

Appendix-4

SAMPLE DRAFT OF

THE SPECIAL ECONOMIC ZONE LAW

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**THE SPECIAL ECONOMIC ZONE LAW
(Sample Draft)**

The Lao People's Democratic Republic
The National Assembly of The Lao People's Democratic Republic
Vientiane

Began and held in Vientiane, on (Day, date and year)

[Lao Law No.----]

AN ACT PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISMS FOR THE CREATION, OPERATION, ADMINISTRATION, AND COORDINATION OF THE SPECIAL ECONOMIC ZONES IN THE LAO PEOPLE'S DEMOCRATIC REPUBLIC, CREATING FOR THIS PURPOSE, THE LAO ECONOMIC ZONE AUTHORITY (LEZA), AND FOR OTHER PURPOSES

Be it enacted by the National Assembly of the Lao People's Democratic Republic assembled:

CHAPTER I

**PURPOSES AND OBJECTIVES; ESTABLISHMENT
AND NATURE OF SPECIAL ECONOMIC ZONES;
COORDINATION WITH OTHER SIMILAR SCHEMES**

SECTION 1. *Title.* – This Law shall be known and cited as “The Special Economic Zone Law of the Lao People's Democratic Republic”.

SECTION 2. *Declaration of Policy.* – It is the declared policy of the government to translate into practical realities the following State policies in the 1991 Constitution and Law on The Promotion and Management of Foreign Investment in The Lao People's Democratic Republic of 1994 (hereinafter referred to as The Foreign Investment Law), namely:

- (a) “The economic system of the Lao People's Democratic Republic is a multi-sectional economy whose objectives are to expand production and increase

the circulation of goods, and transform the national economy into a market economy in order to develop the national economic base and improve the material and spiritual living conditions of the multi-ethnic people.” (Article 13, Chapter 2, The Constitution)

- (b) “The State protects and promotes all forms of state, collective and individual ownership, as well as the private ownership of both domestic investors and foreigners who invest in the Lao People’s Democratic Republic. The State encourages all economic sectors to compete and cooperate with one another in expanding their production and business activities. All economic sectors are equal before the law.” (Article 14, Chapter 2, The Constitution)
- (c) “The government of the Lao People’s Democratic Republic encourages foreign persons, either individuals or legal entities, to invest capital in the Lao People’s Democratic Republic on the basis of mutual benefit and observance of the law and regulations of the Lao People’s Democratic Republic. Such persons shall hereinafter be referred to as “foreign investors.” (Article 1, The Foreign Investment Law)
- (d) “Foreign Investors may invest in and operate enterprises in all fields of lawful economic activity such as agriculture and forestry, manufacturing, energy, mineral extraction, handicrafts, communications and transport, construction, tourism, trade, services and others. Foreign investors may not invest in or operate enterprises which are detrimental to national security, the natural environment, public health or the national culture, or which violate the laws and regulations of the Lao People’s Democratic Republic.” (Article 2, The Foreign Investment Law)

In pursuance of these policies, the government shall actively encourage, promote, induce and accelerate a sound and balanced industrial, economic and social development of the country in order to provide jobs to the people, increase their productivity and their individual and family income, and thereby improve the level and quality of their living condition through the establishment, among others, of special economic zones in suitable and strategic locations in the country and through measures that shall effectively attract legitimate and productive foreign investments.

SECTION 3. *Purposes, Intents and Objectives.* – It is the purpose, intent and objective of this Law:

- (a) To establish the legal framework and mechanisms for the planning and monitoring of the special economic zones;
- (b) To promote a market economy without intervention of the central and local government in production, commercial and other economic activities;

- (c) To transform selected areas in the country into highly developed, industrial, commercial, services, tourist, agro-industrial, investment, and financial centers, where highly trained workers and efficient services will be available to commercial enterprises;
- (d) To promote the flow of investors, both foreign and local, into special economic zones which would generate employment opportunities and establish backward and forward linkage among industries in and around the special economic zones;
- (e) To stimulate the repatriation of Lao capital by providing attractive climate and incentives for business activities;
- (f) To promote industrial, servicing and financial cooperation between the Lao People's Democratic Republic and industrialized countries through modernized industries that will upgrade the country's industrial sector and improve productivity by utilizing new technological and managerial know-how; and
- (g) To vest the special economic zones on certain areas thereof with the status of a separate customs territory within the framework of the Constitution and the national sovereignty and territorial integrity of the Lao People's Democratic Republic.

SECTION 4. *Definition of Terms.* – For purposes of this Law, the following definitions shall apply to the following terms:

- (a) “Special economic zone (SEZ)” – a selected area with highly developed or which have the potential to be developed into industrial, tourist/recreational, commercial, servicing, agro-industrial, investment and financial centers. An SEZ shall contain all of the following: export processing zones (EPZs), free trade zones, free logistics center (free port) and tourist/recreational center. Enterprises within the SEZ are granted preferential tax treatment and immigration laws are more lenient.
- (b) “Export processing zone (EPZ)” – a specialized industrial estate located physically and/or administratively outside customs territory, predominantly oriented to export production. Enterprises located in export processing zones are allowed to import capital equipment and raw materials free from duties, taxes and other import restrictions.
- (c) “Free trade zone” – a separate security area adjacent to a port of entry where imported goods may be unloaded for immediate transshipment or stored, repacked, sorted, mixed, sold, bought or otherwise manipulated without being subject to import duties. However, movement of these imported goods from the free-trade area to a non-free-trade area in the country shall be subject to import duties.
- (d) “Free logistics center (free port)” – a separate security area near to a port of entry where imported goods may be unloaded for immediate transshipment or stored,

repacked, sorted, mixed, or otherwise manipulated without being subject to import duties. However, movement of these imported goods from the free port area to a non-free-port area in the country shall be subject to import duties.

SECTION 5. *Establishment of SEZ.* – To ensure the viability and geographic dispersal of SEZ through a system of prioritization, the following area is initially identified as SEZ, subject to the criteria specified in Section 6:

- (a) Within 2.5 kilometers on both sides from the Second International Mekong Bridge access road and Route 9, starting from the gate of the Lao Check Point near the Second International Mekong Bridge to the intersection of Route 9 and 13 through the junction of the Second International Mekong Bridge access road and Route 9 in Savannakhet Province.
- (b) Individual factories, established by foreign and domestic investment before this Law is enacted, located in the area of such SEZ and who wish to be granted the incentives hereof, may apply to the LEZA and the LEZA shall assess and evaluate such application and may grant the incentives under this Law when the LEZA finds it applicable and appropriate.
- (c) Individual factories, established by foreign investment before this Law is enacted, located in Khanthabouly district, qualified as export-oriented enterprises according to the classification set forth under this Law and who wished to be granted the incentives hereof, may apply to the LEZA and the LEZA shall assess and evaluate such application and may grant the incentives under this Law when the LEZA finds it applicable and appropriate.

These areas shall be developed through any of the following schemes:

- (i) Private initiative;
- (ii) Local government initiative with the assistance of the national government;
- (iii) National government initiative; and
- (iv) The mixed scheme of the above

The meters and bounds of SEZ are to be delineated and more particularly described in a decree to be issued by the Prime Minister of the Lao People's Democratic Republic, upon the recommendation of the Lao Economic Zone Authority (LEZA), which shall be established under this Law, in coordination with the provincial and/or other local administrative authority, the Central Land Allocation and Land and Forest Granting Committee (the Central Land Committee).

SECTION 6. Criteria for the Establishment of Other SEZ. – In addition to the SEZ identified in SECTION 5 of this Law, other areas may be established as SEZ in a Decree to be issued by the Prime Minister of the Lao People’s Democratic Republic subject to the evaluation and recommendation of the LEZA, based on a detailed feasibility and engineering study which must conform to the following criteria:

- (a) The proposed area must be identified as a regional growth center in the medium-term development plan authorized by the central government;
- (b) The existence of required infrastructure in the proposed SEZ, such as roads, telephones, airport, railways, etc., and the suitability and capacity of the proposed site to absorb such improvements;
- (c) The availability of water source and electric power supply for use of the SEZ;
- (d) The extent of vacant lands available for industrial and commercial development and future expansion of the SEZ as well as of lands adjacent to the SEZ available for development of residential areas for the SEZ workers;
- (e) The availability of skilled, semi-skilled and non-skilled trainable labor force in and around the SEZ;
- (f) The area must have a significant incremental advantage over other area in the Lao People’s Democratic Republic and its potential profitability can be established;
- (g) The area must be strategically located; and
- (h) The area must be situated where controls can easily be established to curtail smuggling activities.

Other areas, which do not meet the foregoing criteria, may be established as SEZ in a Decree to be issued by the Prime Minister of the Lao People’s Democratic Republic subject to the evaluation and recommendation of the LEZA: *Provided*, that the said area shall be developed only through local government and/or private sector initiative, and without any financial exposure on the part of the national government: *Provided, further*, That the area can be easily secured to curtail smuggling activities: *Provided, finally*, that after five (5) years the area must have attained a substantial degree of development, the indicators of which shall be formulated by the LEZA.

SECTION 7. SEZ to be a Decentralized Industrial, Servicing, Commercial/Trading, Agro-Industrial, Tourist, Investment and Financial Community. – Within the framework of the Constitution, the interest of national sovereignty and territorial integrity of the Lao People’s Democratic Republic, the SEZ shall be developed, as much as possible, into a decentralized, self-reliant and self-sustaining industrial, servicing, commercial/trading, agro-industrial, tourist, financial and investment center with minimum government intervention. Each SEZ shall be provided with transportation, telecommunications, and

other facilities needed to promote backward and forward linkage among the enterprises inside and outside of the SEZ and to generate linkage with industries and employment opportunities for its own inhabitants and those of nearby towns and cities.

The SEZ shall administer itself on economic, financial, industrial and tourism development, and such other matters within the exclusive competence of the national government.

The SEZ may establish mutually beneficial economic relations with other entities within the country, or, subject to the administrative guidance of the Prime Minister's Office, the Ministry of Foreign Affairs, the Ministry of Industry and Handicraft and/or the Ministry of Commerce and Tourism, with foreign entities or enterprises.

Foreign citizens and companies owned by non-Lao citizens in whatever proportion may set up new enterprises or participate in the management of the existing enterprises through purchasing the share capitals in the SEZ, either by themselves or in joint venture with the Lao nationals in any sector, except those clearly described in the negative list issued by the LEZA, of industry, international trade and commerce, services within the SEZ.

Their assets, profits and other legitimate interests shall be protected: *Provided*, that the SEZ through the LEZA may require a minimum investment for any SEZ enterprise in freely convertible currencies: *Provided, further*, that the investment shall fall under the priorities, thrusts and limits provided for in this Law.

SECTION 8. *SEZ to be Operated and Managed as Separate Customs Territory.* – The SEZ shall be managed and operated by the LEZA as separate customs territory.

The LEZA is hereby vested with the authority to issue certificates of origin for products manufactured or processed in each SEZ in accordance with the prevailing rules of origin, and the pertinent regulations of the Ministry of Industry and Handicraft and/or the Ministry of Finance.

SECTION 9. *Defense and Security.* – The defense of the SEZ and the security of its perimeter area shall be the responsibility of the national government in coordination with the LEZA. Military forces sent by the national government for the purpose of defense shall not interfere in the internal affairs of any of the SEZ and expenditure for these military forces shall be borne by the national government. The LEZA may provide and establish the SEZ's internal security and firefighting forces.

SECTION 10. *Immigration.* – Any investor within the SEZ whose initial investment shall not be less than One hundred thousand dollars (\$100,000), his/her spouse and dependent children under twenty-one (21) years of age shall be granted permanent resident status and the Ministry of Interior shall issue such visas, upon the request of the LEZA.

The Ministry of Interior shall issue, upon the request of the LEZA, working visas renewable every two (2) years to foreign executives, engineers, technicians, workers and other aliens, possessing highly technical skills, which no Lao citizens within the SEZ possesses, as certified by the Ministry of Labor and Social Welfare, or strong and appropriate workability to fill up the vacant positions in the SEZ enterprises, as approved by the LEZA.

CHAPTER II

GOVERNING STRUCTURES

SECTION 11. *The Lao Economic Zone Authority (LEZA) Board.* – There is hereby created an independent public corporation to be known as the Lao Economic Zone Authority (LEZA) attached to the Prime Minister’s Office. The LEZA shall be operated basing on its own financial resources and shall be responsible for profits and losses to be generated from its operation.

The LEZA shall have a director general who is a private person or a government official with the rank of minister and shall be appointed by the Prime Minister. The director general shall be of proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least ten (10) years relevant working experience preferably in the field of management or public administration. The director general shall be responsible for the management and operations of the SEZ.

The director general shall be assisted by three (3) deputy directors general each for policy and planning, administration and operation, who shall be appointed by the LEZA Board, upon the recommendation of the director general. The deputy directors general shall be with proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, management or their equivalent.

One (1) senior executive advisor for strategic planning, supervision on the implementation of policy and planning, administration and operation for and of the SEZ, who shall be appointed by the LEZA Board upon the recommendation of the director general, shall assist the director general. The senior executive advisor shall be of proven probity and integrity, and a degree holder in any of the following fields: economics,

business, public administration, law, management or their equivalent, and with at least more than five (5) years working experience preferably in the field of planning and/or management of equivalent special economic zone.

The LEZA shall have the Board, being composed of sixteen (16) members as follows: the Director General of the Lao Economic Zone Authority as Chairman, the Vice Minister of the Prime Minister's Office as Vice-chairman, the Vice Ministers of the Ministry of Industry and Handicraft, the Ministry of Commerce and Tourism, the Ministry of Finance, the Ministry of Labor and Social Welfare, the Ministry of Interior, the Ministry of Agriculture and Forest, the Ministry of Communication, Transport, Post and Construction, the State Planning Committee, the Ministry of Environment, the Ministry of Education, the Ministry of Justice, the Governor of the Province concerned, and one (1) representative from the labor sector, and one (1) representative from the investors/business sector in the SEZ. In case of the unavailability of the Director General of the LEZA to attend a particular board meeting, the Vice Minister for the Prime Minister's Office shall act as Chairman. The LEZA Board shall be responsible for the policy-making of the SEZ. The resolutions of the LEZA Board shall be made with the votes of majority of the Board members attending at the Board Meeting, which shall be effectuated with the attendance of the majority of the Board members.

There shall be one (1) executive auditor, who shall be appointed by the Prime Minister, to attend the LEZA Board meeting as an observer. The executive auditor shall be of proven probity and integrity, and a degree holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least more than ten (10) years working experience preferably in the field of auditing, planning and/or management. He shall be responsible and entitled to make direct and periodical report to the Prime Minister of the Lao People's Democratic Republic, regarding the policies, management and operations of the SEZ.

Members of the LEZA Board, except the director general, shall receive a *per diem* of not less than the amount equivalent to the representation and transportation allowances of the members of the Board and/or as may be determined by the Ministry of Finance: *Provided, however*, That the *per diem* collected per month does not exceed the equivalent of four (4) meetings.

SECTION 12. Functions and Powers of LEZA Board. – The LEZA Board shall have the following functions and powers:

- (a) Set the general policies on the establishment and operations of the SEZ;

- (b) Review proposals for the establishment of the SEZ based on the set criteria under Section 6 and endorse to the Prime Minister the establishment of the SEZ. Thereafter, it shall facilitate and assist in the organization of said entities;
- (c) Regulate and undertake the establishment, operation and maintenance of utilities, other services and infrastructure in the SEZ, such as heat, light and power, water supply, telecommunications, transport, toll road and bridges, post services, etc., and to fix reasonable and competitive rates, charges and fees thereof;
- (d) Fix and collect the reasonable and competitive land leasing rates, service charges or other necessary charges or fees from the investors in case they may locate at the premises developed by the LEZA or from the developer in case they are in charge of developing land, buildings or other necessary facilities basing on sub-leasing rights from the LEZA;
- (e) Approve the annual budget of the LEZA and the SEZ development plan;
- (f) Issue rules and regulations to implement the provisions of this Law in so far as its power and functions are concerned;
- (g) Exercise its powers and functions as provided for in this Law; and
- (h) Render annual reports to the Prime Minister and the National Assembly.

SECTION 13. *General Powers and Functions of the Authority.* – The LEZA shall have the following powers and functions:

- (a) To operate, administer, manage and develop the SEZ according to the principles and provisions set forth in this Law;
- (b) To accept and evaluate the investment plans, and provide the investment licenses in the SEZ;
- (c) To provide, create or modify the investment incentives set forth in this Law;
- (d) To register, regulate and supervise the enterprises in the SEZ in an efficient and decentralized manner;
- (e) To coordinate with local government units and exercise general supervision over the development, plans, activities and operations of the SEZ and the like;
- (f) In coordination with local government units concerned and appropriate agencies, to construct, acquire, own, lease, operate and maintain on its own or through contract, franchise, license, bulk purchase from the private sector and build-operate-transfer scheme or joint venture, adequate facilities and infrastructure, such as light and power systems, water supply and distribution systems, telecommunication and transportation, buildings, structures, warehouses, roads, bridges and other facilities for the operation and development of the SEZ;

- (g) To create, operate and/or contract to operate such agencies and functional units or offices of the authority, as it may deem necessary;
- (h) To adopt, alter and use a corporate seal; make contracts, lease, own or otherwise dispose of personal or real property; sue and be sued; and otherwise carry out its duties and functions as provided for in this Law;
- (i) To coordinate the formulation and preparation of the development plans of the different entities mentioned above;
- (j) To coordinate with the State Planning Committee, the Ministry of Industry and Handicraft, the Ministry of Commerce and Tourism and the Ministry of Communication, Transport, Post and Construction, and the local government units and appropriate government agencies for policy and program formulation and implementation; and
- (k) To monitor and evaluate the development and requirements of entities in subsection (a) and recommend to the appropriate authorities the location, incentives, basic services, utilities and infrastructure required or to be made available for said entities.

SECTION 14. Powers and Functions of the Director General. – The director general shall be the overall coordinator of the policies, plans and programs of the SEZ. As such, he/she shall provide overall supervision over and general direction to the development and operations of the SEZ. He/She shall determine the structure and the staffing pattern and personnel complement of the LEZA and establish regional offices, when necessary, subject to the approval of the LEZA Board.

In addition, he/she shall have the following specific powers and responsibilities:

- (a) To safeguard all the lands, buildings, records, monies, credits and other properties and rights of the SEZ;
- (b) To ensure that all revenues of the SEZ are collected and applied in accordance with its budgets;
- (c) To ensure that the investors/firms and employees of the SEZ are properly discharging their respective duties;
- (d) To give such information and recommend such measures to the Board, as he/she shall deem advantageous to the SEZ;
- (e) To submit to the Board, the ongoing and proposed projects, work and financial program, annual budget of receipts, and expenditures of the SEZ;
- (f) To represent the SEZ in all its business matters and signs on its behalf after approval of the Board, all its bonds, borrowings, contracts, agreements and obligations made in accordance with this Act;

- (g) To acquire jurisdiction, as he/she may deem proper, over the protests, complains, and claims of the residents and enterprises in the SEZ concerning administrative matters;
- (h) To recommend to the Board the grant, approval, refusal, amendment or termination of the SEZ franchises, licenses, permits, contracts, and agreements in accordance with the policies set by the Board;
- (i) To require owners of houses, buildings or other structures constructed without the necessary permit whether constructed on public or private lands, to remove or demolish such houses, buildings, structures within sixty (60) days after notice and upon failure of such owner to remove or demolish such house, building or structure within said period, the director general or his authorized representative may summarily cause its removal or demolition at the expense of the owner, any existing law, decree, executive order and other issuances or part thereof to the contrary notwithstanding;
- (j) To take such emergency measures as may be necessary to avoid fires, floods and mitigate the effects of storms and other natural or public calamities;
- (k) To prepare and make out plans for the physical and economic development of the SEZ, including zoning and land subdivision, and issue such rules and regulations which shall be submitted to the Board for its approval; and
- (l) To perform such other duties and exercises such powers as may be prescribed by the Board, and to implement the policies, rules and regulations set by the LEZA.

SECTION 15. *Administration of Each SEZ.* – Except for privately-owned, managed or operated SEZ, each SEZ shall be organized, administered, managed and operated by the SEZ executive committee composed of the following:

- (a) The administrator who shall be appointed by the LEZA Board upon recommendation of the director general; and
- (b) One (1) deputy administrator to be appointed by the LEZA Board upon recommendation of the director general.

A SEZ advisory body shall be created with the following members:

- (1) The president of the association of investors in the SEZ;
- (2) The Vice Governor of the Province or the mayor of the Municipality where the SEZ is located;
- (3) The chief/ves and/or headman/men of other local administrative authority;
- (4) The president of an accredited labor union in the SEZ;
- (5) The representative of the business sector in the periphery of the SEZ; and
- (6) The representative of the LEZA.

The SEZ advisory body shall have the following functions:

- (i) Advise the SEZ management on matters pertaining to policy initiatives; and
- (ii) Assist the SEZ management in setting problems arising between labor and any enterprise in the SEZ.

Privately owned, managed or operated SEZ shall retain autonomy and independence but shall be monitored by the LEZA for the implementation of incentives and operations for adherence to the law.

SECTION 16. *Personnel.* – The remunerations and other emoluments of the director general and deputy directors general of the LEZA shall be determined according to the same manner and procedures as for the ministers and vice ministers of the central government. The remuneration and other emoluments of senior executive advisor shall be separately fixed by the LEZA Board upon recommendation of the director general with the approval of the Minister of the Prime Minister’s Office.

The LEZA Board of Directors shall provide for an organization and staff of officers and employees of the LEZA, and upon recommendation of the director general with the approval of the Minister of the Prime Minister’s Office, appoint and fix the remunerations and other emoluments: *Provided*, that the Board shall have exclusive and final authority to promote, transfer, assign and reassign officers of the LEZA, any provision of existing law to the contrary notwithstanding: *Provided, further*, that the director general may carry out removal of such officers and employees.

All positions in the LEZA shall be governed by a compensation, position classification system and qualification standards approved by the director general with the concurrence of the Board of Directors based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans for the central government officers and shall be subject periodic review by the Board no more than one (1) time in every year without prejudice to yearly merit reviews or increases based on productivity and regulations on compensation, position classification and qualification standards.

The LEZA officers and employees including all Members of the Board shall not engage directly or indirectly in partisan activities or take part in any action, except to vote.

SECTION 17. *Investigation and Inquiries.* – Upon a written formal complaint made under oath, which on its face provides reasonable basis to believe that some anomaly or irregularity might have been committed, the LEZA or the administration of the SEZ

concerned, shall have the power to inquire into the conduct of enterprises or employees of the SEZ and to conduct investigations, and for that purpose may subpoena witnesses, administer oaths, and compel the production of books, papers and other evidences: *Provided*, that to arrive at the truth, the investigator(s) may grant immunity from prosecution to any person whose testimony or whose possessions of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by him/her or under the authority of the LEZA or the administrator of the SEZ concerned.

SECTION 18. *Prohibition Against Holding Any Other Office.* – The director general, deputy director general, administrators, staff or assistants of the LEZA shall not hold any other office or employment within or outside the LEZA during their tenure. They shall not, during their tenure, directly or indirectly, practice any profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the LEZA or national government, or any subdivision, agency, or instrumentally thereof, including any government-owned-controlled corporation, or its subsidiary.

SECTION 19. *Disbursement of Funds.* – No money shall be paid out of the funds of any SEZ except in pursuance of the budget as formulated and approved by the LEZA.

SECTION 20. *Full Disclosure of Financial and Business Interests.* – Every member of the board of the LEZA, the director general, the deputy directors general, and their staff shall, upon assumption of office, make full disclosure of their financial and business interests.

CHAPTER III

OPERATIONS WITHIN THE SEZ

SECTION 21. *Development Strategy of the SEZ.* - The strategy and priority of development of each SEZ established pursuant to this Law shall be formulated by the LEZA, in coordination with the Ministry of Industry and Handicraft, the Ministry of Commerce and Tourism and the State Planning Committee: *Provided*, that such development strategy is consistent with the priorities of the national government as may be outlined in the medium-term development plan of the government.

It shall be the policy of the government and the LEZA to encourage and provide incentives and facilitate private sector participation in the construction and operation of public utilities and infrastructure in the SEZ.

SECTION 22. *Survey of Resources.* - The LEZA shall, in coordination with appropriate authorities and neighboring municipalities and provinces, immediately conduct a survey of the physical, natural assets and potentialities of the SEZ areas under its jurisdiction.

SECTION 23. *Fiscal Incentives.* - Business establishments, both foreign and domestic, operating within the SEZ and the foreign personnel of such business establishments shall be entitled to the fiscal incentives as provided for under the Prime Minister's Decree regarding the rules and regulations to implement this Law, or those provided under Law on the Promotion and Management of Foreign Investment in The Lao People's Democratic Republic of 1994, as they may wish.

SECTION 24. *Exemption from National and Local Taxes.* - Corporate profit tax, turnover tax, utilization tax, minimum tax, import and export duties and remittance tax may be exempted for the SEZ enterprises from payment, according to the LEZA incentives policy and as provided for under the Prime Minister's Decree regarding the rules and regulations to implement this Law.

SECTION 25. *Applicable National and Local Taxes.* - National and local taxes under the Tax Law of the Lao People's Democratic Republic of 1995 shall be imposed on all persons and enterprises in the SEZ, except as otherwise provided in Sections 23 and 24 of this Law.

SECTION 26. *Domestic Sales.* - Goods manufactured or imported by an SEZ enterprise shall be made available for immediate retail sales in the domestic market, subject to payment of corresponding taxes and duties on the raw materials or commodities and other regulations that may be adopted by the LEZA Board.

However, in order to protect the domestic industry, public health and/or national culture, there shall be a negative list of industries that will be drawn up by the LEZA. Enterprises engaged in the industries included in the negative list should not be allowed to sell their products locally. Said negative list shall be regularly updated by the LEZA.

The LEZA, in coordination with the Ministry of Industry and Handicraft, the Ministry of Commerce and Tourism and the Customs Department of the Ministry of Finance, shall jointly issue the necessary implementing rules and guidelines for the effective implementation of this Section.

SECTION 27. *Applicability of Banking Laws and Regulations.* – In order to provide the SEZ with offshore status, the LEZA shall create and apply to banks and financial institutions to be established in the SEZ and to other SEZ-registered enterprises, in cooperation with the Bank of the Lao People’s Democratic Republic, the regulations securing the freedom in foreign exchange and other current account transactions (trade and non-trade), foreign borrowings, foreign investments and /or foreign currency deposit. The existing provisions of Law on The Creation of The Bank of The Lao People’s Democratic Republic and The Council of Ministers’ Decree No.53 dated September 7, 1990, The Management of Foreign Exchange and Precious Metals and other pertinent regulations shall be limited to apply to the SEZ only to the extent not to confront with such LEZA regulations.

SECTION 28. *After Tax Profits.* – Without prior approval of the Bank of the Lao People’s Democratic Republic, after tax profits and other earnings of foreign investments in enterprises in the SEZ may be remitted outward in the equivalent foreign exchange through any of the banks licensed by the Bank of the Lao People’s Democratic Republic in the SEZ: *Provided, however,* that such foreign investments in said enterprises have been previously registered with the Bank of the Lao People’s Democratic Republic.

SECTION 29. *Eminent Domain.* – The areas comprising an SEZ may be expanded or reduced when necessary. For this purpose, the central government shall have the power to acquire, either by purchase, negotiation or condemnation proceedings, any private lands within or adjacent to the SEZ for:

- (a) Consolidation of lands for zone development purposes;
- (b) Acquisition of right of way to the SEZ; and
- (c) The protection of watershed area and natural assets valuable to the prosperity of the SEZ.

If in the establishment of a publicly-owned SEZ, any person or group of persons who has been occupying a parcel of land within the SEZ has to be evicted, the LEZA shall provide the person or group of persons concerned with proper disturbance compensation: *Provided, however,* that in the case of displaced agrarian reform beneficiaries, they shall be entitled to the benefits under Article 70 of the Land Law of 1997, in addition to a home lot in the relocation site, and preferential employment in the project being undertaken.

SECTION 30. *Leases of Lands.* – Lands in each SEZ may be leased to foreign investors from the LEZA with approval of the LEZA Board for a period not shorter than thirty (30) years and not exceeding seventy-five (75) years in any case and further renewable on case by case. Such land leasing period for domestic investors, regardless of

the provision of Article 13 of the Land Law of the Lao People's Democratic Republic of 1997, shall, in any case, not be shorter than thirty (30) years but not exceeding fifty (50) years. The standard period of land leasing shall be determined in advance, according to the type of industrial sector, and made open to the public by the LEZA.

Notwithstanding the provision of Article 64 of the Land Law of the Lao People's Democratic Republic of 1997, the LEZA shall approve the acquisition and determine the period of such leasehold to foreign investors without the authorization of the Ministry of Finance. The uniformed land leasing rates shall be publicly announced by the LEZA. The leasehold right acquired under long-term contacts may be sold, transferred or assigned, subject to the conditions set forth by and with approval of the LEZA.

SECTION 31. *Land conversion.* – Any of agricultural lands, forest lands, construction lands, industrial lands and/or communication lands in the SEZ may be converted for industrial, commercial, residential, and other purposes different from their original classifications, subjects to the conditions and procedures set forth by the LEZA.

SECTION 32. *Transport and Transport Register.* – Private transport and related business including private warehouses, cargo-terminals and transport enterprises may operate freely in the SEZ, subject only to such minimum reasonable regulations of local application, which the LEZA may prescribe.

The LEZA shall, in coordination with the Ministry of Communication, Transport, Post and Construction, maintain a transport register for each SEZ as a business register of convenience for internationally transporting tracks and issue related certification.

Tracks of all sizes, descriptions and nationalities shall enjoy access to the dry ports or terminal facilities of the SEZ, subject only to such reasonable requirement as may be prescribed by the LEZA in coordination with the appropriate agencies of the national government.

SECTION 33. *Protection of Environment.* – The LEZA, in coordination with the appropriate agencies, shall take concrete and appropriate steps and enact the proper measure for the protection of the local environment.

SECTION 34. *Termination of Business.* – Investors in the SEZ who desire to terminate business or operations shall comply with such requirements and procedures, which the LEZA shall set, particularly those relating to the clearing of debts. The assets of the closed enterprises can be transferred and the funds can be remitted, as in the same form of

currencies as invested, out of the SEZ subject to the rules, guidelines and procedures prescribed jointly by the Bank of the Lao People's Democratic Republic, the Ministry of Finance and the LEZA.

SECTION 35. *Registration of Business Enterprises.* – Business enterprises within a designated SEZ shall register with the LEZA to avail of all incentives and benefits provided for in this Law.

SECTION 36. *One Stop Shop Center.* – The LEZA shall establish a one-stop shop center for the purpose of facilitating the acquisition of foreign investment license and the registration of new enterprises, the acquisition of import/export license and other license and/or permits necessary for the business activities in the SEZ. Thus, all appropriate government agencies that are involved in registering, licensing or issuing permits to investors shall assign their representatives to the SEZ to attend to investors' requirements.

CHAPTE IV **INDUSTRIAL HARMONY IN THE SEZ**

SECTION 37. *Labor and Management Relations.* – Except as otherwise provided in this Law and the implementing rules and regulations, the labor and management relations in the SEZ shall be governed by the existing Labor Law of the Lao People's Democratic Republic.

Employees and personnel in the SEZ enterprises shall receive salaries and benefits and shall enjoy working conditions not less than those provided under the Lao Law and other relevant laws, issuances, rules and regulations of the Lao government and the Ministry of Labor and Social Welfare, unless otherwise provided in this Law and the implementing rules and regulations.

The LEZA shall be responsible for the implementation of labor protection measures and set up Labor Service Center, which assists the SEZ enterprises in recruiting workers and is responsible for mediation of labor disputes.

SECTION 38. *Promotion of Industrial Peace.* – In the pursuit of industrial harmony in the SEZ, a tripartite body composed of one (1) representative each from the Ministry of Labor and Social Welfare, labor sector and business and industry sectors shall be created in order to formulate a mechanism under a social pact for the enhancement and preservation of industrial peace in the SEZ within ----- days after the effectuation of this Law.

Within the SEZ, any form of labor strike shall be prohibited and the LEZA shall be responsible for the mediation of labor dispute.

SECTION 39. *Master Employment Contracts.* – The LEZA, in coordination with the Ministry of Labor and Social Welfare, shall prescribe a master employment contract for all SEZ enterprises staff members and workers, the terms of which provide salaries and benefits not less than those provided under this Law, the Labor Law of the Lao People’s Democratic Republic, as amended, other relevant issuances of the national government. A master employment contract shall clearly itemize all measures necessary and appropriate to protect workers health and safety and to contribute to social insurance and welfare programs for the workers, and provide the necessary amount for them.

SECTION 40. *Percentage of Foreign Nationals.* – Employment of foreign nationals hired by the SEZ enterprises in a supervisory, advisory, technical capacity or those who fill up the job vacancies in order to operate the facilities to the full extent shall not exceed twenty-five percent (25%) of its workforce. Such employment of foreign nationals shall be made upon the approval of the LEZA but without the express authorization of the Minister of Labor and Social Welfare.

The percentage of foreign nationals stipulated in this Section shall be reviewed to adjust every three years by the LEZA, in accordance with the then prevailing situation of Lao workers availability.

Any of the SEZ enterprises shall endeavor to reduce the number of employed foreign nationals by providing the appropriate vocational training to and promoting the technology transfer to workers with Lao citizenship. The LEZA may request the SEZ enterprises, which employ foreign nationals, to prepare and submit to the LEZA such training and technology transfer plans.

SECTION 41. *Migrant Worker.* – The LEZA, in coordination with the Ministry of Labor and Social Welfare, shall promulgate appropriate measures and programs leading to the expansion of the services of the SEZ to help the local governments of nearby areas meet the needs of the migrant workers.

SECTION 42. *Incentive Scheme.* –The total value of training expenses incurred by enterprises and offered to Lao citizens in the SEZ in developing skilled or unskilled labor or for other management development programs can be deducted from the taxable income.

The LEZA, the Ministry of Labor and Social Welfare, and the Ministry of Finance shall jointly make a review of the incentive scheme provided in this Section every two (2) years or when circumstances so warrant.

CHAPTER V
NATIONAL GOVERNMENT AND OTHER ENTITIES

SECTION 43. *Relationship with the National and Provincial Development Plans.* – The LEZA shall determine the development goals for the SEZ within the framework of national development plans, policies and goals, and the administrator shall, upon approval by the LEZA Board, submit the SEZ plans, programs and projects to the provincial government for inclusion in and as inputs to the overall provincial development plan.

SECTION 44. *Relationship with the Local Government Units.* – Except as herein provided, the local government units comprising the SEZ shall retain their basic autonomy and identity. The provinces, municipality, districts and villages shall operate and function in accordance with Chapter 7 of the Constitution of the Lao People’s Democratic Republic.

SECTION 45. *Relationship of LEZA to Privately Owned SEZ.* – Privately owned SEZ shall retain their autonomy and independence and shall be monitored by the LEZA for the implementation of incentives.

SECTION 46. *Transfer of Resources.* – The relevant functions of the Committee for Investment and Cooperation of the Prime Minister’s Office over the licensing of foreign investments into the SEZ shall be transferred to the LEZA.

CHAPTER VI
MISCELLANEOUS PROVISIONS

SECTION 47. *Funding.* – The funding of the LEZA shall come from the following:

- (a) The annual subsidies and/or appropriations of the national government;
- (b) The proceeds from the rent of lands, buildings, and other properties of the SEZ concerned;
- (c) The proceeds from fees, charges and other revenue-generating instruments which the LEZA is authorized to impose and collect under this Law;
- (d) The proceeds from bonds which the LEZA authorized to float both domestic and abroad; and
- (e) The advance rentals, license fees, and other charges which the LEZA is authorized to impose under this Law and which an investor is willing to advance payment for.

SECTION 48. *Applicability of National Laws.* – National laws shall prevail vis-à-vis SEZ rules, regulations and standards, unless there is a clear intent in this Law or other Acts of the National Assembly to vest the SEZ specific power and privileges not otherwise allowed under existing laws.

SECTION 49. *Authority of the Prime Minister to Advance Initial Funding.* – Subject to existing laws, the Prime Minister of the Lao People’s Democratic Republic is hereby authorized to advance out of the savings of the Prime Minister’s Office such funds as may be necessary to effect the organization of an SEZ which shall be reimbursed by the LEZA at reasonable term and condition.

SECTION 50. *Non-Applicability on Areas Covered by Other Special Laws.* – This Law shall not be applicable to industrial zones, industrial estates, export processing zones, free trade zones and areas to be created under other special laws, and governed by authorities constituted pursuant thereto.

SECTION 51. *Ipsa-Facto Clause.* – All privileges, benefits, advantages of exemptions granted to special economic zones under this Law, shall *ipso-facto* be accorded to the SEZ to be created under this Act.

SECTION 52. *Separability Clause.* – The provisions of this Law are hereby declared separable, and in the event one or more of such provisions or part thereof are declared unconstitutional, such declaration of unconstitutionality shall not affect the validity of the other provisions thereof.

SECTION 53. *Interpretation/Construction.* – The powers, authorities and functions that are vested in the Lao Economic Zone Authority (LEZA) and the SEZ concerned are intended to establish decentralization of government functions and authority as well as efficient and effective working relationship between the SEZ, the central government and the local government units.

SECTION 54. *Repealing Clause.* – All laws, acts, presidential decrees, prime minister’s decrees, executive orders, proclamations and/or administrative regulations which are inconsistent with the provisions of this Law, are hereby amended, modified, superseded or repealed accordingly.

SECTION 55. *Implementing Rules and Regulations.* – The Ministry of Industry and Handicraft, the Ministry of Commerce and Tourism, the Ministry of Communication, Transport, Post and Construction, the Ministry of Finance, the Ministry of Labor and

Social Welfare, the Ministry of Interior, the Ministry of Agriculture and Forest, the Ministry of Environment, the Ministry of Education, the state Planning Committee, the Provincial Government, the Lao Economic Zone Authority and the Ministry of Justice shall formulate the implementing rules and regulations of this Law within ----- days after its approval. Such rules and regulations shall take effect ----- days after the public notice made as Prime Minister's Decree.

SECTION 56. *Effectuation.* – This Law shall take effect upon its approval.