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Lao People's Democratic Republic
Peace Independence Democracy Unity Prosperity
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Ministry of Public Works and Transport

No. 7736/MPWT  
Vientiane Capital, 8/06/2010

### Decision

#### On Regulations in Regards to Management on Water Construction Business in the Lao PDR

- Pursuant to the law on Water and Water Resources, No. 02-96, dated 11 October 1996;
- Pursuant to the Law on Urban Planning No. 03/19/NA, dated 03/04/1999;
- Pursuant to the Law on Environmental Protection No. 02/99/NA, dated 03 April 1999;
- Pursuant to the Law on Construction No. 05/NA, dated 26 November 2009;
- Pursuant to Prime Minister's Decree No. 373/PM, dated 22 October 2007, on the organizations and activities of the Ministry of Public Works and Transport;
- Pursuant to the Prime Minister's Decree No. 161/PM, dated 15 September 2008 on the organizations and activities of the Committee in Charge of the Business Management and Safeguarding of Impact to the shore, ecological system along the Mekong and Heuang Rivers (CSMH);
- Based on unanimous agreement of the Ministry Management Team.

**Minister of Public Works and Transport Agrees to issue this Regulation as follows:**

### Chapter I General Provision

#### Article 1. Objectives

This Decision formulates the regulations for the management of construction related business along the Mekong river, its tributaries including other rivers, tributaries, streams, ditches, canals, ponds as well as large size basin to be proceed in accordance with the relevant laws and regulations, in line with the Government-approved strategic plan with the intention to avoid adverse impact to the river bank, biological system and the changes in natural condition of the water sources, as well as to protect the richness and sustainability of water and water resources throughout the country.

#### Article 2. Definition of Terms

The terms used in this Regulation shall have the following meanings:

1. **CSMH** refers to the Committee in Charge of the Business Management and Safeguarding of Impact to the Shore, Ecological System along the Mekong and Heuang Rivers, in accordance with the Prime Minister's Decree No. 161/PM, dated 15/09/2008. The Committee is existed at the central and local levels;

2. **Public Works and Transport Agency at Relevant Level** refers to the Department of Water Public Works at the central level; Division of Public Works and Transport at provincial, capital city and local levels;

3. **Water Sources** refer to the Mekong River and its tributaries, including other water sources;

4. **Other Water Sources** refer to rivers, tributaries, streams, ditches, canals, ponds, swamps, and other large size basins which are not Mekong tributaries;

## UNOFFICIAL TRANSLATION

5. **Operation of Water Construction Business** refers to the determination of investment project, the implementation of construction works and determination of master plan of the water construction project such as: the survey, design, construction, repair, renovation, restoration, extension, alteration, management, inspection and control the construction of the water construction project;

6. **Water Construction Project** refers to all state-owned or private projects that operate construction business on water surface, in the water, along the river bank, beach, island, head or tail of rapids of the Mekong river, tributaries and other water sources such as bridge, hydroelectric dam, port for good transportation, port for passenger transportation, ferry port and up-and-down pathway, embankment protection business, site for storage of gravel and sand, ditch, boat canal, cruise landmark, including hotels, guesthouses, restaurants, raft, entertainment place and other water construction.

### Article 3. Reserve Area along the Bank of Water Sources

Area along the bank of water sources that is reserved for infrastructure construction such as: flood protection embankment, erosion protection embankment, erosion protection wall s, roads and other public facility that have been classified in accordance with the type of water sources as follows:

1. Along the bank of the Mekong river, starting from the shoreline to the inner part of the land with a distance of 30 m and over;
2. Along the bank of the Mekong tributaries and other sources shall be started from the shoreline to the inner part of the land with a distance of 20 m and over.

### Article 4. Classification of Water Construction Project

The water construction project is divided in two levels:

**Level 1:** Small and medium scale project or project with the cost less than 50 billion kips;

**Level 2:** Large scale project or project with the cost of 50 billion kips and over.

## Chapter II

### Management of Water Construction Project

### Article 5. Project Approval

The implementation of water construction project of both state and private sector must be approved by CSMH at concerned levels, in accordance with the following regulations:

1. The level 1 project shall be approved by **CSMH** at provincial, capital city level based on the scrutiny and suggestion of the Division of Public Works and Transports of province, capital city;
2. The level 2 project shall be approved by **CSMH** at the central level based on the scrutiny and suggestion of the Department or Public Works and Transports.

### Article 6. Completing Documentation to Seek Authorization for Construction Project

Individuals or organizations who wish to seek authorization for construction project both in large or small scale must prepare main document in order to submit to the Division of Public Works and Transport at concerned levels as follows:

1. An application based on the standard form of the Department of Water Public Works;
2. Residence Certificate of the Business Owner;
3. The Project Environmental Acknowledgement Certificate issued by the Natural Resources and Environment Sector;
4. Copy of document certifying the acquisition of the right of the project's owner to use land or premises

## UNOFFICIAL TRANSLATION

5. Master plan of the construction project through the survey, design and price estimation by a Survey and Design Company legally registered in according to the laws and regulations. Such master plan must show the following information:

- For the works related to the construction of building, housing must demonstrate the treatment and drainage system for pollute water, rain water, waste from household, living area and other buildings;

- For the works related to the construction of embankment protection, port and cruise facility or water transport must show the detail information of the survey in the field of hydrology, geology of the shoreline and in the water.

### **Article 7. Procedures for Consider an Authorization for the Operation of Water Construction Business.**

Upon receiving a request together with all supporting documents, the Division of Public Works and Transport shall proceed with the following steps:

1. Study and review supporting documents;
2. Inspect the project's operation site.

After studying and reviewing supporting documents and conducting project site inspection, if the design is still found not in line with the urban plan, fails to meet the technical standard or documents are not comprehensive, unclear or incomplete, the Public Works and Transports Sector at concerned level shall inform the project's owner within 07 business days in order to restart the accurate survey, design and documentation. If all documents are found proper and complete, the Public Works and Transport Sector at the concerned level shall propose technical opinion to the CSMH at the next higher level for consideration and approval of the proposed construction project.

### **Article 8. Project Construction Authorization**

Upon the project approval, the relevant Public Works and Transport Sector shall issue the construction license to the project's owner within 07 business day. The construction permit shall be applicable within the period of three (3) months from the date of the signature. In case that the construction is implemented within such period, the license shall be valuable and can be used as evidence until the construction is complete as planned. In case that the construction cannot be implemented in according to such timeframe, the project's owner must request for extension but shall not exceed two (2) times, otherwise such license shall be immediately expired.

### **Article 9. Principles for Consideration on Water Construction Project Approval**

The process on considering water construction project approval

1. No danger and obstruction to water trafficking;
2. Keep original bank as much as possible;
3. No hiding the water sources perspective;
4. Not to cause adverse impact to the water sources environment and ecological system
5. Not to cause the conversion or diversion of water flow that hit the river bank or island to damages;
6. The location of the newly approval seeking construction project must not exist in the area where the government development plan is available;
7. The construction is allowed as necessary and reasonable only;
8. Not in contradiction with a Decision on the technical standard for the embankment construction along the Mekong river and Nam Heuang as approved by the CSMH, not in contradiction with the laws and regulations related to urban planning, the construction of basic infrastructure and the time schedule regarding technical standard issued by the Ministry of Public Works and Transport.

## UNOFFICIAL TRANSLATION

### Article 10. Type of Business in Which the Construction is Allowed to be Extended in the Water Source

The water business obtaining approval to extend the construction in to the water source are those being constructed in accordance with the condition and technical standard of the construction as provided below:

#### 1. Dock:

- 1.1. The structure must be solid and permanent, without causing the diversion of water flow that will cause damages to other places and must be built in accordance with the design technique provided by the Public Works and Transport Sector;
- 1.2. The last end of the dock up-down slope must be lower than the water level based on the lowest statistic of the vicinity where such dock will be built in an approximately of 0.8 m, in order to allow goods transport boat and passenger boat to easily running in and out;
- 1.3. The design of port must be based on the location, the geographical landscape, perspective, size of boat, the impact to the environment, ecological system and the water sources nature, such as the width, depth, edge of the bank, condition of soil, water flow and the gradient of up-down slope in the port shall not exceed 12%;
- 1.4. The construction must be done in the land area of the person allowed to have the land use right and must be in accordance with the plan approved by the Public works and transport Sector.
- 1.5. Temporary dock existed along the beach must not cause hindrance to business operation of the people along such beach.

#### 2. Pantoon:

- 2.1. Pantoon must have strong, endure and safe structure and with the high level of floating, for instance when bearing highest weigh the upper floor of pantoon must be located in level higher than the water surface which shall not less than 0.40 m and must be protected by strong fence surrounding in all sides, except the side where boat can enter-exit to the pantoon and the section connected with the floating bridge;
- 2.2. The floating bridge which can be used as the way going down to pantoon and can be moved up and down with the level of water must have the size suitable with the boat size, together with strong handle fence and the slope not exceed 12% when the water level going down.

#### 3. Bridge:

The construction of bridge across various water sources, especially to lay down of column and bridge floor, it is necessary to ensure the safety of water travelling route such as: not to cause hindrance for cruising and not to lead to diversion of water flow to damage other places;

- 3.2. The width between the bridge's column and the height of the bridge's floor must not cause any hindrance and obstacles to the cruising route:

- **The width between the Bridge's Column:**

- Along the Mekong river, the width between the bridge's column through cross-wise of the river must have a distance of 60 to 120 m;
- Along the large tributaries of the Mekong river the distance must be in between 18 to 35 m;
- Along small tributaries the distance shall be based on the actual situation of each river.

- **The height of bridge's floor:**

## UNOFFICIAL TRANSLATION

- Along the Mekong river the height to the floor of the bridge must be higher than the level of water with the highest figure in between 10 to 12 m;
- Along large tributaries of the Mekong and other rivers with navigation capacity, the bridge's floor must be higher the highest level of such rivers between 3 to 5 m;
- Along small tributaries, the height of bridge's floor shall be based the actual situation of each river;

- 3.3 The length of bridge must be perpendicular with the flowing direction of the Mekong river and the bridge column shall not be in a form which is resistant with the water flow. In case that the length of bridge is not perpendicular with the water flow direction, the bridge must be built in the way non-resistant with the water flow in order to avoid the impact to the structure of the river.

#### 4. High-voltage Electricity Pole, Cable and Pipe:

The construction and installation of high-voltage electricity, cable pole; the connection of electricity pole, cable pole and the placement of traversing pipe, including the placement of pipe or cable passing underneath water sources, must be strictly complied with the survey-design approved by the Public Works and Transport Agency in order to avoid various impacts as follows:

- 4.1 To avoid erosion or tearing down of shores, high-voltage electricity pole or cable pole must be installed in a distance of at least 20.00 m from the shore to the inner land;
- 4.2 To ensure no obstacle or hindrance to water transportation, it is required to connect electricity line, cable or to place pipe crossing water sources in the higher level than the water level according to the highest statistic of 15-20 m, and in case that pipe or cable is placed under water the depth must not less than 2,00 m.

#### 5. Building of Erosion Prevention Business:

- 5.1 Building of erosion prevention business shall not cause effect to the water drainage system, water drainage canal, underground water system, in case that construction undertaken nearby island, it must not cause any effect to the island and the change in the water flow direction;
- 5.2 Building of erosion prevention business in newly emerged beach area is prohibited;
- 5.3 Building of business along the riverside must be undertaken in the form that the extension part does not block water flow and cause diversion of the water flow.

#### 6. Water Pumping House:

- 6.1 Construction of pumping house must not obstruct navigation and must not cause diversion of water flow that affect to other places;
- 6.2 Placement of water pipe must be done on the spot where the shoreline condition is stable and not to be easily eroded;
- 6.3 Extension of water pumping pipe must be done along the underwater ground direction or to be lain along the steepness of shoreline and the end of the pipe must be at the lowest water level in such area which shall not less than 1,00 m.

#### 7. Rafting House Restaurant:

- 7.1 The location of rafting house restaurant shall not resist the water flow or create diversion of water flow which affect and cause damages to other places and shall not hinder travelling by water;

## **UNOFFICIAL TRANSLATION**

- 7.2 Secure tying pole must be available and shall not be tied up to the unstable tree that may cause erosion or collapse to the shoreline and shall require boat tying pole which is secure, permanent and stable;
- 7.3 It is prohibited to throw away any waste from consumption in the rafting house into the river and the riverside. All waste must be brought to demolish or dispose of at the specified place or through proper manner.

### **8. Fish Raising Tank:**

- 8.1 Fish raising tank must be placed along the river at the sport without diversion of water flow, with no obstacle to water transportation, in particularly in an area close to navigation route and such tank shall be in the form that not cause the diversion of water flow direction that can attack shoreline and cause erosion and damages;
- 8.2 Raising fish in the tank must ensure no occurrence of pollution or dirtiness, spoil and stink to water sources;
- 8.3 Must have strong, secure, and permanent pole or typing place, shall avoid tying up to insecure tree or pole along the shoreline which might erode or ruin the shoreline.

### **9. Hydro-electrical Dam:**

- 9.1 Hydro-electrical dam and barrage must comprise of opening and closing gate to allow boat to passing through as well as to ensure not to cause the diversion of water flow that may hit the shoreline and cause damages to the environment and the water source ecological system;
- 9.2 Every time of releasing water from dam, all concerned agencies shall be informed.

## **Chapter III**

### **Inspection and Certification of Rightness of the Construction**

#### **Article 11. Inspection of Construction**

The Public Works and Transport Section, as well as the Department of Public Works and Transport at provincial/capital city level shall take action to coordinate with relevant agencies and authority to undertake project monitoring at the level of their management regularly on a monthly basis, if it deems necessary the monitoring shall be conducted without giving advance notice to the project's owner from the starting date to the complete date of the construction, in order to supervise the construction to be proceed properly in accordance with the required technical standard.

Each time of inspection, a joint-memorandum with the project's owner shall be done for evidence in terms of the information related to the project implementation status in each period. Through the inspection, if there are any issues related to the construction, the concerned public works and transport sector must instruct the project's owner to find the resolution in according to the regulations and to meet the deadline.

## **Chapter IV**

### **Prohibition**

#### **Article 13. Prohibition in General**

Individual or organization is prohibited from conducting any construction activities in the reserved areas along the shoreline, on the shoreline, on the surface of water, under the water of various water sources without obtaining authorization

## **UNOFFICIAL TRANSLATION**

### **Article 14. Prohibition for those who Obtain Construction License**

Individual or organization authorized to build any water related project shall be prohibited from the following actions:

- Conduct construction business not in line with the design being approved or not in accordance with the laws and technical standards provided by the Ministry of Public Works and Transport;
- Operate construction not in comply with the regulations set forth by the Ministry of Public Works and Transport which cause the impact to water sources, such as: creation of pollution and dirtiness to water sources during the operation of construction;
- Other acts which are considered violating the laws related to the construction and the environmental protection.

## **Chapter V**

### **Policies towards Persons with High Achievement and Measures against Violators**

### **Article 15. Policies towards Persons with High Achievement**

Individuals or organizations that are the owner of the water construction project, including the contractor who implement the construction properly in according to the approved design, the laws and technical standard provided by the Ministry of Public Works and Transport and complete within the planned timeframe;

### **Article 16. Measures against Violators**

Individuals or organizations that violate this Decision shall be re-educated, warned, fined and compensated for the loss or imposed criminal punishment on a case by case basis according to the seriousness of the violation.

#### **1. Re-education and Warning Measures**

- Individuals or organizations that violate any provisions of this Decision with slight character which is not considered as criminal offence shall be re-educated and warned, such as:
- Owner of construction project who initially conducted construction project not in line with the approval design, construction contractor who fails to systematically store construction waste which may create dirtiness to water sources shall be re-educated, warned and ordered to temporarily suspend the construction as well to firstly fix such incorrectness before being approved to continue the construction;
- Official in charge of the management and inspection of the construction who fails to pay attention to perform his duty on a regular basis, to prepare detailed Memo during the time of monitoring the construction, to warn the project's owner when infringement of construction regulations is found shall be educated, warned or might be imposed disciplinary on a case by case basis.

#### **2. Fine Measures**

Individuals or organizations that violate this Decision, such as prohibition related to water construction business by causing damages without criminal offence element shall be fined due to any of the following acts:

- Carry out water construction business without license shall be fined in accordance with Article 50 of the Law on Urban Planning, including be imposed a fine of 10% of the un-authorized

## UNOFFICIAL TRANSLATION

construction amount. In the event that such construction is not in line with the urban plan, the violator has to remove such building structure in default on a case by case basis;

- Carry out water construction business without paying attention to the storage of waste in a systematic manner which letting them lost or flowing into water sources, creating pollution or dirtiness to the water sources and incurring the changes in the natural condition of water sources, shall be subject to a fine in accordance with the relevant laws and regulations.

### 3. Civil Measures

Individuals or organizations that violate this Decision that incur damages to other persons shall be subjected to pay compensation for the damages incurred.

### 4. Criminal Measures

Individuals who violate this Decision that incur the loss of life and health of other persons shall be imposed a punishment in accordance with the Law on Criminal Procedure.

### 5. Additional Punishment Measures

In addition to the foregoing measures, individuals or organizations that violate this Decision may be subjected to a suspension or a withdrawal of their project approval or business operation license.

## Chapter VI Final Provision

### Article 17. Implementation

Water construction business or building structure existed prior to the promulgation of this Decision shall be exempted from seeking for Construction License if there is no contraction with this Decision, the laws and regulations related to urban planning and other relevant laws and regulations. Additionally, the owner of construction business or building structure can request for a Certificate of Accuracy of such construction business or building structure. On the other hand, if such business is in contradiction with this Decision and other relevant laws and regulations, in order to obtain such Certificate, prior adjustment shall be required.

The Department of Water Public Works is assigned to coordinate with all relevant sectors to effectively implement this Decision.

### Article 18. Effectiveness

The Decision shall come into force from the date of the signature onwards. All regulations, provisions which contravene this Decision are null and void.

Minister of Public Works and Transport

[Signed and sealed]