

First Consultation Meeting on National Investment Strategy

Ministry of Investment and Planning (Lao PDR), UNDP-UNEP Poverty-Environment Initiative, UNDP Lao PDR

5 April 2010, Novotel Hotel, Vientiane

Report of the Meeting

I. Background

The idea for a National Investment Strategy (NIS) for Lao PDR emerged during discussions between UNDP, UNEP and Ministry of Planning and Investment (MPI) in 2008, whilst developing the Poverty-Environment Initiative (PEI) for Lao PDR.

MPI, and in particular its Investment Promotion Department (IPD), has embraced this idea. MPI views NIS both as a tool for managing future investments into Lao PDR over the next 5 years, and as an opportunity to set the standard for the types of investments desired.

II. Meeting Rationale and Objectives

The meeting aimed to inform national ministries and agencies of Lao PDR about the new National Investment Strategy (NIS) process. Generated comments and discussions were to be used as inputs to the NIS by IPD.

III. Participants and Organisers

1. Participants included representatives from the national Ministry of Planning and Investment (MPI), Water Resources and Environment Administration (WREA), Ministry of Agriculture and Forestry (MAF), Ministry of Energy and Mining, National Land Management Authority (NLMA), Ministry of Industry and Commerce, Lao Women's Union, and National Tourism Organisation.
2. Participating UN staff included representatives of UNDP Lao PDR, UNDP Regional Centre in Bangkok and UNDP-UNEP PEI.
3. Altogether, 34 participants attended the meeting. The names and contact details of the participants are provided in the Annex.
4. The meeting was jointly organised by the Investment Planning Department (IPD) of MPI and UNDP-UNEP PEI. The meeting was chaired by IPD.

IV. Agenda

5. The meeting consisted of the following sessions:
 - Meeting objectives and introductions
 - "National investment strategy for Lao PDR: setting a direction for quality investments" – Manathong Vongsay, IPD, MPI.

- “Strategic investment choices: maximizing benefits for Lao PDR” – Robert Glofcheski, UNDP Lao PDR.
- “National Socio-Economic Development Plan (2011-2015)” – Khampakone Outhenthapanya, Department of Planning, MPI.
- “FDI Policy of Lao PDR” – Phouthasack Souvannasao, IPD, MPI.
- “NSEDV and public investment programmes (PIPs)” – Sarthi Archarya, Department of Planning, MPI.
- Q&A. and general discussion – facilitated by Grace Wong, UNDP Lao PDR
- “A roadmap for developing the National Investment Strategy and next steps” - Manathong Vongsay, IPD, MPI.

V. Meeting Proceedings

Meeting objectives and introductions

6. Manathong Vongsay (IPD, MPI) officially opened the meeting and welcomed the participants. He stated that the meeting was essentially a brainstorming session for the line ministries, the outcomes of which will be used by the IPD as inputs for drafting the NIS. He noted that whilst foreign direct investment (FDI) can generate economic growth and reduce poverty, unregulated FDI can lead to negative social and environmental outcomes, as well as unsustainable use of natural resources. NIS will aim to ensure that investment results in socially and environmentally sustainable outcomes, whilst achieving targets set out in the National Socio-Economic Development Plan for 2011-2015 (NSEDV VII), and being consistent with the new Investment Law. He stated that IPD was hoping for a comprehensive and effective NIS, and wished for the meeting to be successful.
7. Manathong Vongsay then facilitated the formal introduction of each participant.

National investment strategy for Lao PDR: setting a direction for quality investments – Manathong Vongsay, IPD, MPI

8. The presentation showed that approved and implemented investment in Lao PDR has grown dramatically since 2004, with private FDI the primary driver. Theoretically, FDI can result in both positive and negative social and environmental outcomes. The economy of Lao PDR is heavily dependent on natural resources; it is therefore important to insure that investment does not degrade the natural resource base and threaten the welfare of future generations.
9. The development of NIS is driven by the recent approvals of the Investment Law 2010 and NSEDV VII. The latter puts strong emphasis on private investment-led economic growth.
10. NIS presents an opportunity to “set the bar” for quality investments that support sustainable development. A draft vision statement for NIS is ‘to increase the proportion of quality investments into Lao PDR that reduce poverty, enhance development of human capital and have least impact on the environment’.
11. The four key objectives of NIS are:
 - To ensure the link between investment promotion and national development goals
 - To define and coordinate the responsibilities of various ministries within the investment management process

- To harmonise legislative frameworks relevant to investment management
 - To identify and promote quality or sustainable investments in a more systematic, selective and targeted manner
12. Possible elements of the NIS are:
- Selection of priority sectors and geographic regions based on national directions, competitive advantage, resource opportunities and constraints
 - Links between national, provincial and sectoral strategies
 - Identification of conditions for a favourable investment climate
 - Clear definition of the investment management process under the new Investment Law 2010
 - Programme of proactive investment promotion activities
 - Mechanisms to enhance investments towards pro-poor growth and sustainable natural resource use
13. Manathong Vongsay emphasised the importance of achieving a general agreement among line ministries on the direction and objectives of the NIS, and to ensure their continuous participation throughout the process. IPD and PEI will act as a channel for receiving suggestions from line ministries.

Strategic investment choices: maximizing benefits for Lao PDR – Robert Glofcheski, UNDP Lao PDR

14. The presentation argued that, due to current and projected volumes of FDI inflow, Lao PDR will be dramatically transformed over the next 5-10 years. To ensure that this transformation is positive, it is important for the Government of Lao PDR (GoL) to focus on quality and sustainability of investment (rather than quantity). Strategic selection of FDI and FDI approval criteria will be crucial in ensuring positive social and environmental outcomes.
15. The following problems with FDI management in Lao PDR were highlighted:
- GoL is pursuing overly ambitious policies for FDI inflow (targeted 18 percent of GDP for 2011-15), despite weak institutional capacity
 - Lack of transparency in FDI approval process, with decisions often made “behind closed doors”
 - Lack of GoL capacity to monitor the impacts of FDI, particularly in mining
 - Lack of up-to-date data on land allocation and use, contributing to uncoordinated allocation of land concessions
 - Lack of secure land titling (particularly in rural areas)
 - Competing and overlapping roles of various ministries in the investment management process
16. GoL is putting too much emphasis on GDP growth. GDP is not necessarily a reliable indicator for development, as it does not take into account the distribution of income between local and foreign workers, environmental costs, poverty reduction and job creation. Alternative indicators of equitable and sustainable development – such as the Human Development Index, poverty reduction rates and achievement of Millennium Development Goals (MDGs) – should also be taken into account.
17. There is also an urgent need to overhaul criteria for approving and admitting FDI into Lao PDR. Criteria should take into account, among other things, creation of jobs and incomes for Lao

people, skills and technology transfers, the impact on Lao PDR's environmental assets, and levels of government revenue generated.

18. NSEDP VII should therefore be revised to include the alternative indicators of equitable and sustainable development, the revised criteria for approving and admitting FDI, and explicit references to all eight MDGs. GoL should also review some overly ambitious targets and policies contained in the current draft NSEDP VII.
19. It is assumed that NIS will follow goals set out in NSEDP VII, in line with the new Investment Law 2010. Within this framework, NIS should focus on the following tasks (among others):
 - Developing above-mentioned FDI selection and approval criteria.
 - Reviewing and monitoring land-related investments to safeguard interests of Lao people
 - Reviewing all land concessions (especially above 1,000 hectares), revoking agreements if there is non-compliance, and renegotiating agreements if there is lack of benefits for Lao people
 - Ensuring investor compliance with concession agreement terms, PM's moratorium of June 2007 and national tax, labour and environment laws
 - Increasing the transparency of investment decision making process
 - Ensuring meaningful participation of local people in advance of investment decisions impacting local communities
 - Designing a single model land concession agreement, with safeguards to minimize risk of discretionary decision-making and corruption

National Socio-Economic Development Plan (2011-2015) – Khampakone Outhenthapanya, Department of Planning, MPI

20. The presentation firstly outlined the macroeconomic and social achievements under NSDEP VI (2006-2010). All of the macroeconomic targets – including total and sectoral GDP growth, inflation rate and investment's share of GDP – were achieved or almost achieved. The poverty rate has been reduced from 46 to 26 percent during the 1993-2008 period.
21. Five overall objectives and 21 directives of NSEDP VII were presented. Overall objectives include rapid economic growth, a shift towards industrialisation, and a balance between economic growth, socio-cultural development and environment preservation. Directives include promotion of exports, promotion of industries that utilise domestic natural resources, promotion of large-scale power and mining development, and redistributing the labour force to meet the requirement of industrialization.
22. Macroeconomic and environmental targets of NSEDP VII were discussed. These include GDP growth rate of no less than 8 percent (with emphasis on industry), per capita GDP of US\$1,700 by 2015, and forest cover of 65 percent of total area by 2015.
23. GoL has set a target of US\$15b of total investment for 2011-2015 period (32 percent of predicted GDP). Private FDI's share of this investment is 54 percent (US\$8.1b), with public investment at 8 percent. Government is planning to put in a strong regulation mechanism for FDI, and encourage joint ventures and stock exchange listings to ensure more local participation.
24. Government will be selective in ensuring quality FDI, taking into consideration technology transfers, job creation, impact on livelihoods of land-dependent populations, and environmental impact. It will also seek to promote investment by small- and medium-sized enterprises (SMEs) through loans, training of trainers and quality marketing. Efforts will be made to shift exports from "extraction products" to value-added products.

FDI Policy of Lao PDR – Phouthasack Souvannasao, Deputy Director, IPD, MPI

25. The presentation provided a summary of key elements of the new Investment Law (IL 2010). IL 2010 replaces previously-separate domestic investment law and FDI law in order to create a “level playing field” for both domestic and foreign investors.
26. The key elements include:
- The procedure for obtaining an enterprise registration certificate has been simplified. Certificates will be issued within 10 working days for businesses that do not fall into controlled list, and 13 working days for those that do. The procedure for obtaining concession approval is more complex.
 - There is no longer a time limit on investment of general business activities (Article 20). The limit for concession projects has been extended to 99 years (Article 28).
 - Corporate profit tax incentives have been changed for investments in a number of sectors (industry, agriculture and services). Additional tax exemptions have been granted to investors in education and healthcare sectors.
 - Both foreign and domestic investors can access credit at commercial banks and financial institutions in Lao PDR and abroad (Article 53)
 - Investors have been granted rights to purchase rights of land use for residential purposes, under a number of conditions.
 - Foreign investors have been granted rights to invest in the real estate sector through leasing land from Government or private sector (Article 58).
 - IL 2010 provides incentives for investors to develop special economic zones (SEZs), such as export processing zones and industrial parks.

MPI NSEDP and public investment programmes (PIPs)” – Sarthi Archarya, Department of Planning, MPI

27. Dr Sarthi expressed concern about the high level of dependence on FDI and overseas development assistance (ODA), rather than domestic investment. He pointed out a number of shortcomings of current investment situation, including:
- Lack of understanding of the geographic mobility of Lao people, and subsequent lack of geographic coordination of investment in technical education facilities and public health services
 - Regional disparities in FDI inflows and poverty reduction targets
 - Given that growth in the agricultural sector has been based on land expansion, lack of accompanying growth in agricultural productivity can potentially lead to food insecurity in the long-term. The current small-scale agriculture farming systems need to be transformed into more coordinated and efficient contract farming systems, allowing for economies of scale and creation of value-added processing facilities.
 - Lack of clear and transparent contracts and formal land tenure leading to conflicts between investors and landowners
 - Lack of a technical university in Lao PDR, leading to a skilled labour shortage which constrains local job opportunities presented by investments.

Q&A – facilitated by Grace Wong, UNDP Lao PDR

28. A question was raised about the status of the land after a concession agreement expires. The concern is related to the new Investment Law permitting foreign ownership of land in Lao PDR. It was clarified that the ownership of land is tied to the terms of investment, meaning that foreign investors will have to return the land after the expiry of the investment agreement. Hence it is more appropriate to refer to this arrangement as a “long-term lease”, rather than “ownership”.
29. A question was raised about the relationship between sectoral plans and the NIS. MPI confirmed that sectoral strategies will be incorporated into NIS. Line ministries were encouraged to communicate their sectoral priorities to IPD; this will be covered in more detail in the next round of consultations.
30. A point was raised that MPI is perhaps moving too quickly with the implementation of the new Investment Law. MPI responded that a Special Task Force has been set up to develop the Decree for the new law. MPI realises that FDI is a sensitive issue and is taking it seriously. It is not rushing with implementation.

General discussion - facilitated by Grace Wong, UNDP Lao PDR

31. The following opinions were expressed during the discussion:
 - The targets set out in NSEDP for GDP and FDI growth are too ambitious. There is a need to assess both the natural resource and implementing capacity of Lao PDR to achieve these targets, and revise them accordingly. If the targets could not be changed, a government should identify and include development indicators that go beyond traditional measures such as GDP.
 - The development of NSEDP has lacked transparency and consultations, with certain ministries largely excluded from the process. The importance of understanding and defining the roles, responsibilities and functions of the different line ministries in the NIS was emphasized. The need for improving current coordination was highlighted.
 - There is a need to involve more line ministries (such as Ministry of Education) in the NIS process
 - NLMA does not yet have quality data on land use and land ownership, but there is now budget allocated from Government for carrying out land surveys. This data is crucial in avoiding conflicts between local communities and investors. The elements of the new Investment Law which permit foreign ownership and extend the length of land leases are likely to exacerbate these conflicts, and as such, there are some confusion and questions on how the pending new Investment decree will relate to the Land Law that is currently being revised. NLMA proposes more discussions on the issue land concessions and the approval process in future consultations.
 - Further assessments of the impact of previous and current investment projects are required to inform NIS development. Baseline data from each sector should also be collected and used as an input. There were questions on the quality or availability of such data.
 - Investor’s non-compliance with relevant laws and terms of the agreement should also be addressed. At the moment, non-compliance goes unpunished. Monitoring of compliance will be critical given Lao PDR’s pending accession to WTO, and with the ASEAN Free-Trade Agreement coming into force in 2015.
 - It was suggested that line ministries should come up with a list of “priority investments”, which can then be used as an input to NIS. These priority investments should be based on the resources stocks that are available for exploitation; understanding the resource capacities and constraints helps to avoid over-allocation or under-pricing of the resource. MPI confirmed that sectoral strategies will be incorporated into NIS.

- There is a need to develop some sort of criteria system which each line ministry can use to assess investor proposals and existing projects. The criteria system and its application should be communicated to all sectors of GoL.
- Next round of consultations should include a discussion of criteria to support quality investment, and a discussion of the process of integrating sectoral plans and priorities within the NIS

A roadmap for developing the National Investment Strategy and next steps - Manathong Vongsay, IPD, MPI.

32. The presentation outlined the next steps to be taken by IPD towards developing the NIS. These will consist of, but not limited to:
- National Investment meeting between Central and Provincial authorities (April-May 2010)
 - Review of relevant studies (including analyses of impacts of existing investments, investment climate reports, and international and regional experience with investment strategies (May-August 2010)
 - Consultations with the private sector (June-July 2010)
 - Developing a draft NIS, and conducting follow-up consultation with line ministries, donors and the private sector (August 2010)
 - Final Draft Strategy produced (September 2010)
33. The presentation outlined the implementation and monitoring arrangements for the NIS (once it is finalised). NIS will be integrated into annual work plans and budgets of MPI. NIS will also be integrated into the work of the National Investment Committee (chaired by Minister and Vice Minister of MPI), the Provincial Investment Committee (chaired by Governors), and the Specific Zone Development Authority.

Concluding remarks

34. Grace Wong thanked the participants of the meeting, and encouraged them to participate in the NIS process as it progresses. IPD and the PEI program will act as the channel for receiving comments, and welcome inputs anytime over the course of the process.

Annex: List of Participants

	Full Name	Position description	Agency / Organisation	Contact details
1	Mr. Manathong VONGSAY	Deputy Director-General	IPD-MPI	
2	Ms. Grace WONG	Senior Technical Advisor	UNDP-UNEP PEI/ IPD	
3	Mr. Bruno CAMMEART	Head of Environment Unit	UNDP Lao PDR	5515876
4	Mr. Robert GLOFCHESKI	Chief Resident Economic	UNDP Lao PDR	
5	Mr. Nikolai BERESNEV	Environmental Economics Associate Officer	UNDP Regional Centre in Bangkok (RCB)	+66 8907 10409
6	Dr. Sarthi ARCHARYA	Senior Technical Advisor	UNDP/MPI	7484076
7	Ms. Silvia JUNDT	Environment Specialist, Environment Unit	UNDP Lao PDR	
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9	Mr. Somphan		Ministry of Agriculture and Forestry	5685248
10	Mr. Khamsok KOUPHOKHAM	Head of General Administration Division	Department of Electricity, Ministry of Energy and Mining	2206120
11	Mr. Bounthong SAYSAVATH	Head of General Administration Division	Department of Mining, Ministry of Energy and Mining	5415511
12	Mr. Somsanith PHOUDAVONG	Head of Using Land Monitoring Division	Land Management Organization	2214977
13	Mr. Viphaxay CHANSAMOUD	Head of Legal Unit	Department of Legal Division, Land Management Organization	24668783
14	Mr. Khamphone	Deputy Head of Environment	Ministry of Industry and Commerce	5614832
15	Mr. Bountam	Technical Staff	Ministry of Industry and Commerce	5688422
16	Mr. Saleunmsack BUAKHASITH	Head of Business Management Division	National Tourism Organization	2201058
17	Mr. Chansone KEOMANIVONG	Deputy Head of Business Management Division	National Tourism Organization	2225758
18	Ms. Somphone	Head of Division	Lao Women Union	2208702
19	Mr. Kongher LEUNGLERN	National Consultant	PEI-NSEDP	2411256
20	Ms. Makiko FUJITA	Economic Analyst	UNDP Lao PDR	
21	Mr. Vilaboun CHITTANOUSONE	Deputy Head of Division	EPD	264253
22	Mr. Aliyasack TOURALOM	Technical Staff	ESIA	4878887
23	Dr. Kethkeo PHAUNGPHEP	Head of Investment Division	Department of Planning, Ministry of Agriculture and Forestry	5612391

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24	Mr. Phonexay VILAYSACK	Deputy Head of Division	IPD-MPI	5399680
25	Mr. Bounheuang DETHVONGSONE	Deputy Head of Division	IPD-MPI	2411147
26	Mr. Korakan LUANDRATH	Technical Staff	IPD-MPI	217012
27	Mr. Thongda PHETMANIVONG	Deputy Head of Division	IPD-MPI	216663
28	Mr. Souniphone ANOUVONG	Technical Staff	IPD-MPI	216556
29	Mr. Phoutasack SOUVANHNASOUND	Deputy Head of Division	IPD-MPI	2203813
30	Mr. Khampakone	Deputy Head of Division	Department of Planning and Investment, MPI	216756
31	Ms. Souphaphone SAIGNALEUTH	Technical Staff of Investment Promotion Department /Project Assistant of PEI Project	Ministry of Planning and Investment/IPD-PEI Project	7615104
32	Ms. Dalaphone SIHANATH	National Consultant	IPD-PEI Project	
33	Mr. Vinata SAYAVONG	Interpreter	Civilise Consulting Co.Ltd	
34	Ms. Chansamone SENGMEAUNG	Project Accounting	IPD-PEI Project	2225720