

# Ethnic Peoples Planning Framework

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Document: EPPF  
Document stage: Draft for discussion  
Project Number: 44138  
May 2013

## Lao People's Democratic Republic: Greater Mekong Subregion East West Economic Corridor Agriculture Infrastructure Project

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## **ETHNIC PEOPLES' PLANNING FRAMEWORK**

### **I. PROJECT INTRODUCTION**

1. The Greater Mekong Subregion (GMS) East West Economic Corridor (EWEC) Agriculture Infrastructure Project (GAI) is located in two southern Lao PDR provinces of Savannakhet and Saravane. The proposed project has the primary objective of increasing the profitability of smallholder farming in Savannakhet and Saravane provinces by improving agriculture infrastructure (AI) including rehabilitation and expansion of small scale irrigation systems; upgrading existing roads and paths to ensure both wet and dry season access; and upgrading market facilities. The improved AI will enable communities to respond to EWEC market signals by: increasing agricultural intensity and diversity; providing safe and reliable all year round access to markets, employment opportunities, and access to social services. To boost the impact of the infrastructure improvements, the project includes agricultural productivity support measures such as improved technical extension services. The project further aims to reduce costs of rural production and marketing.

2. Three representative subprojects have been selected to proceed to implementation (two in Savannakhet and one in Saravane). During the feasibility studies for these three representative subprojects, a socio-economic investigation comprising household surveys, village profiles and focus group discussions, could find no presence of Indigenous People (IPs). All households were of Lao Loum ethnicity. No adverse impacts of the subprojects have been identified and residents stated their desire for the subprojects to proceed. The key benefits arising from the improved infrastructure are increased incomes from both on- and off-farm employment, decreased production and transport burden on women, increased food security, and better community engagement and participation.

3. Additional subprojects will be identified and investigated during the Project implementation phase. Both Savannakhet and Saravane province populations are from the largely homogeneous Lao ethnic group comprising: Lao Loum, Thai Dam, and Phu Thai; with very small populations of the Mon-Khmer subgroups Katang (Savannakhet) and Taoey and Xouay (Saravane).

4. Without knowing the locations of subsequent subprojects it is not possible to ascertain the potential for effect on ethnic groups. However the project impacts on ethnic groups are expected to be positive and confined to existing irrigation areas and upgrading of existing farm tracks, with no negative impacts predicted on the dignity; human rights; livelihood systems; culture; and ancestral domains of minority groups.

5. This Ethnic Peoples' Planning Framework (EPPF) is intended to guide selection and preparation of additional subprojects under the Project where impacts on ethnic minority people are identified to ensure better distribution of the Project benefits and promote development of ethnic groups in the Project areas. The framework is prepared in accordance with ADB's procedures for sector loans as presented in ADB's *Safeguards Policy Statement* (SPS) (2009).

## II. ETHNIC PEOPLES' POLICY FRAMEWORK

### ETHNIC PEOPLES' POLICY FRAMEWORK

#### Definitions

##### 1. Ethnic Peoples

6. In the ADB's SPS, the term Indigenous Peoples (IP) (*ethnic group* or *peoples* in the Lao PDR context) is used in a generic sense to refer to a distinct, vulnerable, social and cultural group possessing the following in varying degrees: (i) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others; (ii) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories; (iii) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and (iv) a distinct language, often different from the official language of the country or region. These definitions apply directly to some of the populations classified in Lao PDR as ethnic minorities.<sup>1</sup>

7. In the Constitution of the Lao PDR (1991), reference is made to the multi-ethnicity of the population, with "equality among all ethnic groups." Article 8 of the Constitution reads:

"The State pursues the policy of promoting unity and equality among all ethnic groups. All ethnic groups have the rights to protect, preserve and promote the fine customs and cultures of their own tribes and of the nation. All acts of creating division and discrimination among ethnic groups are forbidden. The State implements every measure to gradually develop and upgrade the economic and social level of all ethnic groups."

8. In 1992, the Minority Policy was recast to include all ethnic minorities in the country entitled 'Resolution of the Party Central Organization Concerning Ethnic Minority Affairs in the New Era.' The overall policy concerning ethnic minorities focuses on achievement of equality between all ethnic groups and national solidarity while recognizing the cultural heritage and ethnic identity of each group. The Resolution recognizes 49 ethnic groups and 160 sub-categories. The ethnic groups are generally classified according to four ethno-linguistic groupings;<sup>2</sup>

- The Tai-Kadai (Lao-Thai) family: about 55% of the population.
- The Austro-Asiatic (Mon-Khmer) family: about 30% of the population.
- The Mia-Yao (Hmong-lu Mien) family: about 10% of the population.
- The Sino-Tibetan (Chine-Tibet) family: about 5% of the population.

9. **Tai-Kadai** is the largest group in Laos and consists of people from these tribes - Lao, Phutai, Phouane, Tai Nyo, Tai Deng, Lue, Thai Khao, Thai Dams. Their origins go back several centuries to the conflicts with the Mongols, the Hans and other Chinese groups. They come from the North (Yunnan Province of China), arriving around the 11th century.

<sup>1</sup> The term Ethnic Peoples, Ethnic Minority or Ethnic Group is more acceptable and understandable in Lao PDR than Indigenous Peoples and will be used to refer to Lao ethnic communities in the project area. The term Indigenous Peoples is only referred to in connection with ADB's SPS 2009.

<sup>2</sup> *Ethnic Groups of Laos*, [www.muangla.com/en/activities/les-ethnies/ethnic-groups-of-laos.htm](http://www.muangla.com/en/activities/les-ethnies/ethnic-groups-of-laos.htm)

10. **Austro – Asiatic** group is made up of 47 tribes with the language taken from Mon and Khmer. The group consists of people from these tribes - Khamu (Ou, Lu, Rok & Me), Lawen, Taoy, Katang. The Mon-Khmer group is recognized as the oldest inhabitants of the area and came to Laos from the south over 10 centuries ago

11. **Miao – Yao** group came from China to the north of Laos between 1815 and 1900. It consists of people from these tribes – Hmongs, Yao Mien, Lao Huay (Lenten), Pana. Hmongs originate from the high steppes of Tibet. They are largely independent people.

12. **Sino – Tibetan** linguistic group is formed from the Tibeto-Burman language. This is the least developed group living only in certain parts of the country and consists of people from these tribes - Ikhos (Akha), Lahu, Pounoys. The Ikhos came from Yunnan and Tibet at the beginning of the 19th century. The Pounoys were the first tribe to move into Laos; coming from Burma in the 16th century. The Ho people, originally from China were the last to arrive in Laos.

13. This 1992 resolution was to be implemented through both political and economic development activities. This included the halting of shifting cultivation and permanent settlement of the people who practiced it; followed by programs to improve their livelihoods. The resolution is the foundation of ethnic minority policy today, however more recently the term ethnic group has been used instead of ethnic minority to reiterate equality between all people in Lao PDR. The term Indigenous Peoples has not been adopted in Lao PDR.

## 2. Development Impacts

14. Lao PDR does not have any specific regulations to guide the planning and delivery of projects which impact on ethnic peoples. This has resulted in some projects delivered without necessarily being consistent with the views, wishes and interests of the ethnic peoples affected by them. Yet ethnic peoples (both women and men) want to have a voice in planning and decisions that have an impact on their communities and rights. Recognition of, and respect for, land and natural resources are fundamental to many ethnic belief systems.

15. ADB's approach is a systematic assessment of a wide range of impacts on ethnic groups. ADB Safeguards are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of ethnic groups or affects the territories or natural or cultural resources that ethnic groups own, use, occupy, or claim as an ancestral domain or asset. The SPS requires ADB to screen all sub-projects to determine whether or not they have impacts on ethnic groups. If impacts are expected, an Ethnic People's Plan (EPP) will be prepared.

16. In particular ADB requires:

- Culturally appropriate and gender-sensitive social impact assessment to assess potential project impacts, both positive and adverse, on Ethnic Peoples.
- Full consideration to options the affected Ethnic Peoples prefer in relation to the provision of project benefits and the design of mitigation measures.
- Identification of social and economic benefits for affected Ethnic Peoples that are culturally appropriate and gender and intergenerationally inclusive and develop measures to avoid, minimize, and/or mitigate adverse impacts on Ethnic Peoples.
- Undertake meaningful consultations with affected Ethnic Peoples communities and concerned Ethnic Peoples organizations in the design, minimization and mitigation of

impacts; provide for culturally appropriate and gender inclusive capacity development; and ensure appropriate mechanisms for grievances to be heard and resolved.

- Ascertain consent of affected Ethnic Peoples communities to: (i) commercial development of the cultural resources and knowledge of Ethnic Peoples; (ii) physical displacement from traditional or customary lands; and (iii) commercial development of natural resources within customary lands under use that would impact the livelihoods or the cultural, ceremonial, or spiritual uses that define the identity and community of Ethnic Peoples.

## **B. Objectives**

17. The objective of ADB's IP safeguard policy is to design and implement projects in a way that fosters full respect for IPs' identity, dignity, human rights, livelihood systems, and cultural uniqueness as defined by IPs themselves to protect them from the adverse impact of development; to ensure that they receive culturally appropriate social and economic benefits from development projects and programs; and that they can participate actively in projects that affect them. Every subproject will be screened to determine impacts. ADB's SPS requires the preparation of an EPP including assessment of social impacts with limited or significant impacts. The level of detail and comprehensiveness of the EPP will be commensurate with the degree of impacts. To determine if impacts are 'significant,' the following will be assessed:

- (i) the magnitude of impact on ethnic minorities' customary rights of use and access to land & natural resources; socio-economic status; cultural and communal integrity; health, education, livelihood and social security status; or indigenous knowledge; and
- (ii) the level of vulnerability of the affected ethnic minorities.

18. Among others, the EPP will ensure that ethnic groups adversely affected by subprojects are as well off with the project as without it. This plan will also aim to identify measures towards satisfying the needs and developmental aspirations of ethnic people.

19. If, the impacts on ethnic groups are insignificant and due to resettlement related activities then specific actions in favor of the ethnic groups will need to be integrated in the Resettlement Plan for the subprojects to ensure appropriate mitigations and benefits.

## **III. PROCEDURE FOR PREPARING AN EPP**

### **A. Screening**

20. Screening is the process of using criteria to (i) determine if the impacts on ethnic groups are significant; (ii) identify the level of assessment and institutional resources required to address IP safeguard issues; and (iii) determine information and consultation requirements. Subproject screening will be done by the implementing consultant and PMO. The following information will be collected to assist with screening.

- (i) Name(s) and numbers of ethnic groups in the subproject area;
- (ii) Attachment to habitats and territories;
- (iii) The autonomy and distinctness of the ethnic group;
- (iv) Potential positive and negative impacts including on culture, livelihood and land

21. The ethnic group safeguards are triggered if a project directly or indirectly affects the dignity, human rights, livelihood systems, or culture of ethnic groups or affects the territories or natural or cultural resources that ethnic groups own, use, occupy, or claim as their ancestral domain or asset.

22. If ethnic minorities are in the zone of influence of the proposed subproject, a social impact assessment will be conducted for those areas.

23. The subproject will be designated an ADB indigenous persons category as follows:

Category A. Such projects are expected to have significant impacts on ethnic minorities. Both EPP and SIA are required. Any subproject assessed as having an A categorization will not be included in the project. Only category B and C subprojects will be included.

Category B. Such projects are expected to have limited impact on ethnic minorities. Both EPP and SIA are required.

Category C. Such projects are not expected to have any impact on ethnic minorities and, therefore, do not require special provisions.

## **B. Social Impact Assessment (SIA)**

24. The SIA will provide a gender sensitive baseline socioeconomic profile of the indigenous groups in the project area and project impact zone; assess their access to and opportunities to avail themselves of basic social and economic services; assess the short- and long-term, direct and indirect, and positive and negative impacts of the project on each group's social, cultural, and economic status; assess and validate which ethnic groups will trigger the policy principles; and assess the subsequent approaches and resource requirements for addressing the various concerns and issues of project. It will also look into cultural distinctiveness and differential needs and preferences of the various ethnic peoples to be potentially affected by the project.

25. Information will be gathered from separate group meetings within the ethnic minority, including leaders; separate groups of men and women, especially those who live in the zone of influence of the proposed subproject under the Project. Discussions will focus on the positive and negative impacts of the subproject as well as recommendations on the design of the subproject. The NPCO and the Safeguards Consultant will be responsible for analyzing the SIA, and, based on that analysis, developing an action plan with the ethnic minority leaders. If the SIA indicates that the potential impact of the proposed Project will be significantly adverse threatening the cultural practices and their source of livelihood, the NPCO and the Safeguard Consultant will consider other design options to minimize such adverse impacts and will prepare an Ethnic Group Plan (EPP) or dropping the subproject in favour of one that does not pose problems for Ethnic groups.

## **C. Ethnic Group Plan**

26. The EPP will identify and recommend measures to avoid and/or minimize and mitigate, and compensate for potentially negative impacts. This might include modification of subproject design and development assistance. Where there is land acquisition in ethnic minority area, the Project will ensure that their rights will not be violated and that they will be compensated for the use of any part of their land in a manner that is culturally acceptable to them. The compensation

will be in keeping with Entitlement Matrix as provided in the Resettlement Framework of the Project. The EPP will include:

- (i) Baseline data;
- (ii) Land tenure information;
- (iii) Local participation;
- (iv) Technical identification of development or mitigation activities;
- (v) Institutional arrangement;
- (vi) Implementation schedule;
- (vii) Monitoring and evaluation; and
- (viii) Cost estimate and financing plan.

27. The NPCO will submit the EPP to ADB for review and approval prior to the selection of specific subprojects. The EPP policy and measures must comply with ADB's Safeguard Policy Statement (2009).

#### **IV. CONSULTATION & DISCLOSURE**

28. The GOL will ensure meaningful consultation of ethnic groups and facilitate their informed participation on matters affecting them directly, such as proposed mitigation measures, sharing of project benefits and opportunities, and implementation arrangements. In the conduct of consultations, it will also take into consideration the cultural distinctiveness and differential needs and preferences of the various ethnic peoples to be potentially affected by the project.

29. To ensure full and open disclosure with ethnic groups, all communication concerning the Project will take place in an appropriate manner - in the ethnic language of the ethnic groups and in a culturally proper way. Public meetings will be arranged in villages, using participatory methodology and the ethnic minority language(s). Information will be posted in a central public location such as the kumban office or village head's house. Information will be mostly pictorial in order to guarantee accessibility of the information for ethnic minority people with poor literacy skills.

30. Local people's opinions will be recorded in an appropriate way through minutes from the meetings. Notes also will be taken from all regular meetings between Provincial Project Management Office (PPMO) and the District Coordination Office (DCO) and ethnic minority leaders or village representatives chosen at village meetings. All the concerns from involved people will be recorded this way and brought into the project planning process and used during implementation to adjust project activities. Any concerns, claims or grievances brought up in meetings or other consultations will be recorded in the same way. The draft EPP will be disclosed at village level in a public meeting including all relevant stakeholders, with the final EPP also disclosed at a public meeting. Women representing affected households must be present at the disclosure meetings. Copies of the EPP will be available at the village authority, District Authority and District Agriculture and Forestry Office (DAFO).

31. The draft and final EPPs and EPPF will be made available on the ADB website, together with monitoring reports.

#### **V. GRIEVANCE REDRESS MECHANISM**

32. Ethnic minorities' differential ways and mechanisms of grievance redress will be taken into consideration in settling disputes. Any ethnic minority institutions and organizations in the affected area will also be involved in resolving any disputes that may arise. In addition, existing

Village Mediation Committees at the local level of the LAO judicial system (which are used for grievances against local government agencies, civil actions and minor criminal matters) will be utilized to address grievances. Where matters cannot be resolved at the village level there is an appeals process at District and then at Provincial level.

33. At the village level the Lao Front for National Construction (LFNC) representative is head of the mediation committee and will play a key role in conflict resolution.

34. The LFNC has responsibility to 'increase unanimity and promote equal rights among ethnic groups.'<sup>3</sup> Their organization exists to the village level and as part of their responsibilities they collect and disseminate data on ethnic minority populations. The president of the village LFNC is the chair of the Village Mediation Committee and its members include mass organizations, village administration and a representative of an ethnic minority (total of seven members on the Committee).

## **VI. INSTITUTIONAL FRAMEWORK**

35. Any ethnic minority institutions and organizations in the affected area will also be involved in implementing the EPP. At provincial level, provincial agriculture and forestry offices (PAFOs) will be the implementing agencies, responsible for day to day implementation and liaison of subprojects through a PPMO. The PAFO will supervise DAFOs to support the EPP preparation and implementation. Qualified and experienced Safeguard Officers, will assist in the preparation of SIAs and EPPs for each subproject. These officers will work with the relevant provincial, district and kumban agencies to implement training and capacity building and other requirements of the EPPs. The LNFC will be involved in all stages of the EPP to ensure there is no conflict and ethnic minorities are fully involved.

## **VII. MONITORING AND REPORTING ARRANGEMENTS**

36. The NPCO will set up an internal monitoring system comprising the Safeguards Consultants and Resettlement Specialists, independent agency (that may include established and registered NGO(s)), ethnic groups and their institutions to monitor the plan implementation. Monitoring indicators will be established. In addition, an external independent monitoring agency will be engaged by the EA with ADB concurrence to undertake independent external monitoring of the EPP. Reporting / monitoring formats will be prepared for both internal and external monitoring.

37. Any EPPs prepared under this Project will be endorsed by the EA before sending to ADB for final approval.

38. Six monthly assessments of all subprojects will provide information on achievement of the EPPs and where constraints are identified the Safeguard Consultant will determine remedial actions to be taken. It will also be important that day to day monitoring is conducted by the district-based staff and equally these staff need to be capable of identifying any issues and either instigating remedial actions themselves where appropriate or referring these issues to the Province for action. All project reviews will include an assessment of the respective subproject EPPs.

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<sup>3</sup> Rule and Action Plan of the Lao Front for National Construction. Adopted by the VIII Congress of the delegates of the LFNC. 2006.



## **VIII. BUDGET AND FINANCING**

39. The Executing Agency will have the primary responsibility for the preparation of the EPP and as such will also prepare a detailed budget taking into account all the activities associated with the formulation and implementation of the EPP. Each sub-project EPP will have its own budget and will form an integral part of the overall sub-project budget.

40. Costs related to the implementation of the EPP will include the costs of mitigation, potential land acquisition, resettlement and compensation costs, external monitoring and ethnic minority experts, capacity development, and participation costs.