

## **(6) LaoPDR: Comparison with International EIA Procedures**

Important points in the comparison of the environmental impact assessment system as of February 2016 with the World Bank group International Finance Corporation (IFC) performance standards that are internationally considered as the best practice for private investment are as follows:

### **5.1 Measures for mitigating impacts and monitoring**

Mitigation hierarchy, in which the measures are examined in the order of priority of avoidance, mitigation and compensation/alternative when considering the countermeasures for risks and impacts by the project, is recommended in IFC performance standards (IFC 2012: PS1, para14), but the order of priority of avoidance, mitigation and compensation/alternative is not clarified in the environmental impact assessment system in Laos. In the preparation of the environmental impact assessment report in accordance with the procedure for international environmental impact assessment, the order of priority of environmental impacts avoidance, mitigation and compensation/alternative needs to be clarified.

In addition, the confirmation of the information on monitoring by external experts is required in IFC performance standards 1 when impacts of the project on the region is extremely large (IFC 2012: PS1, para 22), but no confirmation of monitoring information by external experts is required in Laos in the environmental impact assessment system as of February 2016.

### **5.2 Considerations of impacts on climate change, cumulative effects, and impacts of relevant facilities**

In 1 and 3 of IFC performance standards, adequate considerations for reducing the emission of greenhouse gases, cumulative effects and impacts of relevant facilities need to be given (IFC 2012: PS1, para 7, 8), and the direct and indirect emission of greenhouse gases need to be calculated when more than 25,000 tons of carbon dioxide or equivalent weight of greenhouse gases is emitted from the project (IFC 2012: PS3, para 7, 8). However, in the EIA guidelines (2012) in Laos, the identification of potential impacts associated with natural disasters and climate change is required at the stage of preparing the scoping report, but considerations for reducing the emission of greenhouse gases, cumulative effects or impacts of relevant facilities or calculation of the emission of greenhouse gases are not required in the current legal framework.

### **5.3 Information disclosure and citizen participation**

In IFC performance standards 1, consultation with citizens affected by the project, 1) from the initial stage of the project, 2) based on the prior adequate information disclosure in a language and format that citizens can understand, 3) without external pressure, and 4) that is meaningful and

interactive is required (IFC 2012: PS1, para 30). In addition, when the project has serious impacts on local residents, the project proponent is required to provide informed consultation with and participation of citizens affected by the project (IFC 2012: PS1, para 31). In Instructions on ESIA (8030) (2013) in Laos, information disclosure to citizens affected by the project in Laotian and local languages is specified from the initial phase of the project, and the consultation with affected citizens and other stake holders is obligated. Meanwhile, conducting a consultation without external pressure is associated with difficulty in Laos under the one-party rule with limited freedom of speech.

#### 5.4 Workers and working conditions

In IFC performance standards 2, employing workers aged 18 years or younger is prohibited under any condition (IFC 2012: PS2, para 21), but people aged 12 years or older are allowed to work as laborers according to Article 101, Chapter 2 of Labor Law in Laos. This difference of age limit needs to be noted to conform to international standards.

In IFC performance standards, safe and healthy working conditions are required to be secured for contract workers and supply chain workers (IFC 2012: para6&7). In addition, the opposition procedures are required to be specified for contract workers and supply chain workers to complain of concerns about working conditions to the project proponent (IFC 2012: para20). In Laos, the opposition procedures are not specified in the legal framework.

#### 5.5 Health, safety and security of communities

IFC performance standards 4 requires that the safety of citizens affected by the third party or regional project in planning and designing the project and that external experts is employed in projects at great risk (IFC 2012: PS4, para 6). In Laos, no review by external experts is required in particular.

In addition, in IFC performance standards 4, considerations for impacts of the project on health of local residents and third parties are required (IFC 2012: PS4, para 7, 9 &10). In Labor Law (2013) in Laos, a stipulation of health and safety of workers (Section III, Chapter 1) was added, and employers are required to consider health and safety of workers.

#### 5.6 Land expropriation and involuntary relocation

In IFC performance standards 5, the compensations of the entire costs for the lost property and the supports for improving/recovering living are required if involuntary relocation is inevitable (IFC 2012: PS5, para 9). Prime Minister Directive on the Compensation of Development Projects and Relocation Management (84) in Laos specifies that the project proponent provides the compensations of the entire costs for the lost property and the supports for improving/recovering living. However, while IFC performance standards (IFC 2012: PS5, para 9) specify that lands and related property must be condemned after compensation, no prior compensation for citizens to be relocated is

specified in the legal framework in Laos. In addition, in performance standards 5, compensations for citizens residing in or using the lands are obligated even if they do not have the legal rights for the lands or property (IFC 2012: PS5, para 17). However, in the legal frame in Laos as of January 2018, compensations for citizens without the legal rights for lands or property are not specified. Moreover, in performance standards, the establishment of the opposition mechanism at an early stage of project development is specified (IFC 2012: PS5, para 11), but in Laos, the establishment of the opposition mechanism is not obligated. Even if the opposition mechanism is established, there will be issues in its adequate operations under the political/social situation of Laos with limited freedom of speech.

#### 5.7 Conservation of biodiversity and natural resources management

In IFC performance standards 6, employing external experts, not reducing the absolute number of endangered species at a global, regional or national level, formulating a long-term monitoring plan, etc. are specified if the project is executed in a critical habitat for endangered and valuable species (IFC 2012: PS6, para 8, 16&17). In addition, in performance standards 6, the understanding of ecosystem services that should preferentially be conserved, the prevention of the invasion of foreign species, etc. are specified (IFC 2012: PS6, para 22&24). In Environmental protection Act (1999) in Laos, the employment of external experts, the securement of the absolute number and the formulation of a long-term monitoring plan are not specified in a project executed in such critical habitats.

#### 5.8 Rights of indigenous people

In IFC performance standards 7, self-recognition, collective adherence to a geographically special residence, existence of a habitual/cultural/economical/social organization, etc. are listed as the definitions of indigenous people (IFC 2012: PS7, para 5). However, in Laos, the existence of indigenous people is not officially acknowledged in the first place, and the expression “Laotian of various ethnicities” is used. Thus, no legal framework exists that specifies the identification of indigenous people who are affected by the project and the consideration for indigenous people.

#### 5.9 Cultural heritage

IFC performance standards 8 requires the project proponent to employ external experts to support the understanding and conservation of cultural heritage if the project may impact cultural heritage (IFC 2012: PS8, para 7). In Cultural Heritage Law (2005) in Laos, investments in the area where cultural heritage exists is prohibited (Article 43), but the employment of experts by the project proponent for understanding and conserving important cultural heritage is not specified.