



**Lao People's Democratic Republic  
Peace Independent Democracy Unity Prosperity**

**ADB TA 3746-LAO**

**Capacity Building  
For  
Environment and Social Management  
In  
Energy and Transport Sectors**

**Decree  
on  
Resettlement and Compensation  
(Final Draft)**

Science, Technology and Environment Agency

17 June 2003

**Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity**

Prime Minister's Office

No \_\_\_\_\_

Date \_\_\_\_\_

**DECREE  
on Resettlement and Compensation**

- Pursuant to the provisions of the law of the government of the Lao Peoples Democratic Republic number 01/95 SPS dated 8<sup>th</sup> March 1995.
- Pursuant to the National Policy on Resettlement and compensation dated .....
- Pursuant to the submission from the Science Technology and Environmental Agency number ..... dated.....

**The Prime Minister decrees as follows:**

**PART I  
GENERAL PROVISIONS**

**Article 1. Objectives**

1.1 This Decree defines general principles to mitigate adverse social impacts that result due to involuntary acquisition, or repossession, of land and other assets, change in land use and restriction on access to community resources affecting community livelihood and income sources caused by development projects undertaken by public or private sector in public interest. The provisions of this Decree aim to: (i) help integrate social dimensions in development projects, (ii) address measures to mitigate adverse social impacts with a particular focus on vulnerable groups, and (iii) have a comprehensive approach to address social issues in development projects. The Decree also aims to ensure that mitigation measures, including compensation relocation and economic restoration of affected people are carried out in accordance with the provisions and stipulations of the constitution framed by the party, the various relevant applicable Laws and Decrees of government and the national policy on resettlement and compensation taking into consideration special needs and features of the various ethnic groups of the Republic contributing to the economic development of the Republic.

1.2 The Decree aims to ensure that the losses incurred by affected people are redressed such that Affected Persons (APs) share project benefits, are assisted to

develop their economic, social and cultural potential in order to improve or at least restore their incomes and living standards to pre-project levels and are not worse off than they would have been without the project.

**Article 2. Definitions**

Definition of key terms is presented in Annex A to the Decree.

**Article 3. Obligations to Address Adverse Social Impacts**

3.1 The agencies responsible for design and implementation of development projects having socio-economic impacts shall, in collaboration with the concerned local governmental authorities, mass organizations and NGOs, carry out necessary surveys and field investigations, identify affected communities, prepare inventory of impacts by types and degree, determine entitlements to mitigation measures including compensation for affected assets, other assistance and allowances, relocation and economic rehabilitation measures, prepare necessary documentations and, upon approval of the same, provide adequate resources to implement suggested measures in an efficient and timely manner in accordance with the provisions of the National Resettlement and Compensation Policy.

3.2 The project proponents shall make every attempt so that displacement and other direct adverse impacts on peoples' assets and their incomes are avoided or, if unavoidable, minimized by examining all design options available to the project.

3.3 Project proponents shall be responsible for the timely provision of adequate budget for all aspects of planning, implementing, monitoring and evaluating all resettlement/compensation activities associated with mitigating adverse impacts from each component or sub-project.

3.4 Project Proponents/Authorities shall pay particular attention to affected ethnic minority and other vulnerable groups, especially the poor, and will make every effort in order to enhance their future prospects and for poverty alleviation.

3.5 Project Proponents/Authorities shall ensure that the entire resettlement process is carried out through a meaningful involvement of project-affected communities, and their existing social and cultural institutions are supported to the greatest extent feasible.

3.6 Project Proponents/Authorities shall envision and carry out resettlement as an integral part of the development project.

**PART II  
ELIGIBILITY**

**Article 4 Eligibility**

All people residing, cultivating or making a living within the area to be acquired for a project as of the formally recognized cut-off date would be considered as project affected persons (APs) for purposes of entitlements to compensation, resettlement and rehabilitation assistance in accordance with the provisions of this Decree. Lack

of legal Land Use Certificate or any acceptable proof indicating land use right to the land or structure affected by the project will not bar any person from such entitlements/assistance.

### **PART III COMPENSATION AND ENTITLEMENTS**

#### **Article 5 Compensation Principles**

5.1 APs shall be provided with compensation for their lost assets (land, structures, crops, trees and other fixed assets), affected in full or in part, at replacement cost.

5.2 Where significantly large or entire land holding affected by a project, the general mechanism for compensation for affected agriculture, residential or commercial land shall be through provision of "land for land" arrangements of equivalent size and productivity and at location acceptable to the AP.

5.3 If the house or structure is only partially being affected by the Project and the remaining structure is rendered unviable for continued use or in area less than the minimum house size under the prevailing standards, the AP shall be entitled to surrender the entire structure and to compensation for the entire structure at full replacement cost without depreciation or deductions for salvaged material. In case the remaining structure is viable for continued use, APs shall be entitled to assistance in cash or material for restoration of the remaining structure in addition to the compensation at replacement cost for affected portion.

5.4 APs whose land or assets are temporarily taken by the works under the project shall be fully compensated for their net loss of income, damaged assets, crops and trees, as the case may be. The project authorities shall also ensure that the land and structures are returned in its pre-project state.

5.5 Tenants, who have leased a house / structures for residential or other purposes and affected by the project, shall be provided with cash assistance equivalent to three months rental allowance and expenses to cover other losses including deposits, if any, and shall be assisted in finding alternative rental accommodation.

5.6 APs without any legal Land Use Certificate or any other acceptable proof indicating land use right to the affected land and assets they occupy shall be compensated for their lost assets at replacement cost and provided additional assistance to ensure that they are not worse-off due to the project.

5.7 All previous claims and unresolved issues related to tenure status and ownership of land and other assets affected by the sub-project or components shall be resolved prior to initiating any new land acquisition measures on the respective sub-project or component.

## **Article 6 Other Assistance During Relocation and Transition Period**

APs displaced and severely affected due to the loss of incomes and means of livelihood shall be provided with:

- Food allowance, in cash or in kind, during the transition period;
- Suitable development assistance after displacement during the transition period until they are able to restore their incomes or livelihood standards or reach the targeted level of household incomes on a sustainable basis.
- Transport allowance or other appropriate assistance in kind to transfer to the resettlement site or their choice of relocation, as the case may be;
- Special allowance for the loss of business income during the transition period.

## **Article 7 Economic Rehabilitation**

7.1 All APs severely affected by the project due to the loss of 20% or more of productive income generating assets (agricultural, commercial or industrial land), means of livelihood, incomes, employment or businesses, and access to community resources shall be entitled to income rehabilitation measures over and above their entitlements for compensation and other allowances, enabling them to attain, at a minimum, pre-project livelihood levels on sustainable basis.

7.2 For displaced persons whose land-based livelihoods are affected due to the project, preference shall be given to land-based resettlement strategies, or where land is not available, non-land-based options built around opportunities for employment or self-employment in addition to cash compensation for lost assets.

7.3 These rehabilitation measures shall specifically focus on vulnerable groups. Adequate assistance, in addition to compensation for affected assets and other allowances, shall be provided such that their economic and social well-being can be improved and to enable such APs achieve household income targets set above the national poverty line.

## **Article 8 Community Services and Resources**

8.1 In cases where community facilities and infrastructure are damaged due to the project, the project proponents/developers shall ensure that these would be restored or repaired as the case may be, at no cost to the community.

8.2 Any acquisition of, or restriction on access to resources owned or managed by affected community as a common property shall be mitigated by arrangements ensuring access to improved or at least equivalent resources on a continuing basis. Attention shall also be paid to ensure that directly affected APs get due share of such benefits, corresponding to their personal losses, if any, that accrue to community on a collective basis.

## **Article 9 Local Culture & Practices**

9.1 Local cultural and religious properties, practices and beliefs shall be respected and to the extent possible preserved.

9.2 Where local communities or individuals elect to make voluntary contribution of affected land without compensation in accordance with traditional practices, this shall be acceptable only if the impacts on their assets are marginal and do not result in displacement; incomes, employment and businesses are not affected; APs are fully aware of their entitlements in accordance with the policy; and consultation with APs is carried out in an open and transparent manner.

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#### **Article 10 Ethnic Group Issues**

Where in a project cultural minorities are affected, the mitigation measures and social and economic benefits they receive to improve their status shall be in harmony with their cultural preferences and shall be decided in consultation with affected communities.

#### **Article 11 Resettlement Linked to Project**

11.1 Resettlement transition period shall be minimized and the acquisition of assets, compensation payment in full, resettlement and rehabilitation activities for a segment/section or phase (except where long-term rehabilitation measures such as vocational training or other measures recommended) shall be completed prior to the initiation of construction work under the respective segment/section or phase thereof.

11.2 Where APs are likely to be displaced and relocated, either on a project resettlement site or at a location of their choice, prior to delivery of socio-economic rehabilitation assistance, project authorities must ensure that adequate measures are taken in advance of displacement to find such APs and for follow-up activities.

### **PART IV RESETTLEMENT SITE DEVELOPMENT**

#### **Article 12 Resettlement Site Development**

12.1 All relocating persons shall be provided with suitable housing or developed house-lots, shop-lots as necessary, agricultural sites of equivalent size, with productive potential and locational advantages better or at least equivalent to the old site. Replacement agricultural land, house/business plot shall be as close as possible to the land that was lost and/or acceptable to the APs.

12.2 All replacement land for agriculture, residential and businesses shall be provided with secured tenure status and without any additional cost, sales taxes, fee, and surcharge to the APs at the time of transfer. Land titles for replacement land shall be issued in the joint names of husband and wife.

12.3 Attention shall be paid to ensure that resettlement site development does not cause any adverse environmental impacts to the surrounding areas. All resettlement sites for relocation of displaced persons shall be provided with

adequate access to public facilities and services, income earning opportunities and market.

12.4 Where relocation is considered necessary, the 'host' community will also be entitled to compensation and other assistance similar to the project affected persons.

## **PART V PUBLIC PARTICIPATION & CONSULTATION**

### **Article 13 Public Participation and Consultation**

13.1 The resettlement process shall be carried out in a participatory manner ensuring that APs and other stakeholders are fully informed, consulted and their concerns are taken into account at all stages of the project cycle, particularly during the planning and implementation phases of land acquisition, valuation and resettlement process.

13.2 Project authorities shall make concerted efforts for an effective public dissemination of information about the policy objectives and compensatory package that is part of the resettlement process, both by means of written documents and orally (via community leaders, NGOs active in the geographic area, and radio or other media that serve an illiterate population).

### **Article 14 Grievance Redress Mechanism**

14.1 Project proponents shall establish an effective mechanism for hearing and grievance redress during the resettlement planning and implementation in a project.

14.2 The GoL PDR at the request of the project authorities will establish a Grievance Redress Committee (GRC) in each district to address complaints and grievances pertaining to land acquisition, compensation and resettlement and to pre-empt all disagreements being referred to courts.

14.3 Grievances related to any aspect of the project or sub-project shall be handled through consultations conducted in a transparent manner and aimed at resolving matters through consensus at the project level before complainants forward these to higher level and ultimately to the court of law. The Project Authorities will document all complaints received in writing (or written when received verbally) from the APs.

14.4 APs will be exempted from all administrative and legal fees incurred pursuant to the grievance redress procedures. In case the complaints are forwarded to the court of law, all costs for pursuing such cases in the court of law must be borne by the project.

## **PART VI REPORTING AND DOCUMENTATION**

### **Article 15 Reporting and Documentation**

The project Proponents shall carry out necessary studies and field investigations including census, inventory preparation and socio-economic baseline surveys, and prepare the following reports and documents, as necessary. Where the project proponents are public institutions and government ministries such reports shall be submitted to the Regulatory Agency for review and final approval. Where a project is to be sponsored and carried out by a private developer, the developer will submit these reports to the respective ministry for review and acceptance. The ministry after being satisfied with the quality of the report, will submit the report to the Regulatory Agency for review and final approval.

1. Initial Social Assessment (ISA) / Land Acquisition Assessment
2. Social (Impact) Assessment
3. Land Acquisition and Compensation Report
4. Resettlement Plan (RP)
5. Ethnic Minority Development Plan (EMDP)

The requirements for the above reports depending upon the types, degree and scale of impacts; and their scope and contents are fully explained in the Implementation Regulations.

## **PART VII MONITORING, SUPERVISION & EVALUATION**

### **Article 16 Resettlement Monitoring and Supervision**

16.1 Adequate arrangements shall be made for effective and timely supervision and internal monitoring of the implementation of the resettlement and rehabilitation measures.

16.2 In projects with major resettlement component where the impacts are severe regardless of the number of people or where more than 200 people are affected, an experienced and independent external monitoring agency would be contracted by project authorities to periodically carry out external monitoring of the implementation of resettlement activities in accordance with the RPs.

16.3 In projects with major resettlement component, project authorities shall make provisions for post-evaluation of resettlement implementation activities, six months to one year after the completion of socio-economic rehabilitation measures in the project, to check whether the economic rehabilitation objectives of the Policy and the RPs have been achieved.

16.4 If the evaluation indicates that the APs have not been able to achieve the stated objectives and income targets, project authorities shall make arrangements for provision of additional assistance to meet the stated objectives.

## **PART VIII RESETTLEMENT COST AND BUDGETS**

### **Article 17 Resettlement Cost and Budget**

17.1. Each RP shall include detailed cost estimates for compensation and other resettlement entitlements and relocation of APs, if that be the case, with a breakdown by category of APs by type and degree of impacts. The cost estimates will also include the cost of monitoring and evaluation; management and administration; and rehabilitation or replacement, as the case may be, of affected public infrastructure, utilities and community facilities, and shall include, adequate provisions for contingencies.

17.2 Total estimated cost of RPs shall be included towards the cost of the project. In the case of cost overruns due to unforeseen circumstances or delays, the project authorities/proponents shall allocate additional funds as may be necessary.

17.3 In the case of a private sector project developer, the respective ministry shall devise a suitable mechanism, such as 'imprest account', to ensure timely availability of funds to meet all costs of resettlement activities prior to final approval for the project.

## **PART IX INSTITUTIONAL ARRANGEMENTS**

### **Article 18 Regulatory Agency (RA)**

The GoL hereby appoints the Science, Technology and Environment Agency (STEPA) in the Office of the Prime Minister as the Regulatory Agency (RA) with overall responsibility for coordination and regulation of resettlement/compensation activities in development projects nationwide. The STEPA will ensure compliance to this Decree with the power to enforce it and to perform an oversight function.

## **PART X COMPLIANCE**

### **Article 19 Compliance**

The Government of Lao PDR, on recommendation from STEPA, may consider and approve granting commendations to any agency or institution that has shown outstanding performance and compliance,, and take appropriate actions against those who fail to comply with the provisions of this Decree .

## **PART XI Final Provisions**

### **Article 20**

The Science Technology and Environmental Agency of the office of the Prime Minister, the relevant line Ministries, central and local government agencies and all

other agencies involved are hereby directed to efficiently and effectively comply with the provisions of this Decree.

**Article 21**

The Science, Technology and Environment Agency of the Office of the Prime Minister, is hereby assigned to issue requisite Implementation Regulations and Resettlement Technical Guidelines in support of this Decree and to regulate resettlement planning and implementation activities in development projects nationwide.

**Article 22**

The provisions of this Decree are effective from the date of signature and any previously issued regulations, guidelines, etc., which are in conflict with the provisions of this Decree are hereby annulled.

**Signed  
Prime Minister**

## Annex A

### Definitions

- a) **Compensation.** Compensation means payment in cash or in kind for an asset to be acquired or affected by a project at replacement cost.
- b) **Cut-off Date.** 'Cut-off date' is the date prior to which the occupation or use of the project area makes residents/users of the project area eligible to be categorized as affected persons. In many projects, the cut-off date coincides with the commencement of the census of affected persons within the project area boundaries. Persons not covered in the census are not eligible for compensation and other entitlements.
- c) **Entitlements.** Range of measures comprising compensation, income rehabilitation assistance, transfer assistance, income substitution, and relocation which are due to affected people, depending on the type and degree of their losses, to restore their economic and social base.
- d) **Implementing Agency** (aka Project Proponent/Project Authority/Executing Agency) is the agency, public or private, that is responsible for planning, design and implementation of a development project.
- e) **Land Acquisition** means the process whereby a person is compelled by a public agency to alienate all or part of the land a person owns or possesses, to the ownership and possession of that agency, for a public purpose in return for compensation .
- f) **Project Affected Person (PAP/AP)** includes any person or persons, household (sometimes referred to as project affected family), a firm, or a private or public institution who, in the context of acquisition, or repossession, of assets or change in land use, as of the cut-off date, on account of the execution of a development project, or any of its subcomponents or part, would have their:
  - i) Standard of living adversely affected;
  - ii) Right, title or interest in all or any part of a house, land (including residential, commercial, agricultural, plantations, forest and grazing land) or any other moveable or fixed assets acquired or possessed, in full or in part, permanently or temporarily adversely affected: or
  - iii) Business, occupation, place of work, residence, habitat or access to forest or community resources adversely affected, with or without displacement.

AP means persons or affected household and consists of all members of a household residing under one roof and operating as a single economic unit, who are adversely affected by a project or any of its components. For resettlement purposes, affected persons will be considered as members of affected households.

- g) **Rehabilitation** means assistance provided to APs seriously affected due to the loss of productive assets, incomes, employment or sources of living, to supplement payment of compensation for acquired assets in order to improve, or at least achieve full restoration of living standards and quality of life to pre-project level.
- h) **Relocation** means the physical shifting of an AP from his/her pre-project place of residence, place of work or business premises.

- i) **Replacement Cost** is the amount needed to replace an asset and is the value determined as compensation for:
- i. Agricultural land at the pre-project or pre-displacement level, whichever is higher, and is the market value of land of equal productive potential or use located in the vicinity of the affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes;
  - ii. Land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes;
  - iii. Houses and other related structures based on current market prices of materials, transportation of material to construction site, cost of labor and contractor's fee, and cost of any registration and transfer taxes. In determining replacement cost, depreciation of the assets and value of salvaged building materials are not taken into account and no deductions are made for the value of benefits to be derived from the project;
  - iii. Crops, trees and other perennials based on current market value; and
  - iv. Other assets (i.e. income, cultural, aesthetic) based on replacement cost or cost of mitigating measures.
- j) **Resettlement** refers to all measures taken by the Project Proponent to mitigate any and all adverse social impacts of a project on the APs, including compensation for lost assets and incomes and the provision of other entitlements, income restoration assistance, and relocation, as needed.
- k) **Social Assessment (SA) or Social Impact Assessment (SIA)**. SA or SIA is a framework for incorporating social analysis and participatory process in project design and implementation.
- l) **Vulnerable group**. These are distinct groups of people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement and specifically include: (i) female headed households with dependents, (ii) disabled household heads, (iii) households falling under the generally accepted indicator for poverty, (iv) landless elderly households with no means of support , (v) households without security of tenure, and (vi) ethnic minorities.