] Readers may wish to refer to the Contract Law for information on formalities relating to the formation of contracts.

[6] The quotation marks have been added and are not in the original.

Representative offices or agents which operate for commercial purposes do not come under this law.

Article 11. Term of Authorized Investment

The investment term of a foreign investment enterprise depends on the nature, size and conditions of the business activities or project but shall not exceed fifty years and may be extended with the approval of the government. However, the investment term of a foreign investment enterprise shall be for a maximum of seventy-five years.

CHAPTER III
Rights, Benefits and Obligations of Foreign Investors

Article 12. Rights and Benefits of Foreign Investors

Foreign investors have the following rights and benefits:

1. To receive support from the government in establishing and operating their production, [and] business in accordance with the laws and regulations;
2. To obtain protection of their rights and legitimate interests relating to business operations;
3. To own assets;
4. To receive benefits from the lease of or a concession over land, such as [the right] to use or sell the assets associated with the leased land or concession, to create security interests over such assets in favour of any persons or financial institutions or [to take such assets] for the purpose of a joint venture, to sublease the right to use land, to transfer the land lease or concession agreement in accordance with the terms of the lease, to use the [land] lease contract or concession in a joint venture or to grant a security interest [over the land lease contract or concession] in favour of other persons. The details of the rights, benefits and obligations of foreign investors relating to the land lease or concession must be in compliance with the Land Law and other relevant laws;
5. The use of foreign labourers, if necessary, must not exceed ten percent (10%) of the enterprise's labour force;
6. Foreign investors and their families, including foreign professionals and foreign employees of an enterprise, shall be provided with facilities such as multiple entry visas and, if approved by the government, long term residence in the territory of the Lao People’s Democratic Republic, and shall have the right to request Lao nationality in accordance with the Law on Lao Nationality;
7. To receive protection of their intellectual property which has been registered with the relevant authorities in the Lao People’s Democratic Republic;
8. To repatriate profits, capital and other income after full payment of duties, taxes and other fees in accordance with the regulations and

laws, to their home countries or a third country through a bank located in the Lao People’s Democratic Republic;

9. To open a Kip account and a foreign currency account with banks located in the Lao People's Democratic Republic;
10. To request justice from or to file a claim with the relevant authorities in the event that their business operations have been affected; [and]
11. To obtain other rights and benefits as provided in the laws.

Article 13. Obligations of Foreign Investors

The obligations of foreign investors are:

1. To operate production, [and] business activities in accordance with their licence, the procedures set out in their feasibility study, their contract and the laws and regulations;
2. To maintain accounts in accordance with the Enterprise Accounting Law of the Lao People's Democratic Republic. If necessary, to use an internationally recognised accounting system, subject to the approval of the Ministry of Finance. To report on their business performance and to consolidate annual financial statements and send them to the CPMI[7] and other relevant authorities;
3. To fully pay duties, taxes and other fees relating to their business operations in a timely manner;
4. To facilitate the organisation and activities of the mass organisations in their enterprises;
5. To give priority to recruiting Lao workers; [and] to train and upgrade the professional skills of and transfer technology to Lao workers;
6. To address matters of social security, healthcare and safety of employees in their enterprises;
7. To protect the environment, and ensure that their business activities do not severely impact on the public, national security or public order;
8. To maintain a reserve in accordance with laws and regulations;
9. To maintain insurance and social security policies in accordance with the laws and regulations relating to insurance and social security;
10. If an enterprise is relocated, to inform the relevant authorities and to maintain its premises in normal condition;
11. To report on the performance of business operations to the CPMI and other relevant authorities; [and]
12. To perform such other obligations as set out in the laws and regulations.

Article 14. Personal Income Tax of Foreign Employees

Foreign employees working in a foreign investment enterprise must pay personal income tax at the rate of ten percent (10%) of their total income to the Lao government, except employees of a country with which the Lao Government has signed a double taxation agreement.

[7] The Lao abbreviation for this committee was used. This abbreviation is defined in Article 19.

CHAPTER IV
Incentives for Foreign Investment

Article 15. Incentives for Foreign Investment

The State shall consider granting incentives for foreign investment in accordance with the sectors and zones of investment promotion as provided in Articles 16 and 17 of this law.

Article 16. Promoted Activities

The government defines promoted activities as follows:

1. Production for export;
2. Activities relating to agriculture or forestry, and agricultural, forestry and handicraft processing activities;
3. Activities relating to industrial processing, industrial activities using modern techniques and technology, research and development, and activities relating to the protection of the environment and biodiversity;
4. Human resource development, skills development and public health;
5. Construction of infrastructure;
6. Production of raw materials and equipment to be supplied to key industrial activities; [and]
7. Development of the tourism industry and transit services.

Article 17. Promoted Zones

The government determines 3 promoted zones for foreign investment based on geographical location and socio-economic conditions. The zones are as follows:

Zone 1: Mountainous, plain and plateau zones with no economic infrastructure to facilitate investments.
Zone 2: Mountainous, plain and plateau zones with a moderate level of economic infrastructure suitable to accommodate investments to some extent.
Zone 3: Mountainous, plain and plateau zones with good infrastructure to support investments.

The details of the promoted zones for foreign investment shall be determined by the government.

Article 18. Incentives Related to Duties and Taxes

Foreign investment enterprises investing in activities within the promoted sectors and zones determined in Article 16 and 17 of this law shall be entitled to the following duty and tax incentives:

Investments in Zone 1 shall be entitled to a profit tax exemption for 7 years and thereafter shall be subject to profit tax at the rate of ten percent (10%).

Investments in Zone 2 shall be entitled to a profit tax exemption for 5 years, and thereafter shall be subject to a reduced profit tax rate of half of fifteen percent for 3 years and thereafter a profit tax rate of fifteen percent (15%).

Investments in Zone 3 shall be entitled to a profit tax exemption for 2 years and thereafter shall be subject to a reduced profit tax rate of half of twenty percent for 2 years and thereafter a profit tax rate of twenty percent (20%).

Profit tax exemption starts from the date the foreign investment enterprise carries out operations. For tree plantation activities, profit tax exemption commences from the date the enterprise starts making a profit.

Once the profit tax exemption period is over, the foreign investment enterprise must pay profit tax in accordance with the laws and regulations.

In addition to the incentives mentioned above, foreign investment enterprises shall be entitled to the following incentives:

1. During the tax exemption period and during the tax reduction period, the enterprise is entitled to an exemption of minimum tax;
2. The profit used for the expansion of licensed business activities shall be exempted from profit tax during the accounting year;
3. Exemption from import duties and taxes on equipment, spare parts and vehicles directly used for production, on raw materials which do not exist domestically or which exist but are insufficient, and on semi-finished products imported for processing or assembly for the purpose of export; and
4. Exemption from export duty on export products.

Raw materials and semi-finished products imported for processing or assembly for import substitution shall be exempted from import duties and taxes or shall be subject to reduced rates of import duties and taxes.

Special economic zones, industrial zones, border trade areas and other specific economic zones must follow the laws and regulations of such specific areas.

CHAPTER V
Application for a Foreign Investment License

Article 19. Application for [Foreign] Investment

An application for foreign investment in the Lao People's Democratic Republic must go through the one stop service of the Committee for Promotion and Management of Investment ("CPMI").

Foreign investors wishing to invest in the Lao People's Democratic Republic must submit an application to the CPMI at the central or provincial levels with attachments, such as copies of the passport and resume of the foreign investor; feasibility study or business plan; information related to the business [of the investor] if it is a legal entity; and a copy of the joint venture agreement in the case of a joint venture.

Article 20. Consideration of a Foreign Investment Application

Upon receipt of an application with its attachments in accordance with Article 19 of this law, the CPMI must coordinate with relevant sectors and local authorities, when necessary, to consider and to respond in writing to the foreign investor pursuant to the following timeframes:

- Projects which fall in the list of promoted [activities]: fifteen working days;
- Projects which fall in the list of open activities with conditions: twenty-five working days;
- Projects which involve the grant of a concession: forty-five working days.

Foreign investors who are qualified under this law shall obtain a foreign investment licence, an enterprise registration certificate and a tax registration certificate at the same time from the CPMI at the place where the foreign investors are licensed; thereafter they shall be considered as enterprises established in conformity with the laws of the Lao People's Democratic Republic.

Within 90 days from the date of receipt of an investment licence, the foreign investment enterprise must commence business activities in accordance with the steps in the feasibility study stipulated in the foreign investment licence and in conformity with the laws and regulations of the Lao People's Democratic Republic. If such timeframe is not followed, the foreign investment licence shall be terminated.

CHAPTER VI
Management of Foreign Investment

Article 21. Management Authorities Related to Foreign Investment

Management authorities related to foreign investment are:

1. The Committee for Promotion and Management of Investment at central and provincial levels;
2. Sectors[8] and other relevant sectoral organizations.

Article 22. Rights and Duties of CPMI at the Central Level

The Committee for Promotion and Management of Investment at the central level is established by the Prime Minister, located at the Committee for Planning and Investment and has the following rights and duties:

1. To study strategies and incentives to promote and attract foreign investments and to propose them to the government for approval;
2. To issue decisions, orders, instructions and notifications regarding the protection and promotion of foreign investments;
3. To prepare a plan and a list of available investment projects for attracting foreign investment;
4. To disseminate policies, laws and regulations; and to provide information to and to facilitate foreign investors;
5. To consider issuing or withdrawing a foreign investment licence within its scope of rights and duties, particularly within projects involving the grant of a concession;
6. To supervise and coordinate with the sectoral organizations and local authorities in implementing this Law on the Promotion of Foreign Investment;
7. To monitor, inspect, assess and report to the government on the business operations of foreign investment enterprises;
8. To be a focal point in supporting, promoting and solving problems occurring in relation to the business operations of foreign investment enterprises;
9. To organise the annual meeting of CPMI and consultative meetings with foreign investors; and
10. To exercise such other rights and perform such other duties as provided in the laws and regulations.

Article 23. Rights and Duties of CPMI at Provincial Levels

The Committee for Promotion and Management of Foreign Investment at provincial levels is established by the chairman of the CPMI at the central level. The CPMI at the provincial level acts as a support to the provincial governors, the capital city governor, the Special Zone Head and the CPMI at

[8] See Article 24.

the central level in promoting and managing foreign investment. The CPMI at the provincial level are located at the provincial Planning and Investment Divisions and have the following rights and duties:[9]

1. To implement strategic plans, policies to promote and attract foreign investments within their locality;
2. To disseminate policies, laws and regulations, provide information and facilitate foreign investors;
3. To consider issuing or withdrawing foreign investment licences within their scope of rights and duties;
4. To coordinate with various relevant sectors in implementing the incentive policies within their approved projects and in implementing the decisions, orders, instructions and notifications of the higher-level authorities;
5. To monitor, inspect, assess and report to the provincial governors, the capital city governor or the Special Zone Head and CPMI at the central level regarding foreign investment;
6. To act as a focal point in solving problems related to foreign investment;
7. To organise the CPMI annual meetings at provincial levels and consultative meetings with foreign investors; [and]
8. To exercise such other rights and perform such other duties as provided in the laws and regulations.

Article 24. Rights and Duties of other relevant Sectors and Sectoral organizations

The relevant ministries, ministry-equivalent organisations and other sectoral organizations must promote, manage foreign investments in accordance with their rights and duties as follows:

1. To coordinate with the CPMI at the central level in drafting laws, regulations, policies and plans in relation to foreign investment;
2. To prepare a plan and list of available foreign investment projects to attract foreign investment to their sectors, and to disseminate information to attract and promote investment; [and]
3. To participate in the process of consideration and approval of investment projects;
4. To supervise the sectors both at central and local levels in implementing incentive policies and in improving procedures regarding implementation of investment projects;
5. To inspect and assess business operations of foreign investment enterprises and participants in business cooperation contracts within their scope of rights and duties and then report to the higher authorities; [and]
6. To exercise such other rights and perform such other duties as provided in the laws and regulations.

[9] For readability, the structure of this paragraph has been modified.

The administrative authorities and sectors at the local level [which are] described above must coordinate with the CPMI at the local level within the scope of rights and duties described in this Article.

CHAPTER VII
Dispute Resolution

Article 25. General Principles

If a dispute arises in relation to their business operations, the parties must implement the principle of [dispute resolution through] amicable settlement, mediation, or filing a claim.[10]

Article 26. Mediation of Disputes

Disputes related to business operations which cannot be settled amicably shall be submitted for mediation to the CPMI that issued the licence.

If the CPMI is not able to mediate such dispute, such dispute must be submitted to the Office of Economic Dispute Resolution for resolution.[11]

Article 27. Filing of a Claim

The parties to a dispute related to business operations which cannot be mediated may file a claim to the Office for Economic Dispute Resolution or to the People's Court for consideration according to [formal dispute resolution procedures].[12]

CHAPTER VIII
Policies toward Those Who Have Performed Well and Measures Against Violators

Article 28. Policies toward those who have performed well

Individuals or organisations who have had outstanding achievements in implementing this law and in contributing to national socio-economic development shall receive rewards as deemed reasonable.

Article 29. Measures against Investors who violate [the Law]

Individuals or legal entities who violate this law shall be subject to measures depending on the seriousness of the violation in the form of

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[10] This list has a sequential connotation.

[11] The term “resolution” may connote assisting the parties to resolve the matter (i.e., unlike arbitration).

[12] This reference appears to be a general term referring to both formal arbitration (before the Office of Economic Dispute Resolution) or formal court proceedings (before the People’s Courts).

warnings, suspension, withdrawal of their foreign investment licence or being sued in a court of law.

Article 30. Measures against other Violators

Individuals who violate investment laws and regulations by abusing their power or position to hinder or obstruct the promotion and approval of investment, falsify documents, mislead investors, receive bribes or commit any acts causing damage to the State or investors must compensate for such damages and must be subject to disciplinary and other measures in accordance with the laws of the Lao People's Democratic Republic.

CHAPTER IX
Final Provisions

Article 31. Implementation

The government of the Lao People's Democratic Republic shall implement this law.

Article 32. Effectiveness

This law shall enter into force sixty days from the date of the promulgating decree issued by the President of Lao People's Democratic Republic. Thereafter, the Law on the Promotion and Management of Foreign Investment No. 01/94/NA, dated 14 March 1994 shall be abrogated without affecting the rights, benefits and obligations granted to investors under or those [rights, benefits and obligations] which need to be exercised under the Law No. 01/94/NA. Foreign investors who have been licensed under the Law No. 01/94/NA and who wish to obtain incentives provided by this Law on Promotion of Foreign Investment must submit a request in writing to the CPMI within 120 days from the date of effectiveness of this law.

Vientiane, 22 October 2004
President of the National Assembly

[Seal and Signature]

Samane VIYAKETH