

## **APPENDIX D**

### **LEGAL INSTRUMENTS SPECIFIC TO THE NT2 PROJECT (SOCIAL AND RESETTLEMENT COMPONENT)**

#### **Table of Content**

<b>D-1</b>	<b>Decree 193/PM on the establishment of the Nakai-Nam Theun NBCA Corridor Areas, NT2 Project Reservoir Area, and Resettlement and Forest Area for people affected by the Project. ....</b>	<b>1</b>
<b>D-2</b>	<b>Decree 37/PM of April 12, 2002 on the approval of the allocation of the resettlement and forest area to people and village organizations affected by the Nam Theun 2 Project for carrying out forestry business activities. ....</b>	<b>5</b>
<b>D-3:</b>	<b>Authorization 63/MAF to the Provincial Authority to issue the permit and supervise the establishment of Nakai Plateau Village Forest Association of NT2 Project. ....</b>	<b>7</b>
<b>D-4</b>	<b>Regulation 484/KM.GOV on the establishment and management of Nakai Plateau Village Forestry Association.....</b>	<b>9</b>

**D-1 DECREE 193/PM ON THE ESTABLISHMENT OF THE NAKAI-NAM THEUN NBCA CORRIDOR AREAS, NT2 PROJECT RESERVOIR AREA, AND RESETTLEMENT AND FOREST AREA FOR PEOPLE AFFECTED BY THE PROJECT.**

(Unofficial Translation (19/1/2001))

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

Prime Minister Office

No.: 193/PM

**Prime Minister Decree  
on the establishment of the Nakai-Nam Theun NBCA  
Corridor Areas, NT2 Project Reservoir Area, and Resettlement and  
Forest Area for people affected by the Project**

**Reference is made to:**

- ✧ The Law on the Government of Lao PDR No.01/NA, dated March 8, 1995.
- ✧ The Forestry Law No. 125/PO, dated November 02, 1996.
- ✧ The Water and Water resource Law No.126/NA, dated 02 November 1996
- ✧ The Environment Protection Law No.02/99 NA, dated April 3, 1999
- ✧ The Project Development Agreement on the development of the Nam Theun 2 Hydroelectric Project between the Government of Lao PDR and Developers of the Nam Theun 2 Hydroelectric Project, dated November 16, 1998
- ✧ The letter of proposal of the Minister of the Ministry of Agriculture and Forestry, No.1576/MAF 2000, dated December 18, 2000.

**The Prime Minister issues this Decree**

**Article 1:** For the purpose of the implementation of the Nam Theun 2 Hydroelectric Project, this Decree determine the following main areas related to the Project:

- 1.1 Nakai-Nam Theun National Biodiversity Conservation Area (NBCA)
- 1.2 Corridor Area between the Nakai-Nam Theun National Biodiversity Conservation Area and the Phou Hin Poun National Biodiversity Conservation Area.
- 1.3 Corridor Area between Nakai-Nam Theun National Biodiversity Conservation Area and the Phou Hin Nam No National Biodiversity Conservation Area.
- 1.4 Reservoir Area at the water Full Supply Level of El 538 for the purpose of electricity generation. The other project areas will be separately agreed between the Government and Developers.
- 1.5 Resettlement Area and Forest Area for the people directly affected by the NT2 Project.

**Article 2:**

- 2.1 The determination of the boundaries is based on the map with a scale of 1:1000.000 by comparing the latitudes and longitudes to the actual geographic areas using the mountains chain, streams, rivers, roads, the lowest level or the highest level as references to enable the detailed survey of the areas, the proper implementation of the project, to facilitate the acknowledgement and understanding of the local authorities, local ethnic peoples to the areas boundaries and to receive good cooperation on the implementation from the local people.
- 2.2 The boundary and area provided in the article 1 of this decree are shown on the attached map and document to this Decree, which is a part of this Decree.

**Article 3:** Area and boundary of the Nakai-Nam Theun NBCA

<b>Total area:</b>		<b>353,200 ha</b>	
Area within Khammouane Province		326,130 ha	
Area within Bolikhamxay Province		27,070 ha	
		<b>First Point</b>	<b>Second Point</b>
<b>North:</b>	Longitude	105' 09' 30";	105' 29' 21"
	Latitude	18' 23' 23";	18' 12' 07"
<b>East:</b>	Longitude	105' 29' 21";	105' 46' 00"
	Latitude	18' 12' 07";	17' 40' 20"
<b>South:</b>	Longitude	105' 46' 00";	105' 03' 39"
	Latitude	17' 40' 20";	17' 51' 02"
<b>West:</b>	Longitude	105' 03' 39";	105' 09' 30"
	Latitude	17' 51' 02";	18' 23' 23"

**Article 4:** Area and boundary of the corridor between the Nakai-Nam Theun NBCA and the Phou Hin Poon NBCA (Limestone NBCA).

<b>Total area:</b>		<b>73,860 ha</b>	
Area within Khammouane Province		37,310 ha	
Area within Bolikhamxay Province		36,550 ha	
		<b>First Point</b>	<b>Second Point</b>
<b>North:</b>	Longitude	104' 48' 45";	105' 03' 15"
	Latitude	18' 04' 30";	17' 59' 35"
<b>East:</b>	Longitude	105' 03' 15";	105' 03' 35"
	Latitude	17' 59' 35";	17' 51' 10"
<b>South:</b>	Longitude	105' 03' 35";	104' 57' 45"
	Latitude	17' 51' 10";	17' 45' 50"
<b>West:</b>	Longitude	104' 57' 45";	104' 48' 45"
	Latitude	17' 45' 50";	18' 04' 30"

**Article 5:** Area and boundary of the corridor between the Nakai-Nam Theun NBCA and Phou Hin Nam No NBCA.

<b>Total:</b>		<b>3,310 ha</b>	
		<b>First Point</b>	<b>Second Point</b>
<b>North:</b>	Longitude	105' 46' 00";	105' 46' 17"
	Latitude	17' 40' 20";	17' 40' 00"
<b>East:</b>	Longitude	105' 46' 17";	105' 45' 38"
	Latitude	17' 40' 00";	17' 35' 57"
<b>South:</b>	Longitude	105' 45' 38";	105' 43' 09"
	Latitude	17' 33' 57";	17' 34' 33"
<b>West:</b>	Longitude	105' 43' 09";	105' 46' 00"
	Latitude	17' 34' 33";	17' 40' 20"

**Article 6:** Area and boundary of the reservoir at El 538

<b>Total area:</b>		<b>45,000 ha</b>	
		<b>First Point</b>	<b>Second Point</b>
<b>North:</b>	Longitude	104' 56' 00";	105' 05' 00"
	Latitude	17' 58' 00";	17' 53' 00"
<b>East:</b>	Longitude	105' 05' 00";	105' 21' 40"
	Latitude	17' 53' 00";	17' 37' 35"
<b>South:</b>	Longitude	105' 21' 40";	104' 59' 00"
	Latitude	17' 37' 35";	17' 46' 25"
<b>West:</b>	Longitude	104' 59' 00";	104' 56' 00"
	Latitude	17' 46' 25";	17' 58' 00"

**Article 7:** Area and boundary of the Resettlement area

<b>Total area:</b>		<b>20,800 ha</b>	
		<b>First Point</b>	<b>Second Point</b>
<b>North:</b>	Longitude	105' 03' 10";	105' 21' 40"
	Latitude	17' 50' 40";	17' 37' 35"
<b>East:</b>	Longitude	105' 21' 40";	105' 24' 35"
	Latitude	17' 37' 35";	17' 36' 20"
<b>South:</b>	Longitude	105' 24' 35";	104' 59' 00"
	Latitude	17' 36' 20";	17' 46' 25"
<b>West:</b>	Longitude	104' 59' 00";	105' 03' 10"
	Latitude	17' 46' 25";	17' 50' 40"

- Article 8:** The main objectives of the corridors and all prohibition measures shall follow article 3 and 4 of the Decree 164/PM dated 29/10/1993 on the establishment of the NBCAs for the whole country.
- Article 9:** The Resettlement Area will be the news settlement for the resettlers and will be allocated to each family for establishing its new house and will be given to the resettlers for sustainable uses in accordance to the laws.
- Article 10:** The boundary of the reservoir at the water Full Supply Level of El 538 is determined for the purpose of proper reservoir clearing and removal of trees before filling the reservoir to ensure water quality and environment, and in the areas where there is difficulty in level determination and demarcation of logging areas, the rest of the trees will be cut and removed from those areas after filling the reservoir and when the actual inundated area will be known.
- Article 11:** The Ministry of Agriculture and Forestry in collaboration with the local Authorities and the Nam Theun 2 Project is hereby assigned to do the detailed survey and clear demarcation on the actual ground and disseminate this decree to government officials and ethnic people in order to make them understand this Decree and implement this strictly, and participate in the implementation of the protection of forest in order to conserve forest for the future.
- Article 12:** This Decree becomes effective on date of signing.

Vientiane, date 29 December 2000

Prime Minister

Signature

Sisavath Keobounphanh

**D-2 DECREE 37/PM OF APRIL 12, 2002 ON THE APPROVAL OF THE ALLOCATION OF THE RESETTLEMENT AND FOREST AREA TO PEOPLE AND VILLAGE ORGANIZATIONS AFFECTED BY THE NAM THEUN 2 PROJECT FOR CARRYING OUT FORESTRY BUSINESS ACTIVITIES.**



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

Prime Minister's Office

No.: 37/PM  
Vientiane, date: April 12 2002

**(Supplementary) Decree on the approval of the allocation  
of the resettlement and forest area to people and village organizations  
affected by the Nam Theun 2 Project for carrying out forestry business activities**

**Reference is made to:**

- The Law on the Government of Lao PDR No:01/NA dated March 03 , 1995.
- The Forestry Law No.01/96 dated October 11,1996
- The Notice of the Prime Minister Office No.1550/PMO ,dated September 03,1999, of the endorsement of Resettlement Action Plan for the Nam Theun 2 Project
- The letter of proposal of the Minister of Agriculture and Forestry No. 201/MAF dated March 07, 2002

**The Prime Minister issues this decree:**

- Article 1.** This decree is issued as a supplement to the decree No. 193/PM dated December 29, 2000 on the establishment of the Nakai-Nam Theun NBCA, Corridor Areas, NT2 Project Reservoir Area, and Resettlement and Forest Area for people affected by the NT2 project.
- Article 2.** Forest land and forest should be allocated to people affected by the development and construction of the NT2 hydropower project for use as the area on which their new villages will be settled and they can find sustenance and for carrying out forestry business activities in a sustainable manner. This is a compensation measure to people affected by the development and construction of the project.
- Article 3.** The ministry of Agriculture and Forestry, the Department for National Land Planning and Development of the Prime Minister Office are authorized in collaboration with local authorities and parties concerned to convert the land from its current purpose of agricultural and forestry land to other purposes and activities to serve the needs of the NT2 project.
- Article 4.** The location and boundary of forest land to be allocated to the people for forestry management and uses are set out in the article 7 of the Prime Minister's Decree No.193/PM dated December 29, 2000.

- 4.1 The Minister of Agriculture and Forestry is entrusted in collaboration with the Provincial Governor, local administrative authorities, the department for national land planning and development and the Resettlement Committee for the determination of the boundary of the land areas and categories of land uses such as the area on which new villages will be established, the area for agricultural production activities, the forest land area for a sustainable forestry business activities, the area for construction and expansion of Nakai District for the future , consistent with the actual local conditions .In parallel to the above , rules and regulations for the establishment and business activities of the villagers forestry association in the Resettlement Area of the NT2 project on the Nakai Plateau have to be prepared and issued to ensure the sustainability of the management and use of forest and forest resources.
- 4.2 Persons in charge of the NT2 project and the Nam Theun 2 Electricity Consortium (NTEC) are entrusted to prepare a plan, to survey and collect actual data for the detailed planning for the delegation of the management and use right of the forest land and forest resources to the people in accordance with the plan specified ( Articles 4 and 4.1 ) and procedures from time to time on the basis of the agreement between the State and the village organizations or villagers forestry association in order to manage and use the forest land in a sustainable manner in accordance with the laws and regulations issued by the State.

**Article 5.** Ministries, organizations equivalent to the ministries, local administrative Authorities, and armed forces and ethnic people within the NT2 project area shall acknowledge and act strictly in accordance with this decree.

**Article 6.** This decree is effective from the date of its signing.

Prime Minister of Lao PDR

Signature

Boungnang Vorachit

**D-3: AUTHORIZATION 63/MAF TO THE PROVINCIAL AUTHORITY TO ISSUE THE PERMIT AND SUPERVISE THE ESTABLISHMENT OF NAKAI PLATEAU VILLAGE FOREST ASSOCIATION OF NT2 PROJECT.**

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

Ministry of Agriculture and Forestry

No. 0063/MAF  
Vientiane, 29 April 2002

**To:** His Excellency the Governor of Khammouane Province Chairman  
of the Committee of the Resettlement of people of the NT2  
Project.

**Subject :** Authorization to the Provincial Authority to issue the permit and supervise the  
establishment of Nakai Plateau Village Forest Association of NT2 Project.

Reference is made to:

- The Decree no 193/PM dated 29/12/2000 on the establishment of Nakai-Nam Theun NBCA, corridors areas, NT2 reservoir area, the resettlement and forest area for people affected by the NT2 project.
- The (supplementary) Decree 37/PM dated 12 /04/2002 on the approval of the allocation of the resettlement and forest areas to people and village organizations affected by the NT2 project for carrying out forestry business activities.
- The Notice of the Prime Minister's Office no 1550/PMO dated 3/9/1999 on the endorsement of the Resettlement Actions Plan of the NT2 project.
- The Decision no 64/PMO dated 4/11/1998 on the creation of the Committee of Resettlement of People affected by the NT2 Project.

In order to concretize and effectively implement the decrees, decision, notice and the resettlement actions plan of the people from the area which will be relocated by the NT2 Project already endorsed by the Government and to encourage the implementation of forestry law and regulations on forest management and business activities, based on the previous agreement between the province and the Ministry of Agriculture and Forestry, the Minister of Agriculture and Forestry authorize the Governor of Khammouane Province, on behalf of local authorities and the Chairman of the Resettlement Committee of people of the NT2 Project, to issue regulations on the establishment and the conduct of operations of the Nakai Plateau Village Forest Association of the NT2 Project. Concerning the steps, method and technical matter to ensure the sustainable management of forest, the Provincial Agriculture and Forestry Office in collaboration with the Department of Forestry is entrusted to be responsible and to give guidance under the strict supervision of the Governor.

During the implementation, if there are problems related to the policy, laws and regulations, the Ministry will work together with the Province to evaluate them, find ways and measures and make proposal to the Government for proper solutions.



With many respects,

For the Minister of Agriculture and Forestry

Sitaheng RATSAPHON

C.C to:

1. Prime Minister Office ( as a report )
2. Forestry Department ( for implementation)
3. Khammouane PAFO ( for implementation)

**D-4 REGULATION 484/KM.GOV ON THE ESTABLISHMENT AND MANAGEMENT OF NAKAI PLATEAU VILLAGE FORESTRY ASSOCIATION**

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

Khammouane Province

No. 484/KM.GOV

Thakhek, June 13, 2002

**REGULATION  
ON THE ESTABLISHMENT AND MANAGEMENT  
OF NAKAI PLATEAU VILLAGE FORESTRY ASSOCIATION**

Reference is made to:

- The Constitution of the Lao People's Democratic Republic 1991
- The Forestry Law no. 1-96 dated 11/10/1996.
- The Decision of the Prime Minister no. 64/PM dated 14/11/1998 on the establishment of the Resettlement Committee of people of the NT2 Project.
- The Decree of the Prime Minister no. 193/PM dated 29/12/2000.
- The Decree of the Prime Minister no. 37/PM dated 12/04/2002.
- The Notice of the Ministry of Agriculture and Forestry no. 0063/MAF dated 29/04/2002.

**The Governor of Khammouane Province issues this Regulation**

**PART 1  
ESTABLISHMENT, NAME AND OBJECTIVES OF THE ASSOCIATION**

**Article 1:**

- This Regulation establishes the Association;
- The official name of the Association is, the Nakai Plateau Village Forestry Association of the Resettled Area of the Nam Theun 2 Project or NPVFA, hereinafter referred to as the Association.

**Article 2:** Objectives of the Association:

- To gather the resettled villagers impacted by the Nam Theun 2 Project into a single organization, enhancing their solidarity and creating favorable conditions for the improvement of their living standard;
- To raise the awareness on the collective forestry rights of the resettled villagers;
- To manage and use the forests (allocated by the State according to Decree no. 93/PM to compensate the impacts due to the construction of the NT2 Hydropower Project) effectively and sustainably so that they become the permanent base of their livelihood.

## **PART II**

### **Status, Functions and Rights**

**Article 3:** Status of the Association:

- The Nakai Plateau Village Forestry Association is hereby created by this regulation as a legal corporate entity, operating under the general guidance of the Provincial Agriculture and Forestry Office and other relevant authorities;
- The Association is financially independent and able to contract and enter into other commitments in its own name.

**Article 4:** Functions of the Association:

- To receive the forest resources as stipulated in Decree 193/PM of December 29, 2000 and Supplemental Decree 37/PM of April 12, 2002;
- To consolidate and strengthen the solidarity among the members;
- To facilitate the coordination with governmental, Nam Theun 2 and relevant agencies;
- To manage and use the allocated forest and forest resources effectively and sustainably;
- To prepare a forestry management plan, an operational plan and a training plan, as directed by the NT2 Coordinating Committee, for approval by the relevant organizations;
- To implement those plans effectively;
- To develop sources of income necessary for the improvement of the living conditions of the members of the Association.
- To share the cost and benefit to the members equitably;
- To establish a social fund for support of vulnerable households;
- To pay tax and other duties to the government;
- To report on the results of the activities of the Association to the General Assembly of the Association;
- To contribute to the socio-economic development of the Nakai District.
- To develop and train labor in relevant skills.

**Article 5:** Duties of the Association:

- To manage and use for their sole benefit the allocated forest and forest resources according to the forestry management plan;
- To own, use, sell and enjoy the benefits of the trees planted by and allocated to the Association;
- To take appropriate measures to enforce the rules and regulations of the Association;
- To assign tasks and responsibilities to the members;
- To carry out forestry business activities including logging, transformation and marketing of forestry products;
- To enter into agreements with individuals and legal persons;
- To buy, own, exchange and sell tools, equipment, vehicles, buildings and other property of the Association;
- To confiscate logs and other illegal forestry products within the limit of its territory, and bring wrongdoers before the law;
- To open and operate accounts with banks;
- To distribute its net profits to the members, on a regular basis.

**PART III**  
**Membership and Organization**

**Article 6:** Membership:

- The membership of the Association shall be open to all households directly impacted and/or resettled by the Nam Theun 2 Project;
- A register of members shall be prepared and maintained by the Association, open to inspection by all members;
- Each household will be considered as one member.

**Article 7:** Conditions of membership:

Each registered household who wishes to become a member of the Association shall comply with the following conditions:

- Be legally registered as a Project-affected household;
- Agree to comply with the rules and regulations of the Association;
- Submit a written application for membership to the Association.

**Article 8:** Responsibilities of the Members:

- To support objectives, programs, plans and activities of the Association;
- To comply with the rules, regulations and decisions of the Association;
- To be responsible with the other members for the payment by the Association of its taxes and other charges to the government and its costs and expenses;
- To protect and develop the forest and forestry resources of the Association.

**Article 9:** Rights of the Members:

- To vote on all matters brought to the Assembly and members meetings;
- To stand for elections to the Boards or Committees of the Association;
  
- To obtain benefits and social welfare from the Association available to the members;
- To suggest any useful idea to the Board of Management;
- To resign from membership.

**Article 10:** Articles of Association:

- The Association shall have Articles of Association setting out its internal rules and regulations which shall be prepared by the Association and approved by the Provincial authorities;
- The Articles of Association shall be prepared within 60 days of the date of this Regulation, and shall be discussed with the expected members;
- The Articles of Association once approved by the Province shall be notarized by the Notary Office of the Province and registered with the State Assets Management Office of the Province.

**Article 11:** Registration of the Association:

- The Association shall be registered with the Provincial authorities.

- Article 12:** Funding of the Association:
- The Association shall be funded by its business activities and initially, by a working capital loan.

- Article 13:** Changes to the Articles and termination of the Association:
- Any change to the Articles of Association shall be reported to and endorsed by the relevant authorities and re-registered by the district financial office;
  - The Association may be terminated by a resolution of the General Assembly with the authorization of the District Authority and must be endorsed by the Provincial Authority and reported to the Ministry of Agriculture and Forestry.

#### **PART IV Main Bodies of the Association**

- Article 14:** Main Bodies:
- The main bodies of the Association shall be:
- The General Assembly
  - The Board of Management
  - The Board of Inspection

- Article 15:** General Assembly:
- The General Assembly shall meet once a year but meetings may be held at other times as well. Between the formal meetings extraordinary sessions of this General Assembly may be held if the management of the Association determines this to be necessary or if it is proposed by 1/3 of the members;
  - To be able to proceed, the number of members present at any meeting of the General Assembly shall not be less than 2/3 of the total members.

- Article 16:** Functions of the General Assembly:
- Review the implementation of the forestry, operational and training plans;
  - Approve new plans as presented by the Board of Management;
  - Elect the Board of Management and the Board of Inspection;
  - Approve the Articles and any other rules or regulations of the Association;
  - Decide on the method and amount of income distribution to the members;
  - Annually, approve the financial statements of the Association.

- Article 17:** The Board of Management:
- The Board of Management comprises a Chairman, one or two Deputies, and other members. They are elected by the General Assembly. The term of office of the board is three years.

- Article 18:** Rights and duties of the Board of Management:
- Formulate policies, strategies, programs and plans for the Association;
  - Implement all policies, strategies, programs, plans and decisions of the Association;

- Coordinate with authorities for the smooth implementation of the programs;
- Coordinate with relevant organizations inside and outside the district;
- Enter into legally binding agreements with relevant organizations for the benefit of the Association;
- Take appropriate measures to protect the interest of the Association;
- Resolve all internal problems;
- Prepare and organize all meetings of the Association including all meetings of the General Assembly;
- Be remunerated according to their merit and the regulation of the Association;
- Select a Chairman from among the numbers of the Board of Management;
- To appoint a General Manager and support staff.

**Article 19:** Rights and Duties of the Chairman:

- Prepare, organize and preside at meetings, including the General Assembly;
- Be responsible for reports and official documents of the Association;
- Sign on behalf of the Association;
- Represent the Association on official occasion;
- Propose the nomination of the Board members;
- Delegate tasks and responsibilities to other Board members.

**Article 20:** The Board of Inspection:

- The Board of Inspection shall comprise a Chairman, a Deputy and up to three other members;
- They are all to be elected by the General Assembly.
- The normal term of office of the Board of Inspection shall be 3 years.

**Article 21:** Rights and Duties of the Board of Inspection:

- To review the general management of the Association;
- To monitor and evaluate the implementation of all of the programs and plans of the Association;
- To review the financial situation of the Association;
- Each time there is a Government Authority Supervision or Assistance, the results must be formally reported to the Board of Management and relevant authorities.

## **PART V**

### **Relations with Government**

**Article 22:** The Governor of Khammouane Province shall be responsible for implementing, supervising, facilitating and monitoring the Association, through the Provincial Agriculture and Forestry Office.

**Article 23:** The Provincial Agriculture and Forestry Office shall be responsible for advising on the provision of technical assistance and training to the Association according to its management, operational and training plans.

**Article 24:** Relevant Government agencies shall be responsible for giving assistance and facilitating the management and business activities of the Association according to the Articles of the Association and Lao law.

**Article 25:** This regulation can be changed by the Governor only if an article or paragraph contradicts government policy.

**Article 26:** This regulation is effective on the day of its signature.

The Governor of Khammouane Province