

Laos: Temporary Suspension of Business Licenses in Certain Industries

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Laos has attracted substantial foreign investment in recent years, which has contributed to a surge in the establishment of legal entities, both local and foreign. However, the Lao government has noted that a number of legal entities have not actually been operating business activities in the country, nor have they fulfilled minimum requirements set out in relevant regulations. Moreover, the government found that several concessions that were granted are still not operational, or have been used as collateral or bargaining assets that were later sold to other investors for projects that were not originally part of the concessions granted.

As a result, the government issued a series of separate notifications, over the course of the past several months, that temporarily suspend the issuance of new business licenses for both domestic and foreign entities contemplating the establishment of a legal entity in several industry sectors in Laos.

Authorities are currently closely monitoring companies and concession projects in the country, and have issued a warning that noncomplying entities, regardless of their nationality, will face sanctions, ranging from warnings to revocation of existing business licenses. As such, the separate notifications issued by the government not only pertain to the issuance of new licenses but also pose implications for existing licensed business operations.

A number of key industries affected by the government's notification are outlined below, and, unless otherwise noted, no date has been provided on when licensing will resume.

Insurance

The Prime Minister's Office Notification No. 1199, dated August 17, 2016, which followed a previous notification on the same topic, was issued to request temporary suspension of the issuance of business or investment licenses for the establish of companies that conduct life and non-life insurance businesses.

Consultancy and Advisory Services

The Ministry of Industry and Commerce Notification No. 1964, dated August 28, 2017, which followed another notification issued by the Prime Minister's Office, temporarily suspends the issuance of business licenses to operate consulting and advisory services in Laos.

Although the terms "consulting and advisory services" were not defined, legal advice and accounting and tax advice services are also included in the latest notification. Nonetheless, the notification allows for licenses to be granted if the Ministry of Industry and Commerce provides an exception for the applicant, based on the needs of the nation.

Financial Institution

The Financial Institution Management Department, Bank of Laos, Notification No. 95, dated November 18, 2017, temporarily suspends business licenses to operate financial institution activities in Laos until February 28, 2019. The notification's scope includes commercial banks, microfinance institutions, all types of loan credit companies, pawnshops, leasing companies, money transfer services, currency exchange shops, insurance companies, stock companies, and asset management companies.

The Lao government's rationale for this notification was the need to ensure that financial institutions operating in Laos are fulfilling minimum requirements, in order to enable authorities to effectively manage social impacts from their business activities. One notable example of a social impact arising from financial institutions is the rapid increase in the number of cars in the country due to the establishment of numerous financial leasing companies during the past few years.

Direct Sales

The Ministry of Industry and Commerce Notification No. 788/MOIC.DDT, dated April 11, 2017, temporarily suspends the issuance of direct sales business licenses in Laos.

The ministry determined that the existing regulation framing direct sales (i.e., Decision No. 60. MOIC on Direct Sale, dated January 12, 2017) was not sufficiently detailed and may provide loopholes for possible fraud by business operators. Notification No. 788/MOIC.DDT was therefore issued to provide authorities with the chance to revise existing regulations before business licensing can resume in this sector.

Small Hydropower Plants

The Prime Minister's Office Notification No. 1815, dated November 10, 2017, temporarily suspends the issuance of business licenses for small-scale hydropower plants, which includes power plants with capacity of less than 15 MW each. This decision will enable the Ministry of

Energy and Mines, which is the authority responsible for the issuance of licenses for hydropower plants, to ensure that current hydropower projects are operating effectively and meet required safety and environmental standards.

It was reported by Lao media that over 270 small hydropower projects are being planned in Laos as of November 2017. However, out of the numerous projects that have signed MOUs with the Lao government, only eight have actually commenced construction.

Mining

Mining is one sector that has experienced temporary suspension of business licensing for mining projects, including exploration and land survey for minerals, since June 2012. Although this suspension for the mining sector was lifted with the issuance of the Prime Minister's Office Notification No. 1012, dated July 13, 2017, new applications for licenses will be thoroughly assessed, and will need to show extensive evidence of the management and financial capabilities of applicants in undertaking mining projects.

Land Concessions for Large Agricultural Projects

The Prime Minister's Office Notification No. 1012, dated July 13, 2017, temporarily suspends business licenses and investment approval of land concessions for large-scale agricultural projects, in order to allow the government to thoroughly appraise whether concessions that were previously granted are effectively being operated in accordance with plans agreed upon between concessionaires and authorities. The suspension also provides authorities with the chance to determine the impacts of current projects on local communities and the environment.

Land Concessions in Champasak, Salavan, and Sekong Provinces

The Ministry of Agriculture and Forestry Notification No. 1199, dated October 24, 2017, halts the granting of land concessions and renting in the following locations: (1) Paksong District, Champasak Province; (2) Lao Ngarm District, Salavan Province; and (3) Thateng District, Sekong Province. This suspension is intended to ensure that land is being used in accordance with the purpose of projects for which concessions or land leases have been granted by the government and local authorities.

The notification also provides the government with the opportunity to survey land granted for projects to ensure that they do not exceed the initial size granted by authorities. Studies conducted by different organizations over the past few years have revealed that many projects that were granted land concessions in Laos cover a larger land area than what was originally granted.

Regulatory Compliance

The series of notifications issued by the Lao government do not seem to be aimed at limiting domestic and foreign investment, but are rather part of widespread efforts to address concerns related to regulatory compliance, and social and environmental impacts in certain industries, as well as to improve the overall regulatory framework for conducting business in Laos.

This summary is designed to provide general information only and is not offered as specific advice on any particular matter.

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