

THE STATE INSPECTION AUTHORITY OF THE LAO PDR (SIA)

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I. OVERVIEW

The State Inspection Authority of the Lao PDR (SIA), which was established on 16 February 1982, is a ministerial level government agency mandated to conduct inspections, prevent and combat corruption, investigate and prosecute corruption-related complaints within its scope of rights and duties and to supervise such work throughout the country. The President of the SIA reports directly to the President of the State and is accountable to the National Assembly.

In the Lao PDR, State Inspection Authorities are not only established at the central level but are also incorporated in various levels and sectors. That is, all ministries and ministry-equivalent organizations have state inspection and anti-corruption departments, while there are provincial state inspection and anti-corruption departments as well as in various provincial sectoral bodies. Each of them has clear mandates and functions within their scope of responsibilities as provided for by the laws and regulations.

The Lao PDR has a strong legal framework on corruption prevention. Such legislation includes the Law on Anti-Corruption (ACL), the Law on State Inspection (LSI), the National Anti-Corruption Strategy, the Law on Civil Servant (LCS), the Decree on the Thriftiness and Anti-Extravagance, the Decree on the Early Monitoring and Inspecting of Government Investment Projects, the National Saving Policy, the Decree on Declaration of Assets and Income, Prohibitions for Officials in Financial Sectors and other sector-specific legislation.

With respect to international cooperation for combating corruption, the Lao PDR, SIA in particular, has endeavoured to fulfil almost all of the provisions stipulated in the United Nations Convention against Corruption concerning Chapter IV of the Convention. As a result, the Government of Lao PDR has been working hard to contribute to and realize the goals of the United Nations 2030 Agenda for Sustainable Development, target No. 16.5, which is to substantially reduce corruption and bribery in all forms. The Government's effort has seen positive changes in recent years in controlling corruption in vulnerable areas, e.g. economic and financial sectors, and has been widely welcomed and lauded by the public, especially in the Government's decision to build stronger, more accountable public administration systems and to render ethical and transparent services with the help of modern technology, coupled with the implementation of austerity measures imposed by the Government.

We acknowledge that corruption is a serious problem and is posing threats to the national stability, socio-economic development and security, undermining public institutions and leadership, and jeopardizing socio-economic development and the rule of law. We are convinced that corruption is no longer a domestic matter but has become

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transnational in nature, and we are pushing for more international cooperation. At the same time, there is the need for States to strengthen international cooperation for combating corruption, for instance, in investigation, prosecution and eventually in asset recovery.

II. PREVENTION OF CORRUPTION

Lao PDR, as a State party to the United Nations Convention Against Corruption (UNCAC), has always and fully implemented its obligations and requirements under the Convention in the prevention and combating of corruption. Therefore, we have consistently endeavoured to improve ourselves. One of these improvements in 2021, in accordance with the Resolution of the Politburo of the Central Committee of the Lao People's Revolutionary Party, No. 7, is that SIA was declared to be an independent national authority (supporting Art. 6, 36 of UNCAC) which primarily mandated to conduct inspections, prevent and combat corruption, investigate corruption cases/complaints within its scope of rights, duties and to supervise such work throughout the country. The organization previously reported directly to the Prime Minister but now reports to the President of the State. This reconstruction marks a significant stepping stone for future institution building and laying foundations for other improvements such as in terms of management mechanisms, legislation, mandates and power, human and financial resources as well as operational independence.

- In general, various levels of government bodies have improved the system of public administration and services in order to prevent the leakage of revenue, limit and close organizational deficiencies in the administration, especially in areas vulnerable to corruption, such as the financial sector. Such improvements are made possible by the use of technologies including e-government, e-banking etc., which contribute to the better governance, transparency, reduction of corruption and accountability.
- In terms of building integrity and combating corruption, every year public officials, soldiers, police officers and all citizens have participated actively and regularly in various awareness-raising programmes. For instance, from 2019-2020, Party Committees, Administration Authorities and Inspection Committees at each level rolled out up to 153 public anti-corruption education campaigns to enhance awareness and understanding of the consequences and dangers of corruption. The campaigns were participated in by more than 349,869 people. Specifically, SIA in partnership with the Ministry of Education and Sports has completed developing integrity education for all levels of schools and anti-corruption curriculum to be used to train students and public officials in higher educational institutions. The curriculum, which has been taught since 2018, can be adjusted based on the actual needs of each institution and target group. Apart from that, more than 330 dissemination programmes have been broadcast via television and radio, 252 newspaper articles issued and 5 issues of Inspection Magazine with 26,025 copies have been distributed. In addition, the SIA and Ministry of Health have recently concluded their joint initiative on “Anti-Corruption Awareness Campaign in Health Sector” designed to deter corruption during the Covid-19 pandemic. The campaign involved a series of activities undertaken at various institutions, and more than 1,000 people from the public and private sectors (via Lao National Chamber of

Industry and Commerce) and tertiary educational institutes participated. The programme had been run with the support of the UNODC in Vientiane, Lao PDR.

- The Anti-Corruption Law sets out a number of prohibitions. For example, public officials are strictly prohibited from the abuse of power, duties and rights in all forms for personal gains, for family or relatives and so on (Art. 27 of Anti-Corruption Law) to deter and avoid any possible conflicts of interest in the performance of official duties by all public officials.
- In line with the Decree on Asset and Income Declaration, the government officers have to declare their assets and income every two years once they have been recruited as permanent civil servants and when they leave office or upon being transferred to other posts. Since the Decree was enacted in 2013, Laos has completed two rounds of asset declarations and as of 2020, departments in charge are in the process of preparing for the third round of asset declaration. The declarations are currently accessible only to law enforcement authorities for investigative purposes. The subjects of asset declaration include all levels of public officials, whereas the objects of declaration include, among others, land, houses, inheritance, vehicles, industrial machinery, precious metals/stones, bonds, gold, shares, payable debts and receivable debts, valued from 20 million LAK and above (approximately 2,000 USD) or 5 million Kip (approx. US\$ 500) for gifts. Objects of declaration also include salary and other income.

III. INVESTIGATION AND PROSECUTION

To deal with corruption cases, the power to open or close corruption investigations is legally within the discretion and consideration of the President of the SIA once the investigators or taskforce teams have collected information/evidence and reported to him. In practice, when a corruption allegation emerges or when there is a claim or complaint related to corruption reported to the SIA, the SIA President shall appoint a taskforce team to investigate it, upon which if sufficient evidence of a corruption offence is found, with damages amounting to 5 million LAK and above, the SIA shall finalize the investigation findings and submit the case to the Prosecutor's Office for prosecution.

IV. INTERNATIONAL COOPERATION FOR COMBATING CORRUPTION

The Lao PDR, through the SIA, has endeavoured to strengthen its anti-corruption capability. One way of doing so is to promote and engage in bilateral and multilateral agreements; in other words, to enter into regional and international anti-corruption cooperation. The principal aim is to exchange views, share challenges and best practices, and seek technical assistance and funding in anti-corruption areas. Thus, through its past and present administrations, the Lao PDR has made some progress in international cooperation for combating corruption as follows:

- The Lao PDR has enacted the Law on Extradition in 2012. The Lao People's Democratic Republic, at the time of ratification of UNCAC, declared that it makes extradition conditional on the existence of a treaty and bilateral agreements – meaning that it does not consider the Convention as the legal basis for extradition.

However, extradition may be carried out in the absence of bilateral or multilateral agreements on the basis of reciprocity. In accordance with Article 44, paragraph 18 of the Convention, the Lao PDR has so far concluded extradition agreements with 6 countries, namely Viet Nam, China, Cambodia, Thailand, North Korea and Russia.

- Consultation before refusing extradition, although it is not specified in the law, but in accordance with the Extradition Guide (2018), the Lao PDR (Office of the Supreme People’s Prosecutor) is obliged to notify the results of extradition proceedings or punishment on a regular basis to the requesting State without request or on a voluntary basis to maintain sound cooperation with the requesting States as well as to be in line with its obligations as specified in the international treaty.
- Article 32 of the Extradition Law states that the management organs for extradition include the Ministry of Foreign Affairs, Ministry of Public Security, Office of the Supreme People’s Prosecutor, People’s Supreme Court, Ministry of Justice and Local Administration authorities. Of those, the Supreme People’s Prosecutor is the Central Authority for extradition.

A. Mutual Legal Assistance (Art. 46)

- The National Assembly of the Lao PDR adopted the Law on International Cooperation in Criminal Matters. This newly endorsed law defines principles, regulations and measures concerning mutual legal assistance (MLA) in criminal matters, and it identified the procedures, requests and documents required. It also provides detailed areas for MLA cooperation and the contents and formats of requests that are acceptable to the Lao PDR. The MLA requests and all supporting documents must be translated into the Lao language or other languages as specified in the treaty. An interesting point to note is that there are 10 reasons that lead to MLA request refusal. One of these is that if the requesting State did not specify the details and objectives as to how the information or assistance sought shall be used.
- The Lao PDR has signed three bilateral treaties in civil and criminal matters with the Socialist Republic of Viet Nam, the People’s Republic of China, the Democratic People’s Republic of Korea and is a party to the ASEAN Treaty on Mutual Legal Assistance in Criminal Matters.
- According to the Law on International Cooperation in Criminal Matters, the Central Authority for MLA for the Lao PDR is the Office of Supreme People’s Prosecutor. Other related organizations include the Ministry of Public Security, the People’s Supreme Court, the Ministry of Foreign Affairs, the Ministry of Justice and Local Administration authorities. Internally, there are inter-agency coordination and cooperation mechanisms among competent authorities for MLA.

B. Law Enforcement Cooperation (Art. 48)

The Lao PDR became a member of the ASEAN Parties Against Corruption or ASEAN-PAC on Preventing and Combating Corruption in 2010. To further strengthen law enforcement cooperation, Laos has concluded 5 anti-corruption agreements with its neighbouring countries, including Viet Nam, China, Cambodia, Myanmar and Thailand. Recently, another so-called trilateral cooperation mechanism has been established between

the Lao PDR, Cambodia and Thailand. The purpose of this cooperation mechanism is to jointly address cross-border crimes that relate to corruption along their shared borders, such as illegal logging, bribery, smuggling of migrants, trafficking in persons, wildlife and money-laundering. So far, two discussion and consultative meetings have been held, which were participated in by a number of local anti-corruption law enforcement officials.

C. Asset Recovery (Arts. 51, 56 and 59)

- The Law on Extradition, Law on International Cooperation in Criminal Matters, including bilateral or multilateral treaties, and some provisions of UNCAC, have been the basis for the Lao PDR in the execution of extradition and MLA requests. The return of assets is specified in Article 26 of the extradition law. There is also the ASEAN Treaty on Mutual Legal Assistance in Criminal Matters, to which the Lao PDR is a party.
- MLA may also be granted in the absence of bilateral agreements or treaties based on the condition of reciprocity (Art 271, Criminal Procedure Law).

D. Prevention and Detection of Transfers of Proceeds of Crime; Financial Intelligence Unit (Arts. 52 and 58)

- The Law on Anti-Money-Laundering and Counter-Financing of Terrorism (AML/CFT) provides, in Arts 18 and 21-32, details of the obligation of reporting entities to implement Know Your Customer (verification of customer identities and identification of beneficial ownership). Enhancing customer due diligence is required for politically exposed persons (PEPs), their immediate family members and associates.
- The AML/CFT law also specifies in Art 28 that the customer information be maintained for 10 years and 5 years for transaction records.
- Under AML/CFT law, no natural, legal persons or organizations shall be allowed to open or use an “anonymous account”, nor have dealings with banks that associate and make transactions with shell banks.

Article 361 of the Law on Civil Procedure allows individuals, organizations or enterprises in foreign countries to file claims against persons in the Lao People’s Democratic Republic in accordance with relevant international cooperation treaties or, in the absence of such treaties, through the Ministry of Foreign Affairs. The Criminal Procedure Law protects the rights of victims to present evidence and file petitions and affords civil plaintiffs the same rights in criminal proceedings as victims (arts. 67 and 68). These measures can also be applied to foreign States.

E. Return and Disposal of Assets (Art. 57)

The National Coordination Committee for Anti-Money-Laundering and Countering the Financing of Terrorism Guideline No. 08/NCC recognizes the claims of legitimate owners over assets that are seized, frozen or confiscated (art. 6).

Art. 30 of the Law on International Cooperation in Criminal Matters No.88/NA provides detailed procedures to return assets or properties to the requesting State. That is,

after the provincial court has considered that the confiscated assets be returned to the requesting State, the Central Authority (Office of People's Prosecutor) together with the Ministry of Foreign Affairs shall prepare and hand over those assets within 30 days or as specified in the treaty, after the court makes its decision and the judgment becomes final.

Although in the past few years, there have not been any cases of request for mutual legal assistance for the purpose of identification, tracing, freezing, seizure, confiscation or recovery of proceeds of corruption from the Southeast Asia region, nor from other regions, Laos has never refused a request for MLA from a requesting State.