

# LAO PDR'S INVESTMENT COMPLIANCE DATABASE:

## Tools to improve quality of investments Policy Brief



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### Background

Since the 1980s, Lao PDR has witnessed a significant economic expansion as a result of the introduction of the New Economic Mechanism Policy and subsequent accession to the ASEAN Free Trade Area and the WTO. This in turn attracted the interest of investors with foreign direct investment substantially increasing over the last decade, from 1.01 per cent (net inflows as a percentage of GDP) in 2005 to 8.75 percent in 2015 (and rising in 2016) and generally contributing to economic growth of over 6 per cent annually. According to the Investment Promotion Department (IPD) of Lao PDR's Ministry of Planning and Investment (MPI), Foreign and Domestic Direct Investments during 2015 in key sectors such as mining, agriculture and electricity generation accounted for 14.49 per cent, 36.76 per cent and 44.78 per cent of GDP respectively. However, this natural resource approach to economic development comes with considerable hidden costs not captured in GDP, such as water and air pollution, loss of ecosystems, and services such as water regulation, soil fertility – all of which adversely affect livelihoods.

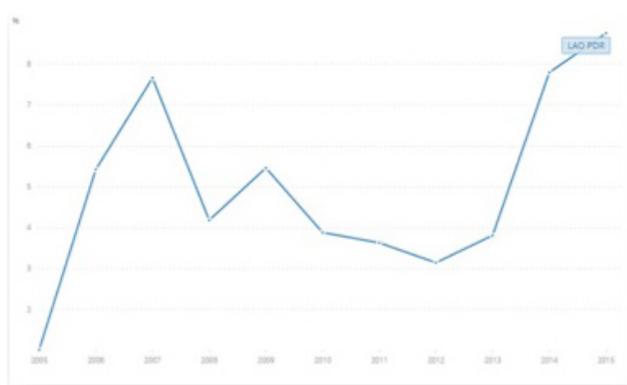


Figure: 2005-2015, Foreign Direct Investment, net inflows (% of GDP)

Data source: World Bank, 2016

### PEI's support for Quality Investments

Effectively managing and regulating investments for quality in order to minimize the impact on the environment and local communities, but still ensuring economic growth, is therefore crucial in achieving Lao PDR's vision for sustainable development as outlined in their 8th National Socio-Economic Development Plan (2016-2020).

At present, with PEI's support, investment processes and tools in place for effective management and regulation of the quality of investments in natural resource in Lao PDR are as follows:

- Information from applications captured in investment tracking software
- Application pre-screened for quality
- Summary of investment prepared and presented to MPI Investment Committee
- Investment approved in principle PD invited to sign MoU contract
- MoU requirements: Survey, Feasibility Study (FS) and EIA
- FS (Financial model) and EIA (Guidelines)
- PD invited to negotiate terms of Concession Agreement (CA)
- **CA signed obligations National Concession Compliance Database (NCD)**
- PD prepares annual progress report using Progress Template (PT)
- Self-reporting info captured from PT included in the NCD
- Inter-departmental joint inspection based on NCD information
- Inspection information captured using Inspections Template
- Inspection information entered into NCD
- Non-compliance flagged

Unfortunately, In many cases, while government regulations may exist, they are not being effectively enforced by authorities. Weak enforcement of laws and regulations can be attributed to various causes including lack of institutional capacity, tools and funds to undertake monitoring of investments. The lack of systematic data on investor information and status on environmental and social obligations has limited the capacity of officials in the past and has made it difficult to track investors and cases of conflict with local communities in an organized, evidence-based manner against an established baseline. Filling this information gap, UNDP-UNEP Poverty-Environment Initiative has been supporting the Ministry of Planning and Investment (MPI) to manage an investment compliance database that seeks to improve the monitoring of compliance of investors, to ensure that environmental and social safeguards are in place.

### **The National Concession Compliance Database**

The concession compliance investment database is a streamlined, integrated system for the regulation of investments from the application stage until project closure.

The database captures essential data pertaining to licensing, taxes, duties, MoUs, concession agreement information, data on environmental and social obligations and other related information crucial to management and monitoring the quality of investments (e.g. capturing, through a questionnaire, information on whether investors have opted for environmental products or services that help maintain the function of natural environments such as land, water, air and related ecosystem and their organisms such as watershed management, and forest). Much of the data stems from information obtained during the initial investment approving procedures, which differentiates between concessions of agricultural activities in connection with 1) land, 2) mines and 3) electricity. Mining concessions include mineral processing activities, excavation of stones, sand, exploration of oils and gas. Electricity concessions span from below 15 MW to above. Agricultural concessions include growing crops, rearing livestock, plantations etc.

### **Linkage of database and coordinating the sharing of data**

Established in the IPD of the MPI, the database can now be linked to share investment data across ministerial departments as an effective way to understand overall compliance against financial, social and environmental obligations. Departments are now able to access the necessary information for compliance monitoring and enforcement of regulations. As a result of this, it is expected that information for monitoring and reporting will also be largely consistent.

Regulating investments against all quality attributes requires coordination of investment information among many institutions and across all provinces. As such the database is connected to all Lao PDR provinces to regulate the obligations of investors operating land concessions.

User access (credentials and passwords) to use the database has been provided to all provinces in order to enable them to start populating information and data in the database. This allows for central-level tracking of concessionary projects in the provinces. Representatives from 18 provincial departments of planning and investments have been trained on using the database and currently have access to populate data from investments in their respective provinces.

The updated IPD concessionary compliance database was installed on the IPD server in 2015. The total number of investment projects approved by the IPD and DPIs government was 1,955 projects of which 1,110 investment projects have been recorded into the database by IPD and DPIs officials (as of August 2016). Accuracy of the data and information of 768 projects out of 1,110 projects were already verified by the IPD officials.

This web-based database can be found at:

<http://202.137.141.110/investment/login.php>.

## Who uses the database?

Currently all 18 Provincial Departments of Planning and Investment are able to access and populate data into the database. The Department of Environmental and Social Impact Investments under the Ministry of Natural Resources and Environment has identified common attributes with its own compliance database and has linked the two databases on general information related to investment projects, data on environmental obligation on ESIA/IEE, approval of those assessments and the implementation on resettlement and compensation related to the projects. Discussions are also underway to allow access to the National Assembly, which currently has read-only access and the Department of Mining of the Ministry of Energy and Mines to certain sections of the database only. Moreover, connecting IPD's database to other important investment related authorities, such as the Department of Tax (MoF), Enterprise Registration and Management (MoIC), the Ministry of Labour and Social Welfare (MLSW), Ministry Agriculture and Forestry (MoAF), and the Special Economic Zone (SEZ) committee are also key avenues for scaling up.

There are also talks of making non-commercially sensitive data on IPD's compliance database publically available to stakeholders to promote transparency and allow the public to become more active during the review of investment applications and investment compliance.

## How is the database used for enforcement?

Currently there is no systematic process to guide the implementation of joint monitoring missions in the Government. Lead agencies invite other relevant agencies to participate in planned monitoring missions. Findings from the monitoring missions inform authorities on non-compliance to contracts, environmental and social safeguard plans on the part of investors. If investors fail to address issues following a second warning letter, relevant government agencies proceed to withdraw important documents from the investor such as, the environmental compliance certificate or in severe cases, the business license terminating investment operations.

The National Assembly can also lead monitoring missions in the eventuality that an aggrieved member of the local community registers a complaint with the Assembly during the National Assembly Ordinals and Intersection period, via a priority hotline. It is expected that the database will assist in ensuring the monitoring process is carried out in a more efficient and transparent way.

## Intermediate results

The database can report and flag the expiration of date of MoU and Concession Agreement for agriculture, hydropower, and mining investment projects. It can report in a consolidated manner, the total number of investment project by country, province, sector etc. It is also able to capture number of investment project that have not submitted progress reports. Linking the database with the Department of Environmental and Social Impact Assessment (DESIA) has allowed IPD to access vital environmental compliance information. This has led to greater collaboration among agencies as well as more effective resource utilization for monitoring and data collection. The information gathered through the database can also help to support the development of the first State of Concession Investment Report.

## Challenges and Steps Going Forward

In order to make the database effective it requires IPD and DPIs to collect baseline information and data that will form the basis for monitoring and reporting data to be measured against. There is still scope for improving the functionality of the database to capture the complex reporting needs of investments. The different formats of the various ministry databases and the viability of information sharing is also proving to be a technical challenge, particularly in finding ways to link common databases. Other challenges include establishing agreements on information sharing between relevant ministries and departments, arriving at a consensus on what kinds of information can be made publically

available and ultimately ensuring the application of the PEI tools. Following the Ministry's progress thus far, the key priority of the IPD is to work with departments and ministries on linking data management systems and establishing a common agreement on information sharing. This in turn is expected to improve intersectoral coordination. Another key priority is the development of the State of Concession Investment Report, a first of its kind analysis and summary of the state and impacts of investments in Lao PDR. Finally, PEI's support in addition to all the above, will also go towards supporting the Government in its desire to improve public accountability and transparency through disclosure of certain types of investment information.



PEI is supported by:



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