

DECREE
ON THE ENVIRONMENT PROTECTION FUND

- Referring to the Law on the Government No. 02/NA dated May 6, 2003;
- Pursuant to the Environmental Protection Law No. 02/99/NA dated April 3, 1999;
- Pursuant to the Forestry Law No. 01/96 dated October 11, 1996;
- Pursuant to the Law on Water and Water Resources No.02/96, dated October 11, 1996;
- Pursuant to Letter No. 1108/STEAM-PM, dated May 31, 2005, submitted by the Minister for the Prime Minister's Office, President of STEA;

The Prime Minister issues this Decree:

SECTION I General Provisions

Article 1. Purposes of the Decree

This Decree defines the principles, rules and procedures for the organization and operation of the EPF in financing Eligible Activities that will strengthen environmental protection, sustainable natural resources management and specifically biodiversity conservation and community development in Lao PDR.

Article 2. Definitions

In this Decree, the below terms have the following meanings:

“*EPF*” refers to the Environment Protection Fund

“*Activities*” refers to environmental activities that meet the EPF’s financing criteria;

“*Annual Plans*” means the Annual Plan of Action and Annual Plan of Revenue and Expenditure;

“*Annual Plan of Action*” refers to EPF’s annual action plan as approved by its Board and as amended from time to time;

“*Board*” means the Board of Directors of EPF;

“*Chairperson*” means to the Chairperson of EPF’s Board;

“*Charter*” means the charter of EPF as approved by its Board and as amended from time to time;

“*Commercial entity*” includes state-owned and private enterprises registered in Lao PDR;

“*Director*” means the Director of EPF’s Executive Office as appointed by the Board;

“*Office*” means Executive Office of EPF;

“*Eligible Applicant*” means an applicant who submits a request for funding for an Eligible Project and who meets the criteria set out in Article 20 of this Decree;

“*Administration and Finance Manual*” means the finance and administration manual that provides detailed administrative and financial procedures as approved by the Board and as amended from time to time;

“*Government organizations*” include Government of Lao PDR agencies and institutions, including academic and research institutions, provincial, district and village level agencies and institutions;

“*EPF Manuals*” means the Administrative and Finance Manual and Manual of Operations;

Article 3. Objectives of EPF

The objectives of the EPF are to:

- (1) Implement: (i) Chapter V of the Environmental Protection Law; (ii) Article 47 of the Forestry Law; and (iii) Article 15 of the Decree to Implement the Law on Water and Water Resources.
- (2) Finance activities that are consistent with this Decree, environmental policies, laws, regulations and plans of the Government of Lao PDR.
- (3) Support environmental management, protection and conservation, including:
 - (i) capacity building and human resource development for environmental safeguards;
 - (ii) monitoring of development activities and projects with environmental and social impacts;
 - (iii) design and implementation of plans for integrated resource management;
 - (iv) conservation and sustainable use of biodiversity;
 - (v) natural resource management initiatives; and
 - (vi) enabling measures that cause of development project to (adequately) implement proponents environmental and social mitigation actions.
- (4) Ensure that activities financed by EPF are implemented efficiently and transparently, meeting appropriate standards of technical design and cost-effectiveness.
- (5) Conduct its activities based on principles of coordination with relevant stakeholders in the fields of environmental protection and conservation, natural resources management, and community development.
- (6) Act in consideration of public investment plans and the activities of other funding bodies, to provide for synergy and to provide leverage for additional financial support where and when appropriate.
- (7) Manage and invest the EPF's assets to optimize revenues, ensure effectiveness and long-term viability and self-sustainability of the operations of the EPF, and to minimize risk to the EPF.

SECTION II
Status and Function of EPF

Article 4. Status of EPF

The EPF is a financially and administratively autonomous organization operating under the laws of Lao PDR.

Article 5. Function of the EPF

The EPF's function is to operate under the EPF's regulation and related legislation of Government in order to achieve the objective of the EPF in accordance with the provision in Article 3 of this Decree.

SECTION III
Organization of the EPF

Article 6. Organizational Structures of the EPF

The EPF consists of:

- (1) The Board of Directors, and
- (2) The Executive Office.

Article 7. Board of Directors

1. The Board of Directors shall have the overall responsibility of effectively promoting and achieving the purpose of the EPF, including: (i) establishing EPF's policies, strategies and priorities; and (ii) provide guidance to and monitor the Executive Office regarding the effective implementation of its duties and functions in accordance with the provisions of this Decree and the Charter.
2. The Board shall comprise the following organizations' representatives:
 1. Deputy Prime Minister Chairperson
 2. The Minister of Finance Vice-Chairperson
 3. Minister for the Prime Minister's Office, President of STEA Vice-Chairperson
 4. Nominee(s) of appropriate line ministries or other concerned agencies;
Member
 5. Nominees of the 3 mass organizations and the Lao Front for
National Construction Member
 6. Nominee(s) of a local administration authorities; Member
 7. Nominee of the Chamber of Commerce and Industry; Member
 8. Nominee of the private commercial or industrial sector; Member
 9. Nominee(s) representing the research institutes or civil society Members
3. The different organizations' representatives forming EPF's Board shall:
 - be committed to the specific purpose and mandate of the EPF;
 - continue to be representative civil servants and perform their original positions in the relevant organizations.
4. The Prime Minister will appoint the Board following a proposal submitted by the Ministry of Finance in consultation with the authorities concerned.

Article 8. Functions and Duties of the Board

The functions and duties of the Board include the following:

- (1) Formulate policies and management guidelines for the Executive Office of the EPF to perform the functions of the EPF;
- (2) Formulate policies pertaining to staff selection and remuneration to ensure the effective operation of the Executive Office;
- (3) Select, recruit and appoint the Director, and terminate the contract of the Director as appropriate;
- (4) Direct the Executive Office to prepare and submit for approval by the Board:
 - The EPF Five-Year Strategic Programme;
 - The EPF Manuals;
 - The EPF Annual Plans;
 - Quarterly and annual reports on the finances and operations of the EPF;
 - Selection of an asset managing firm or commercial bank to manage the un-disbursed capital of the EPF.
 - The charter of EPF;
 - The rules of Board;
 - The office procedures
- (5) Establish investment policies and management guidelines for proposing to and preparation of a signing contract with the asset-management firm or commercial bank;
- (6) Approve or reject funding requests submitted to the EPF, following the appraisal of such requests by the Executive Office and recommendation by the Director. The Board will appropriately delegate decision-making authority to the Director;
- (7) Mobilize additional contributions to the EPF from all eligible providers of such contributions, in compliance with all laws and regulations of Lao PDR;
- (8) Where and when appropriate, recommend to the Ministry of Finance the establishment of specialized financing windows consistent with this Decree;
- (9) Appoint committees for the purpose of undertaking special and specific activities or investigations, with clear limitations in duration;
- (10) Serve as liaison between the EPF and the Prime Minister's Office, the Ministry of Finance, the National Environment Committee, and relevant line ministries;
- (11) Otherwise perform all duties necessary to ensure the successful and effective implementation of the purpose and mandate of the EPF.
- (12) The Board may set and authorize payment of bona fide compensation for attending Board meetings, and reimbursement of expenses incurred in connection with performing duties of Board members. Board member will not received other remuneration or salary from the EPF for their services as Board members.

Article 9. Rights and Duties of the Board's Chairperson

The main rights and duties of the Board's Chairperson consist of:

1. Ensuring the successful functioning of the EPF such that it achieves its purpose. Accordingly, the Chairperson must uphold the rules of the EPF, preside at meetings of the Board, and represent and act on behalf of the EPF in the interval between meetings.

2. Delegating his or her responsibilities to a Vice Chairperson, who for the appointed duration will perform the duties of the Chairperson.
3. Inviting representatives of other organizations, private or public entities to attend Board meetings as observers when appropriate.

Article 10. Functions and Duties of the EPF’s Executive Office

The functions and duties of the Executive Office include the following:

1. Implement all daily operations, management and administration of the EPF, in accordance with this Decree, the provisions contained in the Charter and the Manuals.
2. Prepare the Five-Year Strategic Programme, Annual Plans and Manuals, rules and other manuals for approval by the Board, and their revision, from time to time.
3. Ensure that all money and Contributions that are received are deposited in the EPF bank account according to the purpose of the fund’s establishment;
4. Implement procedures and regulations pertaining to procurement, contracting and disbursement process in accordance with the laws and regulations of the Lao PDR and, for Specialized Financing Windows, subject to any agreements with external agencies providing resources to the EPF.
5. Prepare quarterly and annual reports, annual plan of Revenue and Expenditure for submission and approval by the Board; and for submission for inclusion in the national budget planning.
6. Keep proper accounts and records of all financial and operational transactions of the EPF.
7. Ensure the effective, transparent, and timely appraisal of funding requests submitted to the EPF.
8. Monitor and ensure the effective implementation of Eligible Activities;
9. Arrange for the accounts and operations of the EPF to be audited at the end of each financial year; and
10. Formulate management and administration procedures, manuals and other operational documents of EPF for submission to and approval by the Board, including:
 - Open and handling of bank accounts,
 - Investment strategies,
 - Eligible Activities and eligibility criteria, including Eligible Activity proposal forms, submission, evaluation and selection procedures.
 - Performance and financial monitoring of Eligible Activities funded by EPF.
 - Procurement for and disbursement of Eligible Activities.
 - Quarterly reporting of project selection, disbursement, EPF management activities and financial status.
 - Structure and format of annual reporting requirements.

Article 11. Functions and Duties of the Director

- (1) The Director is responsible to the Board for the day-to-day management of the EPF in accordance with the general policies, operational guidelines and specific directions of the Board, and the proper execution of the Executive Office’s rights and duties.

- (2) The Director shall be a full time position and the postholder shall possess administrative skills and competence in conducting and handling effectively all activities of the EPF. The Director shall be appointed for a period of 3 years, with possible renewed at the discretion of the Board, subject to the effective performance of the Director.
- (3) The Director shall select, hire, supervise and release such staff as he/she deems necessary to administer the EPF successfully and efficiently.
- (4) The Director may engage technical consultants and advisers, as needed, to perform the functions of the EPF, as specified in this Decree, to enable the Executive Office to perform its functions efficiently. The Director may, with the consent of a State organization, and on such terms as may be mutually agreed, make use of the services of the officers or employees of that State organization.
- (5) The Director shall attend Board meetings and acts as Secretary to the Board, but shall not be a member of the Board.
- (6) The Director shall perform daily duties, manage and administrate the EPF consistent with this Degree, the Rules and Administration Manuals of EPF.
- (7) Carry out other duties consistent with this Degree, or as directed by the Board.

SECTION IV

Sources of Capital and Income to the EPF

Article 12. Sources of Capital and Income to the EPF.

Sources of Capital and Income to the EPF are from:

- grants and loans from domestic and foreign entities.
- the State budget.
- development projects and other activities.
- contribution from business and person entities.
- interest or benefits accrued from investing the EPF endowment

Article 13. Exemption from Taxes

All sources of capital and income to the EPF shall be exempted from all taxes, whereas fees, duties and taxes relating to EPF's expenses, including personal income taxes shall comply with the customs and tax laws in effect at that time.

SECTION V

Administration and Operations of the EPF

Article 14. Use of Funds

- (1) The EPF will support Eligible Activities through Contributions as per terms and conditions as provided and described in the *Charter*, and further detailed in the manuals.
- (2) The EPF may provide contributions to Specialized Financing Windows.
- (3) The resources of the EPF shall only be used to finance regular and recurrent expenses of ministries, departments, agencies and any other public or private organizations and entities receiving financial support from the EPF, where these expenses relate directly to the implementation of Eligible Activities.

Article 15. Eligible Applicants, Projects and Activities

- (1) Any person, commercial entity, government organization or civil society entity is eligible to apply for EPF financial support.

- (2) Eligible Activities shall be consistent with this Decree.
- (3) The EPF shall not provide any forms of support to any project developers towards the financing of costs for mitigating or compensating for environmental and social impacts of that project, unless where it is an Eligible Activity.

Article 16. Funding Requests and Project Monitoring

- (1) The process of project submission, project evaluation and project monitoring shall be comprehensively detailed in the *Manual of Operations*.
- (2) The EPF shall monitor the progress, compliance and implementation of all Eligible Activities.

SECTION VI
Specialized Financing Windows

Article 17. Specialized Financing Windows

- (1) The EPF shall establish Specialized Financing Windows for activities that relate to environmental protection, sustainable exploitation, use and management of natural resources within any sector.
- (2) Government ministries, organizations and entities may propose the establishment of a Specialized Financing Window. All proposed Specialized Financing Windows shall meet the minimum organizational, financial and operational requirements in accordance with the provisions of the *Charter*.
- (3) Specialized Financing Windows may elect to establish their own managerial structure, or let the Executive Office operate and manage the window as per agreement with the entity providing the capital contribution, the EPF and the relevant Specialized Financing Window.
- (4) The creation of other funds for environmental protection, natural resources management, and/or biodiversity conservation separate from the EPF is not permitted. Such funds shall be established only as Specialized Financing Windows under the umbrella of the EPF.

SECTION VII
Auditing and Reporting

Article 18. Auditing

- (1) The State Auditing Authority shall audit the activities, accounts and administration of the EPF.
- (2) An audit of the finances and administration of the EPF shall be undertaken annually and shall be carried out in accordance with generally accepted international auditing practices and standards. Details of the audit process shall be contained in the Finance Manual.

Article 19. Reporting

The Executive Office shall prepare quarterly reports within 30 days of the end of the quarter and annual financial and operational reports, within 3 months of the end of the period, in accordance with the detailed provisions of the Manuals. All reports shall be approved by the Board before submittance to the Government of Lao PDR.

Article 20. Dissemination

The EPF shall ensure dissemination of information pertaining to its activities and operations to all national and international stakeholders. In particular, this shall include, an annual stakeholders meeting; the regular publication and dissemination of a list of projects and

activities that have received EPF financial support; the publication of the annual reports of the annual audited financial statements; and the dissemination of such information in both Lao and English, through appropriate information technology systems.

SECTION VIII Final Provisions

Article 21. Termination of the EPF

- (1) The EPF may be dissolved, re-structured or its activities suspended at the Board's proposal. A proposal for termination shall require a unanimous vote of the Board, and be submitted to the Prime Minister for approval.
- (2) Prior to termination, the EPF shall satisfy all obligations to projects and activities that it has funded, pay outstanding balances on loans and other debts, and otherwise wind up its affairs, to the extent that its financial resources allow.
- (3) Prior to termination, the EPF shall inform all specialized financing windows. Providers of capital then have authority to request and recover all portion of their financial contribution left un-disbursed.

Article 22. Logo and Stamp

The EPF have its own logo and stamp.

Article 23. Decree Implementation

The Prime Minister's Office, concerned line ministries and relevant agencies, and organizations as well as local administration authorities are hereby designated to execute this *Decree* effectively in accordance with their mandate and duties.

Article 24. Effectiveness

This *Decree* becomes effective on the date of signing.

Prime Minister of Lao PDR

Signed and sealed

Bounyang Vorachith