

Laos Legislative Drafting Programme

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Boston University

LAO PEOPLE'S DEMOCRATIC REPUBLICLEGAL FRAMEWORK DEVELOPMENT PROJECT
AIDE MEMOIRE OF THE FORMULATION MISSION OF JANUARY 1995AIDE MEMOIRE DATED JANUARY 31, 1995

1. Introduction. Further to the understandings reached between the Government, UNDP and World Bank in the Aide Memoire of July 06, 1994 ("July Aide Memoire"),¹ a UNDP-World Bank formulation / appraisal mission led by the World Bank (Legal Department) visited Vientiane, Lao-PDR, during the period January 11-31 to formulate / appraise a proposed Legal Framework Development Project ("Project"). The Project builds on the progress achieved under Phases I and II of the prior UNDP-financed World Bank-executed Legal Technical Assistance for the Programme Support to the New Economic Mechanism.² However, the Project benefits from broader objectives, additional sources of funding, revised institutional structures and national execution arrangements. The names of the officials consulted during the mission's visit, as well as the names of the mission members, are listed in Annex I hereto.

2. The Mission's Workproduct. The mission's terms of reference were prepared by the UNDP, in consultation with the Government) pursuant to those agreed upon in the July Aide Memoire. The mission formulated / appraised the Project, according due regard to the Government's policies and priorities for developing Lao-PDR's legal framework, and in full consultation with officials of the Government, UNDP and certain participating bilateral donors.³

¹. See Aide Memoire dated July 06, 1994, "Legal Technical Assistance Project -- Phase III; Evaluation of the Proposed Terms of Reference". The July Aide Memoire was signed on behalf of the Government (Ministry of Finance ("MOF")), UNDP and the World Bank.

². See UNDP-financed World Bank-executed project number LAO/90/006 (Phase I) and LAO/92/004 (Phase II).

³. The names of Government and other officials the mission consulted during its visit are listed in Annex I attached hereto. The mission met with representatives of the following actual and potential bilateral donors interested in contributing in the development of Lao-PDR's legal framework: Embassy of Australia; Australian International Development Agency Bureau; Embassy of France; Embassy of Norway; Norwegian Agency for Development and Cooperation; Embassy of Sweden; and Embassy of the United States of America.

The mission prepared each of the following documents:

- (i) draft UNDP Project Document;
- (ii) draft World Bank Institutional Development Fund ("IDF") Letter of Agreement;
- (iii) preliminary financing plan for the Project; and
- (iv) preliminary draft Programme Document for the Development of Lao-PDR's Legal Framework;

Once the draft documents and preliminary financing plan mentioned in (i) through (iii) above are officially reviewed and finalized by the UNDP and World Bank, they will be submitted to the Government (Ministry of Justice ("MOJ")) for its own official review and approval, prior to their signature by all the parties concerned. As discussed further in paragraphs 3 and 7 below, the mission prepared the preliminary draft Programme Document mentioned in (iv) above simply to serve both as a general guide ("road map") for interested donors, and as a reference and informational document which may help the Government (MOJ) in the future formulate an overall set of strategies and priorities for developing Lao-PDR's legal framework.

3. Continued Commitment to the Project. The mission's visit serves to reaffirm, yet one more time, the UNDP's and World Bank's commitment to continue their joint efforts to assist the Government develop Lao-PDR's legal framework, in the context of the country's transition to a market economy and a Lao society governed by the rule of law. The briefing meeting the mission held on January 20 at the MOJ, attended by officials of the Government (MOJ and Ministry of Finance ("MOF")), UNDP, World Bank and several bilateral donors (namely: Australia; France; Norway and Sweden), demonstrates a serious commitment by the Government and the multilateral and bilateral donor community to continue cooperating actively in the common goal of helping Lao-PDR develop its legal framework.

A range of important topics was discussed during the meeting, and a consensus emerged that henceforth similar meetings should be held semi-annually to foster a regular dialogue between the Government and interested multilateral and bilateral donors.⁴ At least three topics merit special mention: first, all decisions concerning the strategies and priorities governing the development of Lao-PDR's legal framework will always remain the prerogative of

⁴. These semi-annual meetings (June/July-December/January) will be arranged and coordinated by the MOJ, with the assistance of the UNDP, and inviting the participation of the multilateral and bilateral donors interested in contributing to the development of Lao-PDR's framework.

the Lao people; second, the Government's (MOJ's) immediate priorities for developing Lao-PDR's legal framework are drafting key laws, enhancing legal drafting and research methodology, and capacity building of ministerial officials, all in the context of national execution arrangements;⁵ and, third, several officials of the donor community expressed their keen interest in having available a general guide ("road map") which outlines the principal needs for developing Lao-PDR's legal framework, and which describes the prior, on-going and potential future legal technical assistance activities in Lao-PDR.⁶

Hopefully the commitment demonstrated at that meeting will continue in the future, promoting aid mobilization for and coordination of legal technical assistance activities in Lao-PDR. It is important that a constructive dialogue be maintained. A copy of the outline of the mission's briefing as delivered during the meeting is attached as Annex II hereto.

4. Government Actions Since the July Aide Memoire. After the Government (Prime Minister's Office) officially approved the July Aide Memoire, the following actions were taken based on the understandings and assurances of the July Aide Memoire:⁷

5. For purposes of legal technical assistance projects in Lao-PDR (including the Project), the term "national execution" means that the Government (MOJ) assumes primary and direct responsibility for the day-to-day management of such projects (including the Project). In practice this includes, inter alia: application of the various requirements and procedures of the different donors; preparation of project workplans; implementation, coordination, monitoring and evaluation of project activities; selection, recruitment and supervision of consultants; procurement of equipment and materials; processing of withdrawal applications and substantiating documentation; preparation of quarterly, annual and final project progress reports; maintenance of separate records and accounts in respect of all project expenditures; and furnishing annual independent audits of project financial accounts.

6. The donor community views this general guide (road map) as a basis to help determine how best deliver legal technical assistance effectively without wasteful duplication and overlap, while ensuring a long-term vision, a regular dialogue and a reasonable degree of overall coordination among the Government and participating donors. The requested guide / road map is summarized in Section III (D) of the draft Programme Document which is further discussed in paragraph 7 below and attached as Annex III hereto.

7. See July Aide Memoire at paragraph 9; see also Terms of Reference (Annex I to July Aide Memoire) at paragraphs 10, 11, 12 and 14.

(i) the Government (Committee for Planning and Cooperation ("CPC")) officially endorsed, and the Prime Minister's Office subsequently approved, the July 1994 Memoire and the terms of reference annexed thereto;

(ii) the Notification from the Prime Minister's Office No. 1241/PM-Cab, dated October 5, 1994, officially designated the MOJ as the executing agency responsible for Project implementation;

(iii) the Letter No. 560/MOF from the Minister of Finance to the World Bank officially requested an IDF grant in the amount of US\$462,000 to help finance the Project;

(iv) the MOJ established each of a Project Steering Committee, Project Management Committee and Project Advisory Unit; and

(v) the Government (MOJ) officially appointed the National Project Supervisor and National Project Director.

In addition, the Government (MOJ) has: maintained the Legal Reform Commission attached to the MOJ; proposed a medium-term agenda for the drafting of priority laws and regulations (this agenda remains subject to the Government's official approval however);⁸ prepared a project proposal identifying the key priorities and activities for developing Lao-PDR's legal framework;⁹ and made available qualified personnel and suitable office premises and equipment for the Project at the MOJ.

5. Summary Description of Project Activities. The Project is intended to constitute a single overall project, comprising separate but inter-related activities and benefitting from independent sources of funding. The Project consists of the following main activities which are described in more detail in the draft UNDP Project Document and World Bank IDF Letter of Agreement:

⁸. See Notification No. 316/MOJ from the Minister of Justice to the Prime Minister, dated October 17, 1994.

⁹. See Project Proposal transmitted under cover of Routing Slip No. 660/MOJ-Cab from Dr. Houy Pholsena (MOJ Chief of Cabinet) to the Committee for Planning and Cooperation, dated December 12, 1994. The Government's stated key priorities for developing Lao-PDR's legal framework can be summarized as: drafting priority legislation and implementing regulations thereto; enhancing legal drafting methodology and capacity building; and developing and strengthening governmental capacities for researching the socio-economic impact and consequences of the implementation of existing laws and regulations.

(i) drafting priority laws, decrees and implementing regulations, preparing their corresponding supporting research reports / memoranda of law and, in the process, improving the capacity of Lao drafters and providing legal drafting methodology instruction to Lao instructors; WJDP

(ii) completing the draft economic and financial laws, decrees and implementing regulations remaining unfinished, and assessing the status and consistency of the development of Lao economic and financial regulation;

(iii) carrying out a comprehensive national legal needs assessment and, on the basis of the findings of that assessment, formulating a time-based master action plan for addressing the most urgent priority needs for the development of Lao-PDR's legal framework;

(iv) establishing a computerized system for the systematic reporting / publication of the decisions of the higher courts of Lao-PDR, and the development of a Lao legal dictionary, jurisprudence and doctrinal writings; WB

(v) conducting local workshops on the theory and methodology for monitoring and evaluating the economic and social impact and consequences of the implementation of existing laws and regulations, and, on the basis of these workshops, preparing each of an appropriate Lao manual for governmental officials and a study course for fourth-/fifth-year students of the Vientiane Law School;

(vi) strengthening the legal capacities and expertise (especially in the areas of economic law, judicial procedures, legal opinions and legal research and drafting methodology) of MOJ officials (including members of the Law Reform Commission), People's Supreme Court and National Assembly Legislative Standing Committee, including local intensive legal terminology seminars, and university course programmes and study tours abroad;

(vii) carrying out local intensive seminars for MOJ officials on selected legal issues directly related to their official duties and responsibilities; and

(viii) enhancing the Government's (MOJ's) capacity for distributing, disseminating and explaining to the Lao people existing laws and regulations, throughout the urban centers and provincial areas of Lao-PDR;

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8. National Execution and Aid Mobilization. The MOJ is responsible for implementing the Project in accordance with principles of national execution.¹¹ The MOJ is the Project executing agency. At the end of the first year of Project implementation, the MOJ's capacity to manage and implement the Project, based on 100% national execution, will be reviewed in consultation with the UNDP and World Bank to determine if any adjustments are indeed required. In that respect, the Government (CPC) requested the UNDP to assume, through the MOJ, the lead role for ensuring international aid mobilization for legal technical assistance activities in Lao-PDR.

9. Resident Legal Advisor. Although the July Aide Memoire affirmed agreement on the necessity and continuation of a Resident Legal Advisor ("RLA"),¹² the Government (MOJ) subsequently decided that there is no immediate need for an RLA under the Project.¹³ The Government may reconsider its decision if during the course of Project implementation it becomes apparent that an RLA is needed to assist in carrying the Project and help achieve Project objectives.

10. Due Regard to Cultural and Political Diversity. The Government's policy endeavors to develop a Lao legal framework compatible with the culture, history, traditions and prevailing conditions and circumstances of the Lao people. This policy ensures that only the Lao people have the right to determine the policies and priorities that govern the development of their country's legal framework. Therefore, it is not the Government's policy to copy or incorporate through the Project, either directly or indirectly, the legal system of any particular country or region. The Government, however, seeks to learn from foreign laws and legal practices and to acquire knowledge, expertise and experience concerning the legal systems and related institutions of different and culturally and politically diverse countries, all with due regard to economic efficiency, financial prudence, cost-effective competitive practices and, above all, the best interest of the Lao people.

¹¹. See Footnote number 5 above.


¹². Paragraph 8 of the July Aide Memoire states that there was concurrence (in July 1994) on the need for an RLA, and it was also further agreed that: "... the RLA should not be an expatriate Lao, but rather a qualified and experienced jurist (either foreign or resident Lao), recruited preferably from a non-profit organization and / or academic institution, who possesses the needed linguistic and people-management skills together with a proper knowledge of, and appreciation for, Lao history, culture and customs".

¹³. See Notification No. 366/MOJ from the Minister of Justice to the President of the Committee for Planning and Cooperation, dated November 13, 1994.

11. Lao Legal Bar Association. The mission noted that a consensus continues to exist for reinstating the Lao Bar Association, and that a draft decree on re-establishing the Bar is presently under review by the Prime Minister's Office. In that connection, the mission advised that re-establishing the Bar is an essential element of private sector development in Lao-PDR.


12. Key Follow-up Actions. The following key actions should be taken timely to permit Project implementation to commence by July 1995: (i) after the UNDP officially approves this Aide Memoire and the UNDP Project Document, the UNDP Project Document will be furnished to the Government (MOJ) for its review and approval (expected by March 1995); (ii) after the World Bank officially approves this Aide Memoire and the IDF grant proposal, the IDF Letter of Agreement will be furnished to the Government (MOJ) for its review and approval (expected by April 1995); (iii) the Government (MOJ) will then submit the Project for clearance by the Foreign Aid Management Committee, and for any required approval by the Prime Minister's Office, pursuant to the provisions of Decree No. 163/PM of September 23, 1994; (iv) the Government, UNDP and World Bank will sign the UNDP Project Document and World Bank IDF Letter of Agreement, respectively; (v) if a tripartite letter of understanding is deemed advisable to further ensure the integral nature of the Project, it will be concluded between the Government, UNDP and World Bank (expected by June 1995); and (vi) the MOJ will hold a workshop in Vientiane to launch Project implementation, inviting the participation of the interested donors (expected by July 1995).

13. Affirmation of this Aide Memoire. This Aide Memoire has been prepared in both the English and French languages (although the attached Annexes I-III have been prepared in English only). It has been reviewed and approved by officials of the Ministry of Justice, UNDP and World Bank. However, each of their approval is subject any required official confirmation by their respective authorities.




14. Signature of this Aide Memoire. In witness where of, the representatives of the Government (MOJ), UNDP and World Bank whose names appear hereinbelow duly signed this Aide Memoire as of the 31st. day of January 1995 in Vientiane, Lao People's Democratic Republic.

ON BEHALF OF THE MINISTRY OF JUSTICE OF LAO-PDR



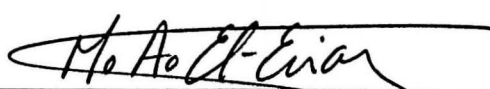
Vice-Minister Somlith Chanthachack
Vice-Minister of Justice

ON BEHALF OF THE UNDP



Mr. Jan A. Mattsson
Resident Representative

ON BEHALF OF THE WORLD BANK



Mr. Mostafa A. El-Erian
Senior Counsel

LIST OF OFFICIALS**OFFICE OF THE PRIME MINISTER**

Mr. Bountiem Phitsamay, Vice Minister.
Mr. Soukata Vichit, Director of Department of Environment, Science, Technology and Environment Organization.

MINISTRY OF JUSTICE

Mr. Kham Ouan Boupba, Minister of Justice.
Mr. Somlith Chanthachack, Vice Minister of Justice.
Mr. Houy Pholsena, Director of the Cabinet of the Ministry.
Mr. Nonesavath Dalavong, Director of Organization and Staffing Department.
Mr. Thongsy Volarath, Director of Judicial Administration Department.
Mr. Syda Laukaphone, Director of the Dissemination and Publication Department.
Mr. Khamkong Liemphrachanh, Director of Legislation Department.
Mr. Bounsavad Boupba, Deputy Director of the Legislation Department.
Mr. Ketsana Phommachane, Legislation Department (Project Director).
Mr. Vongthong Soinxay, Director of Arbitration Department.
Mr. Soutta Chommanichanh, Director of Vientiane Law School.
Mr. Steven Jay Epstein, Education and Language Training Advisor (Vientiane Law School).

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Mr. Bounlith Khennavong, Vice Minister of Finance.
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Mr. Holady Volarath, Deputy Director of Foreign Currency Affairs Department.
Mr. Sila Viengkeo, Senior Officer, Foreign Assistance Division, Foreign Currency Affairs Department.
Mr. Oun Visounnalad, Director of Cadastre and Housing Department.

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Mr. Kobkeo Luangkhott, Deputy Director, Department of Treaties and Legal Affairs.

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MINISTRY OF LABOR AND SOCIAL WELFARE

Mr. Sisouvanh Tandavong, Deputy Director of Labor Department.

MINISTRY OF EDUCATION

Mr. Sikhamtath Mitaray, Director of Higher and Technical Vocational Education Department.

PEOPLE'S SUPREME COURT

Mr. Ket Kiettisak, President of the Supreme Court.

NATIONAL ASSEMBLY

Mr. Keyoun Nhotsayviboun, Vice-President of the Legal Standing Committee

Mr. Samane Souvannasao, Vice-President of the Legal Standing Committee.

COMMITTEE FOR PLANNING AND COOPERATION

Mrs. Khempheng Pholsena, Vice President.

Mr. Boun Ohm, Director of Foreign Aid Management Committee.

Mr. Boun Omme Souttichack, Director of Foreign Investment Department.

Ms. Xanary Choulamany, Staff Attorney, Foreign Investment Department.

UNITED NATIONS DEVELOPMENT PROGRAMME

Mr. Jan A. Mattsson, Resident Representative.

Mr. Bacar Abdouroihamane, Deputy Resident Representative.

Mr. Jan Huisman, Assistant to the Resident Representative.

Mr. Romeo A. Reyes, Senior Economist.

Ms. Yvonne Helle, Program Officer.

EMBASSY OF AUSTRALIA

Mr. Roland Rich, Ambassador.

Mr. Ian Miller, First Secretary (Development Cooperation).

Mr. John Adams, Program Officer, Development Cooperation Section (Human Resources Development).

ROYAL NORWEGIAN EMBASSY

Mr. John Dag Hutchison, First Secretary, Royal Norwegian Embassy, Bangkok, Kingdom of Thailand.

EMBASSY OF FRANCE

H.E. Gérard Chesnel, Ambassador.

Mr. Daniel Girard, Cultural, Scientific and Technical Counsellor.

Mr. Jean Bianconi, Expert Magistrate, National School of Administration and Management (ENAG).

Mr. Franck Vincent, Junior Expert, National School of Administration and Management (ENAG).

EMBASSY OF SWEDEN

Mr. Rolf Carlman, Chargé D'Affaires A.I.

Mr. Jorgen Schonning, First Secretary (Development Cooperation), Deputy Head of Mission.

EMBASSY OF THE UNITED STATES OF AMERICA

H.E. Victor L. Tomseth, Ambassador.
Mr. Frank Light, First Secretary.

BOURAPHA DEVELOPMENT CONSULTANTS, CO. LTD

Mrs. Annika Fogde, Legal and Business Advisor.

SAVE THE CHILDREN FUND (UK)

Mr. Tim O'Flynn, Field Director

MISSION MEMBERS

Mr. Mostafa A. El-Erian, Senior Counsel, World Bank Legal Department (Mission Team Leader).
Ms. Linda Schneider, World Bank Resident Project Coordinator.
Professor Robert B. Seidman, Professor Emeritus, Law and Political Science (UNDP Consultant).
Professor Anne Seidman, Adjunct Professor, International Development and Social Change (UNDP Consultant).
Mr. John Gillespie, Senior Lecturer in Law (AIDAB Consultant).
(Ms. Geraldina Mattsson and Ms. Anne Neo Parsons provided administrative support to the mission members.)

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LAO-PEOPLE'S DEMOCRATIC REPUBLIC
DEVELOPMENT OF THE LEGAL FRAMEWORK OF LAO-PDR
BRIEFING BY JANUARY 1995 MISSION AT DONORS MEETING
(UNDP/WB IN VIENTIANE -- JANUARY 20, 1995)

A. Background

1. Phases I and II (1990-1994) of the UNDP-funded World Bank-executed Legal Technical Assistance Project were carried out with concentration on the preparation of economic and financial laws.

2. A July 1994 WB mission prepared the Terms of Reference for the proposed Phase III, and an Aide Memoire (AM) was signed on July 6, 1994, between the Government of Lao-PDR (GOL), UNDP and WB; the AM stated that Lao institutional arrangements was a GOL decision.

3. Following the WB July 1994 mission, GOL transferred the responsibility for the Project from MOF to MOJ; GOL also requested UNDP to provide support as overall coordinator of legal technical assistance in Lao-PDR in the context of a legal reform program.

4. The Terms of Reference (TOR) for the January 1995 mission were prepared by UNDP based on the July 1994 AM, but with broader objectives taking into account the program approach; the TOR were agreed between GOL and UNDP, and WB accepted to participate in this mission as Team Leader given its prior involvement in Phases I&II.

B. Mission's Report

1. The mission explored with GOL several proposed project components which could constitute an overall legal reform program: legislative drafting; implementation research; legal education; restructuring of the judiciary; environment; and computerization.

2. UNDP could support coordination of the program through GOL; it would facilitate aid mobilization and coordination for the legal technical assistance activities provided by multi/bilateral donors, and also promote the exchange of legal TA information.

3. Overall aid coordination would help avoid overlapping /duplication of both presently on-going projects (Sweden: rule of law & legal training at VLS; France: strengthening of the judiciary through ENAG & law scholarships; WB: forestry & land titling; UN: UNDP, FAO, WHO, UNICEF & UNDCP), and of proposed future projects (Australia-AIDAB-AILEC: law scholarships & arbitration workshops; Norway: environmental legislation; UNDP: legal drafting in civil aviation; WB: financial sector). More aid mobilization is needed.

4. Comments of Mr. John Gillespie (AIDAB) and Professors Robert & Ann Seidman (UNDP consultants); Mr. Jan Mattsson's comments on UNDP's capacity for aid mobilization & coordination.

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LAO PEOPLE'S DEMOCRATIC REPUBLICProgramme for the Development of Lao-PDR's Legal FrameworkPRELIMINARY DRAFT PROGRAMME DOCUMENTI. INTRODUCTION


The Government of the Lao People's Democratic Republic ("Lao-PDR") is committed to developing a Lao legal framework based on the rule of law and democratic processes of civil governance, and which accords due regard to the gradual establishment of a free market-oriented economy within the context of sustainable human development. The Government welcomes the assistance of the United Nations Development Programme ("UNDP"), International Bank for Reconstruction and Development ("World Bank") and all other multilateral and bilateral donors interested in assisting the Government implement its medium-term (1995-2000) programme for the development of Lao-PDR's legal framework ("Programme"). This Programme Document briefly describes Lao-PDR's existing legal framework and related urgent priority needs, and also outlines the Programme's main objectives, policies, strategies, institutional structures and implementation and coordination arrangements.

II. OBJECTIVES OF THE PROGRAMME

The Programme has three objectives. First, it aims to gradually develop a comprehensive Lao legal framework which suites Lao-PDR's specific conditions and circumstances, responds to the needs and best interest of the Lao people, and conduces to the formulation and adoption of appropriate and implementable priority laws and regulations. Second, over time, it aims to build Lao-PDR's overall institutional capacity to formulate, implement and monitor the implementation of its laws and regulations, and to decide disputes arising under them. Third, in order to avoid duplication and overlapping, it also aims to coordinate the contributions and participation of interested multilateral and bilateral donors.

III. BACKGROUNDA. Brief Description of Lao-PDR's Existing Legal Framework.

When Lao-PDR was officially proclaimed in December 1975, the then existing constitution and legal system were completely abolished. Consequently, all previously existing laws were entirely repealed. From 1975 until the declaration of the New Economic Mechanism ("NEM") in 1986 and ensuing promulgation of the new constitution in August 1991 ("Constitution"), Lao-PDR pursued a centrally-planned economy, and during that period the country was



governed by decrees and resolutions of the Council of Ministers inspired by policy pronouncements of the Lao People's Revolutionary Party ("Party"). Under the NEM and the Constitution, Lao-PDR has proceeded to progressively enact laws and regulations on an individual basis with the intention to gradually develop its evolving legal system to support its transition to a market-oriented economy.

1. The Lao Constitution of August 1991.
2. Lao-PDR's Main Legal Institutions.

Lao legal institutions at several level are involved in the formulation and implementation of laws. The main institutions among them include each of the: (i) President; (ii) National Assembly; (iii) National Assembly Legislative Standing Committee ("Standing Committee"); (iv) Prime Minister's Office; (v) Ministry of Justice ("MOJ"), and other line ministries; and (vi) Courts.

- (a) President.
- (b) National Assembly.
- (c) Standing Committee.
- (d) Prime Minister's Office.
- (e) Ministry of Justice and Other Line Ministry.

3. An Overview of the Legislative Process.

Lao-PDR is committed to developing its legal system on the foundations of the rule of law and deliberative, open and consensus building democratic processes. At the start of each fiscal year, officials of the MOJ and the Standing Committee jointly review the necessity for urgent priority legislation. Taking into account the priorities together with proposals for laws and regulations the MOJ receives from the various line ministries, the MOJ and Standing Committee mutually decide on the priority agenda of laws and regulations to be either (i) prepared for enactment during that year, whether by way of legislative or executive action, or (ii) formulated for consideration in the following year. All Government ministries, People's Supreme Court, Standing Committee and mass organizations also have the right to propose laws.

Once the legal priority agenda is finalized and officially approved by the Prime Minister's Office, each responsible line ministry establishes a working group and initiates the preparation of the draft law whose subject matter falls within its jurisdiction and scope of responsibility. The MOJ coordinates

the prioritization of the drafting of laws among the ministries concerned, and provides them with the necessary assistance. The draft laws and regulations prepared by line ministries are then reviewed by the Legal Reform Commission ("Commission"). The Commission is attached to the MOJ and is composed of: (i) the President of the People's Supreme Court; (ii) the Vice-President of the Standing Committee for _____; (iii) the Vice Minister of the Standing Committee for _____; (iv) the Vice Minister of Justice; (v) the Vice Minister of the Prime Minister's Office; (vi) the Deputy Prosecutor General; and (vii) the official representative of the concerned line ministry. Once the draft laws are finalized, they are submitted by the MOJ to the Prime Minister's Office for review and approval. Once they are approved, they are issued as a decree of the Prime Minister, or alternatively transmitted to the Standing Committee for enactment as a law by the National Assembly. Individual ministerial decrees and orders are also prepared by the concerned line ministries and reviewed by the Commission prior to their issuance.

4. Priority Legal Needs.

B. The Government's Policy.

The Government's policy seeks to develop gradually a Lao legal framework compatible with the culture, customs, heritage, history and traditions of the Lao people, and conducive to the development and proper operation of a viable market-oriented economy. It is also the Government's policy that only the Lao people possess the right to determine the policies and priorities that govern the development of their country's legal framework. Lao-PDR will always own, direct and control this Programme. The Government does not propose to embrace the legal system of any particular country or region, whether common law, civil law or otherwise. The Government is committed to continue developing a Lao legal framework responsive to the unique needs and conditions of Lao-PDR, and, above all else, to the best interests and welfare of the Lao people themselves.

C. The Government's Strategy.

In developing Lao-PDR's legal framework, the Government will, over time, shift step-by-step away from an individual project approach to a comprehensive well integrated medium-term (1995-2000) programme approach that reflects Lao national priorities, policies, strategies and goals. The Government knows that it cannot successfully adopt or copy the laws of another country, and that it must develop a Lao legal system formulated by the Lao people with the assistance of expatriate advisors on a case-by-case need basis. The Government equally realizes that it cannot allow itself to be unreasonably pressured into such an important undertaking.

But the Government can learn from foreign law, legal systems and practical experience. To learn, the Government proposes to acquire knowledge, expertise and experience concerning the legal systems and related institutions of many different and culturally and politically diverse countries. The Government proposes to do so in a politically neutral, economically efficient and financially prudent manner, taking into consideration the significance of the cultural and political diversity of different countries and the advantages offered by cost-effective competitive procedures. That knowledge will help to strengthen the capacity of Lao institutions for drafting, adopting, implementing and monitoring laws and regulations. It will also help enhance the capacity of Lao institutions and governmental and non-governmental officials for legal education and training, as well as the dissemination and propagation of laws, regulations and associated legal information throughout the urban centers and provincial areas of Lao-PDR.

D. Prior and On-going Assistance.

[INSERT TO FOLLOW] During the past few years, Lao-PDR has benefitted from certain multilateral and bilateral assistance intended to help it develop its legal framework during the country's transition from a centrally-planned economy to a market-oriented one. For example, [BRIEF DESCRIPTION OF MULTILATERAL ASSISTANCE]. In addition, [BRIEF ASSISTANCE OF BILATERAL ASSISTANCE -- AUSTRALIAN, FRENCH, SWEDISH, NORWEGIAN, VIETNAMESE ASIA, FOUNDATION, USA, Thailand, and Malaysia].

IV. JUSTIFICATION FOR THE PROGRAMME

A. The Need for Developing Lao-PDR's Legal Framework.

Although to date Lao-PDR has achieved extraordinary progress in developing its legal framework, an immense and extraordinarily challenging long-term effort is still required to properly establish a complete, coherent and sustainable legal framework. That framework must not only support the country's emerging market-oriented economy, but it must also strengthen or restructure the institutions needed to guarantee a predictable and secure living and working environment for all Lao people, in the context of a society governed by the rule of law and democracy.

A fair and effective legal framework based on the rule of law requires, among other things: first, that there exist a set of rules known in advance; second, that these rules are actually enforced; third, that the legal order has proper means to ensure the fair and timely application of the rules; fourth, that to resolve disputes arising from the application of these rules, an independent and impartial judiciary is empowered to make final and binding decisions; and, fifth, that when the rules cease to serve the purpose for which they were originally intended, proper and transparent procedures exist for revising or replacing them. The

rule of law also requires the use of the legal order to develop legal, economic and other institutions that will enable Lao-PDR progressively to improve the living standards of its people.

B. Summary Description of the Programme.

The Programme will serve as the nucleus around which the Government will carry on developing Lao-PDR's legal framework with the assistance of the UNDP, the World Bank and other interested multilateral and bilateral donors. The Programme is a medium-term programme which covers the period 1995-2000. It presently comprises the following inter-related yet separate projects:

(i) legislative drafting of priority laws together with their implementing regulations;

(ii) legal drafting methodology and capacity building of Government institutions and officials;

(iii) monitoring and evaluating the economic and social impact and consequences of the implementation of existing laws and regulations;

(iv) strengthening of academic law institutions, and legal education and training of judges, lawyers, legislators, magistrates, prosecutors and law-oriented ministerial personnel; (v) restructuring of the existing judicial system, and creation of new juridical structures as required;

(vi) regulation and protection of the environment, and establishment of environmental protection standards; and

(vii) provision and adaptation of legal technology and related computerized data bases and word processing facilities for preparing and disseminating laws, regulations, judicial decisions and associated legal information.

The Government contemplates that it may from time to time, on a case-by-case basis, include additional projects under the Programme's umbrella.

C. Direct and Indirect Target Beneficiaries.

The direct beneficiaries of the Programme are the MOJ, the Standing Committee, the Vientiane Law School, and those law-oriented ministries, departments, agencies and other entities to which assistance will be provided through the different projects of the Programme. The indirect beneficiaries of the Programme consist of Lao judges, lawyers, legislators, magistrates, prosecutors, law students and ministerial officials, as well as the Lao policy

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decision-makers and the Lao people generally at both the central and provincial levels.

D. Institutional Arrangements for Programme Implementation.

The Notification from the Prime Minister's Office No. 1241/PO.Cab., dated October 5, 1994, officially designated the Ministry of Justice ("MOJ") as the executing agency responsible for implementing the Programme. In order to help ensure the systematic administration, implementation and coordination of the various project components under the Programme, the MOJ established and specified the respective rights and duties of each of a Programme Steering Committee (chaired by the Minister of Justice), a Programme Management Committee and a Programme Advisory Unit.

E. Reasons for Multilateral and Bilateral Assistance.

The magnitude and complexity of the Programme and the extent of Lao-PDR's legal framework development needs are such that an important amount of financial and human resources will be required over a significant period of time so as to achieve the Programme's objectives. The Government has, therefore, requested of the UNDP and World Bank to help secure additional core funding for the Programme. Moreover, the UNDP and World Bank have unique capacities and opportunities to mobilize the necessary financial and human resources. Furthermore, because of their long-standing involvement in associated economic reforms in Lao-PDR, these multilateral organizations are peculiarly experienced in mobilizing and coordinating the participation of the various actual and potential donors interested in contributing in the implementation of the Programme.

F. Overall Programme Coordination Arrangements.

The UNDP, through the Government, will facilitate and coordinate donor assistance and seek to procure complementary resources from interested multilateral and bilateral donors. The UNDP will play a facilitating role for the promotion of the necessary aid coordination and resource mobilization.

V. INPUTS

1. The Government.

2. The UNDP. The UNDP proposes to make available grant financing, in an amount equivalent to US\$500,000, to assist in financing the drafting of priority legislation under the Programme.

3. The World Bank. The World Bank proposes to make available a grant from its Institutional Development fund, in an amount equivalent to US\$462,000, to assist _____.

4. Bilateral Donors.

VI. PREREQUISITES FOR PROGRAMME IMPLEMENTATION

The prerequisites for Programme implementation are as follows:

(i) The Foreign Aid Management Committee and the Prime Minister will review and approve the Programme; (ii) the MOJ will take the necessary measures to ensure that the procurement, reporting and monitoring systems required by the various participating donors are properly established, and that appropriate arrangements exist to make sure that the requirements of these systems are complied with in a timely manner; (iii) in addition, for each individual project under the Programme, the MOJ will enter into a separate contractual agreement with the donor(s) participating in the financing of that particular project; and (iv) the MOJ will regularly consult and share information with the UNDP and the World Bank throughout the preparation and appraisal of each project under the Programme and on the overall progress of the Programme.

VIII. PROGRAMME REVIEWS, REPORTING AND EVALUATION

The successful implementation of the Programme will require rigorous planning, coordination, reporting and on-going evaluation. The MOJ will be responsible preparing and thereafter updating a Programme Implementation Report which will provide a detailed workplan for each project under the Programme. Each workplan will be updated at least once every six months. The MOJ will also prepare and submit to the UNDP, the World Bank and other participating multilateral and bilateral donors semi-annual reports on the progress achieved in implementing the Programme. The Programme will be evaluated annually at a joint review by the Government, UNDP, World Bank, and other participating donors. A comprehensive mid-term evaluation of the Programme will be carried out by June 1997.

