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Laos Establishes Investment Promotion and Management Committee

Over the past several months, the Lao government has been introducing a number of measures aimed at promoting foreign investment, including implementing Notification No. 2633/Cabinet/MOIC to abolish minimum registered capital requirements for certain foreign investors, and enacting the new Law on Investment Promotion No. 14/NA (LIP) to facilitate investments among both domestic and international private investors.

The government's latest measure was the issuance of the Decree on the Establishment and Operation of the Investment Promotion and Management Committee No. 05/PMO, dated January 5, 2018 (the Decree), which provides further clarification on the establishment and operations of the Investment Promotion and Management Committee (the Committee), one of the main approval authorities envisioned under the new LIP.

Investment Approval Authority

The Committee is entrusted to act as one of the main approval authorities in Laos, and will also provide One-Stop Services, serving as the primary point of interaction between the Lao government and private investors of all nationalities.

To better understand the Committee's role, one must consider that the registration of a legal entity and investment approval in Laos consists of two coexisting processes. Applications will either be handled by:

- ▶ the Ministry of Industry and Commerce (MOIC), or its related department at the local level (i.e., municipal or provincial levels), for general business activities; or
- ▶ the Ministry of Planning and Investment (MPI), or its related department at the local level, for general business activities that are considered to be controlled activities, and concession activities.

Controlled activities include those which may have an effect on the stability of the country, or its order and organization, and the social environment and nature. Requests to conduct such activities in Laos are thoroughly appraised by relevant authorities and government agencies. Controlled activities are currently enumerated under a list that may be subject to wide interpretation by authorities. However, a new list, which may provide better clarity, is expected to be issued during the course of the year.

Concession activities are investments for which the government grants a land concession for the development of a specific project. These may include the development of a special economic zone or industrial zone, the exploitation of natural resources such as a mine or power plant, airline

companies, or activities that are operated in the telecommunications sector.

The Committee will be the pivotal authority for consideration and approval of investments, and will include representatives from the MOIC, MPI, and other relevant government agencies. Two different levels of the Committee may be involved in the approval process, the Central Committee or Provincial Committees, depending on the nature and amount of the investment. Consideration and approval for controlled activities and concession activities that may have an adverse impact, as well as approval for the development of a special economic zone, will remain under the ambit of the Central Committee only.

The Committee's role does not end once investment approval has been granted, and subsequent approvals will be required during the course of the investment and throughout the existence of the legal entity conducting the business activity in Laos if modifications to the initial investment/project are contemplated. The Committee also has the authority to suspend or cancel licenses granted to investors if requirements are not met.

Promotion of Investment Climate in Laos

The Committee also has the role of supporting the central and local governments in a number of areas, including conducting research and formulating policies to manage private-sector investments; proposing amendments to relevant laws and regulations; and monitoring the progress of relevant government policies, plans and resolutions.

One-Stop Services

Both the Central and Provincial Committees will share the duty of managing and improving the efficiency of the One-Stop Service in serving as a single point of contact for local and foreign investors in Laos.

At the Central Committee level, the One-Stop Service will be based out of the Department of Investment Promotion, Ministry of Planning and Investment, and will include a representative from the relevant government agency, who will be tasked with considering different investment requests. At the provincial level, the One-Stop Service will be based out of the Division of Promotion Investment, Department of Investment Promotion of each province, and will also include a representative from the relevant government agency.

The Decree stresses that the Committee has the duty of facilitating private sector investment and easing the difficulties investors may face during the different stages of their business operation in Laos. Thus, private investors may notify the Committees about problems that they are facing during their investment. Additionally, the Central Committee will be able to organize meetings with domestic and international investors to inform them about new regulations or policies that may impact the local investment climate, and to discuss obstacles encountered by investors to seek solutions to accommodate investments in Laos.

Although not expressly mentioned, the Decree may also help to promote and facilitate harmonious interpretation and implementation of laws in Laos, where the application of laws can vary from one province to another.

The Decree and the Committees it establishes send a positive signal for the investment climate in Laos, and are expected to play a key role in harmonizing investment laws and practices across the country, while expediting investment approvals and other essential processes for investors. 🏡