



Legal Preparedness for Responding to Disasters and Communicable Disease Emergencies: study report

Lao PDR

The study was prepared by the International Federation of Red Cross and Red Crescent Societies (IFRC) International Disaster Response Laws, Rules and Principles (IDRL) Programme with funding support provided by the Asian Development Bank (ADB) Regional Pooled Fund of the Greater Mekong Sub-Region Communicable Disease Control Project and the French Red Cross.

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Suggested citation: IFRC/ADB. *Legal Preparedness for Responding to Disasters and Communicable Disease Emergencies in Lao PDR* (2009).

All Annexes are available electronically on CD ROM. To obtain a copy or for any queries about this study or the IDRL Programme, please contact:

IDRL Asia Pacific Unit
International Federation of Red Cross and Red Crescent Societies
Asia Pacific Zone Office
P.O. Box 13255, Kuala Lumpur 50804, Malaysia
Email: idrl@ifrc.org

This study is available on line at:
<http://www.ifrc.org/idrl>

Acknowledgements

<i>Overall Project Manager:</i>	Victoria Bannon, Coordinator. IDRL Asia Pacific Programme, International Federation of Red Cross and Red Crescent Societies, Kuala Lumpur, Malaysia.
<i>In-country Project Manager and co-author:</i>	Raphael Bonnaud, Disaster Management Officer. French Red Cross, Vientiane, Lao PDR.
<i>Primary Legal Researcher and co-author:</i>	Tessa Kelly, Legal Adviser. Lao Law and Consulting Group, Vientiane, Lao PDR.
<i>Project Assistant:</i>	Nilinthone Sacklokham, Programme Assistant. French Red Cross, Vientiane, Lao PDR.
<i>Translation:</i>	Sengpapha Holanouphab, Translator. French Red Cross, Vientiane, Lao PDR.

This study involved input from more than 100 people who provided valuable comments, technical expertise, examples of experiences and feedback. In particular, the Project Team would like to thank:

- **Lao Red Cross:** Dr Sarivurath Sramanith (President), Dr Bountheung Menevilay (Head of the Disaster Preparedness and Relief Division) and Mr Saphanethong Lounnavong (Program Liaison and Learning Officer).
- **National Disaster Management Committee of Lao PDR:** H.E. Douangchai Phichit (Deputy Prime Minister, Minister of Defence, and Chair of the NDMC) and all NDMC members and disaster management focal points.
- **Prime Minister's Office:** Dr Bounlay Phommasack (Director of National Emerging Infectious Disease Control Office).
- **Ministry of Health:** Dr Chanphomma Vongsamphanh (Deputy Director General of the Department of Curative Medicine) and Dr Sithat Insisiengmay (Deputy Director of the Department of Hygiene and Prevention).
- **Ministry of Labour and Social Welfare:** Mr Prasith Dethphommatheth (Director of the Social Welfare Department), Mr Khamphao Homphangna (Director of the National Disaster Management Office) and Mr Vilayphong Sisomvang (Senior Official of the National Disaster Management Office).
- **Ministry of Foreign Affairs:** Mr Bounthom Manibod (Head of IGOs Division in the Department of International Organisations).
- **Ministry of National Defence:** Mr LTC Saichay Kommasith (Deputy Chief of the Cabinet Office of the General Staff Department).
- **World Health Organization:** Dr Reiko Tsuyuoka (Epidemiologist) and Dr Supachai Douangchak (National Professional Officer, Health System).

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Executive summary

Why is legal preparedness important for Lao PDR?

Legal issues are often overlooked as part of preparedness planning for disasters and communicable diseases. Recent research from large-scale disaster operations around the world, conducted by the IFRC, has demonstrated that vital international support can be hampered by the domestic legal framework.¹ Furthermore, concerns about potential pandemics have heightened the need to ensure that legal issues are anticipated and managed in advance of an outbreak situation, to enable a rapid response. There are a number of international and regional legal instruments and standards which have been developed to address many of these issues, several of which are applicable to Lao PDR; however, these are not always implemented effectively at the domestic level.

Laos is prone to a number of different disaster and disease risks such as floods in the Mekong corridor, major droughts, earthquakes, flash floods and storms related to a heavy typhoon season, as well as human influenza pandemic. Having a comprehensive legal framework in place will facilitate fast mobilization and response in the event of an emergency and will contribute to good coordination and information exchange between different humanitarian partners regardless of whether they are local, national or international.

About this study

This legal research study was conducted in Lao PDR between March and August 2009. The study aims to:

1. Identify gaps and areas of good practice in addressing legal issues and implementing the key regional and international instruments relevant to disaster and communicable disease emergencies in Laos;
2. Recommend legal and policy measures to minimise legal barriers and encourage effective national and international responses to disasters and communicable diseases in Laos.

The research process involved:

- Legal document collection and analysis against key international and regional instruments;
- A survey of key stakeholders (more than 100 stakeholders were interviewed from more than 40 governmental and non-governmental organisations);
- Consultation meetings with UN, INGOs and government officials;
- A high-level meeting on the 5 August 2009 to discuss the findings and recommendations of the study with the Government of Lao PDR.

Two international texts were used as the principal basis for analysis: the *Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines) of 2007*² and the *International Health Regulations of 2005 (IHR)*³. Additionally, consideration was given to the *ASEAN Agreement on Disaster Management and Emergency Response of 2005* and the *Hyogo Framework for Action 2005-2015 - Building the Resilience of Nations and Communities to Disasters* as well as a number of agreements and declarations developed within the Mekong region. In addition to an examination of the implementation of these instruments, the study also identifies and recommends other measures which may help to minimize legal barriers for preparing and responding effectively to disasters and communicable diseases in Lao PDR.

The institutional and legal framework for disasters and communicable disease emergencies in Lao PDR

National bodies, laws and policies for disaster management

In the aftermath of severe flooding in 1995 and 1996, the Lao Government recognized the importance of developing legal structures to deal with disaster management. Since that time, considerable resources have been invested to establish

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mechanisms at the national, provincial and district level for disaster preparedness, mitigation and response.

While some basic obligations in disaster situations, as well as a definition of disaster, are contained in the Environmental Protection Law of 1999, the legal framework for disaster management primarily consists of a number of decrees and decisions rather than an overarching law. Prime Ministerial Decree No. 158 of 1999, which is currently being revised, establishes the National Disaster Management Committee (NDMC). The Decree appoints representatives from line ministries, technical agencies and the Lao Red Cross as members of the NDMC, and calls for the establishment of disaster management committees at the provincial and district levels. This Decree is complemented by Decision No. 097 of the Ministry of Labour and Social Welfare, which provides detail on the mandate of the Secretariat and the National Disaster Management Office (NDMO), and outlines the roles and responsibilities of individual NDMC members. The NDMC and NDMO are currently the main entities responsible for managing disasters in Lao PDR.

In 2003 the Chair of the NDMC issued a Decision outlining a Strategic Plan on Disaster Risk Management in Lao PDR, together with an Action Plan for Disaster Risk Management until 2020. With the assistance of UNDP, the NDMO is now in the process of developing a more detailed National Disaster Management Plan in accordance with the Strategic Plan.

The existing disaster management system, from the district to the central level, is well recognized by both the local and international community. While the legal system could still benefit from the further defining of the role of non-governmental and international entities, the strong commitment of the Lao Government to the management of disasters is evident through the continuing development of this legal framework.

National bodies, laws and policies for communicable disease emergencies

Communicable disease emergencies are governed by entirely separate institutional, legal and policy frameworks. Initially the Law on Hygiene, Disease Prevention and Health Promotion of 2001 was the only legal instrument addressing communicable diseases and was focused on prevention rather than response. More recently, there have been several decisions and guidelines issued by the Ministry of Health on issues such as medical isolation and quarantine and the functioning of health units at border checkpoints.

The institutional arrangements for communicable disease control are generally considered to be coherent, well structured and efficient, largely as a result of the high level of authority and resources vested in the relevant government institutions. The SARS and Avian Influenza outbreaks of 2003 and 2004 prompted the development of Prime Ministerial Decree No. 377 of 2005 on the establishment of the National Committee for Communicable Diseases Control (NCCDC), which is now the central entity for the management of communicable disease threats, together with committees established at provincial level.

In 2003, the National Avian and Human Influenza Coordination Office (NAHICO) was established for the control and prevention of avian influenza, and its name was subsequently changed in 2009 to the National Emerging Infectious Disease Control Office (NEIDCO) to increase the scope of its mandate to include all emerging infectious diseases. Additionally, the National Centre for Laboratory and Epidemiology (NCLE) is the body responsible for the surveillance and diagnosis of communicable diseases. The Centre has recently been appointed as the National IHR Focal Point and is responsible for the implementation of the IHR in Lao PDR, although there is currently no legal reference reflecting this appointment.

Key findings on specific issues

Institutional Arrangements

As indicated above, the institutional arrangements for disaster management and communicable diseases are outlined in a variety of decrees and decisions, but there is no overarching law describing the overall structure of the government bodies

and the way they interact. There is a clear need to establish coordination mechanisms and communication links between government entities responsible for disaster management, those responsible for communicable disease, and other government departments as well as with civil society organizations and the international community. The consultation process confirmed that a new overarching legal instrument is needed to strengthen and enhance the coherence and effectiveness of the legal framework.

Early warning and disease surveillance

Early warning and disease surveillance systems are currently reliant on a variety of technical governmental bodies. While the technical aspects are generally working efficiently, there is a need to strengthen communication channels between the NDMC and NCCDC in order to ensure efficient communication of disaster and disease risks, and thus a timely and coordinated response.

Request for and acceptance of international assistance

Although there is a general appreciation of the need to facilitate international assistance in the case of large scale emergencies, the process of requesting or accepting offers of international assistance is not sufficiently outlined in the legal framework. Pursuant to a Ministerial Decision, the Ministry of Foreign Affairs has the responsibility to issue requests on behalf of the government, however this has not always been the practice. Past experience has demonstrated that issuing an official request involves a long process comprising numerous steps, which ultimately causes delays in allowing international actors to respond. Furthermore, the communication chain involved in issuing a request is not clearly defined. Developing legal provisions which define the roles and responsibilities in this regard is an essential step forward to ensuring fast and efficient relief operations.

Legal status of foreign entities providing assistance

While there are a number of legal instruments describing the legal status of international entities providing development assistance to Lao PDR, they do not specifically cover emergency relief activities. Most international entities in Lao must conclude individual agreements or MOUs covering issues such as visas, tax exemptions, and work permits, which are not necessarily appropriate for disaster situations. It is therefore anticipated that during an emergency, assisting entities may face legal barriers in implementing their activities. The creation of a register of authorized entities eligible to automatically receive a number of specific legal facilities for the provision of disaster and communicable disease emergency relief activities is considered as an efficient way to alleviate this constraint.

International transport, customs and tax arrangements

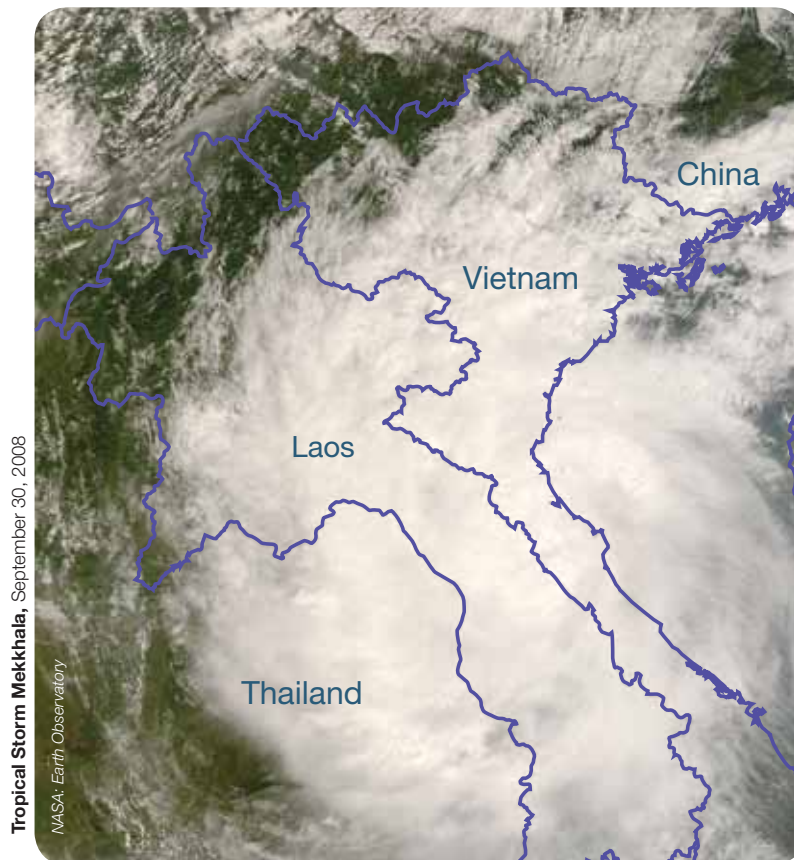
Bringing relief items quickly into Lao PDR is considered a major concern for disaster relief providers, as assisting entities are likely to face lengthy procedures under existing regulations, especially for tax exemptions and the importation of goods such as food, medication, vehicles and telecommunications equipment. The current processes involve obtaining approvals from many different ministries, making the system unnecessarily complex and causing delays in the delivery of vital relief goods. Further delays could be expected during communicable disease emergencies where current inspection and quarantine regulations do not prioritize the entry of humanitarian supplies and personnel. Special procedures for these situations would therefore avoid any unnecessary delays or ambiguities in the current systems.

Overarching recommendations

The overarching recommendation of this study is that a new legal instrument in disaster management is needed. This instrument should:

- Establish a comprehensive framework, definition and set of principles for the management of disasters, including communicable disease emergencies.
- Ensure that relevant government entities have the necessary legal authority, resources and enforcement mechanisms to carry out their mandates.
- Address the legal arrangements for the facilitation and regulation of international assistance (when needed) in the event of a disaster or communicable disease emergency, including the establishment of a register of authorized entities eligible to receive legal facilities for the provision of disaster and communicable disease emergency relief activities.

This instrument could initially be developed as a Presidential Ordinance, which may later be converted into a Law. It should also be supplemented by a number of implementing decrees, decisions, orders and/or regulations which provide further detail on specific aspects which may require more frequent amendment. Some recommendations for aspects concerning the facilitation and regulation of international assistance are described in further detail in this study.



Tropical Storm Mekkhala, September 30, 2008
NASA: Earth Observatory

Acronyms and abbreviations

AADMER	ASEAN Agreement for Disaster Management and Emergency Response
ACMECS	Ayeyawady - Chao Phraya - Mekong Economic Cooperation Strategy
ADB	Asian Development Bank
AHA Centre	ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management
APSED	Asia Pacific Strategy for Emerging Diseases
ASA	Air Service Agreement
ASEAN	Association of Southeast Asian Nations
ASEAN SASOPS	ASEAN Standby Arrangements and Standard Operating Procedures
CBDP	Community Based Disaster Preparedness
DCA	Department of Civil Aviation
DCDC	District Communicable Disease Committee
DDMC	District Disaster Management Committee
DMH	Department of Meteorology and Hydrology
ECSPA	Economic Cooperation Strategy Plan of Action
FAO	UN Food and Agriculture Organization
FDC	Flood and Drought Committee
FDD	Food and Drugs Department
GMS	Greater Mekong Subregion
GoL	Government of Lao PDR
GTS	Global Telecommunication System
IASC	Inter-Agency Standing Committee
ICRC	International Committee of the Red Cross
IDRL	International Disaster Response, Laws and Principles
IDRL Guidelines	Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance
IFRC	International Federation of Red Cross and Red Crescent Societies

IHR	International Health Regulations
INGO	International Non-Governmental Organisation
INSARAG	International Search and Rescue Advisory Committee
IO	International Organisation
IOM	International Organisation for Migration
JICA	Japan International Cooperation Agency
L-JATS	Lao-Japan Airport Terminal Services
LRC	Lao Red Cross
MAF	Ministry of Agriculture and Forestry
MBDS	Mekong Basin Disease Surveillance
MCDA	Military and Civil Defence Assets
MCTPC	Ministry of Communications, Transport, Post and Construction
MDG	Millennium Development Goal
MoND	Ministry of National Defence
MoE	Ministry of Education
MoEM	Ministry of Energy and Mines
MoF	Ministry of Finance
MoFA	Ministry of Foreign Affairs
MIC	Ministry of Information and Culture
MLSW	Ministry of Labour and Social Welfare
MoH	Ministry of Health
MOU	Memorandum of Understanding
MPS	Ministry of Public Security
MPWT	Ministry of Public Works and Transport
MRC	Mekong River Commission
NAHICO	National Avian and Human Influenza Coordination Office
NAICPPP	National Avian Influenza Control and Pandemic Preparedness Plan 2006-2010
NAPT	National Authority for Post and Telecommunications
NASRET	National Search and Rescue Team

NCCCD	National Coordination Committee on Communicable Diseases
NCCDC	National Committee on Communicable Diseases and Control
NCLE	National Centre for Laboratory and Epidemiology
NDMC	National Disaster Management Committee
NDMO	National Disaster Management Office
NDPC	National Disaster Prevention Committee
NEIDCO	National Emerging Infectious Disease Control Office
NGO	Non-Government Organisation
NPA	Non-Profit Association
NSRC	National Search and Rescue Committee
NTA	National Tourism Authority
NWSS	National Weekly Surveillance System
PCDC	Provincial Communicable Disease Committee
PDMC	Provincial Disaster Management Committee
PDMO	Provincial Disaster Management Office
PDR	People's Democratic Republic
PMO	Prime Minister's Office
PSU	Provincial Surveillance Units
SARS	Severe Acute Respiratory Syndrome
STEA	Science and Technology Environment Agency
UNDAC	United Nations Disaster Assessment and Coordination
UNDMT	United Nations Disaster Management Team
UNDP	United Nations Development Programme
UNGA	UN General Assembly
UNICEF	United Nations Children's Fund
UNISDR	United Nations International Strategy for Disaster Reduction
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNRC	United Nations Resident Coordinator
UXO	Unexploded Ordinance

VDPU	Village Disaster Protection Unit
WB	World Bank
WFP	World Food Programme
WHO	World Health Organisation
WRCC	Water Resources Coordination Committee
WREA	Water Resources and Environment Administration

Chapter 1



Background to project and methodology

Chapter 1

Background to project and methodology

1.1 What is legal preparedness and why is it important?

Legal issues are often overlooked as part of preparedness planning for disasters and communicable diseases. This is particularly so for situations where cross-border or international assistance may be needed.

Recent research on large-scale disaster operations around the world, conducted by the International Federation of Red Cross and Red Crescent Societies (IFRC) International Disaster Response Laws, Rules and Principles (IDRL) Programme, has demonstrated that vital international support can be hampered by issues such as: a lack of legal recognition for foreign relief providers; customs delays and tax requirements for medication, relief goods and equipment; complications with visas for relief personnel; and a lack of recognition of foreign professional qualifications in emergency situations. It has also been found that coordination and information-sharing between response agencies can also be lacking, as well as adherence to human rights, humanitarian principles and standards of quality and accountability.

Additionally, concerns about potential pandemics, such as Severe Acute Respiratory Syndrome (SARS) and pandemic influenza, have heightened the need to ensure that legal issues are anticipated and managed in advance of an outbreak situation to enable a rapid response. The control of communicable disease brings with it additional legal issues relating to surveillance and notification procedures, quarantine and the restriction of the movement of people and goods as part of outbreak containment. In these situations, it is especially important to have the necessary legal mechanisms in place to facilitate the flow of information, medical activities and humanitarian assistance without compromising public health and safety and while respecting human rights and dignity.

At the international level, a number of significant legal instruments and guidelines have been developed to address a number of these issues, such as:

- Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2007) (IDRL Guidelines).
- International Health Regulations (2005) (IHR).
- Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (Hyogo Framework).
- Convention on Civil Aviation (1944) 9th Edition 2006 (Chicago Convention).
- Inter-Agency Stating Committee (IASC) Operational Guidelines on Human Rights in Natural Disasters (2006).
- Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (1998).

Additionally, there are a number of applicable regional instruments which also address some of these aspects such as agreements and declaration of regional bodies such as:

- Association of Southeast Asian Nations (ASEAN).
- Ayeyawady - Chao Phraya - Mekong Economic Cooperation Strategy (ACMECS).
- Mekong Basin Disease Surveillance (MBDS).
- Mekong River Commission (MRC).
- Greater Mekong Subregion (GMS) Framework Agreements on Goods in Transit and Cross-border Transport.

It is important to ensure that these and other relevant instruments are effectively implemented at the national level. National and provincial regulations and policies must also be able to accommodate the needs of large-scale disaster and disease situations, involving a range of local, national and international partners.

Legal preparedness in Lao People's Democratic Republic (Lao PDR)

Laos is prone to a number of different disaster and disease risks. Having a comprehensive legal framework in place will facilitate fast mobilization and response in the event of an emergency and will contribute to good coordination and information exchange between different humanitarian partners regardless whether they are local, national or international. Effective legal preparedness also encourages greater accountability and transparency and good practices for disaster and disease management.

At the time of writing this report, Laos is currently in the process of developing a National Disaster Management Plan – thus, this project is considered very timely.

1.2 Project description, objectives and methodology

Project description

This project involved the commission of a research study on 'Legal Preparedness for Responding to Disasters and Communicable Disease Emergencies in Lao PDR'. It formed part of a series of studies to encourage greater legal preparedness in countries of the Greater Mekong Region, specifically in Cambodia, Laos and Vietnam.

Project partners

The study was managed by the IFRC with technical assistance from the World Health Organization (WHO). Funding support for the project was provided by the Asian Development Bank (ADB) Regional Pooled Fund of the Greater Mekong Sub-Region Communicable Disease Control Project (through its Regional Coordination Unit) and the French Red Cross.

This study has been implemented in partnership with the government of Lao PDR and the Lao Red Cross. The Ministry of Labour and Social Welfare (MLSW), the Ministry of Foreign Affairs (MoFA) and the Ministry of Health (MoH) acted as main partners to implement this study. Consultation meetings and the high-level meeting were facilitated by the National Disaster Management Office (NDMO) on behalf of the Chair of the National Disaster Management Committee (NDMC) (the Deputy Prime Minister and Minister of Defence).

Objectives

Through legal research and consultations, this study aimed to:

- Identify areas of good practice in addressing legal issues and implementing the key regional and international instruments relevant to disaster and communicable disease emergencies in Lao PDR.
- Recommend measures to minimize legal barriers and encourage effective national and international responses to disasters and communicable diseases in Lao PDR.

Methodology

The methodology for this project included the following:

- Initial research on international and regional instruments and in-country consultations with project partners, conducted between April and December 2008.
- Appointment of the in-country Project Manager provided by French Red Cross and the Legal Research Team from the Lao Law and Consultancy Group in March 2009.
- Appointment of focal points within the MoFA, MLSW and Lao Red Cross (LRC) to support the project.
- Establishment of a Project Taskforce from the international community, set up as sub-working group of the IASC Country Team on Institutional and Legal Arrangements for Response to Disaster and Communicable Disease Emergencies. This taskforce met regularly during the project and included WHO, the United Nations Development Programme (UNDP), United Nations Resident Coordinator (UNRC), the International Organization for Migration (IOM), World Bank (WB), the LRC and the IFRC plus other organizations on

- an ad hoc basis.
- A legal research process, which took place between March 2009 – July 2009, involving:
 - Legal document collection and comparison with key international and regional instruments.
 - A survey of key stakeholders (more than 100 stakeholders were interviewed from more than 40 governmental and non-governmental organizations).
 - Consultation meetings with UN, INGOs and governmental officials, organized at different stages of the study.
 - A high-level meeting on legal preparedness on 5 August 2009 to present the findings and recommendations of the study to the Government of Lao PDR.

Major outputs

- A full collection of study documents in Lao and English (available on CD ROM).
- This Study Report containing the findings and recommendations.
- Commitment from the high-level meeting on legal preparedness to establish a taskforce to draft a new Presidential Ordinance on disaster management which will be submitted to the Deputy Prime Minister as Chair of the NDMC for consideration. (The report from this meeting is available on the CD ROM).

1.3 Selection of topics covered in this report

It should be emphasized that this report is not intended to cover all legal and regulatory issues associated with disaster management and communicable disease control.

The primary focus of this report is on legal arrangements for the facilitation of international assistance, based on the provisions of the IDRL Guidelines, the IHR and, to a lesser extent, other international and regional instruments.

During the course of this project, a number of other key issues were strongly emphasized through the consultation process, thus they are also addressed here. These issues include in particular early warning for disaster and institutional arrangements because it was widely felt that without such mechanisms in place, there would be limited capacity to implement recommendations on the facilitation and regulation of international assistance.

Some relevant issues are not included here, or are included only in a limited way. This reflects some of the challenges in accessing comprehensive, up-to-date legal materials. While great efforts have been made by the legal research team, researchers and others to collect all relevant materials, there remain some gaps in the collection which will hopefully be improved over time as more documents come to light.

Government of Lao PDR



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Chapter 2



Overview of applicable international and regional standards and agreements

Chapter 2

Overview of applicable international and regional standards and agreements

2.1 International instruments

Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2007)

The Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines) were adopted by Resolution 4 of the 30th International Conference of the Red Cross and Red Crescent Societies in November 2007.⁴ The IDRL Guidelines were developed through an extensive research and consultation process, led by the IFRC, to address a number of legal challenges frequently encountered during international disaster relief operations.

The IDRL Guidelines provide recommendations to governments for removing legal barriers and unnecessary red tape which can delay the entry and operation of international disaster relief teams, goods and equipment. At the same time, they encourage governments to appropriately regulate incoming assistance to ensure it meets minimum quality and accountability standards.

Some key provisions of the IDRL Guidelines are:

Domestic actors have the primary role.

- The Guidelines recognize that it is first and foremost the responsibility of the government of the affected state to address the humanitarian needs caused by a disaster within its borders. National Red Cross or Red Crescent Societies and other domestic civil society actors in the affected state play a key supporting role.
- International disaster assistance should be designed and implemented so as to be complementary to the efforts of these domestic actors, rather than displace them.

International relief providers have responsibilities.

- The Guidelines also insist that international assistance providers be held responsible for abiding by certain minimum humanitarian standards in their disaster assistance.
- These include the principles of humanity, neutrality, and impartiality as well as minimum standards of coordination and quality in their relief goods, personnel and programmes, as drawn from sources such as the *Code of Conduct of the Red Cross and Red Crescent Movement and NGOs in Disaster Relief* and the *Sphere Humanitarian Charter and Minimum Standards in Disaster Relief*.

International actors need legal facilities.

- The IDRL Guidelines set out specific types of legal facilities or accommodations that governments should provide to assisting states and humanitarian organizations so that they can do an effective job of responding to humanitarian needs. For example, they call for:
 - Expedited visa processing and customs clearance for relief personnel, goods and equipment.
 - Facilitation of relief transport.
 - Exemptions from taxes, duties and fees on relief activities.
 - Simplified means for humanitarian organizations to acquire temporary domestic legal personality in order to operate legally in the country.
- A distinction is made in some of these provisions between “relief” and “initial recovery assistance,” because speed is much more critical for emergency relief.
- The IDRL Guidelines also encourage states to reduce legal barriers to disaster relief originating within or passing through their territories to another country affected by a disaster, in order to avoid delays.

Some legal facilities should be conditional.

- In order to lend some weight to the responsibilities of assisting humanitarian organizations in particular, the IDRL Guidelines encourage governments (to the extent permissible under international law) to condition the granting of legal facilities to these organizations on their commitment to, and ongoing compliance with, the minimal standards described above.
- The IDRL Guidelines suggest that this could be implemented in various ways, for example, through a simple registration procedure, ideally available not only in the immediate aftermath of a disaster but also as a preparatory measure in advance. The granting state should then monitor the performance of registered organizations for ongoing compliance with the required standards.
- The IDRL Guidelines note that some states may wish to grant legal facilities to private companies providing charitable relief in a disaster setting. If they do so, they are encouraged to hold them to the same standards as humanitarian organizations. No similar conditionality is suggested for government-to-government aid due to the availability of alternative diplomatic means of redressing quality or coordination issues.

Although the IDRL Guidelines are non-binding, they have been used and referred to by a number of international and regional bodies and instruments including the United Nations General Assembly⁵ and the ASEAN Standing Arrangements and Standard Operating Procedures (ASEAN SASOPS) which were developed to support the ASEAN Agreement on Disaster Management and Emergency Response (AADMER) (see further below).

International Health Regulations (2005)

The International Health Regulations (IHR) were revised and adopted by the World Health Assembly in 2005. The IHR are legally binding, having entered into force in mid-2007, and now have 194 State Parties including Lao PDR. They create a new international mechanism for issuing official warnings about disease outbreaks and require state parties to strengthen their domestic surveillance and control systems. State Parties have until 15 June 2012 to develop the minimum core public health capacities as outlined in the Regulations.⁶

Whereas the earlier versions of the IHR only applied to a few diseases, as of 2005, they apply to any “public health emergency of international concern.” These include:

A disease or occurrence that creates a potential for disease, which:

- (1) constitutes a public health risk to other States through the spread of disease, and
- (2) requires a coordinated international response.

In other words, the obligations in the IHR are not only for actual outbreaks of diseases such as yellow fever and SARS, but also potentially biological, chemical or radiological accidents or other vectors that could lead to disease, as well as animal diseases that might be transmitted to humans (i.e., zoonotic diseases).

Some other key provisions of the IHR include:

Notification

- The IHR obliges states to assess events to determine if they constitute a public health emergency of international concern, and gives guidelines on doing so.
- If a state decides that such a threat exists, it is obliged to notify WHO within 24 hours and continue to give reports. A National IHR Focal Point must be established or designated which is available at all times to effect this communication with a WHO Focal Point. Additionally, the WHO may consider reports from sources other than states.
- A system is also established whereby the WHO, under certain circumstances, may share information with potentially affected states regarding a public health emergency of international concern, even without the



permission of the source state.

Capacity-building

- States must take measures to develop their surveillance and response capacities for health emergencies, in particular at certain entry points which must be designated. The minimum capacities to be developed are set out in detail.
- States are also required to assist each other as far as possible in this regard through technical co-operation and support, as well as mobilization of financial resources.

Health measures

- The IHR specify which health measures may be taken against travellers, goods, baggage and conveyances (e.g., requesting information, vaccinations, health examinations, etc.) and under which circumstances. In particular, the Regulations define when a traveller, vehicle, etc., may be considered affected by a disease, and what steps may then be taken. The charges which may be imposed for these measures are also regulated.
- The IHR state that such measures should not unnecessarily impede international trade and travel and should not be unnecessarily invasive or intrusive to persons.
- States are also required to designate authorities responsible for a specified list of tasks related to health measures (e.g., ensuring that facilities used by travellers at points of entry are kept free of sources of infection).

Certification

- The IHR regulates the types of health documents which may be required in respect of travellers, ships or aircraft entering a territory, as well as setting out some of their legal consequences. Model documents are also provided.

Confidentiality of data

- The IHR contains provisions regulating the privacy of individually identifiable data when information is exchanged amongst states or to the WHO in terms of the Regulations.

Respect for human rights

- The IHR stipulates that its provisions must be applied with full respect for human rights. This is of particular importance in safeguarding the rights of persons undergoing health measures such as medical examinations or quarantine, as well as protecting individual privacy.

No later than five years after entry into force (by mid-2012), states must take measures to develop, strengthen and maintain their public health protection capacities consistent with the requirements of the IHR. As of June 2009, states must assess their existing structures, and then develop plans of action to ensure that minimum capacities are present and functioning. After 2012, states may obtain a two-year extension in cases of justified need. In exceptional circumstances, they may receive an additional extension not exceeding two years.

Each State - at all levels and including all its sectors, ministries, officials and personnel - holds the responsibility for implementing the IHR at national level.

Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (1998) (Tampere Convention)

The Tampere Convention is a treaty aimed at facilitating the use of telecommunication resources and assistance for disaster mitigation and relief. It establishes an international framework for states to cooperate among themselves and with non-state entities and intergovernmental organizations.

Among other aspects, the convention seeks to simplify and strengthen the procedures by which international disaster responders may bring telecommunications equipment across borders during and after an emergency and use them in their operations. It requires state parties to reduce or remove regulatory barriers and to confer the necessary privileges,

immunities, and facilities for international relief providers. The convention also recognizes the sovereign interests of state parties, providing substantial flexibility as to how to carry out their obligations and ensuring that they maintain primary authority in relief coordination in their own borders.

In 1998, 60 states attending the Intergovernmental Conference on Emergency Telecommunications (ICET 98, Tampere, Finland, 16-18 June 1998) unanimously adopted the Tampere Convention. The Convention entered into force on 8 January 2005 and, as of January 2007, it had 35 State parties. Although Lao PDR has not signed or ratified this convention, it is relevant as a reflection of international consensus on reducing regulatory barriers in the use of telecommunications during a disaster response.⁷

Convention on International Civil Aviation (1944), 9th edition 2006 (Chicago Convention)

Lao PDR ratified the Chicago Convention on 13 June 1955 and is therefore bound to implement the agreement. The agreement contains provisions concerning the overflight and landing of aircraft and service charges for the use of airports and other facilities. Since the original agreement in 1944, there have been several editions updating the agreement in accordance with advances in aviation technology and changing circumstances. There are also two articles of note that relate to health measures for aircraft:

- Article 14 which provides that State Parties must take effective measures to prevent, by means of air navigation, the spread of communicable disease and must keep in close consultation with agencies concerned with international regulations relating to sanitary measures applicable to aircraft.
- Article 89 which provides that, if a state declares a national emergency and notifies the Civil Aviation Council, the convention will not affect the freedom of action of any state affected.

Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters

The Hyogo Framework for Action (HFA) is a set of non-binding guidelines adopted by States at the World Conference on Disaster Reduction organized by the UN International Strategy for Disaster Reduction (UNISDR) in Hyogo in 2005.⁸ The HFA promotes a “strategic and systematic approach to reducing vulnerabilities and risk to hazards” by “building the resilience of nations and communities to disasters.”⁹ The HFA provides five priorities that states should consider, most notably:

Priority 1: Disaster risk reduction should be a national and local priority

- This priority includes recommendations for strengthening legislative and institutional frameworks, in particular:
 - Creating and strengthening national integrated disaster risk reduction mechanisms, such as multi-sectoral national platforms, with designated responsibilities at the national through to the local levels to facilitate coordination across sectors.
 - Integrating risk reduction into development policies and planning at all levels of government, including in poverty reduction strategies and sectors and multi-sector policies and plans.
 - Adopting or modifying where necessary, legislation to support disaster risk reduction, including regulations and mechanisms that encourage compliance and that promote incentives for undertaking risk reduction and mitigation activities.

Priority 5: Strengthen disaster preparedness for effective response at all levels

- This priority includes recommendations to prepare for disaster response at national, regional and international levels including:
 - Strengthening policy, technical and institutional capacities in regional, national and local disaster management, including those related to technology, training, and human and material resources.
 - Promoting and support dialogue, exchange of information and coordination among early warning, disaster risk reduction, disaster response, development and other relevant agencies and institutions at all levels, with the aim of fostering a holistic approach towards disaster risk reduction.
 - Strengthening and when necessary developing coordinated regional approaches, and creating or upgrading regional policies, operational mechanisms, plans and communication systems to

- prepare for and ensure rapid and effective disaster response in situations that exceed national coping capacities.
- Preparing or reviewing and periodically updating disaster preparedness and contingency plans and policies at all levels, with a particular focus on the most vulnerable areas and groups.
 - Promoting regular disaster preparedness exercises, including evacuation drills, with a view to ensuring rapid and effective disaster response and access to essential food and non-food relief supplies, as appropriate, to local needs.
 - Promoting the establishment of emergency funds, where and as appropriate, to support response, recovery and preparedness measures.
 - Developing specific mechanisms to engage the active participation and ownership of relevant stakeholders, including communities, in disaster risk reduction, in particular building on the spirit of volunteerism.

In 2008, the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) and UNISDR published a Guidance and Indicator Package for Implementing Priority 5 of the HFA. This package provides further guidance to governments on strengthening systems on preparedness for response including a number of detailed recommendations on institutional, legislative and policy frameworks.¹⁰

2.2 Regional agreements

Asean Agreement on Disaster Management and Emergency Response (2005)

The ASEAN Agreement on Disaster Management and Emergency Response (AADMER) was signed by ASEAN member countries in Vientiane on 26 July 2005. Lao PDR submitted an Instrument of Acceptance to the AADMER on 5 March 2007.

The AADMER aims to facilitate cooperation between the ten ASEAN member countries, as well as international partners, to improve regional capacities for disaster preparedness and response.

The general commitments of Parties under the AADMER are to:

- a. co-operate in developing and implementing measures to reduce disaster losses including identification of disaster risk, development of monitoring, assessment and early warning systems, standby arrangements for disaster relief and emergency response, exchange of information and technology, and the provision of mutual assistance;
- b. immediately respond to a disaster occurring within their territory. When the said disaster is likely to cause possible impacts on other Member States, respond promptly to a request for relevant information sought by a Member State or States that are or may be affected by such disasters, with a view to minimizing the consequences;
- c. promptly respond to a request for assistance from an affected Party; and,
- d. take legislative, administrative and other measures as necessary to implement their obligations under this Agreement.¹¹

The AADMER also provides a number of facilities for international assistance providers including exemptions from taxes, duties and other charges for the import of goods and equipment (including telecommunications and vehicles), the facilitation of the entry, stay and departure of relief personnel, protection and “local facilities and services for the proper and effective administration of the assistance.” International relief providers are expected to conform to the national laws of the host country and ensure that relief goods and materials meet appropriate quality and validity standards.

The AADMER requires ratification by all ten members states before it officially enters into force. According to the last NDMO update provided during the 15 July 2009 consultation meeting in Vientiane, eight out of ten countries, including Lao PDR, have ratified AADMER. Nevertheless, ASEAN Member States and the Secretariat have already been putting some aspects of the AADMER into practice, such as the establishment of the AHA Centre (ASEAN

Coordinating Centre for Humanitarian Assistance) and development of the ASEAN SASOPS which provides further details on the process for sending and receiving international assistance.

ASEAN declarations on health emergencies

In addition to commitments on disaster management, ASEAN has adopted a number of declarations relating to health emergencies, notably:

- Joint Declaration of the Special ASEAN Leaders Meeting on SARS, Bangkok, 29 April 2003 – in which the member countries resolved to take a number of specific measures to address the spread of SARS relating to both national capacities and regional cooperation.
- Declaration of the 7th ASEAN Health Ministers Meeting, Penang, 22 April 2004 – which strengthened the commitment to the ASEAN + 3 Emerging Infectious Diseases Programme
- Declaration of the 8th ASEAN Health Ministers Meeting, Yangon, 21 June 2006 – which committed to ensuring that the ASEAN + 3 Emerging Infectious Disease Programme reflects the priorities of the IHR as the framework for global response to public health emergencies of international concern.¹²

World Health Organization Regional Committee: Asia-Pacific Strategy for Emerging Diseases (APSED)

In September 2005, the Western Pacific Regional Committee of the WHO endorsed the Asia Pacific Strategy for Emerging Diseases, which aimed to “provide a strategic framework to strengthen national and regional capacity for early detection, rapid response and preparedness for emerging diseases.”¹³ One of the rationales behind this strategy was the need for a regional strategic approach to support the implementation of the IHR at national and regional level. The strategy itself covers 48 countries in the Asia and Pacific region, including Lao PDR, and includes five objectives with associated action plans and expected results relating to risk reduction, early detection, early response and preparedness for emerging disease as well as the development of sustainable technical collaboration within the region.

The strategy is intended to be used by countries and regional partners:

- As a strategic document to guide the development or strengthening of the national capacities required for health protection from emerging diseases.
- As a framework for the development of stronger collaboration with neighbouring countries, subregional, regional and global networks and other technical partners to build a regional safety net from emerging diseases.
- To meet the core capacity requirements for surveillance and response under the IHR.
- As a document for national and regional advocacy for adequate, equitable and sustainable health financing arrangements (including resource mobilization and donor coordination), human resource development, and sustainable knowledge, skills and technology transfer.¹⁴

Objective 3 of the Strategy relating to the strengthening of early response to emerging diseases refers to the importance of the legal framework, noting that authority for the direction of personnel and resources to respond to an outbreak is often established by legislation.¹⁵ Thus, efforts to meet this objective must also include an examination of legislation to determine how these mechanisms could be strengthened.

Greater Mekong Subregion (GMS) Framework Agreement on Goods in Transit and Cross-Border Transport

The GMS Cross-Border Transport Agreement is a multilateral agreement for the facilitation of cross-border transport of goods and people signed by Lao PDR, Thailand, Cambodia, Vietnam, China, and Myanmar. Developed under an Asian Development Bank technical assistance initiative, the agreement aims to provide greater consistency in the arrangements for cross-border transport, taking into account existing regional and international agreements. Although the agreement does not specifically apply to international humanitarian relief, it nevertheless includes arrangements of benefit to emergency situations, including:

- Single-stop/single-window customs inspection.
- Facilities for the cross-border movement of persons (i.e., visas for persons engaged in transport operations).
- Transit traffic regimes, including exemptions from physical customs inspection, bond deposits escorts, and

- phytosanitary and veterinary inspection.
- Requirements for road vehicles to be eligible for cross-border traffic.
- Exchange of commercial traffic rights.
- Infrastructure, including road and bridge design standards, road signs and signals.¹⁶

Ayeyawady - Chao Phraya - Mekong Economic Cooperation Strategy (ACMECS)

ACMECS is comprised of Lao PDR, Cambodia, Thailand, Vietnam and Myanmar and was established in 2003. In August 2003, the Foreign Ministers of each country agreed on an Economic Cooperation Strategy to increase trade and investment, enhance competitiveness, generate more employment and improve distribution of income and quality of life in the sub-region. In support of this strategy, the Economic Cooperation Strategy Plan of Action (ECSPA) was developed, consisting of a series of more detailed plans between each country. These plans include a number of areas relevant to international disaster assistance and communicable disease emergencies, including the facilitation of cross-border transit and simplified customs procedures, closer regional cooperation, and preventing the spread of infectious diseases.¹⁷

Additionally, in 2005 ACMECS adopted a declaration on Partnership in Combating Avian Influenza and Other Infectious Diseases,¹⁸ which contained commitments on “facilitating prompt and open exchange of information of infectious diseases among ACMECS countries and with concerned development partners and relevant international agencies” and “promoting increased collaboration between relevant institutions and agencies at all levels...through the establishment of joint investigation teams, exchange of experts and other measures, in conjunction with international bodies as appropriate”. The Declaration also called for the development and coordination of a “multi-agency contingency response plan for the eventuality of an outbreak of human-human avian influenza”. In 2006 ACMECS adopted an additional Immediate Action Plan for Preventing and Controlling Avian Influenza Pandemic.¹⁹

Mekong Basin Disease Surveillance

In 1999, Lao PDR, Cambodia, Vietnam, Myanmar, China and Thailand agreed to create the Mekong Basin Disease Surveillance (MBDS) as a method of cooperation for disease surveillance. The MBDS works to “strengthen national and regional capabilities in disease surveillance and response to outbreaks of priority diseases, in order that they can be effectively controlled.”²⁰

The MBDS aims to:

- Strengthen sustainable national capacity in disease surveillance, outbreak investigation and responses;
- Strengthen health manpower development in the field of epidemiology, and
- Establish a sub-regional surveillance network.

In 2007, the health ministries of the six countries concluded an extension of a previously existing Memorandum of Understanding (MOU) on MBDS Cooperation, which specifically committed to strengthen national and sub-regional capabilities in disease surveillance and outbreak response to public health emergencies, as stated in the IHR. This MOU is also supported by the MBDS Cooperation Action Plan 2008-2013, which provides further detail on specific measures to enhance capacities and information sharing and emphasizes the importance of consistency with the IHR.²¹

2.3 Bilateral instruments

Memorandum of Understanding on Health Development Cooperation, Cambodia and Laos (2006)

The Governments of Cambodia and Lao PDR have concluded two MOUs on Health Development Cooperation in June and October 2006. These agreements aim to “further strengthen and develop the friendship and cooperation in health for constant improvement of people’s healthy development of the two countries”. The earlier agreement promotes the exchange of information, research and knowledge on disease prevention and health policies, including legislative and health care systems. It also requires the strengthening of cooperation in disease prevention in common border areas, calls for joint supervision and control of communicable diseases such as malaria, tuberculosis, HIV/AIDS and cholera and

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commits the two parties to exchange timely information about any outbreak. The MOU also calls for the continuation of discussions about common quarantine activities based on the ‘WHO Guidelines for quarantine services’.

The latter MOU includes many of the same provisions but extends the list of communicable diseases to include “emerging infectious diseases such as SARS and avian influenza” and refers to the IHR as the basis for discussions on quarantine activities in common border areas. It also commits the Parties to “provide diagnosis and treatment to the people of both sides in considering them as its own people, who pass the common border” and to hospitalize them at designated hospitals in the border areas.





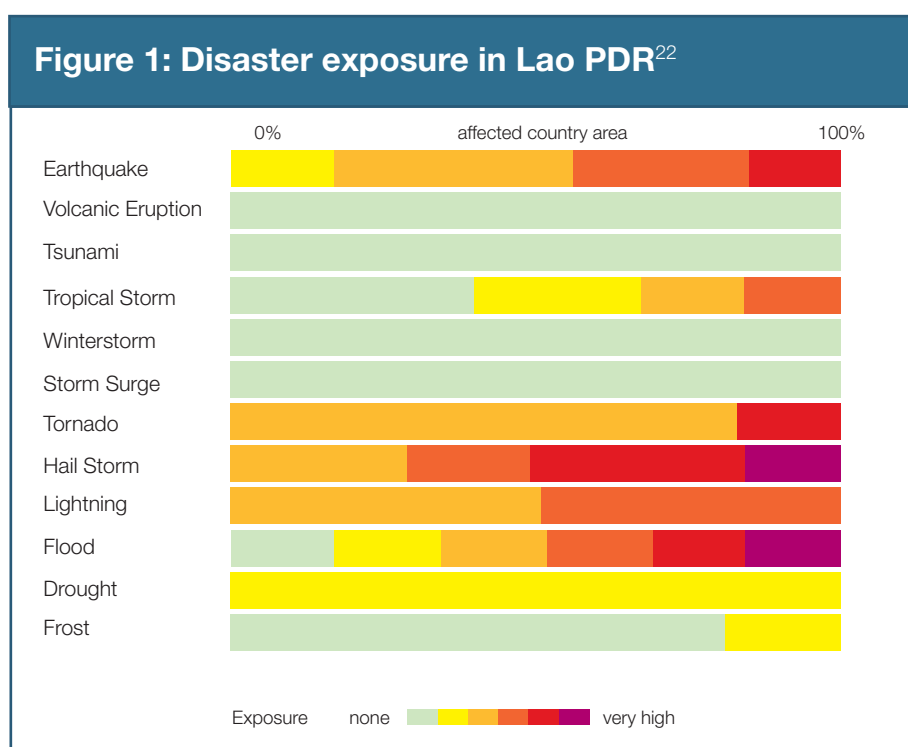
**Country context -
disaster and communicable disease
risks and the legal framework**

Chapter 3

Chapter 3

Country context - disaster and communicable disease risks and the legal framework

Many different disaster risk and vulnerability analyses for Lao PDR have been conducted by a number of high level actors. See for example, the Lao PDR disaster exposure chart made by the CIA and presented in Figure 1 below or the OCHA risk analysis presented in Figure 3 (see page 33).



The aim of this short analysis is not to repeat the work of these organizations but to summarize and understand the potential disaster and communicable disease risks in Lao PDR. As is discussed below, the disasters most likely to require international assistance are major floods in the Mekong corridor (potentially following a typhoon coming from the north-west Pacific), a major drought, an earthquake (likely to be localized in the northern part of the country), climatic events (flash floods, storms) related to a heavy typhoon season in the north-west Pacific and a communicable disease emergency.

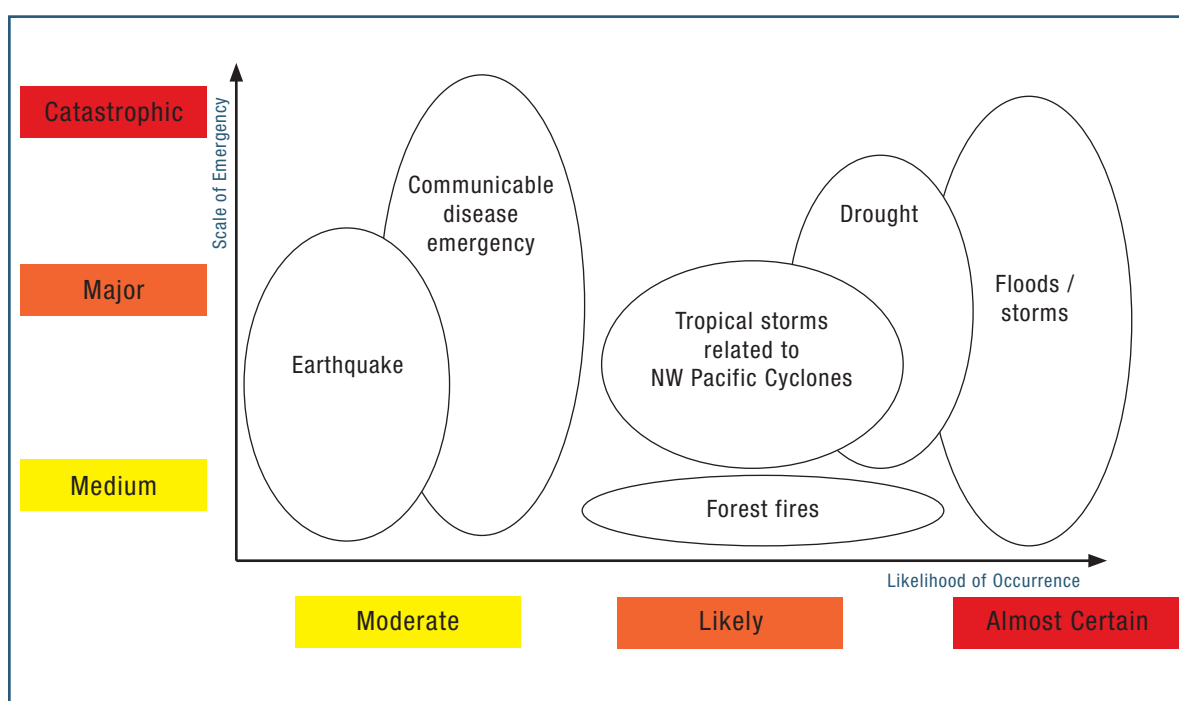
The chart opposite has been compiled based on historical data analysis and stakeholder interviews. This chart is a summary and does not aim to be holistic. Nevertheless, based on available data at the time of the study, it appears that the higher probability/impact ratios for disaster are:

- Major floods in the Mekong corridor;
- Major droughts across Laos; and,
- Communicable disease emergency (such as Pandemic Influenza, SARS).

This study will address all types of disasters and communicable disease emergencies; nevertheless, a particular focus will be directed towards the major disasters which may require medium to large-scale international assistance.

3.1 Disaster risks

Lao PDR is a landlocked country covering 236,800 square kilometres. The largely mountainous country is enclosed by the Mekong forming a large part of the western boundary, with the Annamite Chain at the east. More than 85%, or 202,400 km², of Lao PDR is part of the Mekong basin catchment area.²³ Laos has a population of 5.7 million²⁴ and is divided into 17 provinces, 147 districts and 11,387 villages. With about 74% of the population living on less than US\$2 per day,²⁵ Lao PDR is classified as one of the least developed countries in the world. Agriculture is the main livelihood for the majority the population, with 67% of all households relying on agriculture for their food consumption.²⁶ The reliance on agriculture means that Laos' population is particularly vulnerable to climatic events and natural disasters. It is estimated that 46% of the rural population in Laos may face food insecurity following a major drought and an even higher percentage is estimated to experience food insecurity as a result of floods.²⁷



In Laos, the mountainous eastern border of the country, although not densely populated, contains the highest incidences of poverty.²⁸ In the event of a natural disaster, this population is more vulnerable due to its economic situation. Nevertheless, in the Mekong corridor, poverty density is higher simply because population density is higher.²⁹ Flooding of the Mekong corridor is therefore more likely to affect a larger number of vulnerable people.

Today, the scientific community agrees that overall the climate is changing.³⁰ Many ecological systems are being affected by regional climate changes, particularly temperature increases. The scientific community also agrees that natural disasters may become more frequent and of greater magnitude.³¹ Currently, it is difficult to determine if climate change will result in an increase in droughts, floods, or a combination of both, in Laos. Regardless, managing the escalation of natural disasters will be a challenge for the Lao people and the government, especially acknowledging that the socio-economic impact of a disaster hampers development for an extended period of time and affects the livelihoods of communities.³² Being prepared will be essential to ensure a fast and efficient reaction. Natural disasters occur in a cyclical manner in Laos with floods and droughts being the most common. In the past century, the frequency of natural disasters has caused widespread suffering and hampered Laos' economic development.

The Strategic Plan On Disaster Risk Management in Lao PDR 2020, 2010 and Action Plan (2003-2005), discussed below, states that: “[t]he main disasters in Lao PDR are floods, droughts and man-made disaster[s] such as fires which include forest fire, house fire and other fires that have occurred in urban [settings] and [in the] countryside.”³³

This is confirmed by the OFDA/CRED International Disaster Database which compiled the following data on disasters in Laos:

Top 10 Natural Disasters in Lao PDR, period 1900 - 2009³⁴
 [Stored by number of total affected people]

Disaster	Date	Total Affected People
Drought	1977	3 500 000
Storm	Aug - 95	1 000 000
Drought	Dec - 88	730 000
Flood	Aug - 78	459 000
Flood	Aug - 01	453 000
Flood	Sept - 00	450 000
Flood	Aug - 96	420 000
Flood	Sept - 95	391 400
Flood	Sept - 91	332 000
Storm	July - 92	268 877

Floods

In August 2008 Laos was struck by what is considered to be one of the largest floods of the century.³⁵ The floods affected 204,189 people located in approximately 866 villages in 53 districts nationwide, and were a strong reminder of how difficult it can be to manage a major disaster in Laos.

Some 85% of Laos' territory is located in the Mekong river basin, which is subject to annual river floods and flash floods. Laos has experienced over 27 major floods over the past 35 years with an average recurrence every 1.5 years.³⁶ According to government records, between 1966 and 1999, floods cost the country approximately 104 million USD in damage. Floods affected over 4.3 million people in Laos in 2002 and over 4.5 million people in 2005.³⁷ As demonstrated in the table below, while floods directly affect a large portion of the population, the number of indirectly affected people is far greater. Floods occur mainly in the low lands of Laos where the main rice production of the country is located.³⁸ Many fear that in the aftermath of a flood, rice availability will decline, threatening the food security of a large portion of the population.³⁹ Laos' vulnerability to floods has also increased over the last few years as a result of illegal logging and deforestation.⁴⁰

Summary Table of Natural Disasters in Lao PDR from 1966 - 2007⁴¹

Floods	# of Events	Killed	Injured	Affected People
Cumulative	16	418	150	3,226,400

As previously described, the highest incidences of poverty are in the mountainous areas located along Mekong tributaries. Some donors only target populations living in the basins of the tributaries of the Mekong for food relief and populations living close to the Mekong



for agriculture recovery activities.⁴² This donor strategy leaves the highly vulnerable populations located further up the tributaries with little food relief or recovery assistance.

The Lao people are used to coping with floods, especially in the Mekong corridor. When the magnitude of a flood reaches a 'tipping point' whereby affected people, communities and local authorities cannot cope by themselves, international assistance is required. With the expected increase of the frequency and magnitude of climatic events leading to floods and drought, Lao communities are likely to face an increase of disasters which surpass their coping mechanisms.

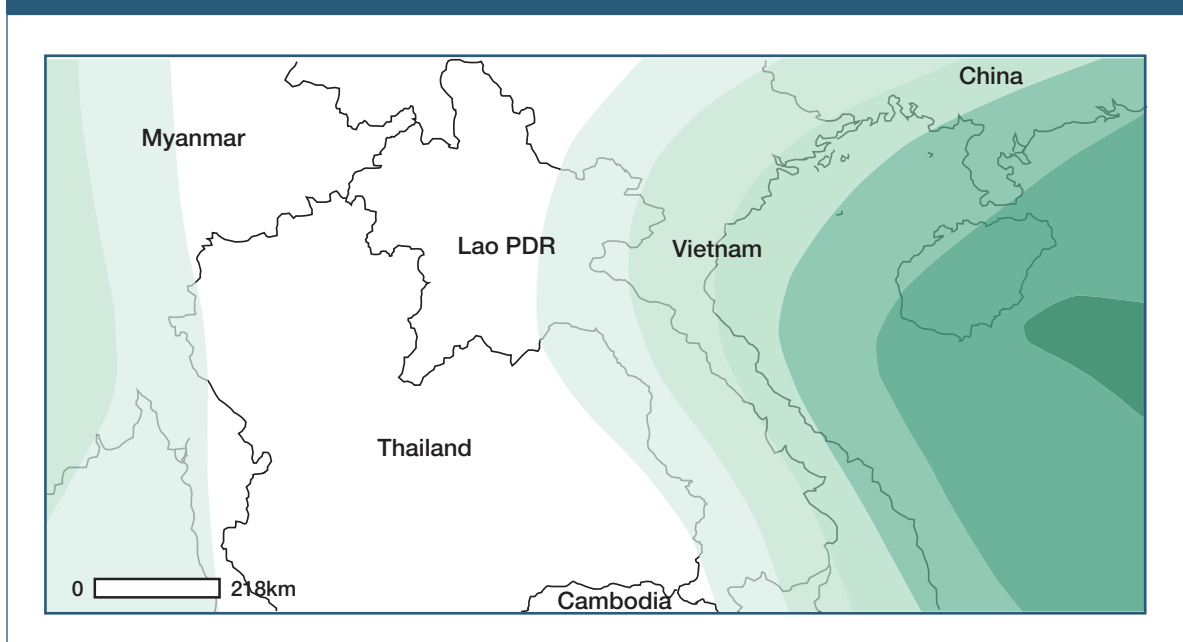
Tropical storms and typhoons

Laos is regularly hit by tropical storms and typhoons that travel from the north-west Pacific and pass over Vietnam and/or China (see Figure 2 below). The north-west Pacific typhoon season runs throughout the entire year, but the main cyclonic season tends to occur between July and November, with peak activity in late August and early September. Historical analysis shows that the impacts of tropical storms are great but highly localized. The main side-effects are landslides, flash floods, habitat destruction due to debris falling, and in rare cases, injuries and death. The impacts of tropical storms are generally within local coping capacities and rarely require international assistance. Nevertheless, a tropical storm combined with other factors such as a heavy rainy season and a late monsoon may trigger floods in the Mekong corridor. For example, the tropical storm Kammuri contributed to the 2008 flooding of the Mekong.

Droughts

The American Meteorological Society's Glossary of Meteorology defines drought as "a period of abnormally dry weather sufficiently prolonged for the lack of water to cause serious hydrologic imbalance in the affected area."⁴⁴ With the climate warming and the consequential change of monsoon patterns,⁴⁵ it is feared that droughts may become more frequent and last for longer periods. Over the past few decades, the Mekong River basin has experienced several droughts,⁴⁶ the most recent occurring in 2004-2005. Between 1966 and 1999, droughts caused over 59.7 million USD in damage, making it the second most serious natural disaster in terms of damage. In 1988 the estimated population affected by drought in Laos was around 730,000 with a cut in annual crop yields by about one-third,⁴⁷ mainly due to the restriction of rain-fed rice production.⁴⁸ In 1997, the number of people affected reached more than 3.5 million⁴⁹ and in 2005 it was over 1.6 million.⁵⁰ The vulnerability of people to droughts is further aggravated by composite factors such as population growth

Figure 2: Tropical cyclone hazard map⁴³



and migration, urbanization, land use changes, government policies, and water use patterns.

Summary Table of Natural Disasters in Lao PDR from 1966 - 2007⁵¹

<u>Drought</u>	<u># of Events</u>	<u>Killed</u>	<u>Injured</u>	<u>Homeless</u>	<u>Affected People</u>
Cumulative	5	0	0	0	4 250 000

It is difficult to predict where droughts may occur, but it is commonly agreed that droughts mainly affect the low lands in the south of Laos. A recent study states that 180,000 households are at risk of food insecurity because of drought⁵² and most are located in Khammouane, Savannakhet, Saravane, Champasak, Xayabury and Vientiane Provinces.⁵³

One of the main issues is recognizing drought as a disaster at the early stages of the event. Droughts have a slow onset that do not lead to immediate suffering or evidence of an emergency situation. The humanitarian community in Laos has therefore experienced difficulties responding to drought disasters in a timely manner.

Earthquake

On 16 May 2007, an earthquake of 6.1 (Mercalli scale) struck western Laos and northern Thailand. Tremors were felt as far as Yunnan in China, Hanoi in Vietnam and Bangkok, Thailand. This earthquake was a reminder that Lao PDR is located in an earthquake prone area (see Figure 3 opposite).

Although earthquakes are not a major concern there is still a high probability that a major earthquake, registering 7 to 8 on the modified Mercalli scale, may occur within the next 50 years. There are no recent studies on a potential impact of a major earthquake in Lao PDR although it is anticipated that Laos would be moderately impacted with a short to medium term recovery period. Almost 80% of the population live in houses made with wood and/or bamboo, which are known to be resilient to tremors and easily rebuilt.⁵⁵

3.2 Communicable disease risks

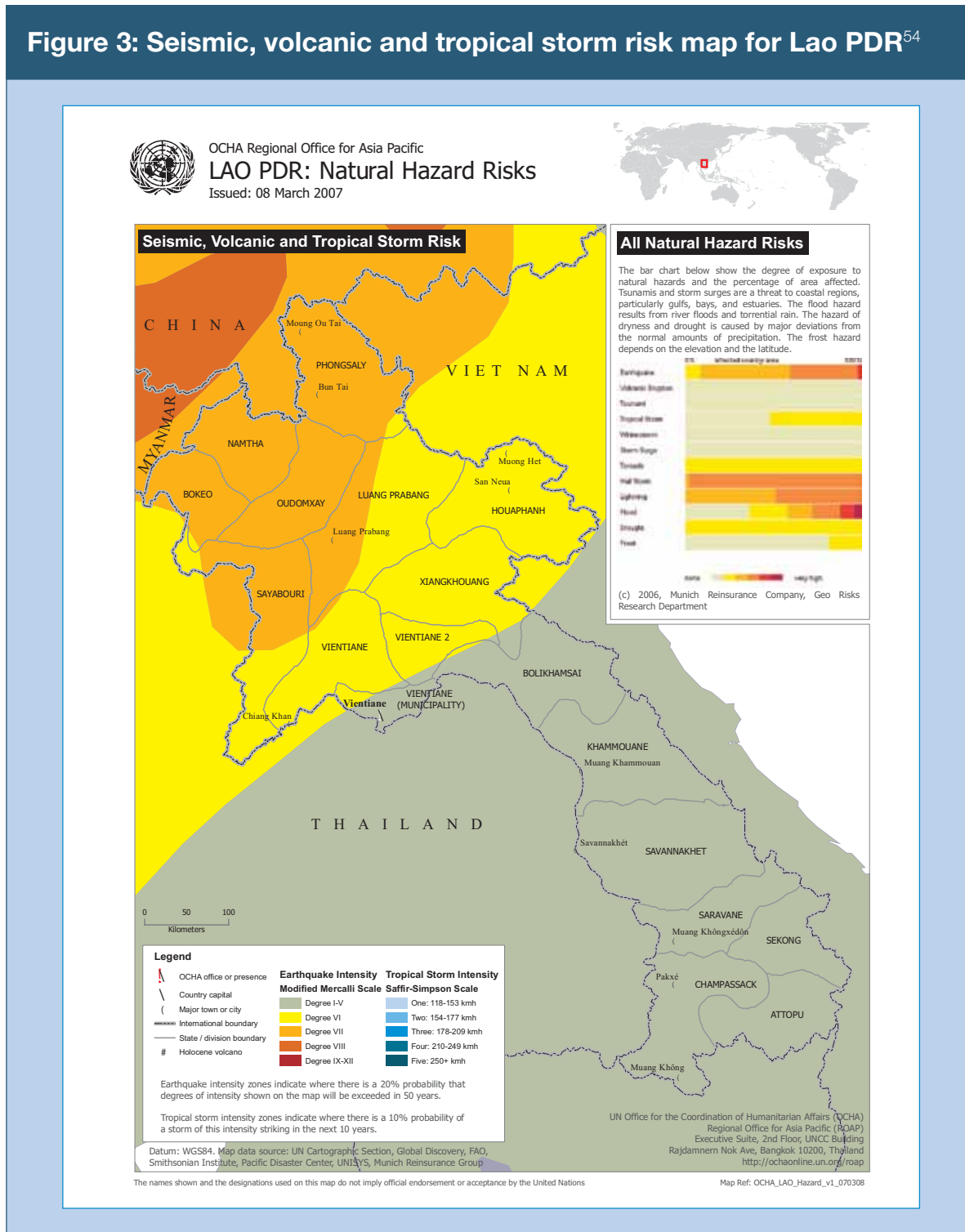
During the last century, Lao PDR experienced outbreaks of a large range of major communicable diseases such as HIV, tuberculosis, typhoid, cholera, malaria and influenza.⁵⁶ However, while communicable diseases have had a significant impact on health in Laos, a communicable disease outbreak has never required large-scale humanitarian assistance. A highly lethal and pathogenic strain of influenza virus is now endemic in several countries including Lao PDR and is currently spreading around the world among poultry. The circulating strain of Influenza A, known as A(H5N1), has successfully crossed the species barrier to infect humans. The humanitarian community is concerned that the H5N1 virus will develop the ability to spread effectively from person to person causing a new pandemic.⁵⁷ Lao PDR has experienced nine outbreaks of A(H5N1) in three waves since 2003,⁵⁸ resulting in two human casualties in 2007 in Vientiane Province.⁵⁹

The first wave resulted in 45 outbreaks with approximately 155,000 poultry deaths resulting from both the disease and culling.⁶¹ The first outbreak alone was estimated to cost approximately 4 million USD.⁶² Except for a few cases in wild birds, most of the confirmed outbreaks occurred in domestic poultry, including chickens, turkeys, geese and ducks. Subsistence farmers own 80% of the poultry in Laos while the remaining 20% of the poultry is commercially produced to serve urban populations.⁶³

Lao PDR borders several countries where human cases of avian influenza have been confirmed. The risk of avian influenza is considered to be nationwide. Avian influenza risks remain unpredictable and unstable. Although there have been no confirmed cases of human-to-human transmission, the possibility remains a threat. The potential for a mutant avian flu virus transmittable from human-to-human would trigger a pandemic. Therefore, WHO maintains a pandemic alert level 3 to ensure all those working in the field are aware of the potential for escalation. The avian influenza threat

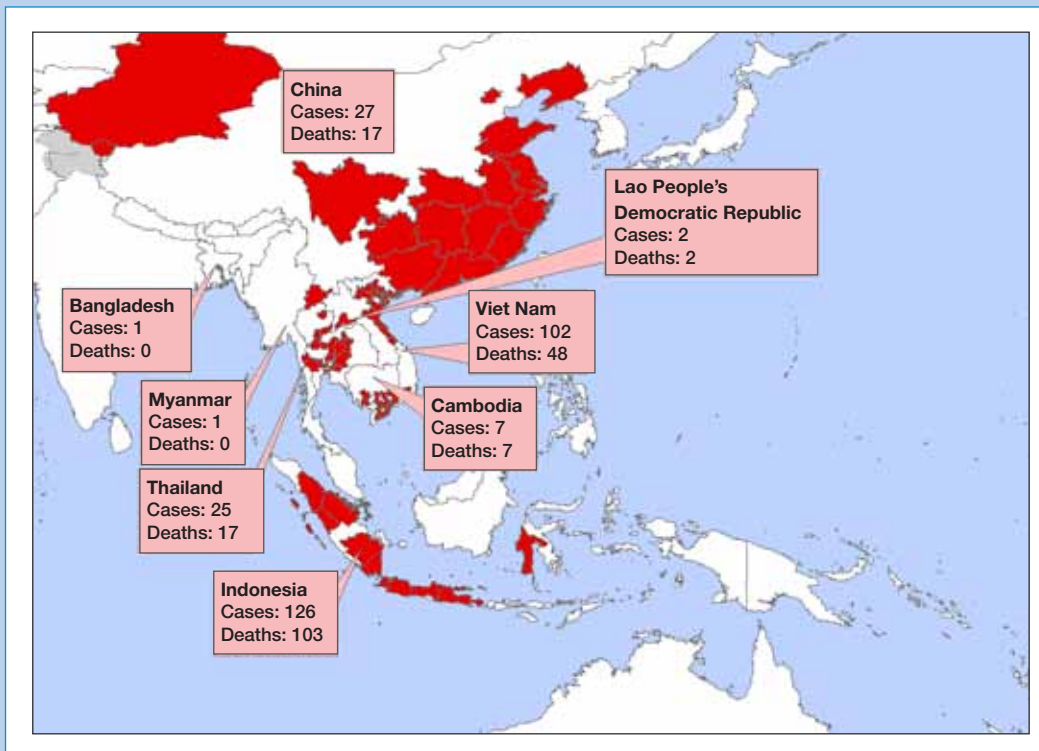
is on-going. Although many unanswered questions remain regarding the impact of the pandemic, many are certain that the effects will be significant, as demonstrated in a historical analysis of past pandemics.⁶⁴ The recent A(H1N1) influenza outbreak has shown how quickly a virus can develop and spread. At the date of the writing this report, there were 104,854 WHO-confirmed cases in 142 countries, with 465 deaths. Amongst Lao PDR's neighbours, there are currently 8 confirmed cases in Cambodia, 2343 in China, 1 case in Myanmar, 2076 in Thailand and 248 in Vietnam.⁶⁵ Laos' twenty-second case of H1N1 was confirmed at the beginning of July 2009 by the National Centre for Laboratory

Figure 3: Seismic, volcanic and tropical storm risk map for Lao PDR⁵⁴



and Epidemiology (NCLE). According to the WHO country office, it is anticipated there will be further cases in Lao PDR in the coming weeks and months. On 11 June 2009, WHO raised the level of influenza AH1N1 pandemic alert to phase 6, as sustained community-level transmission of the virus is taking place in more than one region of the world. The term pandemic means that an influenza virus that is new to human beings is spreading and is causing disease in many parts of the world.⁶⁶ SARS is also considered as a potential pandemic disease in Lao PDR. Although Laos was not affected by the 2003 SARS epidemic, the country should still be prepared for the potential of a SARS outbreak.

Figure 4: Affected areas with confirmed cases of H5N1⁶⁰





Overview of national laws and policies for disaster management and communicable disease control

Chapter 4

Overview of national laws and policies for disaster management and communicable disease control

4.1 Government and legislative structure⁶⁷

Lao PDR is a single party socialist republic comprised of 16 provinces and the Vientiane prefecture. The head of state is the President who is also the leader of the Lao People's Revolutionary Party. There is a Council of Ministers, which includes the Prime Minister as the head of the government. The legislative branch is comprised of a 115 seat National Assembly.

Laos adopted a Constitution in 1991, which was amended in 2003. All new laws must be approved by the National Assembly. However, the executive branch retains authority to issue binding decrees at its will. Although Laos has enacted a number of new laws in the past decade, it is still primarily governed through decrees.

Only since 1986 have laws have become an integral part of the Lao legal system. From the proclamation of Lao PDR in 1975 until 1985, the state was primarily administered by resolutions, executive orders and decrees of the Party.⁶⁸ In 1993, the Prime Minister issued a decree to clarify the hierarchy of legal instruments in Lao PDR, which was later supplemented by an Ordinance of the President in 2003. Both instruments strive to ensure conformity by all the bodies permitted to draft laws and decrees.⁶⁹

Constitution: The Constitution is the Supreme law of the country. The Constitution represents the Party's policy and the will of all citizens. The Constitution is a document which determines the nation's political, economic and social systems; the fundamental rights and duties of citizens; and the organizations and authority of State authorities.⁷⁰

Law: Laws are normative acts that rule the rights, duties and relationships between private and corporate bodies in society. According to Article 40, section 2 of the Constitution, only the National Assembly has the authority to examine, approve of and amend laws.⁷¹

Ordinances: Ordinances are promulgated by the President of the Republic based on the recommendation of the Standing Committee of the National Assembly, in accordance with Article 53 of the Constitution.⁷² An ordinance determines the "principles, policies, regulations, provisions and measures below the laws."⁷³

Decrees of the President of the Republic: Presidential Decrees are binding provisions such as promulgation of the Constitution, laws and nominations, promotions and the granting of distinctions. Nominations, demotions and removal of duties from generals of the armed forces and security forces as well as those of the heads of the provinces and the Governors are also promulgated by these decrees. Presidential Decrees are issued by the President of the Republic upon proposal from the Prime Minister, the Government or other parties concerned in accordance with the Constitution.⁷⁴

Government Decision: Government Decisions are made by the Government in order to solve an urgent matter or to address an issue when such issue has not been yet resolved by the law. The Prime Minister may only sign these decisions once the Council of Ministries have examined them and adopted them.⁷⁵ There must be a vote of the majority of the members of the Government present at the meeting.⁷⁶

Decrees of the Government and Prime Minister: Decrees of the Government and Prime Minister determine the "principles, regulations, policies and measures in order to regulate the society in any domain."⁷⁷ These decrees are divided into two categories: general binding decrees and specific binding decrees. General binding decrees are issued by the Government or the Prime Minister in order to manage the state, economy or society.⁷⁸ General binding decrees include regulating and governing the ministries and general agencies, determining the scope of the duties of important bodies, and promulgating regulations. Specific binding decrees are issued by the Prime Minister for 'administrative servicing' which

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includes nominations, demotions and the removal of duties from public servants.⁷⁹

Decisions: Decisions are general binding provisions that detail and implement legal acts of high-level authorities. Decisions are issued “by the Heads of State organizations concerned within their competencies.”⁸⁰

Orders: Orders are general binding provisions issued from higher level authorities to lower level authorities with recommendations, required tasks to be performed, or an outline of issues concerning the execution of their tasks or specific binding provisions for ‘administrative servicing’. If it is an Order from the Prime Minister, it must expressly state so.⁸¹

Instructions: Instructions are issued for organizing and implementing laws, regulations or plans by outlining “comprehensibility, methods, steps, vehicle and equipment use and terms of the implementation and coordination.”⁸²

Notices: Notices are issued by all levels of state organizations to notify the parties concerned or provide notice and practical advice and to outline tasks to be performed.⁸³

Regulations: Regulations are issued by villages either for general binding provisions implementing orders, instructions and notices or specific binding provisions for ‘administrative servicing’.⁸⁴

The following is a list of instruments that the various components of government are permitted to draft:⁸⁵

President of the Republic	Ordinance, Decree
Government	Law (by the National Assembly), Decision, Decree
Prime Minister	Decree, Decision, Order, Instruction
Minister, Head of Ministry-equivalent organization, Head of Organization Relevant to the Government, Director of the Cabinet, Director General, President of the Supreme People’s Court, Prosecutor General, Governor of the Province, Governor of the City, Head of Special Zones, Head of District, Head of Municipality	Decision, Order, Instruction, Notice
Village (Chief)	Regulation



4.2 Legal and policy framework for disaster management

Definition of disaster

The only legal definition of a disaster is contained in Article 17 of the Environmental Protection Law, which defines disaster as:

*phenomena or events caused by nature or humans that affect health, life and property of people and environment. Disasters include floods, droughts, fires, landslides and erosion, insect infestations, epidemics, earthquakes, oil spills or others.*⁸⁶

This definition encompasses a broad range of disasters, which interestingly includes both natural disasters and epidemics. However, its presence within the Environmental Protection Law is limiting as the causes of disaster are not confined solely to the environment.

Subsequent Decrees and Decisions which have been developed specifically for disaster management do not refer to this definition in the Environmental Protection Law either.⁸⁷ The Strategic Plan on Disaster Risk Management goes some way to providing more detail on the meaning of disaster, stating that Laos is “faced mainly with natural disasters such as flood, drought and landslide, also, man-made disaster [such] as fires, includ[ing] forest, village, community and urban fire.”⁸⁸ A Decision by the Minister of Agriculture and Forestry (MAF) establishing a Flood and Drought Committee also refers to “flood, drought, communicable disease, landslide, etc” as being natural disasters.⁸⁹

Similarly, for communicable diseases emergencies, Decree No. 337/PM on the establishment of National Committee on Communicable Disease Control (NCCDC) only refers to “all kinds of communicable diseases” and does not refer to what would be considered as an emergency, or an “epidemic”, as contained in the disaster definition in the Environmental Protection Law.⁹⁰

There is an argument that the current definition of disaster within the Environmental Protection Law is too broad. Under this definition of disaster, many minor events, such as a minor house fire, could potentially be classified as a disaster. This definition does not specify whether a disaster has to affect health, life, property of people, livelihood of communities and environment, or just one of these criteria. By defining a disaster as any event caused by nature or humans, it also raises the question as to whether armed conflict would be classified as a disaster.

Another notable aspect of the current definition is the inclusion of infestations. A recent rodent infestation in the north of the country demonstrated that the Lao people are generally not aware that an infestation is currently classified as a disaster.⁹¹ It was not until approximately one year after the rodent infestation had begun, and a field assessment of the World Food Programme had been undertaken, that it was reported to disaster management authorities at the national level.⁹² This experience suggests a need for further awareness on the classification of disasters.

The need for further clarity in the definition of disaster is also demonstrated by comparing it with the definitions of disaster used in international instruments. The IDRL guidelines define “disaster” as:

a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict⁹³

The IDRL Guidelines definition uses the terms ‘serious’ and ‘widespread threat’ to indicate that a disruption needs to be on a large scale in order to be classified as a disaster, and explicitly excludes armed conflict as being a cause of a disaster.

The AADMER definition of disaster contains similar elements but it does not expressly exclude armed conflict, with the disaster being “a serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses.”⁹⁴ As a signatory of AADMER, it would be logical for the Government of Lao PDR

to adopt this definition of disaster in law,⁹⁵ but it may also want to consider explicitly excluding armed conflict which is governed by an entirely different set of legal instruments. Adopting a new and more precise definition of disaster would not only contribute to the implementation of the AADMER, but would assist in the identification and subsequent response to a disaster.

Key legal instruments for disaster management

In the aftermath of severe flooding in 1995 and 1996, disaster risk reduction was recognized as a key component in the development of Lao PDR.

In April 1999, the new Environmental Protection Law established a National Disaster Prevention Committee (NDPC) to be responsible for coordinating with local administrations for monitoring, preventing and responding to natural disasters.⁹⁶ As will be discussed below however, the NDPC is not currently operating as the national disaster management institution.

Later that same year, in August 1999, the Prime Minister issued Decree No. 158 on the Establishment of a National Disaster Management Committee (NDMC).⁹⁷ This decree appointed members from 11 different ministries and the LRC, as discussed in more detail below, and created a technical office and secretariat. In June 2000, the MLSW issued Decision No. 097, in its (then) capacity as Chair of the NDMC, detailing the mandate of the secretariat, the NDMO and outlining the roles and responsibilities of the individual NDMC members.⁹⁸ The NDMO and NDMC are currently the central agencies mandated to address disaster management and effectively (although not legally) replace the NDPC established under the Environmental Protection Law.

In April 2003, the MLSW issued a Decision on the Strategic Plan on Disaster Risk Management in Lao PDR 2020, 2010 and Action Plan (2003-2005) (“the Strategic Plan”).⁹⁹ The Strategic Plan recognizes the need for the Lao Government to take measures in prevention and preparedness for disasters given the devastating effect they have had on both the Lao people and economy in the past. The Strategic Plan responds to a range of disasters including unexploded ordinance (UXO) from 20th century wars as well as infestations and diseases. The Strategic Plan seeks to build upon Decree 158/PM by furthering the development of disaster management institutions from the central to the village level, improving codes and regulations on disaster management, and developing early warning systems. The primary goals of the Strategic Plan are summarized as follows:

- Aims of the strategic plan for 2020
 - To provide timely assistance to the victims of disaster to ensure enhanced rehabilitation prospects.
 - To strengthen the legal system in responding to disaster management and prevention of disaster impact to individuals, community, society and the country’s economy.
- Aims of the strategic plan for 2010
 - To establish District Disaster Management Committees in all districts.
 - To develop early warning systems in disaster-prone villages.
 - To develop training on community-based preparedness and management at local levels.

Some indicators for a comprehensive Disaster Management framework:

- *A clearly defined institutional architecture for disaster risk reduction including preparedness is in place and has the commitment of stakeholders at all levels.*
- *An approved legislative framework that accurately reflects institutional arrangements, and the relevant policies, protocols, procedures and funding mechanisms is in place.*
- *Mechanisms for compliance and enforcement of laws, regulations and codes, including penalties for noncompliance are in place.*
- *Information on the legislative framework is widely disseminated and the Government actively trains staff and other stakeholders on its content and application.*

ISDR/UNOCHA HFA Priority Five Guidance and Indicator Package (2008)

- Aims of the strategic plan for 2005
 - To establish DDMCs in 80% of all districts.
 - To nominate disaster management focal points at school, colleges, military divisions and factories.
 - To develop disaster management regulations and codes.
 - To enhance and establish information dissemination systems.¹⁰⁰

Relevant actors in disaster management have already identified the need for a more detailed plan with clearly achievable goals. NDMO, in collaboration with UNDP, is currently working on a comprehensive National Disaster Management Plan with an aim that the first draft will be prepared by September 2009, and the final draft ready in 2010. According to the NDMO, the National Disaster Management Plan will seek to:

- Implement the Strategic Plan.
- Further the Hyogo Framework objectives.
- Implement the AADMER.¹⁰¹

These objectives demonstrate the Lao Government's acknowledgement of international standards and its desire to meet its international obligations. A government task force has recently been set up to develop the National Disaster Management Plan. At this stage it consists of representatives of thirteen different governmental bodies.¹⁰² The completion of this plan will be a significant step for Laos towards complying with its obligations under the AADMER.

4.3 Legal and policy framework for communicable disease emergencies

Communicable disease emergencies are governed by an entirely separate legal and policy framework to disaster management. Initially, the Law on Hygiene, Disease Prevention and Health Promotion (2001) was the only law which addressed communicable diseases, and it was directed more towards prevention than emergency response.¹⁰³ However, the SARS crisis in 2003 and the repeated outbreaks of Avian Influenza from 2004 demonstrated the need for more attention to be paid to communicable diseases as a potential emergency. This led to the establishment of a National Coordination Committee on Communicable Diseases (NCCDC) by Decree No. 17 of the Prime Minister in early 2004.

The Secretariat of the Committee consisted of 14 ministries and a Communicable Disease Taskforce (made up of technical staff from the MoH and the MAF).¹⁰⁴ As a result of its commitments made during the 10th ASEAN Summit in 2004¹⁰⁵ and the ACMECS Summit Declaration in 2005,¹⁰⁶ the Prime Minister issued a decree establishing the NCCDC in December 2005.¹⁰⁷ As noted above, this Decree only refers to "all kinds of communicable diseases" and does not refer to what would be considered as an emergency, or an "epidemic", as contained in the disaster definition in the Environmental Protection Law.¹⁰⁸

The new decree also altered the composition of the previous committee and increased its authority. The NCCDC now comprises the Prime Minister as the Chairman, 18 members from 16 ministries¹⁰⁹ and 5 additional governmental bodies.¹¹⁰ The NCCDC also has a secretariat¹¹¹ which consists of a smaller number of the NCCDC membership.

The NCCDC is responsible for managing communicable disease prevention and emergency response and ensuring compliance with all national decisions and international commitments.¹¹² It has the authority to issue instructions and to make decisions on resources such as funds and coordination and authorization for work with international organizations.¹¹³

In 2006, the National Avian and Human Influenza Coordination Office (NAHICO) was created specifically for the control and prevention of Avian Influenza, through the assistance of a range of international organizations (IOs) and international non-



governmental organizations (INGOs). While NAHICO (now NEIDCO as discussed further below) is a coordinating body, the National Centre for Laboratory and Epidemiology (NCLE) is responsible for surveillance, investigation and laboratory diagnosis of communicable diseases and has also been designated as the IHR national focal point.

In January 2006, the Lao Government issued the National Avian Influenza Control and Pandemic Preparedness Plan 2006-2010 (NAICPPP). The NAICPPP was developed with assistance from a UN inter-agency team¹¹⁴ and aims to strengthen prevention and response to potential Avian Influenza outbreaks in both animals and humans.¹¹⁵ The plan is based on five strategies¹¹⁶:

- Strategy 1: Development of disease free Avian Influenza management.
- Strategy 2: Disease surveillance and response in humans during outbreaks.
- Strategy 3: Laboratory and curative care.
- Strategy 4: Health education and community action.
- Strategy 5: Strengthening the institutional and legal framework.

In addition to the NAICPPP, a detailed National Pandemic Influenza Response Plan for the Health Sector (the Response Plan) was prepared in December 2007. The Response Plan is specifically directed to the health sector's response to a WHO declaration of a phase 6 pandemic, thus it is intended to be used in conjunction with a broader disaster management plan addressing the non-health sector response to a communicable disease emergency.¹¹⁷ The Response Plan focuses primarily on responses at the district and provincial level, as it is recognized that many of the immediate response activities will be undertaken at these levels.¹¹⁸ The components of the Response Plan are divided into the following areas:

1. Coordination and decision-making.
2. Surveillance and reporting.
3. Public health measures.
4. Essential health services.
5. Communications.

The Response Plan delegates responsibilities to different entities under these areas for three different scenarios:

1. When a pandemic influenza virus has been identified in a neighbouring country and there are no cases in Laos;
2. When the virus is localized to one Lao province; and,
3. When the virus is widespread across Laos.

Responsibilities are divided mainly between NCCDC, NEIDCO, NCLE and provincial level authorities, and significant detail is provided on lines of communication between these entities. Any future disaster management plan would therefore ideally refer to this Response Plan when determining a non-health sector response to a communicable disease emergency. According to most stakeholders, Lao PDR is better prepared for communicable disease outbreaks than it was previously, especially during the SARS outbreak. The coordination mechanisms and information sharing systems are more structured and organized and chains of communication are identifiable. However, paradoxically, the procedures and relationships are not sufficiently defined in legal instruments.

4.4 Overall analysis and recommendations

Rule of law in Laos

In reviewing the Lao legal framework it is important to consider that the rule of law only became a priority for the Lao Government from 1986. Prior to this time, Lao PDR had a centralized command economy regulated by resolutions and orders of the Party and local administrative authorities.¹¹⁹ As the Lao Constitution was only adopted by the National Assembly in 1991, and the revised Constitution approved in 2003, the legal system is still evolving. The UNDP Evaluation of the Implementation of the Rule of Law in Lao PDR 1997-2003 noted that the laws are generally broad and superficial, often containing gaps or inconsistencies.¹²⁰ One of the primary issues recognized by the UNDP study was the lack of precision and consistency in the language used within the law.¹²¹ More recently, a draft Master Plan on

the Development of Rule of Law for Lao PDR Toward the Year 2020 (“the Draft Legal Sector Master Plan”) has been prepared containing an evaluation of the Lao legal system and objectives and goals for its development.¹²² The Draft Legal Sector Master Plan is currently awaiting approval from the Government and the National Assembly.

To date, 65 laws have been passed by the National Assembly.¹²³ The Ordinance of the President on Legal Act Drafting, referred to above, assisted in clarifying the processes for drafting laws and regulations, and there have been significant improvements in the quality and scope of the laws adopted by the National Assembly in the last few years. According to the Draft Legal Sector Master Plan, the drafting of laws is now regulated by clear legislative drafting procedures and, “the legal development process has been coordinated, consulted and opened for people participation”.¹²⁴ Nevertheless, laws remain very broad, there is little cross-referencing between laws, and ambiguities and inconsistencies are still common. The Draft Legal Sector Master Plan recognizes that as the creation of laws has often been a rushed process, there are provisions of the law which are inconsistent with others, and laws have not always been created by following pre-determined procedures and plans.¹²⁵

The implementation of international treaties within the domestic legal system of Lao PDR also needs to be addressed. One of the current weaknesses recognized by the Draft Legal Sector Master Plan is that there is no determined method for the integration of international treaties within the laws of Lao PDR. The status of international treaties ratified by Lao PDR is therefore still not clear.¹²⁶ However, there are indications that the Government of Lao PDR is considering drafting edicts/ordinances which specifically implement international treaties.¹²⁷

Dissemination of laws also remains a major issue. Despite the accessibility of laws, it has been recognized that efforts in dissemination have not been effective enough to ensure that people from all parts of society have an understanding of the effect of laws and their obligations under the law.¹²⁸ Even if there are laws governing a certain area, they are often viewed more as guidelines than enforceable legal instruments. Most of the detail for enforcing a law is contained within implementing decrees of the Prime Minister, Ministerial Decisions or Orders, and Regulations and Guidelines of Ministries, which are not always easily accessible or understood as a legal reference.

The lack of effective dissemination of laws is an issue which must be considered as a background to the analysis and recommendations contained within this report. One of the largest obstacles in undertaking this study was accessing the relevant legal instruments for a particular subject area. This report does not purport to be exhaustive in its reference to the legal framework for natural disasters of communicable diseases. It is likely that there are legal references which were not obtained, and were thus not considered in the analysis of the legal framework.

Gaps in the legal framework

It is evident that the legal framework for natural disasters and communicable disease emergencies developed entirely independently, although the responses to each may require a similar legal framework. The legal instruments pertaining to both areas currently consist of a broad range of laws, decrees, decisions, orders, regulations, policies and guidelines which do not necessarily refer to each other. As an overall impression, the legal framework:

- Needs a comprehensive definition of disaster, which should include communicable disease emergencies;
- Is reliant upon ad hoc government responses rather than laws or decrees, which remain dispersed;
- Does not expressly provide legal facilities for international or civil society organizations assisting in an emergency situation.

Overarching recommendations

The recommendations in this report focus on the legal arrangements for the facilitation and regulation of international assistance in the event of a (non-conflict) disaster, including communicable disease emergencies. It does not address other issues relevant to disaster management – however additional legal provisions should be developed to cover the full disaster management cycle (prevention, risk reduction, preparedness, response and recovery).

- The overarching recommendation of this report is to develop a Presidential Ordinance on disaster management, which should include communicable disease emergencies. This instrument may later progress

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to become a law.

- The Presidential Ordinance should establish a comprehensive overall legal framework and identify principles for the management of disasters, the definition of which should include communicable disease emergencies. It should ensure that relevant ministries/agencies have the necessary legal authority to carry out their mandates to enable adequate resource allocation and to establish enforcement mechanisms. The Presidential Ordinance should also establish a basic framework for the facilitation and regulation of international assistance when necessary.
- The Presidential Ordinance should be supplemented where necessary by a number of implementing decrees/decisions/orders/regulations which provide further detail on specific aspects which may require more frequent amendment. Some recommendations for aspects concerning the facilitation and regulation of international assistance are included in this report.

Recommendations on the definition of disaster

The new Presidential Ordinance should include a clear definition of disaster containing the following elements:

- A multi-hazard approach, which is not limited to any particular events.
- Such events should include natural and man-made events, but exclude armed conflict.
- Such events could be sudden onset (such as flash-floods or earthquake) or slow onset (such as rodent infestations and drought).
- Such events could include those with a low magnitude, but when combined with a high recurrence may create a serious disruption to society (such as seasonal floods and storms, pest infestations).
- Such events should also include communicable disease-related events affecting animals and/or humans which have a wider non-health sector impact (such as AH5N1 or AH1N1 outbreaks).
- Involves a serious disruption of the functioning of society causing widespread threat to human life, health, property or the environment.

Some examples of internationally agreed definitions of disaster which could be used in the Lao context include:

IDRL Guidelines article 2.1:

“Disaster” means a serious disruption of the functioning of society which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict.

AADMER article 1.3:

“Disaster” means a serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses. (However, this should be clarified to exclude situations of armed conflict).

Recommendations for amendments to the Environmental Protection Law:

The Environmental Protection Law should be amended:

- To update the definition on disaster in accordance with the definition contained in the new Presidential Ordinance on Disaster Management.
- To acknowledge and cross-reference the new Presidential Ordinance on Disaster Management and update all relevant provisions pertaining to roles and responsibilities of national and provincial coordinating bodies, in particular by removing references to the National Disaster Prevention Committee.

Chapter 5



Institutional arrangements

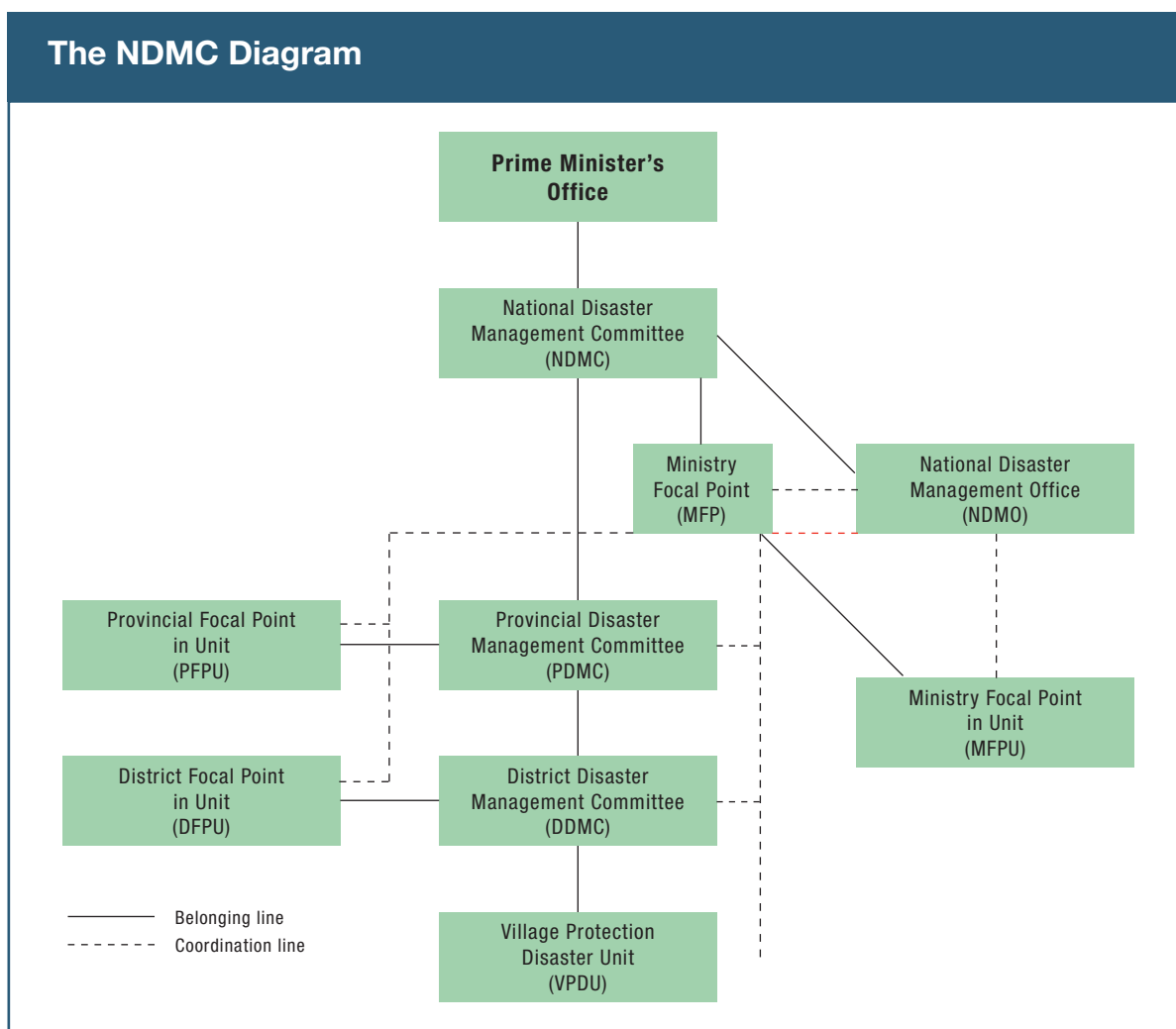
Chapter 5

Institutional arrangements

5.1 Institutional arrangements for disaster management

Government structures

As described above, there is a collection of decrees which together establish the NDMC and its secretariat the NDMO. The following diagram shows the overall framework of disaster management coordination:¹²⁹



The National Disaster Management Committee

The 1999 Prime Ministerial Decree N°158 on the National Disaster Management Committee identifies the role and purpose of NDMC as follows:¹³⁰

1. Responsible for disaster preparedness and management as a centre of coordination in national disaster management.
2. Study and plan policies on disaster management then process to Lao Government.
3. Research and collect data and statistic on disaster victims and make requests for assistance.

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4. Mobilization from individuals, organizations, internal and external in kinds and money for disaster management
5. Public awareness about disaster in order to prevent disaster hazards and incidence that may occur. Consider to put disaster management, environment and natural conservation into school curriculums.
6. Direct relief operation, disaster preparedness, response and rehabilitation by using government budget and the contribution of concerned agencies, international organizations and non-governmental organizations. Regularly report to the Government.
7. Coordinate and enhance provincial governors to establish provincial and district disaster management committee. Improve capacity of this matter.

From this description of responsibilities, the NDMC is vested with significant authority to coordinate and control all preparedness and relief operations. The same decree also names the following as members of NDMC:

1. Minister of Labour and Social Welfare	President
2. Vice-Minister of Agriculture and Forestry	Vice-President
3. Chief of Cabinet, Ministry of Foreign Affairs	Vice-President
4. Chief of Cabinet, Ministry of National Defense	Member
5. Chief of Cabinet, Ministry of Interior	Member
6. Director of Budget Department, Ministry of Finance	Member
7. Director of Transport Department, Ministry of Communication, Transport, Post and Construction	Member
8. Director of Industry Department, Ministry of Industry and Handicrafts	Member
9. Director of Hygiene Department, Ministry of Health	Member
10. Director of Mass Media Department, Ministry of Information and Culture	Member
11. Chief of Cabinet, Ministry of Education	Member
12. President of Lao Red Cross	Member
13. Director of Social Welfare Department, MLSW	Member

Since 1999 the NDMC has now been extended to 19 members, with the addition of the following:¹³¹

- Water Resources and Environment Agency (WREA)¹³² – Director (also a Minister within the Prime Minister’s Office [PMO])
- Ministry of Mining and Energy – Chief of Cabinet
- Ministry of Planning and Investment – Chief of Cabinet
- Women’s Union – President
- Youth Union – President
- Director of NDMO

Additionally, the Minister of National Defence, who is also the Deputy Prime Minister, became the President of NDMC in September 2008, replacing the Minister of Labour and Social Welfare. As the Vice-Prime Minister now chairs the NDMC, it is considered more appropriate to have higher-ranking representatives from the other Ministries as members.

Institutional arrangements in national legislation

Disaster legislation should:

- Specify the role of key ministries.
- Specify the role of national and international organisations.
- Specify the role of civil society actors.
- Clearly establish decentralized mechanisms.
- Encourage community participation.

See ISDR/UNOCHA HFA Priority Five Guidance and Indicator Package (2008), Indicator 1.2

Other changes have also occurred to the composition of the NDMC. In November 2007, the Ministry of Communications, Transport, Post and Construction (MCTPC) changed its name to the Ministry of Public Works and Transport (MPWT), and the National Authority for Post and Telecommunications (NAPT) was established as an independent body. To reflect this change, representatives of both the MPWT and NAPT should now be members of NDMC and the Head of NDMO (currently the Director of the Social Welfare Department) is also planned to change in due course.

No legal document currently reflects the above changes – they have primarily occurred through internal communications from the PMO. However, a draft decree listing the updated members, as well as the role and responsibilities of the NDMC, is now awaiting finalization.¹³³ Further clarification of the responsibilities assigned to NDMC Committee Members is described in Decision No. 097/MLSW of 30 June 2000, which was issued by the Chair of the NDMC as follows:

Ministry	Main Responsibilities
Ministry of Labour and Social Welfare (MLSW - as the Chair)	<ul style="list-style-type: none"> Organizing disaster prevention and mitigation. Overall responsibility for preparedness and reporting on forthcoming disaster situation to the Government. Calling regular annual meetings and ad-hoc meetings in case of emergency as needed.
Ministry of Agriculture & Forestry (MAF)	<ul style="list-style-type: none"> Early warning on hydrological and meteorological data countrywide. Relief to victims during post-disaster period and relief of seeds, animals and poultry.
Ministry of Foreign Affairs (MoFA)	<ul style="list-style-type: none"> In case of declaration of National Calamity or devastating big disaster, upon permission by the Government, appeal and coordinate for receiving international assistance and aid.
Ministry of National Defence (MND)	<ul style="list-style-type: none"> Use of military forces and assets for joint search, rescue and evacuation of victims if needed: responsible for National Search and Rescue Team (NASRET). Specialized DM training and organizing joint simulation exercises of military and civilians.
Ministry of Public Security (MPS)	<ul style="list-style-type: none"> Responsible for National Search and Rescue Team (NASRET). Responsible for DM training and organizing simulation exercise joining by police officers and civilians. Responsible for joint emergency operation in disaster situation and mitigation in post disaster period.
Ministry of Finance (MoF)	<ul style="list-style-type: none"> Reserve and delivery of government funds in disaster situation upon endorsement by NDMC. On behalf of NDMC, propose Government fund for short, medium and long-term mitigation and recovery activities
Ministry of Public Works and Transport (MPWT)	<ul style="list-style-type: none"> Mobilization of transport and road networks in the event of a disaster. Transmission by post and telecommunication networks of early warning emergency news and information in case of imminent forthcoming disaster¹³⁴
Ministry of Health (MoH)	<ul style="list-style-type: none"> Direct involvement of medical teams in emergency operation: first aid, health care, and issues ‘Death Certificates’ for victims. Stockpiling of some medical equipment and medicines for emergency. Hygiene activity and control of disaster born diseases and organization of specialized training for medical teams working in emergency and in post disaster.
Ministry of Information and Culture (MIC)	<ul style="list-style-type: none"> Manage timely broadcasting of early warning information, emergency operation and mitigation through media means. Promote development of media DM public awareness and education.
Ministry of Education (MoE)	<ul style="list-style-type: none"> Integrate DM concepts into education programs in schools, organize DM training on safe living with hazards and environment for teachers and students. Organize evacuation of students and population when disaster strikes, and temporary use of educational buildings as shelter for victims.
Lao Red Cross Society	<ul style="list-style-type: none"> Rapid assessment and production of disaster information. Joint emergency operation on rescue, relief for disaster victims. Joint mobilizing relief resources from partners. DM training, organizing drills and exercises for target public and LRC activists.

In addition to these responsibilities, ministries are required to appoint a disaster management (DM) focal point within their ministry. Currently these focal points are the main counterparts to the NDMO.

The Decision does not contain responsibilities for all the current members, given the changes which have occurred in the composition of the NDMC. For example, since 2007 the Department of Meteorology and Hydrology has moved from the MAF to the WREA. The MAF therefore has a more limited role in ensuring early warning on hydrological and meteorological data countrywide. Additionally, many members of NDMC are not fully aware of their designated responsibilities and in some cases do not have the capacity to fulfill their entire mandate. Moreover, while the Chair has overall responsibility for preparedness and disaster notification¹³⁵ there are no provisions on how to initiate a response plan or respond to a disaster.

Reports from government officials indicated that in reality, NDMO and NDMC are not always involved in early warning procedures, immediate response operations or budget allocations. With regard to the latter, this is usually undertaken by the PMO, in liaison with MPI and MoF, with approval from the National Assembly.

If there is a need for external assistance, MoFA may be consulted but it is likely that NDMC will develop a stronger role in the future, upon the finalization of the new decree regarding members, roles and responsibilities.

Many assisting actors also do not have a thorough understanding of the role of the NDMC and its members. For example, Decision 097/MLSW clearly states that the Lao Red Cross is responsible for rapid assessment,¹³⁶ yet during the 2008 floods a joint assessment was undertaken by the United Nations together with the NDMO, without involving the LRC.

The National Disaster Management Office

The NDMO is the secretariat of the NDMC and falls within the MLSW. Article 13 of Decision No 097/MLSW on the Assignment of NDMC Responsibilities states that:

The Secretariat which is called the National Disaster Management Office (NDMO) is based at the Department of Social Welfare/ Ministry of Labour and Social Welfare, and is a central focal point with all domestic and outside country partners' networks on disaster management (DM):

- Coordinating and organizing preparedness, prevention, mitigation and recovery activities in pre- disaster, during disaster and post-disaster periods.
- Promoting DM training for Government employees and public at countrywide level.
- Acting as centre for DM information assessment, collection and production on an annual basis.
- Coordinate in organizing shelter, food and other resources for relief to the victims when disaster occurred.¹³⁷

The NDMO is the recognized government entity for disaster management in Lao PDR and was officially appointed as the national focal point for the implementation of the AADMER.¹³⁸ In practice, the NDMO has faced difficulties in fulfilling its mandate due to a lack of resources and overlapping responsibilities with involved ministries.¹³⁹ NDMO has only six staff at the central level and is considered to lack sufficient resources and authority to carry out its tasks. As described in the 2007 UNDP Report "Assessing Capacities of the National Disaster Management Office":

NDMO has the internal/individual capacities to identify and engage with stakeholders on a number of issues critical to fulfilling its mandate; therefore, NDMO has the potential to fulfill the functions nominally expected of it at present. NDMO lacks the authority, resources, personnel and institutional profile to fulfill its mandate. Because NDMO is lacking in these areas, it does not presently have the ability to fulfill its mandate.¹⁴⁰

In relation to its current position in MLSW, the UNDP report concluded:

NDMO was found to be inadequately mandated in all three important issues of authority, power and influence. Prime Minister's decrees pertaining to DM/DRR have left some room for clarity as to what roles

have been assigned to NDMO and what to others. As for its coordination role, in the event of a disaster, NDMO gets frequently bypassed for consultation by other, more prominent line agencies. The MLSW, NDMO's parent ministry, itself undertakes roles that may well be seen as tasks that NDMO could perform as part of its intrinsic responsibilities.¹⁴¹

Indeed, even Government officials do not necessarily view NDMO as the coordinator for all disaster management and therefore they do not communicate with NDMO as much as its mandate suggests they should. Ultimately, the position of NDMO and its associated authority in disaster management is not as clear and authoritative as stated in the law.

Provincial, district and village disaster management structures

Decree 158/PM provides that the NDMC should organize its network from the central to local level and coordinate provincial governors to establish Provincial Disaster Management Committees (PDMCs) and District Disaster Management Committees (DDMCs)¹⁴² but no further details are given. While the Strategic Plan identifies the importance of establishing these local institutions, it too provides little guidance on their composition and how they should coordinate with central institutions. The 'implementation methods' described in the Strategic Plan are phrased more as goals rather than processes of implementation. For example:

- 4.1 Establish District Disaster Management Committee (DDMC) at all district and future at villages (Village Protection Unit- VPU).
- 4.2 Continue training program for PDMC, DDMC and VPU with identifying the role and responsibility along with plan of those Organizations.¹⁴³

It is hoped that the new National Disaster Management Plan will assist in establishing these institutions consistently across Laos, and will clarify their role and responsibilities.

Generally, the Provincial Governor or Vice Provincial Governor chairs the PDMCs, and the District Governor chairs the DDMCs. Each province appears to have its own Provincial Governor's Decision setting out the role and composition of the PDMC and its secretariat, the Provincial Disaster Management Office (PDMO). For example, in Champasak province the Governor established a PDMC for 2007-2008 listing all of its members by name. The PDMC is mandated to prepare, prevent and manage disasters, to encourage the assistance of domestic and in-country international relief providers when necessary, and to supervise relief and recovery efforts using both public and donated funds.¹⁴⁴ The PDMO is described as the focal point for various sectors at the provincial level and is responsible for the formation of disaster relief plans.¹⁴⁵ However, the Decision does not refer to any coordination or communication with the NDMC or NDMO.

At the district level the Strategic Plan's goal to establish DDMCs in all districts is almost fulfilled; currently 139 DDMCs out of 142 districts have been established. However, their effectiveness often depends on the presence and support of local actors.¹⁴⁶ Most of the DDMC members do not have clear operating procedures to guide their activities so many simply follow the rules of the ministry to which they belong.¹⁴⁷

The most recent Progress Report on the implementation of the Hyogo Framework for Action in Laos recognized that:

local disaster management committees (PDMC, DDMC) are the main organizations responsible for disaster response, preparedness, mitigation and recovery. In times of emergencies, the local Disaster Management Committee is the first actor to respond to the disaster situation with their own resources and their capabilities.¹⁴⁸

The report found that disaster management committees are well established at the provincial level but lack sufficient resources. In some cases, members of the PDMC were not fully aware of their role and responsibilities. At the district level, the situation generally tended to be inefficient.¹⁴⁹

Despite this, PDMCs and DDMCs are the primary response actors and are the authorities that deal directly with INGOs on the ground. Interviews with stakeholders have indicated that field coordination between INGOs and local authorities is perceived as the most efficient way of accessing affected areas. Nevertheless, it was revealed that it is often difficult for INGOs to identify the disaster management focal point within provincial or district authorities.

At village level, VPUs appear to be at a very early stage of development. At the time of writing this report, only two provinces (Savannakhet and Champassak) could confirm that some VPUs had been established, with the support of the LRC and French Red Cross.

The Prime Minister's Office

Consultations with various government departments and non-governmental organizations (NGOs) have confirmed that the PMO has the most authoritative role in disaster management.

The response to the 2008 floods is an indication that in reality, it is the PMO which has the real authority to direct disaster management implementation. According to interviews with stakeholders, during the major flood period in August 2008 in Vientiane Capital, the Prime Minister assigned the Vientiane Capital Mayor, rather than the NDMO, to plan and implement the disaster response. Although the NDMO was described as working “as one” with the PMO and Vientiane Capital Mayor, it was clear that the PMO held the power in making decisions and coordinating the response.

The Flood and Drought Committee

The Flood and Drought Committee (FDC) established under the MAF is primarily responsible for responding to the agricultural impact of floods and droughts. The Chairman of the FDC is the Vice-Minister of Agriculture and Forestry¹⁵⁰ and is also the Vice-President of NDMC,¹⁵¹ which assists in coordination between the two. Additionally, the MAF focal point for NDMO is also the Deputy Secretary of FDC.¹⁵² Thus, there is a natural link between FDC, NDMC and NDMO, although there is no legal reference to this link.

The MAF established the FDC by Ministerial Decision.¹⁵³ The Decision recognizes the importance of disaster management in the development of Laos and the impact of domestic and overseas support in prevention and response. It also two establishes sub-committees: the “Committee for Guidance” and the “Technical Sub-Committee”. The Committee for Guidance is primarily responsible for guiding the Technical Sub-Committee on devising and disseminating prevention and response plans and encouraging support between different sectors and ministries.¹⁵⁴ It is comprised of five high level officials, with the Vice-Minister of MAF as the Chair. The Technical Committee consists of seven Director Generals from different departments within the MAF. The Decision also assigns responsibilities to the different departments in preventing and managing disaster, with the Department of Irrigation as the head of the Technical Committee, responsible for monitoring irrigation systems; facilitating irrigation development to enhance flood and drought prevention; and coordinating different departments in responding to a flood or drought.¹⁵⁵ The responsibilities of each department all relate to agricultural and environmental responses to disasters.

While the relationship and the share of responsibilities between NDMO, NDMC and implementing bodies such as FDC should be clarified in law, the Secretariat of the FDC is given the responsibility of “coordinating with the technical sub-committee, DMH,¹⁵⁶ NDMO and related sectors both at central and local level.”¹⁵⁷ This is one of few examples of cross-referencing and official acknowledgement of NDMO in legal documentation besides its establishing decree.

National Search and Rescue Committee

The National Search and Rescue Committee (NSRC) was created under Decree No. 169/PM, dated 26 November 2004, chaired by the Ministry of National Defence with the Minister of Public Works and Transport and the Minister of Public Security as Vice-Chairs.¹⁵⁸ NSRC’s role is to coordinate search and rescue of victims of air, land and sea disasters in Lao PDR and to cooperate with ASEAN countries in search and rescue missions pursuant to international

agreements.¹⁵⁹

Considering that earthquakes are not a high risk, Lao search and rescue teams are mainly required during the aftermath of flooding and landslides. While a specific committee for search and rescue is not considered essential in Laos, there is a need to strengthen the local capacity to cope with these dangers at the village and district level.

Responsible Entities under the Environmental Protection Law

As described above, the Environmental Protection Law establishes the NDPC, responsible for cooperating with “agencies and concerned local administrations in areas where disasters will occur, are occurring or have occurred in order to develop plans and determine measures to prevent and counter disasters and to restore areas suffering from such disasters.”¹⁶⁰ There is no reference to NDPC within other disaster management decrees or plans and yet the law establishing NDPC remains legally binding. From research to date, it is unclear whether NDPC still exists.

Article 18 of the Environmental Protection Law also includes other institutional obligations to prevent and respond to disasters, and states:

All persons and organizations have an obligation to prevent and counter disasters. In event that [they] witness foreboding or start of a disaster they shall immediately inform local administration or nearest organization. These local administrations or organizations shall cooperate with other State and social organizations ... mobilize population and various organizations....

When a disaster occurs in an area covering several localities, concerned local administrations shall cooperate with each other in order to find methods to prevent and counter disaster.

Given the ambiguity of these provisions and their lack of reference to current local or national disaster management structures (which had not yet been established), it would be useful for this aspect of the Law to be clarified and updated.

A later Decree on the Implementation of the Environmental Protection Law No. 102/PM dated June 4th 2001, issued some two years after the establishment of the NDMC, also assigns responsibilities to the MLSW, MoH and Ministry of National Defence (MoND) in the event of a disaster,¹⁶¹ which although not conflicting, make no cross reference to the already existing responsibilities of NDMC members. Additionally the NDPC is designated responsibility for developing a Disaster Prevention Plan. In undertaking this task, Article 12 of the Implementing Decree provides:

Local administration authorities at provincial, prefecture, or special zone level shall take the leading role to define protection measures and actions against disaster, which occurs or will occur, or has occurred in their locations, and present them to the National Disaster Prevention Committee.

This provision clearly overlaps, with the decrees outlining the responsibilities of NDMC and NDMO, and in practice there is no evidence that the NDPC (if it exists) has been involved in any disaster planning processes to date.

Role of Lao Red Cross

The LRC was established on 1 January 1955 and recognized by the IFRC and the International Committee of the Red Cross (ICRC) in 1957. Initially part of the MoH and MLSW, the LRC obtained independent status in 1992 by a Political Bureau Decree. The initial mandate for LRC was amended in 1993¹⁶² and again in 1999.¹⁶³ The current Prime Ministerial Decree No. 36/PM of 1999 describes the role of LRC as:

[an] auxiliary to the government to alleviate poverty, to help victims of disasters, to promote public health and to participate in humanitarian activities based on the Seven Fundamental Principles of the International Federation of the Red Cross and Red Crescent Societies.¹⁶⁴

LRC has been actively involved in disaster response, health care (including HIV/AIDS programs) and blood safety

National Red Cross and Red Crescent Societies, as auxiliaries to the public authorities in the humanitarian field play a key supporting role at the domestic level.

Legal, policy and institutional frameworks and planning for disaster prevention, mitigation, preparedness, relief and recovery should take full account of the auxiliary role of their National Red Cross or Red Crescent Society.

IDRL Guidelines (2007), Articles 3(1) and 8(1)



programs over the past decade.

LRC provides a development perspective to disaster response by creating awareness on the causes of disaster and providing training to the people in disaster prone areas.¹⁶⁵ LRC's work bringing timely relief to people affected by disasters supports the Government's disaster management policy.

LRC's disaster preparedness and response work is mainly funded by the IFRC. LRC distributes materials to disaster victims through their community-based disaster preparedness program (CBDP). LRC has trained volunteers nationwide in addition to establishing response teams in both the northern and southern branches of LRC. LRC provincial branches manage three regional warehouses provided relief goods to the people affected by disaster.¹⁶⁶ Today, the LRC is comprised of over 200 staff working in 17 provinces.¹⁶⁷

Decision 097/MLSW on the responsibilities of the NDMC further elaborates on the central role of the LRC in disaster management.¹⁶⁸ The president of the LRC is a full member of the NDMC¹⁶⁹ with the following roles and responsibilities:

- 12.1 Appoint DM Contact Person in LRC and in provincial branches.
- 12.2 Responsible for rapid assessment (RA) and producing of disaster information when disaster strikes.
- 12.3 Responsible for joint emergency operations on rescue, relief for disaster victims.
- 12.4 Responsible for joint mobilization of relief resources from partners
- 12.5 Responsible for DM training, organizing drills and exercises for target public and Lao Red Cross activists.¹⁷⁰

The role of LRC on the NDMC places it in a unique position as compared to other civil society organizations and enables it to bring a more localized perspective to disaster management because of its presence at the field level in every province of Lao PDR.¹⁷¹ Although LRC is not widely considered the lead for rapid assessment, in 2007 a report on the United Nations Disaster Assessment and Coordination (UNDAC) preparedness mission to Laos recommended the NDMO to consult with LRC and NGOs in drawing up a database containing details of the areas in which they are active and where they do have such capacities.¹⁷²

Role of other civil society organizations

Until recently, civil society organizations were not legally permitted to operate in Laos, with the exception of mass organizations under the Party's authority, such as the Lao Women's Union and the Youth Union. However, over the past decade, domestic NGOs, often referred to as Non-Profit Associations (NPAs), have been established although mostly through the support of foreign NGOs.

Some local communities have also linked with foundations which provide material support in the event of a disaster. For example, the Foundation for Assisting Poor People collaborated with a Chinese-affiliated association to provide rice and sugar to victims of flood in August 2008 in Vientiane, using donations from Lao-Chinese individuals.¹⁷³

On 29 April 2009, the Prime Minister signed a new Decree on Associations.¹⁷⁴ The decree is applicable only to organizations incorporated in Laos and has no application to un-incorporated organizations, organizations with foreign members, religious organizations or mass organizations such as the Lao Women's Union.¹⁷⁵ Under the decree, a group of people can request formation of an association, with guidelines for Lao officials to consider applications for their incorporation. In light of how recently this decree has been passed and the previous absence of civil society organizations

in the community, the role of civil society organizations in a disaster situation is still evolving.

Coordination and information sharing

As demonstrated in this chapter, there is a need for further clarity in the institutional arrangements for disaster management. While the Decision No. 097/MLSW of 30 June 2000 designates responsibilities to members of NDMC, a number of important issues remain unclear. In particular, ambiguity remains on responsibilities for coordinating international relief. Under Decision 097/MLSW it appears that MoFA is officially responsible for coordinating international relief. Indeed, during the 2008 floods, the MoFA communicated a request for external assistance designating:

the Department of International Organizations, Ministry of Foreign Affairs as the Government's Focal Point for emergency relief from the international community.¹⁷⁶

However, under that same Decision the NDMO is also given the mandate to coordinate activities relating to recovery from a disaster. During the 2008 floods, the international community viewed NDMO as the central coordinator for emergency response. While MoFA appears to be focal point for coordinating international actors, NDMO appears to be the coordinator for the implementation of disaster response activities. The link between MoFA and NDMO in coordinating assisting entities in their relief activities therefore needs to be further defined.

During consultations with stakeholders, many INGOs commented on the disparity between NDMO's role in theory and practice. It appears that INGOs already operating in Laos tend to communicate with their existing focal points in MoFA and/or with provincial focal points used in the implementation of existing projects, when responding to a disaster.

The IASC in-country team for disaster preparedness and response also has a role in both coordinating and advocating for international organizations in emergency situations.¹⁷⁷

Following a request from the Under-Secretary-General for Humanitarian Affairs, the IASC in-country team was created in Laos as a disaster response preparedness mechanism.¹⁷⁸ During the 2008 floods, it became evident that the working group was the most efficient mechanism for international disaster response coordination. Generally, the IASC cooperates with the Lao Government through the NDMO. During the consultation process, stakeholders suggested that the IASC could be used as a platform for the discussion of all issues concerning disaster management efficiency and improvement.

In October 2008, an After-Action Review Workshop was conducted following the floods and a recommendation was made to develop terms of reference for the IASC¹⁷⁹ but this is yet to occur. The stakeholder interview process also demonstrated that the IASC may be a highly relevant coordination mechanism but a clear mandate for this needs to be defined.

5.2 Institutional arrangements for communicable disease emergencies

Government structures

National Committee on Communicable Disease Control

The primary institution for communicable disease emergencies provided for in the law is the NCCDC. This Committee was established by Prime Ministerial Decree No. 337 of 9 December 2005 in the aftermath of the SARS threat and

Coordination of international assistance

National legal, policy and institutional frameworks should:

- Allow for effective coordination of international assistance.
- Take into account the role of the UN Emergency Relief Coordinator.
- Clearly designate domestic government entities with responsibility and authority (for coordination).
- Consider establishing a national focal point to liaise between international and government actors at all levels.

IDRL Guidelines (2007), Article 8(2)

during the first Avian Influenza outbreaks in Lao PDR. The decree lists the following 21 members of NCCDC:¹⁸⁰

1. The Prime Minister	Chairman
2. The Deputy Prime Minister, Minister of Foreign Affairs	Vice-Chairman
3. The Minister of Agriculture and Forestry	Vice-Chairman
4. The Minister of Public Health	Vice-Chairman
5. The Chief of Cabinet of the Prime Minister's Office	Member
6. The Vice-Minister of Public Security	Member
7. The Vice-Minister of National Defence	Member
8. The Vice-Minister of Finance	Member
9. The Vice-Minister of Information and Culture	Member
10. The Vice-Minister of Justice	Member
11. The Vice-Minister of Communications, Transport, Post and Construction ¹⁸¹	Member
12. The Vice-Minister of Education	Member
13. The Vice-Minister of Labour and Social Welfare	Member
14. The Vice-Minister of Commerce and Tourism	Member
15. The Vice-Minister of Industries and Handicrafts ¹⁸²	Member
16. The Vice-Minister of Agriculture and Forestry	Member
17. The Vice-Minister of Public Health	Member
18. The Vice-Chairman of Lao Front for National Construction	Member
19. The Vice-Chairman of Lao Trade Union Federation	Member
20. The Vice-President of Central Lao Women's Union	Member
21. The Deputy Secretary General of Lao Youth Union	Member

In contrast to the NDMC, the NCCDC incorporates Lao mass organizations in the committee, such as the Women's Union, the Youth Union and the Lao Front for National Construction, however the LRC is not included.¹⁸³ The responsibilities of the NCCDC are set out in the decree as follows:

- 2.1. Oversee and instruct the control, prevention, ceasing, and elimination, [...], the outbreak of all kinds of communicable diseases.
- 2.2. Provide guidance on the implementation of the instructions of the party's central Politburo, the outcome of the ASEAN Summit, the ACMECS¹⁸⁴, [...]
- 2.3. Issue appropriate measures, regulations on the prevention and control of communicable diseases.
- 2.4. Closely monitor, inspect and report regularly on the new development of communicable diseases.
- 2.5. Give instructions to the sectors concerned, line-agencies, provincial authorities, [...] on the prevention and control of communicable diseases.
- 2.6. Collaborate with other countries and international organizations [...] to mobilize funding for the prevention and control of the communicable diseases.
- 2.7. Hold the right to establish the committee on prevention and control of communicable diseases at the provincial, capital and special zone levels[...]
- 2.8. The National Committee on the Communicable Diseases and Control also holds the right to instruct and give order to mobilize funding, manpower, and to collect financial means [...]
- 2.9. Consider and make decision on the recognition of authorities at all levels[...] to acknowledge their contributions to the work related to prevention and control of communicable diseases [...]

The NCCDC has a real and significant authoritative role in communicable disease management primarily because it is chaired by the Prime Minister. The responsibilities described in Articles 2.5 and 2.8 are indicative of the authority of the NCCDC in coordinating a response to a communicable disease emergency. The NCCDC also has important roles in defining and implementing measures to control, prevent and mitigate the outbreak of communicable diseases, as well as mobilizing external funding. Pursuant to the National Pandemic Influenza Response Plan for the Health Sector, in a phase 6 situation the NCCDC's main functions include liaising with provincial governors and communicating with a national command emergency committee, which would be established in the outbreak of a pandemic influenza.¹⁸⁵

Decree 337/PM also establishes a Secretariat of NCCDC, comprised of high level government officials. The head of the Secretariat (the Chief of Cabinet of the PMO) reports directly to the Prime Minister. The Vice-Ministers of Foreign Affairs, Agriculture and Forestry, and Public Health are the Deputies. In reality, the Secretariat is the operating institution, as the NCCDC rarely meets. Consequently, coordination decisions are generally made by the head of the Secretariat and the Prime Minister also issues direct orders in exceptional situations, as evidenced during the A(H1N1) outbreak, described below.

The Secretariat is assigned to be the focal point between NCCDC and its two sub-committees:

1. Sub-committee on the Prevention and Control of Animal Communicable Diseases, under responsibility of Ministry of Agriculture and Forestry;
2. Sub-committee on the Prevention and Control of Human Communicable Diseases, under responsibility of the Ministry of Public Health.

The sub-committees are in charge of resources and mobilization to implement NCCDC's strategies in collaboration with international organizations.¹⁸⁶ As of today, however, these committees no longer exist; in practice their roles and responsibilities are undertaken by the National Emerging Infectious Diseases Control Office (NEIDCO).

NAHICO to NEIDCO

In 2006, the NCCDC also created a specific office for the control and prevention of Avian Influenza, through the assistance of a range of international organizations and NGOs, called the National Avian and Human Influenza Coordination Office (NAHICO).¹⁸⁷ While NAHICO was established under the PMO, the Director of NAHICO is also the Deputy Director of the Department of Hygiene and Prevention, so the office also has a direct link with the MoH.

Article 2 of the Decision establishing NAHICO outlines the composition of its technical officials, which include the MoH, MAF, MIC and MoFA. NAHICO's main role is to act as the coordinator to the Secretariat to NCCDC, operating on the guidance of the NCCDC.¹⁸⁸

NAHICO's responsibilities have been described as follows:

- 2.1. Coordinate with all relevant sector and local authorities at the nationwide to implement the strategies on prevention and control epidemic and infectious disease at large scale.
- 2.2. Organize the technical meeting with the international organizations, [...] in order to assess the preparedness and progress of the implementation [...]
- 2.3. Make the technical record, report and agreement on budget for supporting the strategies to NCCDC [...]
- 2.4. Manage the budget, monitor, inspect and summarize all statistics periodically for the financial support from international organizations, [...]
- 2.5. Make a regular summary and assessment of the result of implementation of the technical and budget aspects in accordance to the strategies [...]
- 2.6. Investigate and summarize the change of the disease in each time period and report to NCCDC.
- 2.7. Create the activities schedule and plan for meetings to NCCDC.
- 2.8. Coordinate and work in conjunction to representatives of UN organizations [...]¹⁸⁹

Thus, NAHICO is vested with significant power, authority and independence. Additionally, NAHICO has the right to coordinate with international organizations and propose and sign for acceptance of grants or financial support from international organizations.¹⁹⁰

The success and effectiveness of NAHICO as an institution has been affirmed by many of the stakeholders interviewed. Much of the success of NAHICO can be attributed to its position within the PMO and its available resources. Since NAHICO is primarily responsible for the implementation of the NAICPPP, it has received significant funding for its operation. Generally, NAHICO and other programs implemented by the Ministries and associated international

organizations and NGOs under the NAICPPP are felt to be efficiently managed. A highly developed monitoring system has been set up according to the detailed components of the five strategies defined in the NAICPPP to ensure programs are running effectively. Programme stakeholders regularly organize a Joint Implementation Reviews of NAICPPP which assesses results and findings from specified monitoring indicators.

The last Joint Implementation Review noted:

The role played by NAHICO and the National Communicable Disease Control (NCDC) Committee in the 2008 outbreak, as well as the outbreaks in 2006 and 2007—with two deaths attributed to AI — continues to be highly relevant.¹⁹¹

On 5 May 2009, following the emergence of A(H1N1) in central and north America, the PM issued a Notice changing NAHICO to the National Emerging Infectious Disease Control Office (NEIDCO), effectively changing its mandate from addressing only Avian Influenza to being responsible for all emerging infectious diseases.¹⁹² The Notice issued by the PMO on 5 May 2009 identified NEIDCO's primary role as coordinating relationships between relevant governmental agencies and departments, essentially bridging various sectors of the government. This Notice can also be viewed as an acknowledgement by the Lao Government of the effectiveness of NEIDCO as an institution.

NEIDCO reports to the Prime Minister through the secretariat of NCCDC for all emerging infectious diseases in Lao PDR. When required, the PMO can issue an order to all line ministries and governors concerned to respond to a communicable disease emergency. For example, when the A(H1N1) threat arose, NEIDCO reported to the secretariat of NCCDC and the PMO requested NEIDCO to take responsibility for the surveillance and control of A(H1N1). The PMO then issued the Order No.15, dated 30 April 2009, to all line ministries, outlining their respective responsibilities. Later, due to the severity of the situation, the Prime Minister issued an order to assign “all ministries, Party-Government and mass organizations at central level, Vientiane and all provinces nation-wide to pay the attention and alert on the implementation for prevention, response and control of the epidemic H1N1 across the nation”.¹⁹³

Under the National Pandemic Influenza Response Plan for the Health Sector, NEIDCO is responsible for activating a National Technical Committee when there is an outbreak of a pandemic influenza in a neighbouring country, to call regular meetings and to adapt or amend the response plan when an outbreak has occurred in Laos.¹⁹⁴ It is also responsible for assessing the overall preparedness of the health sector and to address gaps where necessary.¹⁹⁵

Although most stakeholders acknowledge the capacity of NEIDCO to coordinate with the health sector in communicable disease emergencies, it is felt that the link between the health and non-health sector responses (such as those notionally coordinated by the NDMO) need further strengthening. Currently, NEIDCO and NDMO do not have comparable authority and capacity - NEIDCO is recognized as a central and capable coordinating actor with significant financial and strategic commitment from international actors,¹⁹⁶ while the NDMO is still establishing its position as a coordinator and strengthening its capacities.

Indeed, it is particularly important to develop the links and coordination mechanisms between NEIDCO and NDMO. In the event of a communicable disease emergency for example, it would be useful for NEIDCO to alert the NDMO of the need for a non-health sector response. Similarly, it is not difficult to imagine the occurrence of an epidemic or pandemic situation during a major disaster requiring the NEIDCO and the NDMO to work collaboratively. It is therefore important to define the system of communication and the respective responsibilities of each within the legal framework.

National Centre for Laboratory and Epidemiology (NCLE)

While NEIDCO is seen as the coordinating body, one of the main actors in communicable disease emergencies is the NCLE, which is part of MoH. NCLE is currently the national focal point for IHR and is responsible for the implementation of the IHR.¹⁹⁷ NCLE's main functions are surveillance, outbreak investigation, laboratory diagnosis and response to communicable diseases or any unusual health phenomena.

In performing its duties, NCLE collaborates with other entities including the Department of Curative Medicine, Department of Hygiene and Prevention and NEIDCO. In relation to the National Pandemic Influenza Response Plan for the Health Sector of December 2007, NCLE is responsible for surveillance and reporting, and preparing and disseminating case definitions.¹⁹⁸ With regard to the NAICPPP, NCLE is also responsible for Strategy 2 on disease surveillance and response in humans during outbreak and Strategy 3 on laboratory and curative care, although its focus is primarily on the laboratory aspect.

While the necessary documentation has been submitted to WHO nominating NCLE as the IHR focal point there is no legal reference to this appointment. There are reports that the Deputy Director of the Hygiene and Prevention Department and the Deputy Director of the Department of the Curative Medicine were originally appointed as IHR national focal points by a Prime Ministerial Decree, but this could not be located and confirmed. However, to clarify matters, a MoH Decision officially recognizing NCLE as the national focal point has been drafted, and is currently awaiting finalization.

The Deputy Director of the Hygiene and Prevention Department and the Deputy Director of the Department of Curative Medicine are identified as “IHR advisors” within the WHO documentation relating to the contact details of the national IHR focal point, as they have extensive knowledge and experience in the area. According to interviews with stakeholders, NCLE is to approach the IHR advisors for clarification and guidance on any IHR related issue. However, these positions are unique to Laos and are not required by the IHR.

Provincial and District Communicable Disease Committees

There are also communicable disease committees at both the provincial and district levels as described in Decree No. 377/PM on the establishment of the NCCDC.¹⁹⁹ The Provincial Communicable Disease Committees (PCDC) are created by Decrees of the Provincial Governor.

In Champasak, for example, the Provincial Governor established a PCDC and a secretariat. The PCDC is mandated to publish information on communicable diseases, assist the secretariat to control the sale and movement of products that may cause infection (including controlling imports and exports), report to and coordinate with the secretariat, and coordinate with the District CDC.²⁰⁰ The secretariat of the PCDC is mandated to implement the advice of the PCDC, make plans and reports for the PCDC, and to act as a focal point for related sectors. Champasak province also established two Rapid Response Teams which are responsible to promptly investigate and treat cases, control diseases, and provide educational campaigns as needed.²⁰¹ Additionally, the Governor established a Provincial Committee to Protect Against Infections mandated to: oversee prevention and control of infection among animals and humans province-wide; promote information on communicable diseases; and implement regulations on surveillance and response to communicable diseases.²⁰² Rapid Response Teams also have a role to coordinate with local authorities, the provincial secretariat, and the district CDC.²⁰³

It is not entirely clear how PCDCs are to communicate with national level authorities. During the recent A(H1N1) outbreak, the PCDC received detailed instructions through a notice sent by the PMO to enhance monitoring and awareness on A(H1N1).²⁰⁴ The National Pandemic Influenza Response Plan for the Health Sector addresses how responsibilities are to be divided between provincial and central level authorities in the health sector during a Phase 6 outbreak, but only to a limited extent the communication chain between them. For example, it provides that PCDCs are to assess health sector capacities within their province and that NEIDCO is to distribute guidelines and recommendations to PCDCs in the event of an outbreak.²⁰⁵

Responsible authorities for health

- *Each State Party shall designate or establish a National IHR Focal Point and the authorities responsible within its respective jurisdiction for the implementation of health measures under these Regulations.*
- *National IHR Focal Points shall be accessible at all times for communications with the WHO IHR Contact Points.*

See International Health Regulations (IHR) (2005) Articles 4(1) and (2)

5.3 Recommendations

Institutional arrangements

The new Presidential Ordinance on disaster management (including communicable disease emergencies) should:

- Refer to international agreements signed and ratified by the Lao Government and relevant international instruments applicable to disaster management and communicable disease emergencies, including the IDRL Guidelines, IHR, AAMER and the HFA.
- Identify the existing responsible authorities (NCCDC, NEIDCO, NDMC, NDMO, PDMCs, PCDCs, DDMCs, DCDCs, and VPUs) for disaster management and communicable diseases emergencies and describe their overall roles, mandates, and relationships with each other by:
 - Taking into consideration the content of the updated version of Decree No. 158/PM on the establishment of the NDMC and any potential updated version of Decision No. 097/MLSW regarding the role and responsibilities of the NDMC members.
 - Taking into consideration the content of Decree No. 377/PM on the establishment of the NCCDC and the Decision on the establishment of NEIDCO.
 - Strengthening the authority of NDMO to play an effective coordination role (rather than an implementing role) for all disaster management activities taking place within Lao PDR including the non-health sector response to a communicable disease emergency in close collaboration with NEIDCO.
 - Ensuring there is a dedicated NEIDCO focal point to liaise with the NDMO regarding preparedness and response to communicable disease emergencies.

**La-vang! An-ta-lai!
Watch out! Danger!**



- Revise and strengthen the role and responsibilities of the LRC as an auxiliary to the public authorities in disaster management to reflect its current activities and capacities in accordance with Decree No. 36/PM on the organization of the LRC.
- Describe coordination mechanisms between the responsible authorities for disaster management and communicable disease emergencies and other governmental entities, with a specific focus on the non-health sector response to a communicable disease emergency.
- Provide for the development and regular updating of a National Disaster Management Plan, which includes the non-health sector response to a communicable disease emergency.
- Establish a single government focal point (e.g. the NDMO) to coordinate the facilitation and regulation of international assistance from external actors (such as UN, International Red Cross and Red Crescent Movement, INGOs, governments and private entities) for disasters and communicable disease emergencies.
- Ensure the adequate allocation of funding from the national budget, commensurate with the roles and responsibilities of the various institutions from national to community level. Consideration should be given to allocating a minimum percentage of the annual national budget for this purpose.



Government of Lao PDR

Chapter 6



Early warning and declaration of a disaster or communicable disease emergency

Chapter 6

Early warning and declaration of a disaster or communicable disease emergency

6.1 Early warning for disaster

Institutional responsibilities

In Decision No. 097/MLSW on the role of the NDMC, the responsibility for hydrological and meteorological early warning information nationwide is mandated to the Ministry of Agriculture and Forestry (MAF).²⁰⁶

Prior to 2007, the WRCC and its secretariat, the STEA, were the entities under the PMO responsible for early warning, together with the Lao National Mekong Committee. However, in July 2007, the WREA was created in an effort to improve coordination of water resources agencies,²⁰⁷ effectively merging the WRCC, STEA and the Lao National Mekong Committee into one agency positioned under the PMO.²⁰⁸

According to the Decree on the establishment of WREA No. 1409/PM, WREA has the “mandate to act as secretary and provide advice to the government”²⁰⁹ and is comprised of six departments including the DMH.²¹⁰

WREA has the mandate to carry out meteorology and hydrology activities including management, monitoring, and collecting of data, but it also has the authority to provide the government with advice on policies and to propose legislation.²¹¹ ADB noted in its Technical Assistance Project *Lao People’s Democratic Republic: Updating the National Water Policy and Strategy* that provincial-level water resources and environment departments are being set up to take over the environmental functions of the (former) STEA and the data collection operations of the DMH. If this is the case, then all data collection on water resources, the environment, and meteorology and hydrology will be structured within WREA in a more integrated manner. Indeed, WREA has the authority to “establish, terminate or improve the organizational structure” of water resources authorities, so DMH and associated authorities under WREA may continue to change in the future.²¹²

In addition to the WREA, several other agencies have been mandated with authority to issue early warnings. For example, the MAF’s Flood and Drought Committee (FDC), is responsible for warnings relating to agricultural impacts of floods and droughts. The National Tourism Authority (NTA) also has the mandate to notify travellers and tourists if and when any emergency occurs²¹³ however, it is unclear how tourists are notified, and with whom NTA communicates to issue this warning.

As described previously, the MRC has a significant role in monitoring the levels of the Mekong, issuing forecasts and ensuring cross-boundary information exchange. The Flood Management and Mitigation Programme commenced in 2005 is one of the ten current MRC programs.

Some indicators for early warning systems:

- *National legislation clearly indicates roles and responsibilities of all stakeholders including which agencies are responsible for generating and disseminating hazard warnings to the public.*

See ISDR/UNOCHA HFA Priority Five Guidance and Indicator Package (2008), Indicator 2.3

- *The Parties shall, as appropriate, establish, maintain and periodically review national disaster and early warning arrangements.*
- *The Parties shall cooperate, as appropriate, to monitor hazards which have trans-boundary effects, to exchange information and to provide early warning information and to provide early warning information through appropriate arrangements.*

See ASEAN AADMER (2005), Articles 7(1)-(2)

Surveillance and information exchange processes

In relation to flooding, particularly along the vulnerable Mekong River, the MRC provides the main source of information within Lao PDR. According to the Considerations for Operational Procedures MRC Policy Document, the Regional Flood Forecasting Unit is responsible for issuing a flood forecast at approximately 10am every day in the wet season, from 1 June to October 31.²¹⁴ The MRC disseminates a five-day forecast to a mailing list incorporating the responsible agencies within the member states.²¹⁵ Forecasts are limited to the main stream Mekong; tributaries are the responsibility of the individual states.²¹⁶

The prescribed means through which the MRC disseminates the forecasts are on the flood pages of the MRC website,²¹⁷ on a flood bulletin/warning in a prominent place on the MRC homepage, and by email to all officially designated line agencies and users in the four member countries.²¹⁸

In Laos, the MRC also works closely with the DMH for monitoring and forecasting. The DMH manages five stations along the main Mekong river within Laos's territory which are used by MRC for data collection,²¹⁹ with further stations along the various tributaries monitored directly by the DMH. The DMH also has its own forecasts for Laos which are based on the same data but are ascertained using different models.

The MRC mainly communicates with the DMH and the NDMO at the central level rather than provincial or district level authorities. It is also important to note that the MRC does not have an official role in early warning dissemination; its primary responsibility is to provide timely forecasts to the disaster management offices and other related offices of each of the member countries, which are then responsible for any further dissemination to other authorities and the public.

In Laos, the DMH is responsible for providing early warnings for any hazards detected by its hydrology and meteorology monitoring system.²²⁰ The DMH operates at least 74 hydrological stations, 86 rainfall stations and 34 meteorological stations.²²¹ Apart from information obtained from MRC, the DMH collects data through domestic stations that transmit encoded raw data to DMH by a high frequency transceiver and public telephone.²²² While DMH used to face problems in communicating with staff in remote locations, this has significantly improved with the use of mobile phone SMS technology.²²³

The data collected is used for weather and flood forecasts and some selected data is exchanged regionally via the Global Telecommunication System (GTS) of the World Meteorology Organization and the Aeronautical Fixed Telecommunication Network of the International Civil Aviation Organization.²²⁴ To ascertain information on any severe cross-border hydro-meteorological events, data from other countries can be obtained by GTS link.²²⁵

Early warning procedures

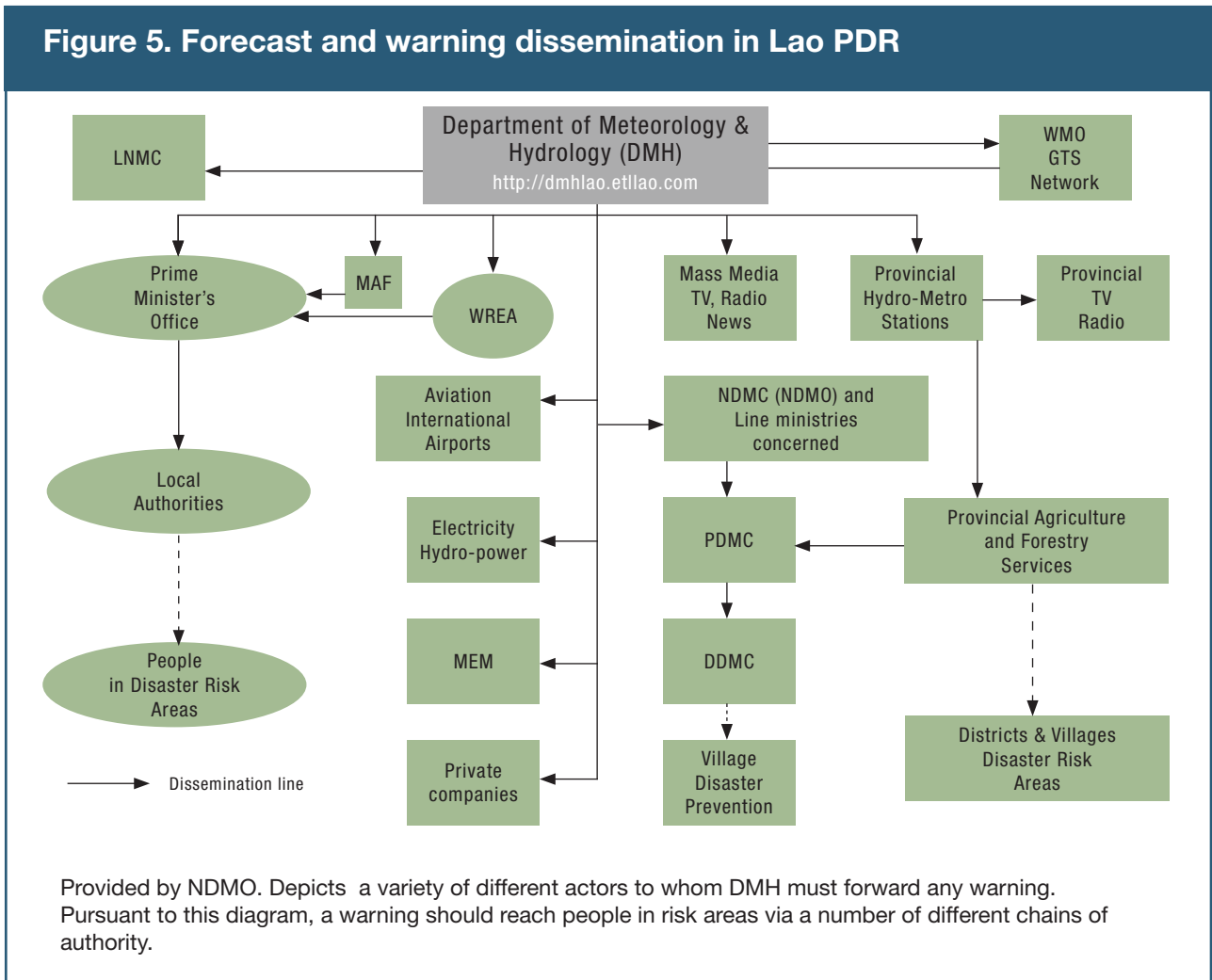
Upon receiving information, the DMH is required to report on any forthcoming threats or dangers to a number of different concerned authorities, including the NDMO. The NDMO has established an early warning communication system using mobile phones and radio systems from the central level to the provincial and district levels.²²⁶ The early warning message includes information on weather forecast (rainfalls, storms, typhoons) and water levels.²²⁷ This system is generally functioning but there are some technical difficulties in accessing remote areas.²²⁸ Consequently, early warning systems are currently being strengthened at the village level by the NDMO with support INGOs.

The diagram opposite (Figure 5) provided by NDMO, demonstrates the chain of communication from DMH in issuing an early warning.²²⁹ According to interviews with government officials, there is no specific warning procedure outlined in any legal texts but the common practice procedure for the DMH to issue warnings for floods is as follows:²³⁰

1. If the Mekong reaches a dangerously high level,²³¹ DMH will issue a written warning to the PMO.
2. The warning is forwarded to NDMO, MAF and all concerned line-ministries at the same time.
3. After that, the warning is then broadcast through media outlets.²³²

If the warning is only relevant to a particular province, then the DMH will send the warning to the provincial DMH office concerned.

Figure 5. Forecast and warning dissemination in Lao PDR



By all accounts, the PMO is always involved in the process of disseminating early warning information to the local level. For example, in 2008 the Prime Minister authorized MAF, as well as other ministries, to issue a notice to warn people of a possible flooding disaster.²³³ The PMO can therefore disseminate information through line-ministries without necessarily involving NDMO or NDMC.

The warning systems for disasters also differ for those affecting single sectors and those with a multi-sector impact. If an environmental hazard arises which is within the mandate of a single department or ministry, it will be reported from the relevant ministry's technical district level authorities through the vertical hierarchy to the concerned central department or ministry. If the situation exceeds the coping capacities of the particular ministry, for example a drought or infestation, then the ministry will advise the Prime Minister. The Prime Minister then decides whether to communicate with the NDMO and whether a NDMC meeting should be called. However, if the situation has a multi-sector impact, then DDMCs and PDMCs are likely to be involved from an earlier stage and the NDMO and NDMC will play a more significant role from the beginning.

There are two main issues with the current structure for the dissemination of disaster warning. Firstly, the procedures for issuing warnings are not defined within a legal instrument. Lines of communication need to be published and disseminated to ensure the appropriate authorities are always informed and involved.

Secondly, the manner in which information is communicated has been problematic. In remote communities, radios

are not always accessible.²³⁵ NDMO has acknowledged that “communication infrastructure is inadequate” and that the sparse distribution of population in wide and rugged areas poses a major challenge. Additionally, there is no evidence of regular testing of communication and reliance is placed on radio broadcasting, SMSs and facsimiles.

6.2 Declaration of a disaster

The only clear reference to a formal declaration of an emergency situation is found in Article 67 of the Constitution, which states that the President has the right to “declare states of emergency all over the country or in any particular locality.” However, in Laos, major natural disasters and communicable disease emergencies appear not to be deemed a state of emergency. Consequently, there is a general lack of clarity surrounding the process of officially declaring a disaster, and whether a declaration is necessary to trigger any particular responses.

- *If an affected State determines that a disaster situation exceeds national coping capacities, it should seek international and/or regional assistance to address the needs of affected persons.*
- *The affected State should decide in a timely manner whether or not to request disaster relief or initial recovery assistance and communicate its decision promptly. In order to make this decision, the affected State should promptly assess needs.*

See IDRL Guidelines (2007), Article 10(1)

In practice, it appears that a declaration can be made by the President after notification from the Prime Minister or the President of the National Assembly. NDMC representatives report that, after receiving notification about a disaster from affected provincial or districts authorities or line-ministries, the NDMC will call for a meeting with relevant government agencies to determine the most appropriate response. The discussions are mostly focused on the roles, responsibilities and financial resources that will be used to assist affected populations.

The English translation of the Decision No. 097/MLSW regarding the roles and responsibilities of NDMC members states that the MoFA must:

[i]n case of declaration of National Calamity or devastating big disaster, upon permission by the Government, appeal and coordinate for receiving ... international assistance and aids.²³⁶

This translation is not consistent with the Lao version and thus could not be considered to reflect legal requirement in Laos. Furthermore, there is no indication within this provision as to who would issue the declaration of “National Calamity” or “devastating big disaster” as there are no further references.

As the current legal definition of disaster in Laos does not include any requisite scale of damage, there are no specific criteria for measuring when a disaster situation has exceeded national or local coping capacities.²³⁷ According to Prime Ministerial Decree No. 220/PM of 1998, any ministry is entitled to raise to the attention of the Prime Minister any damages or impacts on life and property of the population arising from a natural disaster.²³⁸ Decision No. 097/MLSW also refers to the Chair of the NDMC’s responsibility to report to the government on any forthcoming disaster situation.²³⁹ In practice, this process also occurs when a disaster situation exceeds the coping capacities of a specific ministry, in which case it is reported directly to the Prime Minister. If a disaster has a multi-sectoral impact, then information is likely to be processed through the DDMC, PDMC,²⁴⁰ and NDMC line of reporting, as discussed previously.

A particular issue is that slow onset natural disasters (such as drought and pest infestation) are common in Laos and may be excluded from classification as a disaster because of the difficulties in monitoring their full impact, the evidence of which may be delayed.²⁴¹

Thus, the process for declaring a disaster should include the development of procedures and indicators suitable for slow onset disasters to more realistically determine when a situation has exceeded the different levels of coping capacity.

6.3 Surveillance of communicable disease outbreaks

Laos has taken a number of significant steps to ensure compliance with the IHR such as assigning a national focal point to the WHO as describe above. Laos has also established a National Weekly Surveillance System (NWSS) and is currently implementing the NAICPP in cooperation with WHO and a number of international organizations, both of which help to strengthen surveillance capacities. In addition, the detailed National Pandemic Influenza Response Plan for the Health Sector prepared in December 2007, defines health sector responses to a phase 6 influenza pandemic both in neighbouring countries and in Laos.

The NWSS, established with the technical assistance of WHO, is a nationwide surveillance system for 19 diseases and conditions including watery diarrhoea, influenza, and anthrax. The coordinating office for the NWSS is the NCLE (also the IHR focal point as described above). There are 17 provincial surveillance units (PSU) and 141 district health offices which report to NCLE.²⁴² NCLE operates as a centre for surveillance of communicable diseases; case and outbreak investigation, response and research; and as a public health laboratory and a national reference laboratory.²⁴³

In normal times, under the NWSS, information is submitted to the MoH from the district to central level and is shared with coordinating partners from NCLE. Each week 141 districts report any suspected cases or outbreaks of the listed 19 diseases or conditions. The district hospitals and village health posts/dispensaries are required to report to the District Health Office which then report to the Provincial Health Department. The Provincial Health Department will relay collated information to the NCLE (see chart below). NCLE must receive reports no later than Tuesday each week on the number of cases or outbreaks of any of the 19 listed diseases. NCLE will then report to the MoH and remain in regular communication with the WHO.

The same system can be used more frequently to intensify surveillance in event of a communicable disease emergency. For example, under the current situation of A(H1N1), any hospital that encounters a suspected case must report it immediately and all cases of influenza-like illnesses and acute respiratory illnesses must be reported daily. Using this system, any suspected case of the A(H1N1) virus would come to the attention of WHO within 24 hours of diagnosis as required by IHR's Annex 1A on Core Capacity Requirements for Surveillance and Response.

The NWSS also includes the detection of communicable disease along international borders and in 2006, the MoH created special "health units" to monitor disease at the international border check points.²⁴⁴ The health units are mandated to check and control diseases by checking vehicles and passengers crossing the border and supervising "irregular events."²⁴⁵ They are generally comprised of district health office officials, who are to report to the provincial or Vientiane health services and district health bureaus, to provide warning of pandemics or other health problems at border check points.²⁴⁶ Information collected by the health units is then communicated to NCLE, MoH and NEIDCO through the NWSS chain (illustrated over).

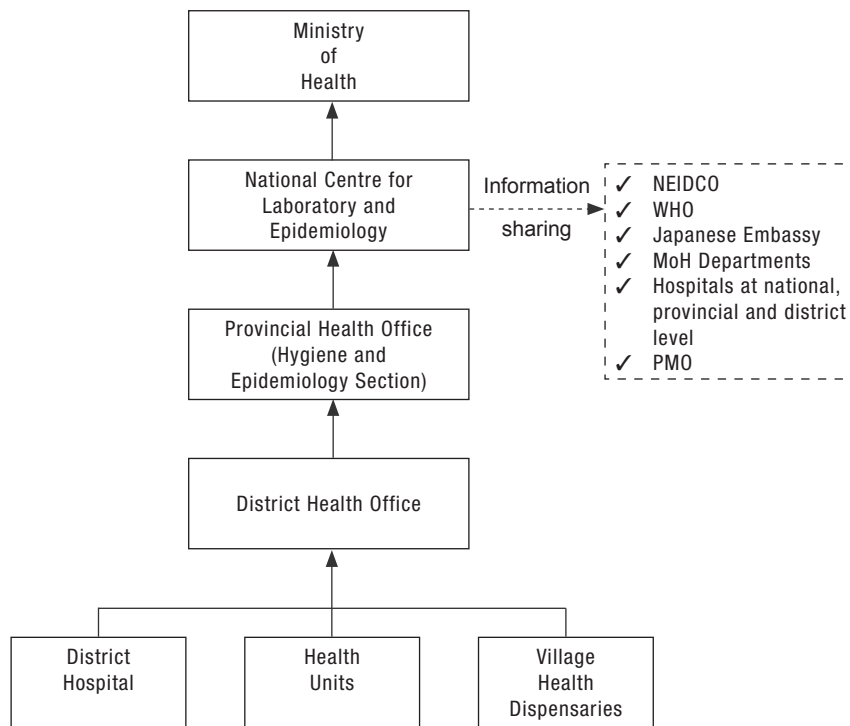
NCLE is responsible to enter all information that is collected from the provinces and districts into a data system. This data system includes "automatically generated alerts for diseases that surpass established thresholds."²⁴⁷ NCLE also publishes a Weekly Epidemiology Report, which is distributed to a variety of agencies including WHO, National Centre for Environmental Hygiene and Water Supply, the Department of Curative Medicine, embassies, and the United Nations Children's Fund (UNICEF).

National Weekly Surveillance System

The system has been considered successful to date, although there have been delays in reporting and the quality of the information may not always be consistent.

In addition to this system, the NAICPPP also addresses early warning strategies for communicable disease emergencies, although it only relates strictly to Avian Influenza²⁴⁸ NAICPP presents five strategies to address Avian Influenza in consultation with partners such as the United Nations Food and Agriculture Organization (FAO), UNICEF, WHO and UNRC. Strategy 2 is to strengthen Laos' capacity for surveillance and response. In targeting gaps in communicable

disease surveillance in Laos, authorities have worked at the provincial level in developing case definitions of diseases and providing training so that staff can identify symptoms.²⁴⁹ Rapid Response Teams have also been trained for mobilization during outbreaks to verify the outbreak and conduct initial investigations.²⁵⁰ The National Pandemic Influenza Response Plan for the Health Sector delegates most of the surveillance and reporting roles to NCLE, and in some instances, the Rapid Response Teams, in the event of a Phase 6 Influenza Pandemic.



Although many of the health centres and some district health offices around the country do not have proper means of communication such as telephone, fax, or computers,²⁵¹ this problem is being addressed under the NAICPPP by providing computers and telephones to many offices. The Ministry of Health has also provided some of the health centres with phone cards so that they may communicate regularly.

The Government of Lao PDR has also issued a number of policies aimed at developing, strengthening and maintaining surveillance capacities. A draft National Policy on Epidemiological Surveillance and Response is currently awaiting finalization from the Ministry of Health.²⁵² The policy identifies seven different strategies to improve surveillance and response capacities in Laos. It is a broad policy and outlines strategies rather than outlining administrative regulations or guidelines for implementation. However, the strategies reinforce the importance of coordination between different agencies, strengthening capacities of existing agencies, increasing public awareness, increasing surveillance, and training staff at the technical level.



The Government of Lao PDR also imposes specific surveillance measures as particular threats arise. For example, during the Influenza A(H1N1) outbreak the PMO issued Notice No. 15/ PMO dated 30 April 2009 which, inter alia:

- Requested all ministries, organizations, Governors/ Mayors of all provinces to stay alert to the threat of H1N1;
- Assigned NEIDCO to devise the plan for controlling the threat and to draft an information pamphlet on

- AH1N1 immediately;
- Ordered the Ministry of Health to enhance the monitoring of the disease nationwide by using the current existing monitoring system; to urgently prepare medicine, treatment rooms, and necessary equipment; and to prepare the technical doctors and nurses that have the capacity to respond at the hospitals in the central and regional area
- Assigned Ministry of Foreign Affairs, Ministry of Health and Ministry of Public Security to coordinate with all sectors and related local authorities to implementation inspection measures of infected travellers [...]

Subsequently, the MoH responded by issuing Order No. 250/MOH dated 30 April 2009 to all provincial divisions of health, Vientiane capital, and nationwide. This order requested authorities to prepare for a communicable disease outbreak by improving the network on disease control, increasing surveillance, developing a response plan and preparing medical practitioners. More specifically, it requested that provincial authorities publicize the importance of regular hand washing, drinking boiled water and consuming cooked food.

Following this, the PMO also issued a Notice No. 742, dated 04 May 2009, to all PCDC offices nationwide urging them to strengthen capacities for dealing with an outbreak, in particular by increasing surveillance at the border and at village level of any suspected symptoms.

As demonstrated by the Influenza A(H1N1) response it appears that, once aware of a communicable disease threat, the PMO instigates a chain of communication throughout the ministries and relevant provincial agencies to increase surveillance measures. NCLE, being responsible for surveillance, diagnosis, and response, remains the actor responsible for communicating with WHO since it is the national IHR focal point. The regular communication between NCLE, MoH, NEIDCO and WHO is considered to be working effectively in ensuring compliance with the IHR. The main concern is that these chains of communication and coordination links are not defined within any legal instruments and thus may be subject to ongoing good relations in order to remain effective. It is also noteworthy that communication does not necessarily occur between NEIDCO, or any other communicable disease surveillance entity, and the NDMO or NDMC to ensure that the non-health sector is prepared for a communicable disease outbreak.

6.4 Notification of communicable disease outbreaks

In accordance with NWSS, public health information is communicated from the district and provincial health departments to NCLE, MoH, NEIDCO and WHO. NCLE has been designated as the proper channel to notify the WHO regarding events that may constitute a public health emergency of international concern. While the law does not provide for this process, in practice, upon diagnosis of a communicable disease, NCLE will refer to the decision process contained within the IHR Annex 2 to determine whether the event would constitute a public health emergency of international concern.²⁵³ If it meets the criteria contained within the IHR, a formal notification will be sent to WHO containing the necessary information. Using the communication system under the NWSS, the notification would reach WHO within 24 hours, although there is no document apart from the IHR which specifies this. At the same time as notifying WHO, NCLE will inform MoH Department of Hygiene and Prevention and NEIDCO of the same information.

NEIDCO and/or the MoH will report any confirmed cases to the head of the Secretariat of NCCDC (Minister of the PMO) who will then report to the Prime Minister to issue an order to all ministries, provincial governors, and government agencies of concern. The ministries of concern then inform their relevant agencies at the provincial levels through their own vertical authority.

Following the initial notification to WHO, NCLE remains in regular communication with WHO regarding any further details of the situation, any further cases and any other laboratory results. Consultations with NCLE officials



demonstrated they were clearly aware of their responsibilities under the IHR in notifying and communicating with WHO in the event of a public health emergency. However, the procedures relating to both surveillance and notification are not defined within any comprehensive legal instrument. It appears procedures are undertaken based on a combination of documentation on the NWSS, orders from the Prime Minister and relevant ministers, and reference to the IHR.

It is also not evident if or how the NDMO or NDMC would become involved to respond to the non-health sector impact of a communicable disease outbreak.

6.5 Recommendations

The Presidential Ordinance on Disaster Management, including communicable disease emergencies, should:

- Appoint NDMO and NEIDCO, in accordance with their respective mandates, to receive early warning and communicable disease risk information from technical governmental entities, local authorities, civil society and the humanitarian community.
- Require NDMO to report to the NDMC about emerging risks and hazards, including issues concerning non-health sector in the event of a communicable disease risk in collaboration with NEIDCO.
- Require NEIDCO to report to the NCCDC about emerging communicable disease risks and to alert the NDMC about issues concerning the non-health sector.
- Upon receiving such information, require NDMC and the NCCDC to immediately determine and authorize appropriate alert and response mechanisms based on the information received, including the sharing of such information with the international humanitarian community, diplomatic missions and other relevant actors.
- Clearly define the process for the declaration of a disaster and communicable disease emergency and the general criteria / level of response required.

Additional decisions/orders should be developed to further clarify early warning communication channels which include the following:

- Clarification of early warning reporting channels from local to national level (in particular through PDMCs, DDMCs and VDPUs). These regulations should be accompanied by appropriate technical guidelines defining triggers and type of events.
- Further clarify current flood and drought forecasting and warning systems and ensure that they are widely disseminated and complied with by all entities involved.
- Require the NDMO or NEIDCO to inform the National Tourism Authority about early warning information and communicable disease risks for the purposes of dissemination to current and prospective international travellers.
- Develop indicators suitable for slow onset disasters to enable the declaration of a disaster to occur in a timely manner.

The Ministry of Information and Culture should adopt an additional decision to:

- Define the details for the timely dissemination of information about mitigation, early warning and emergency operations to the public, in collaboration with NDMO and NEIDCO, including:
 - The number of times that the notice should be disseminated through mass media such as television, radio stations etc.;
 - Nominating alternative means for reaching remote communities where mass media is not available or accessible;
 - Responsibilities for covering the cost of the broadcasting; and,
 - Time indicators for communicating information to ensure that it reaches communities, national and local authorities and other organizations to allow maximum time to respond.



**Request
for
international assistance**

Chapter 7

Chapter 7

Request for international assistance

7.1 Requests for international disaster relief and initial recovery assistance

It is important that the official process of making a request for external assistance is clarified within the legal framework to prevent delays in disaster relief activities, as most international actors require an official request, or acceptance of offers for assistance before commencing relief activities.²⁵⁴

Currently, the link between the informal process of ‘declaring’ a disaster and the issuance of a request for international assistance is unclear, however it’s also evident that the Lao Government does not view the declaration of a disaster as a necessary precursor to requesting or accepting international assistance.

Several government officials interviewed during this study agreed that the MoFA is the only Ministry authorised to issue a request for international assistance. Pursuant to Decision No. 097/MLSW, Article 3 states that MoFA has the responsibility to “upon permission of the Government, appeal and coordinate for receiving ... international assistance and aids.”²⁵⁵ This implies that the MoFA requires the Prime Minister to approve the issuance of an official request for assistance.

In practice it seems that the procedure for requesting external assistance varies according to the situation, depending on orders given by the Prime Minister.

Although requests for international assistance are not made systematically, the Prime Minister has had overarching responsibility by either issuing the official request or by assigning another government body, such as the MoFA, to issue the request by a Notice or Letter of Order.

In the 2008 floods, the MoFA issued a Notice (18 August 2008) addressed to all ‘Diplomatic Corps, Representative Offices of International Organizations and Non-Governmental Organizations in Lao PDR’ advising them that the flood was one of the worst floods experienced in Lao PDR and stating that:

The Lao Government has made its appeal to the international community for immediate assistance and cooperation in flood mitigation and emergency response efforts. [...] the Lao Government has designated the Department of International Organizations, Ministry of Foreign Affairs as the Government’s Focal Point for the emergency relief from the international community.

ASEAN Arrangements

- *If a Party needs assistance in the event of a disaster emergency, it may request it from any other Party, through the AHA Centre or from other entities.*
- *The requesting Party shall specify the scope and type of assistance required by an Assisting Entity, or if not possible, jointly assess and decide on assistance required.*
- *In the event that the Party requires assistance to cope with a disaster situation, it may seek assistance from the AHA Centre to facilitate such requests.*

See AADMER (2005), Articles 11 and 20(2)

Although the notice implied that request had already been made it was not clear when or how this had occurred. However, the notice did nominate a focal point for all communications from that point on.

The process used during the 2008 floods is viewed by several actors as the most appropriate process for issuing a request for international assistance. It has to be noted however that, to avoid unnecessary delay and miscomprehension, this process needs to be described in an official document, ideally in a legal instrument, and fully disseminated to government authorities and the international community because confusion and delays for issuing a request were major concerns for most of the organizations interviewed during this study.

Additional ambiguity exists within the law about whether the

MoFA is the only authority able to issue a request. According to the Law on the State Budget, the MoF has the duty to:

Exercise ownership in contacting and cooperating with foreign financial agencies, international financial institutions, and other organizations relating to finance, and to draft external loan and grant agreements with bilateral agencies and international financial institutions for submission to the government for consideration.²⁵⁶

Although the mandates of MoF and MoFA differ in terms of requesting grants and requesting assistance, it is difficult to identify which ministry is vested with the authority to first contact international agencies and which is responsible for issuing a request for assistance generally. A primary concern is that requests or acceptance of offers of assistance could be delayed because of overlapping and ambiguous responsibilities.

In practice, when it becomes apparent to assisting entities that it is taking too long for the government to make an official request, UN agencies and diplomatic missions have some scope to advocate to the government to make a request and to offer their assistance. During the 2008 floods, NDMO requested IASC to “support a rapid assessment in 9 provinces, to evaluate the situation and provide recommendations for assistance.”²⁵⁷ This suggests that the IASC in-country team could have a potentially important role in both assessing and notifying NDMO of the need for external assistance.²⁵⁸ However, the role of IASC in-country team needs to be considered in light of the IASC After-Action Workshop Report on the 2008 floods. The report describes confusion regarding the role of IASC in-country team.

INGOs have not usually approached the government on an individual basis, but may collaborate in appealing to NDMO to issue a request²⁵⁹ or approach the UN Resident Coordinator directly to offer their support. INGOs also occasionally approached donors as an intermediary to advocate for an official request for assistance. Many donors have their own avenues to advocate for a request for assistance to ensure that their funds are used. However, during the 2008 floods, donors relied on the UN to advocate for a request for assistance, and rather than actively urging the government to issue a request, some donors prefer to fund already existing programmes to avoid delays in waiting for an official request.

In some instances, agreements between UN agencies and the Lao Government specify procedures for responding to a disaster situation. For example, pursuant to an agreement between FAO and the agricultural ministers of UN member countries, FAO may respond to a disaster through its own methods as soon as the Prime Minister or Deputy Prime Minister of the affected Government issues a request for assistance. On the other hand, the basic agreement between the World Food Programme (WFP) and the Government of Lao PDR provides that requests for assistance must be made in writing and addressed to the WFP representative, but it does not specify which government agency is required to issue the request.²⁶⁰

Although it is apparent that the Prime Minister has the ultimate authority to direct MoFA to request or welcome offers of international assistance, this fact is not clearly defined in any legal instruments. While it may be necessary to keep the Prime Minister as the prime entity responsible for initiating a call for assistance, it is important to identify authorities that would be authorized to alert the Prime Minister of the need for a request for assistance. The process for issuing a request for assistance should be also developed in line with procedures for determining when a disaster situation has exceeded national coping capacities.

7.2 Requests for external assistance for a communicable disease emergency

As described previously, NEIDCO has considerable authority, including:

- 3.1. the right to coordinate and work in



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Cooperation with WHO during a communicable disease emergency

- *At the request of a State Party, WHO shall collaborate in the response to public health risks...including the mobilisation of international teams of experts when necessary.*
- *WHO may offer further collaboration including:*
 - *Assessment of the severity of the risk and adequacy of control measures.*
 - *Mobilisation of international assistance in conducting assessments.*

See IHR (2005), Article 13

conjunction with international organizations, international financial institutions, embassies that have the intention to provide assistance and cooperate in the prevention and control of epidemic and infectious disease in Lao PDR.

3.2. the right to propose for grant and sign for acceptance of the grant from the aforementioned organizations, based on the agreement and approval of the Government.²⁶¹

However, the scope of NEIDCO's authority for actually issuing a request is debatable. Even if NEIDCO does have the authority to request foreign assistance, it is not evident whether it could request assistance without an order issued by the Prime Minister. It seems unlikely that the authority of NEIDCO would extend that far and in practice it is considered that NEIDCO, through the secretariat of the NCCDC,²⁶² would notify the Prime Minister who would then decide whether to issue a request for assistance.

In relation to assistance from the WHO, pursuant to its Basic Agreement with the Lao Government, WHO is already in a position to offer assistance to the Lao Government. Additionally, through its existing relationship with the Lao Government, it is

likely to receive a specific request for assistance from the Cabinet of the MoH to collaborate in the response to a public health emergency under the IHR. This may be separate to, or in addition to, any request received from the MoFA.

7.3 Recommendations

Determining when national capacities are exceeded

The Presidential Ordinance on Disaster Management, including communicable disease emergencies, should:

- Require line ministries, governmental technical agencies and local authorities to communicate impact and need assessment information about disaster and communicable disease emergencies to the NDMO and/or NEIDCO as appropriate.
- Authorize NDMO and/or NEIDCO to determine when a disaster or communicable disease emergency has exceeded national capacities, after receiving information from line ministries, governmental technical agencies and local authorities.

Requests for international assistance

The Presidential Ordinance on Disaster Management, including communicable disease emergencies, should:

- Confirm the Prime Minister as the primary authority to determine and direct the MoFA to issue an official request for or welcome of offers of international assistance.
- Confirm the MoFA as the primary authority to issue an official request for or welcome of offers of international assistance (subject to the specific requirements detailed further below).
- Authorize the NDMO, any Minister or NDMC member to alert the NDMC when a disaster situation has exceeded national coping capacities. The Chair of NDMC should then advise the PM on the need for international assistance.
- Authorize NEIDCO, any Minister or member of the NCCDC to alert the NCCDC when a communicable disease situation has exceeded national coping capacities, the Chair of NCCDC will then determine the need for international assistance.

- Authorize the UN Resident Coordinator to alert the NDMC or the NCCDC of the need for international assistance (in accordance with UN General Assembly Resolution UNGA Res 46/182).
- Once a decision on the request or acceptance of international assistance has been made, designate the NDMO to receive all individual offers of international assistance from organizations which are pre-authorized (see further below).
- In situations of communicable disease emergencies, offers specifically addressing communicable disease control measures should be addressed to NEIDCO for approval from the relevant members of the NCCDC and all non-health sector offers should be addressed to the NDMO as above.
- In all cases, NDMO and NEIDCO should share information about all offers received to ensure adequate coordination.
- Acknowledge the existence of specific arrangements for offers and requests from particular organizations such as the UN, the Red Cross, ASEAN and of agreements to ensure compliance with international rules for their engagement, in particular:
 - Authorize WHO to offer assistance directly to the MoH through pre-agreed channels, in accordance with the IHR.
 - Authorize all offers of assistance from components of the International Red Cross and Red Crescent Movement to be channelled directly through the Lao Red Cross, in accordance with the Statutes of the Movement and resolutions of the International Conference of the Red Cross and Red Crescent.
- Specify that the decision regarding the request or acceptance of international assistance will be made and communicated to the international community, in the case of sudden onset emergencies, within 24 hours of the disaster, or in the case of slow onset emergencies, immediately from the time it is determined that national capacities have been exceeded.
- Require that requests for international assistance be as specific as possible as to the types of goods and services needed and, where necessary to avoid duplication and wasted resources, indicate the goods and services which are not required.



Chapter 8



Legal status of foreign entities providing assistance

Chapter 8

Legal status of foreign entities providing assistance

8.1 Diplomatic missions

In order for a diplomatic mission to Lao PDR to receive recognition, the country must sign a diplomatic bilateral agreement with Lao PDR.²⁶³ As of 2 November 2007, 126 states have established diplomatic relations with Lao PDR.²⁶⁴

Lao PDR is a signatory to the Vienna Conventions on Privileges and Immunities.²⁶⁵ Some of the key privileges and immunities accorded to diplomatic agents are:

- They shall be inviolable, not liable to any form of arrest or detention.
- They shall be treated with respect.
- Their private residence shall enjoy inviolability and protection.
- They shall enjoy exemptions from all custom duties.
- Shall enjoy immunity from criminal, civil and administrative actions.²⁶⁶

Recognition of these conventions is evident in government Decisions and Regulations. For example, the MoFA Decision relating to the Management of Vehicles of Embassies, Consulates, Representative Offices, International Organizations and Foreign Experts on Mission in the Lao People's Democratic Republic, which grants exemptions from tax and custom duties on the importation of vehicles, is stated to be issued in compliance with the Vienna Conventions.²⁶⁷

8.2 UN, IFRC and international organizations

Within its general foreign affairs power the government has the full authority to assign privileges and immunities to foreign entities as required.²⁶⁸ However, there is no specific law, decree or regulation describing the assigning process.

Although Lao PDR has signed the UN Conventions on Privileges and Immunities of the United Nations and of its Specialized Agencies,²⁶⁹ the National Assembly has not yet ratified them. Nevertheless, UN agencies, programmes and funds enjoy a range of privileges and immunities through their basic operational agreements with the Government of Lao PDR which regulate the way they operate and liaise with the state of Lao PDR. These agreements also provide legal privileges and immunities to the organization. For example, the Basic Agreement between UNDP and the Government of Lao PDR provides that the UNDP and any service provider appointed by the UNDP will be granted the following:

- Fast immigration process for staff assigned by the UNDP (including from third parties).
- Fast and free granting of visa and work permits.
- The most favourable legal currency exchange rate.
- All import and re-export authorizations for equipment, consumables and supplies.
- All import and re-export authorizations granted to PNUD personnel and service providers relating to items for their personal usage or consumption.
- Fast customs clearance.²⁷⁰

The basic agreement between WFP and the Government of Lao PDR provides WFP personnel with a number of privileges and immunities, including:

- Immunity in respect of themselves, their spouses and their dependent relatives from personal arrest or detention and from seizure and inspection of their personal and official baggage.
- Immunity from legal process of any kind in respect of

*It is recommended that affected States **grant legal facilities to assisting States** with respect to their disaster relief or initial recovery assistance.*

See IDRL Guidelines (2007), Article 13

words spoken or written, and of acts performed by them in their official capacity.

- Exemption from taxation in respect to salaries, emoluments and indemnities paid to them by WFP for services past or present or in connection with their services with WFP.
- For officials of WFP who are not nationals of the Country, freedom to acquire or maintain within the Country or elsewhere foreign securities, foreign currency accounts and other movables and the right to take the same out of the Country through authorized channels without prohibition or restriction.²⁷¹

Agreements with other UN agencies, funds and programmes use similar terms in granting privileges and immunities. Additionally, IOs are also required to enter into individual Memorandums of Understanding (“MOU”) with the Lao Government for specific projects.²⁷²

The IFRC does not have a permanent presence in Lao PDR and does not have a Legal Status Agreement with the government as yet.

In general, UN agencies do not face the same barriers as INGOs in registering their organizations and implementing projects.²⁷³ This can be seen as a result of the well-established relationship UN agencies have with line-Ministries, in combination with their general global political influence. However, prior to responding to a disaster situation a government request for assistance is still required prior to a UN response.²⁷⁴ As demonstrated by the 2008 floods and 2009 rodent infestation, the timing of a request may be a limitation in responding at the most crucial time. Furthermore, while UN agencies do not face major difficulties operating in Laos, they do face restrictions in collaborating with INGOs as implementing partners because of the inherent difficulty for INGOs to obtain MOUs as described below.²⁷⁵

8.3 International NGOs

The primary legal instruments regulating the registration and operation of INGOs in Lao PDR is Decree No. 71/PM of 1998 on the Administration of NGOs, and its complementary Guidelines issued by MoFA.²⁷⁶

To operate as a legal entity in Laos, Decree No. 71/PM states that an INGO must:

Eligibility for legal facilities

- *It is recommended that States establish criteria for assisting humanitarian organizations seeking eligibility for legal facilities.*
- *These criteria should include a showing by the organization of its willingness and capacity to act in accordance with the responsibilities described in paragraph 4 of the IDRL Guidelines.*

Temporary legal status

- *Affected States should grant relevant entities of assisting States and eligible assisting humanitarian organisations, upon entry or as soon as possible thereafter, at least a temporary authorisation to legally operate on their territory.*

See IDRL Guidelines (2007),
Articles 14(1)-(2) and 20(1)

- be recognized as a juridical entity within their originating country;
- have clear by-laws;
- sound financial status;
- be recognized by the international community.²⁷⁷

It also provides that an INGO must obtain an Operation Permit, a Project Office Permit or a Representative Office Permit.

A Representative Office Permit allows an INGO to establish a representative office in Vientiane, and is only available to INGOs who have “efficiently implemented assistance projects for at least 5 years.”²⁷⁸

An Operation Permit concerns only assessments, project preparation and monitoring of activities executed by Lao agencies.²⁷⁹ According to the Decree, an operation permit will be provided by the MoFA “within 30 days” upon receiving the application of the NGO.²⁸⁰ This permit is then valid for a period of 6 months or one year.²⁸¹ In practice, it seems that the operation permit is not frequently used by INGOs given it has such a limited scope.²⁸²

A Project Office Permit concerns the implementation of activities, including the setting up of an office.²⁸³ To obtain a Project Office

permit, the INGO must meet minimum budgetary requirements dependant on whether it will be operating at the provincial or central level.²⁸⁴ According to the Decree, a Project Office Permit should be provided by MoFA “within 60 days” upon receiving the application of the INGO²⁸⁵ and is valid for a period of 2 years.²⁸⁶ While the decree specifies this time limit, in reality the process can take much longer.²⁸⁷

Neither the Operation Permit nor the Project Office Permit is well suited to disaster relief activities. The Operation Permit does not encompass the actual implementation of a project, and the Project Office Permit suggests the opening of a more permanent office. Moreover, the time it takes to obtain either of these permits is too long for an emergency response.

In addition to obtaining a Permit, INGOs must also conclude an MOU with a relevant Ministry to undertake any specific activities in Laos (see further below). While this requirement is not specified in the Decree, the Guidelines state “the NGO can only carry out approved project(s) with signed MOU.”²⁸⁸

In order to implement a project, an INGO must submit a proposal to the MoFA. MoFA will then liaise with the relevant ministries and government agencies, which are required to resubmit the draft proposal and MOU to MoFA within 60 days. Once MoFA has notified the INGO of its approval, the INGO may proceed with the project. Although not specified in the law, it is assumed that an INGO would need a Project Office Permit or a Representative Office Permit in order to apply for project approval and obtain an MOU.

Legal rights of an INGO

Pursuant to the MoFA Guidelines, INGOs foreign personnel “are not granted the right of diplomatic immunities”;²⁸⁹ rather, the Permit and /or MOU will usually dictate the extent of their legal rights. For example, with an Operation Permit, an INGO is only allowed to contract with a Lao company to assess needs and draft project documents.²⁹⁰ An INGO must hold a Project Office Permit or Representative Office Permit in order to lease property, hire local personnel, or employ foreign employees. To obtain visas for foreign employees,²⁹¹ an INGO must submit an application to MoFA for approval in addition to an MOU and a Project Office or Representative Office Permit, as will be discussed further below.²⁹²

An INGO does not technically need a MOU or permit to open a bank account in Laos²⁹³ or to initiate legal proceedings because both of these activities are available to foreign individuals or organizations. However, as a foreign entity, the rights and services available to an unregistered INGO would differ significantly from an INGO that has status as a domestic legal entity. For example, if an unregistered INGO began a legal proceeding in Lao PDR, it would have to submit a claim through the MoFA for consideration.²⁹⁴

Memorandums of Understanding (MOUs)

While it is common knowledge that an MOU is required in order for an INGO to operate in Laos, this is currently only defined in Guidelines. Decree No. 71/PM makes only limited reference to complying with an MOU suggesting that an Operation Permit or Project Office Permit is the only real requirement to operate in Laos.

The greatest obstacle for an unregistered INGO entering Lao PDR in an emergency situation would be obtaining a MOU. For INGOs already operating in Laos, the difficulty would be expanding their MOU to cover new situations that need to be addressed because of the emergency situation.

Most INGOs experience significant delays in obtaining a MOU to commence their activities, with the process taking between 6 to 18 months. The MoFA often requests several corrections and updates of the MOU document before validating it, causing lengthy delays in project delivery. This process has been a critical issue for INGOs, since they are not entitled to start any activity in Lao PDR without one. Moreover, the MOU identifies the number of visas and working permits for expatriate staff as well as any tax exemptions for imported goods and vehicles, making it difficult to plan projects too far in advance. Depending on the size of the INGO, it is also not uncommon to be waiting on numerous MOUs at one time.

Given the constraints described above, obtaining an officially approved MOU for immediate disaster relief activities is particularly difficult for an unregistered organization. Consultations with different organizations showed that, when already present in the country, organizations may start activities to a limited extent prior to the grant of a MOU by liaising with their provincial counterparts. Existing MOUs and the relationships that an INGO has developed with government officials or focal points are often used as a starting point for a registered INGO to operate in a disaster affected area. If an organization has an MOU in a specific area which is affected by a disaster, it may be able to at least move staff and/or assistance into the area, but would not be able to legally respond to the disaster under the terms of the MOU. The organization may also be able to liaise with appropriate officials for intermediate authorization, but this is not a reliable or guaranteed means of providing relief.

Recent developments in the legal framework for INGOs

A new Decree on INGOs is currently being drafted to replace the current Decree No. 71/PM of 1998. A comprehensive consultation process has been undertaken by MoFA in drafting the new decree. At the time of writing this report, the new decree is in its second draft. At this stage, it is clear that the draft new decree is a marked improvement on Decree No. 71/PM from 1998. Terms are defined at the commencement of the decree which makes it more comprehensive and precise than the 1998 decree. The new decree specifically relates only to “international non-governmental organizations” (“INGOs”) whereas the previous decree referred more broadly to “NGOs”, though it obviously intended only to operate in respect of international organizations.

The new draft decree creates additional categories of permits and approvals in Article 5, as follows:

- 5.1 Operation Permit;
- 5.2 Project Approval;
- 5.3 Office Approval:
 - 5.3.1 Project Office Approval;
 - 5.3.2 Representative Office Approval;
 - 5.3.3 Regional Office Approval;
- 5.4 Approval of INGO Representative, Project Director and Staff;
- 5.5 Approval for Activity²⁹⁵

The relevant approval for emergency relief would be an Approval for Activity, which is defined as follows:

Approval for Activity means a permission by the Government to an INGO to undertake its short-term non-project activity in the form of donations, provision of medical assistance, organization of technical meetings, visit and participation in joint activities with local communities.²⁹⁶

The new decree also lists criteria for obtaining an ‘approval for activity’. It is important to note that it is not a requirement that an INGO be registered or that it have an Operation Permit. Therefore, it may be inferred that an unregistered INGO wishing to render assistance in an emergency would still be able to apply to the Government of Lao PDR for approval of a certain activity under this Article.

The new decree also outlines the rights of the INGO under each type of permit. When an INGO has obtained an ‘approval for activity’, they have the right to “undertake activities as approved by the Government” and “apply for importation aids in accordance with the laws and regulations of the Lao PDR.”²⁹⁷ When viewed against the rights afforded to the INGOs under other types of permits, it is evident that the scope of the Activity Approval is very limited which hopefully would make it more attainable and accessible in a disaster situation. However, it does not state that the INGO has the right to employ staff in order to undertake the Activity. It is therefore likely that this provision is only intended to apply to “Activities” which are limited to the provision of direct financial contributions.

Neither the Decree No. 71/PM nor the new draft decree provides specific facilities for assisting INGOs to implement disaster relief activities in an emergency. Furthermore, there is no indication within the legal framework as to how

INGOs are to interact with disaster management authorities like NDMO in an emergency. In light of these clear gaps in the legal framework, a new procedure urgently needs to be developed for disaster situations.

8.4 Private companies and individuals

Currently in Laos there is no law providing for the facilitation or regulation of foreign assistance from the private sector or from individual sources. It may be possible for the private sector actor or the individual to make an agreement with the Ministry of Foreign Affairs that would provide them with the legal facilities necessary to carry out their disaster relief activities, but there is not currently any defined procedure for doing so.

8.5 Recommendations

The Presidential Ordinance on Disaster Management, including communicable disease emergencies, should:

- Require the NDMC to establish a register of authorized entities eligible to receive legal facilities for the provision of disaster and communicable disease emergency relief activities. The process for determining which entities will be included in the register should be elaborated in an additional decision/order of the Chair of the NDMC.

A new Decision/Order of the Chair of the NDMC on the registration of authorised entities should include the following:

- Applications for registration should be submitted to the NDMO which will recommend the application for approval by the NDMC in consultation with MoFA.²⁹⁸
- Foreign entities who anticipate that they will provide initial recovery assistance in the event of a disaster or communicable disease emergency (whether or not they have current activities or legal status in Lao PDR) are required to submit a registration application to the appropriate authority which may include the following:
 - Documentation on the mandate, experience, capacity and key policies of the entity.
 - A commitment to comply with all the obligations as set out in Article 4 of the IDRL Guidelines.
 - In the case of a communicable disease emergency, must also demonstrate sufficient measures are in place to prevent or limit the spread of that particular disease.
- Entities which have not been pre-registered prior to an emergency and wish to offer international assistance should send an application for registration together with their offer of assistance, to NDMO which will follow the registration and approval of specific offers process described above. Such requests should be assessed and decisions communicated promptly without undue delay.
- Once registered, an entity may make specific offers of assistance to the NDMO and in situations of communicable disease emergencies to NEIDCO in the case of offers specifically addressing communicable disease control. Such offers will be processed and approved as described above.
- Once an entity's offer of assistance is accepted, the entity shall:
 - Retain its existing legal status within Laos, or where there is no pre-existing legal status, will be granted immediate temporary legal status on arrival for the duration of its operations.

- Receive, as a minimum, the legal facilities described in Part V of the IDRL Guidelines (see further specific recommendations on this throughout this report). Such measures would be in addition to any facilities, privileges and immunities which are already required under domestic and international law.
- An authority should be appointed for ensuring ongoing compliance of assisting entities with the provisions of Article 4 of the IDRL Guidelines.



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International humanitarian transport arrangements

Chapter 9

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International humanitarian transport arrangements

9.1 Aircraft

Laos is a signatory to the Convention on International Civil Aviation of 1944, which provides that states “must take effective measures to prevent, by means of air navigation, the spread of communicable disease [...] and must keep in close consultation with the agencies concerned with international regulations relating to sanitary measures applicable to the aircraft.”²⁹⁹

The Law on Civil Aviation contains some broad provisions on the use of aircraft in Laos. According to this law, in order to fly within the airspace of Lao PDR, an aircraft must be registered and have nationality and registration marks in accordance with the laws of the Lao PDR or of the concerned State.³⁰⁰ The Law on Civil Aviation also specifies a number of documents that must be present on all aircraft, such as a Certificate of Airworthiness.³⁰¹ There are, however, no provisions relating to the use of foreign aircraft in emergency situations.

While there are 14 airport fields in Lao PDR, not all of them are currently operational³⁰² and only four of them are international airports: Vientiane, Luangprabang, Pakse and Savannakhet. The Lao Airport Authority manages the Vientiane Wattay International Airport, as well as the airports in Luangprabang, Pakse, Savannakhet, Oudomxay, Luang Namtha, and Xiengkhouang (Phonsavanh).³⁰³ The other minor airports are managed by provincial governments with assistance of central government grants.³⁰⁴

At the broader level, the management of all civil aviation is conducted by the Ministry of Public Works and Transport.³⁰⁵ In order to operate over Lao territory, a foreign registered aircraft needs to obtain permission from the Department of Civil Aviation (DCA) under the Ministry of Public Works and Transport as well as from the Ministry of Foreign Affairs.³⁰⁶

Permission for a foreign commercial aircraft to fly and land in Lao territory is largely dependent on whether there is an Air Service Agreement (ASA) with the respective country and airline.³⁰⁷ Laos now has approximately 20 ASAs.³⁰⁸ Assisting states with an existing ASA with Laos would therefore not face the same restrictions as other entities. Laos is also a signatory to the ASEAN Multilateral Agreement on Air Services³⁰⁹ which also facilitates the immediate granting of overflight and landing permission for recognized ASEAN air services, which would also be of benefit in an emergency.

International transport arrangements for disaster response

- *Originating, transit and affected States should grant, without undue delay, permission for the speedy passage of land, marine and air vehicles operated by an assisting State or eligible assisting humanitarian organization, or on its behalf, for the purpose of transporting disaster relief or initial recovery assistance and, ideally, waive applicable fees.*
- *In particular, permission should be granted for overflight, landing and departure of aircraft. Such aircraft should also be authorized to operate within the territory of the affected State as required for the delivery of assistance.*

See IDRL Guidelines (2007), Article 19

In general, the Government of Lao PDR considers aircraft bearing relief goods to be non-commercial flights or cargo flights.³¹⁰ For these flights, all requests for over-flight permission should be addressed through the ‘diplomatic channel’, which means applying to MoFA (in the case of civil aircraft) or to MoND (if military aircraft). After consideration of the application, MoFA and MoND will instruct the Department of Civil Aviation (DCA) to issue the relevant permission or license. The PMO, MoFA or MoND may exempt a relief aircraft from certain government-imposed fees such as navigation or landing fees. However, as the grounding fee is managed by the Lao-Japan Airport Terminal Services (L-JATS), any related exemption depends on ad hoc negotiations between the Lao Government and L-JATS.

9.2 Water vessels

Although Laos has no access to the sea, the law does provide some information for boats that operate along border rivers (the Mekong River). Any boat that conducts business along a border river is required to be registered at a border customs checkpoint.³¹¹ For movement along the river, boats must dock at a border customs checkpoint to show the registration documentation and have the goods inspected prior to unloading.³¹²

9.3 Land vehicles

Being a landlocked state with relatively small international airports,³¹³ overland transport is one of the primary means for entering Laos. There are two cross-border bridges to enter into Laos over the Mekong from Thailand. The Australian-Lao-Thai friendship bridge connects Vientiane Capital with NongKhai province in Thailand. A second Lao-Thai friendship bridge connects Savannakhet province with Mukdahan province in Thailand. There is also a third bridge that crosses the Mekong, but it connects the two sides of Champassak province together.³¹⁴

The Law on Land Transport distinguishes between vehicles owned by a transport company and those owned and used by individuals and organizations. Different regulations apply according to how a vehicle is classified. However, vehicles being used for transport enterprises and specialized transport both require the following:

- Registration as a transport vehicle;
- Valid license plates;
- Compliance with technical [requirements] for transport;
- Relevant insurance;
- Payment of annual road usage fees;
- Been submitted for technical inspection as required by rules and regulations³¹⁵

In addition, both transport enterprise and specialized transport vehicles must have a bill of lading and a vehicle use permit,³¹⁶ both of which are issued by the Ministry of Public Works and Transport.³¹⁷

Using an imported vehicle or registering a new vehicle is a long process which is not sufficiently outlined within the law. There are no legislative provisions on the recognition of foreign registration or license plates, and there are no exemptions provided for in the law for emergency situations. Consultation with the Department of Transport, however, confirmed that 7 day permits are available for foreign vehicles at the border. These permits are renewable upon application either to the border checkpoint at which it was initially issued, or the Customs Department.³¹⁸

All transport vehicles used within Lao PDR must have third party insurance.³¹⁹ International and cross-border transport must also have insurance covering the driver and the transported goods.³²⁰ The Insurance Law provides that “any Insurance contracts relating to individuals located in or residing in Lao PDR, risks incurring in and assets located or registered in [Lao PDR] may only be made with companies that are licensed to conduct insurance business in [Lao PDR].”³²¹ This suggests that insurance of a vehicle must be covered by a company recognized and registered in Lao PDR. In practice, it appears that recognition of foreign insurance will be dependent on the individual insurance policy and whether it states Lao PDR as country in which the policy applies.

Lao law requires foreign drivers to use a driving license issued by Lao authorities unless they are a citizen of a country that has signed an agreement on mutual recognition of driving licenses.³²² For example, Laos signed an agreement with Vietnam, the Convention on Road Traffic, on 8 November 1968, which provides for mutual recognition of their licenses. Similar agreements exist with a number of neighbouring Asian countries.

If an agreement does not exist between Laos and the country of issuance of the license, an international license is required. Foreigners must have an international driving license that has been issued overseas valid for one year³²³ or they must apply for an international driving license issued in Lao PDR.³²⁴ To transfer a license to an international driving license from Lao PDR, foreigners must submit an application to the Department of Transport.³²⁵ The application for transfer must be certified by the organization for which they work with, and accompanied by a copy of their overseas

driving license and photos.³²⁶ This process generally takes about one month.

Consultations with the Department of Transport confirmed that allowances can be made for exceptional circumstances like a natural disaster or communicable disease emergency. However, since there is no formal procedure for such allowances provided for in law or regulation, it would generally be undertaken on an ad hoc basis.

Laos' transport networks are also considered to be in need of improvement. In 2007, only 15% of the roads were paved³²⁷ and road access was severely restricted during the rainy season.³²⁸ The WFP Logistic Capacity Assessment for Lao PDR in 2008 noted that "less than 60% of district centres have year-round access [...] and more than 40% of villages are six kilometres or more from a main road".³²⁹ Accessing vulnerable communities affected by a disaster will require suitable transportation means which are not currently present in country. Considering the difficulty for humanitarian organizations to purchase or import vehicles it is anticipated that Lao PDR will face a logistical bottleneck moving relief items throughout the country. Consequently, UNDAC has previously recommended developing contingency plans with the Ministry of National Defence for use of Lao Army land and air assets.³³⁰

9.4 Use of military assets

Military and Civil Defence Assets (MCDA) should be requested in accordance with the Oslo Guidelines,³³¹ although this is not currently recognized within the law. While an occurrence of an emergency requiring MCDA may be rare, the legal framework should still identify the necessity for consent by the government when the UN Resident Coordinator requests assistance from MCDA. The Decision No. 097/MLSW indicates in Article 4.2 that the MoND is "responsible for using military forces and assets when joint search, rescue and evacuation of the victims is needed". This role is limited to search and rescue and does not include other aspects of disaster and communicable diseases emergencies response.

9.5 Inspection of transport and quarantine measures

There are no laws or regulations directed specifically at conveyance operators in a communicable disease emergency. At a broader level, all citizens are required to "comply with the principles of prevention and control of communicable diseases" and to report to higher authorities of any detection of communicable diseases "for a timely solution."³³² It appears that there is more an ad hoc governmental response to regulating the arrival of transportation in a communicable disease emergency. The Decree No. 377/PM on the establishment of the NCCDC empowers the NCCDC to coordinate "the control, prevention, ceasing, and elimination, in an effective and urgent manner, the outbreak of all kinds of communicable diseases (if occurring) by appropriate means",³³³ which would allow it to direct the imposition of inspection and quarantine measures when necessary.

It seems the primary responsibility rests with the border Health Units in identifying risks in the arrival of vehicles and aircraft.³³⁴ The Health Units are designed to facilitate the immediate transmission of information regarding infectious diseases from the points of entry to the competent authorities.³³⁵ According to the MoH decision to establish Health Units, the Health Units are to contact a number of authorities, including the provincial/Vientiane capital Health Office, the Department of Hygiene and Prevention, the Department of Food and Drugs, and the Department of Curative Medicine at the MoH, within twenty-four hours of detection of any irregularities or suspected cases.³³⁶ Conveyance operators may communicate with the relevant Health Unit at the point of entry to advise of any potential risk, but there is no regulation requiring this exchange of information by the conveyance operator.

With the recent threat of A(H1N1), Lao immigration authorities distributed health forms to airlines to be completed by all passengers arriving in Laos. It is not clear whether distribution of these forms to passengers was a legally enforceable obligation on the part



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of the airline. The obligations of pilots and crew then appear to result from the requirements of an airline rather than through the laws of Laos or government orders.

9.6 Laos as a transit or sending state for international assistance

Although Laos is centrally located in South East Asia, it is not necessarily viewed as a transit state by the humanitarian community. Firstly, Laos' airports are not tailored to receiving large volumes of aircraft, especially when viewed against the aviation capacities of some of its neighbouring states. Secondly, despite the development and improvement of its road network (to access Myanmar and China for example) it is still considered to have a relatively poor road network.³³⁷ The absence of regulations for customs exemptions in Laos, when compared to the availability of Thai facilities (roads, permanent warehouses, etc.),³³⁸ has also reduced the attractiveness of Laos as a transit state.

All foreign transport passing through Lao territory must comply with Lao traffic regulations.³³⁹ This means that all transport in transit through Laos must have a bill of lading³⁴⁰ and a vehicle use permit.³⁴¹

Goods that are in transit through Laos are exempt from customs duty if they comply with the required customs regulations.³⁴² Upon entry into Laos, the customs officials will issue a goods movement permit as well as a security contract after inspection of the goods.³⁴³ The person moving the goods must pay a security deposit that is written up as a security contract. Upon exit from Lao territory, the customs officials will inspect the goods again to certify that the quantity and type of goods are the same as those that entered the country.³⁴⁴ If so, the security deposit is returned to the owner of the goods.³⁴⁵

While Lao law has no provisions for the transit of international assistance to neighbouring countries for disaster relief, Article 25 of the Law on Land Transport provides:³⁴⁶

In international and cross-border transport, the government will comply with agreements signed with foreign countries and authorize transport passing across its territory, including facilitating and providing necessary guarantees in accordance with treaties and international conventions to which it is a party.

In international and cross-border transport, goods may or may not be unloaded, depending on the government's decision.

Thus, it may be possible to apply the relevant provision of the AADMER which provides that:³⁴⁷

Each Party shall, at the request of the Party concerned, seek to facilitate the transit through its territory of duly notified personnel, equipment, facilities and materials involved or used in the assistance to the Requesting or Receiving Party. The Party concerned shall exempt from taxation, duties and other charges of a similar nature for such equipment, facilities and materials.

While this does not specify exact measures to be taken, it may be interpreted that exemptions are required under this provision and they could be applied under Article 25 of the Law on Land Transport.

There are a number of other international and cross-border transport agreements which relate to the thoroughfare of vehicles and goods, primarily to facilitate international trade. The GMS countries (Cambodia, Laos, Myanmar, Thailand, Viet Nam and China) have been developing cross-border agreements to increase economic activities between states in the region since 1992.³⁴⁸ As part of the GMS Transport Program funded by ADB, a collection of "economic corridors", through the North-South, the East-West and the South Corridors, are in the process of being established. The North-South and East-West corridors cross Laos and are already considered as "all-weather-passable" corridors, which may be utilized in times of disaster.³⁴⁹ The diagram on page 87 depicts the corridors which run through the region.

Transit of vessels and goods in a communicable disease emergency

In Laos, vehicles in transit are subject to the same laws as vehicles entering the country. It would be unlikely that a vehicle would pass through Laos without operators and passengers disembarking at some point. As discussed above, the MoH has issued a Decision regarding Health Units that are to be placed at borders and airports with the authority to check

vehicles and passengers.³⁵⁰ The Health Unit officials have the right to enter and check vehicles, passengers, objects, and animals passing through the border checkpoint or arriving at an airport.³⁵¹

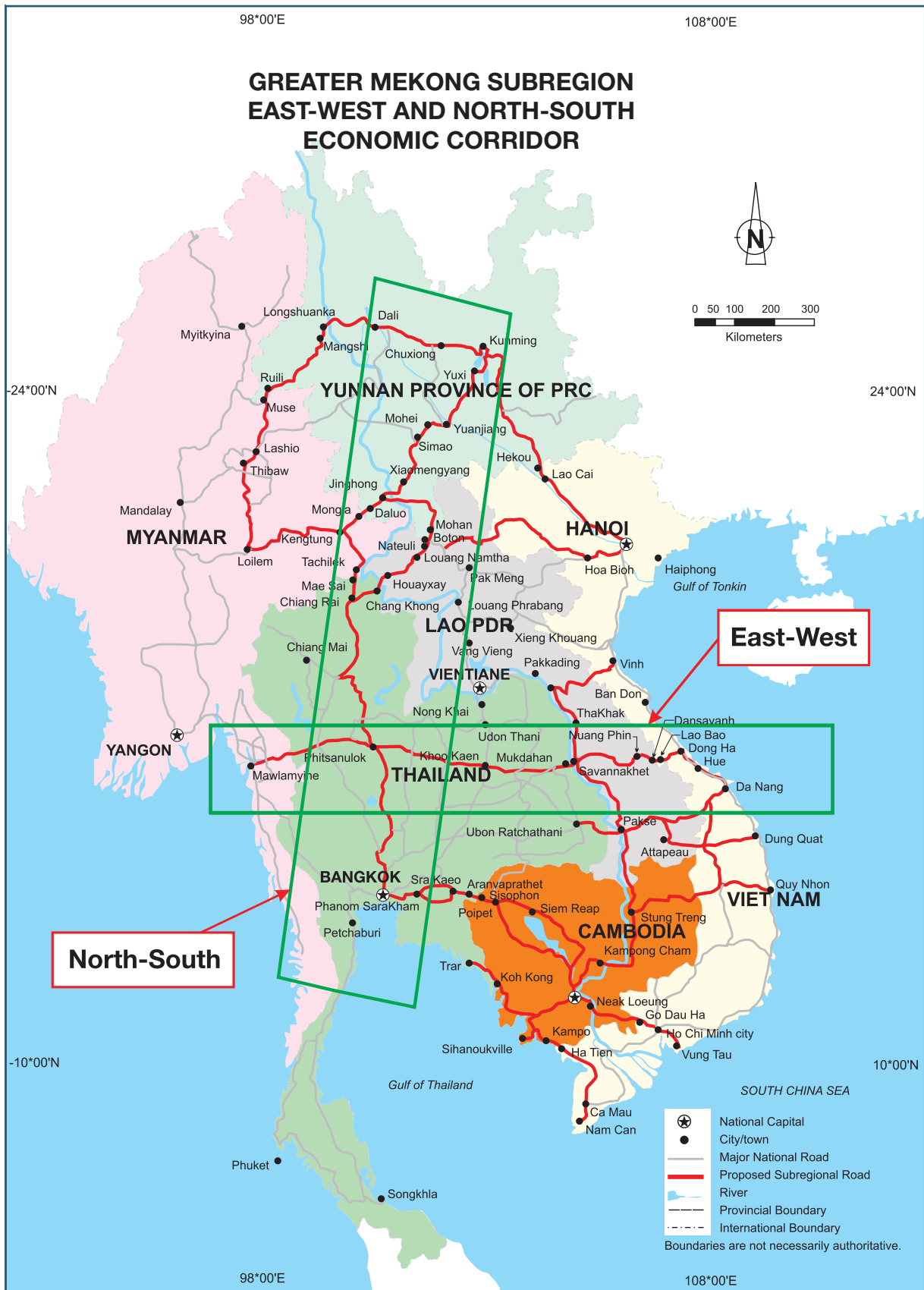
9.7 Recommendations

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should include the following:

- A registered entity approved for emergency assistance, should receive from the relevant authority:
 - Immediate permission for the speedy passage of their land vehicles and the waiver of any associated fees;
 - Immediate permission for overflight, landing and departure of aircraft and authorization for the aircraft to operate within Lao territory; and
 - Immediate, temporary recognition of foreign driving licences and foreign vehicle registration and plates.

A new Decision/Order/Decree of the Chair of the NCDCC on the receipt of international humanitarian assistance during a communicable disease emergency should be developed and include the following:

- A cross-reference to the Decision/Order of the Chair of the NDMC on the registration of authorized entities, to recognize the registration process and provide additional details concerning the impact of communicable disease control measures on international humanitarian assistance.
- Where the means of transport has come from an infected area and/or could reasonably be considered a potential risk to public health, ensure that the inspection of transport containing humanitarian cargo is treated with the utmost urgency and priority.
- All humanitarian cargo should be examined as a first priority over other cargo to determine if any or all of it may be immediately cleared and transported by a different vehicle.
- In the event that humanitarian transport and/or cargo must be quarantined, every effort must be made to treat/decontaminate and release it as a matter of priority.
- In all cases, consideration should be given to the humanitarian necessity of the goods involved and prioritized accordingly to ensure they are not unnecessarily delayed.
- Include a requirement that all focal points and procedures relating to incoming and outgoing humanitarian transport be publicly accessible prior to an emergency and provided directly to registered entities from which assistance will be received in the event of an emergency.



Source: National Human Development Report: International Trade and Human Development Report, Lao PDR, 2006.

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Chapter 10



Customs and tax arrangements for international humanitarian relief

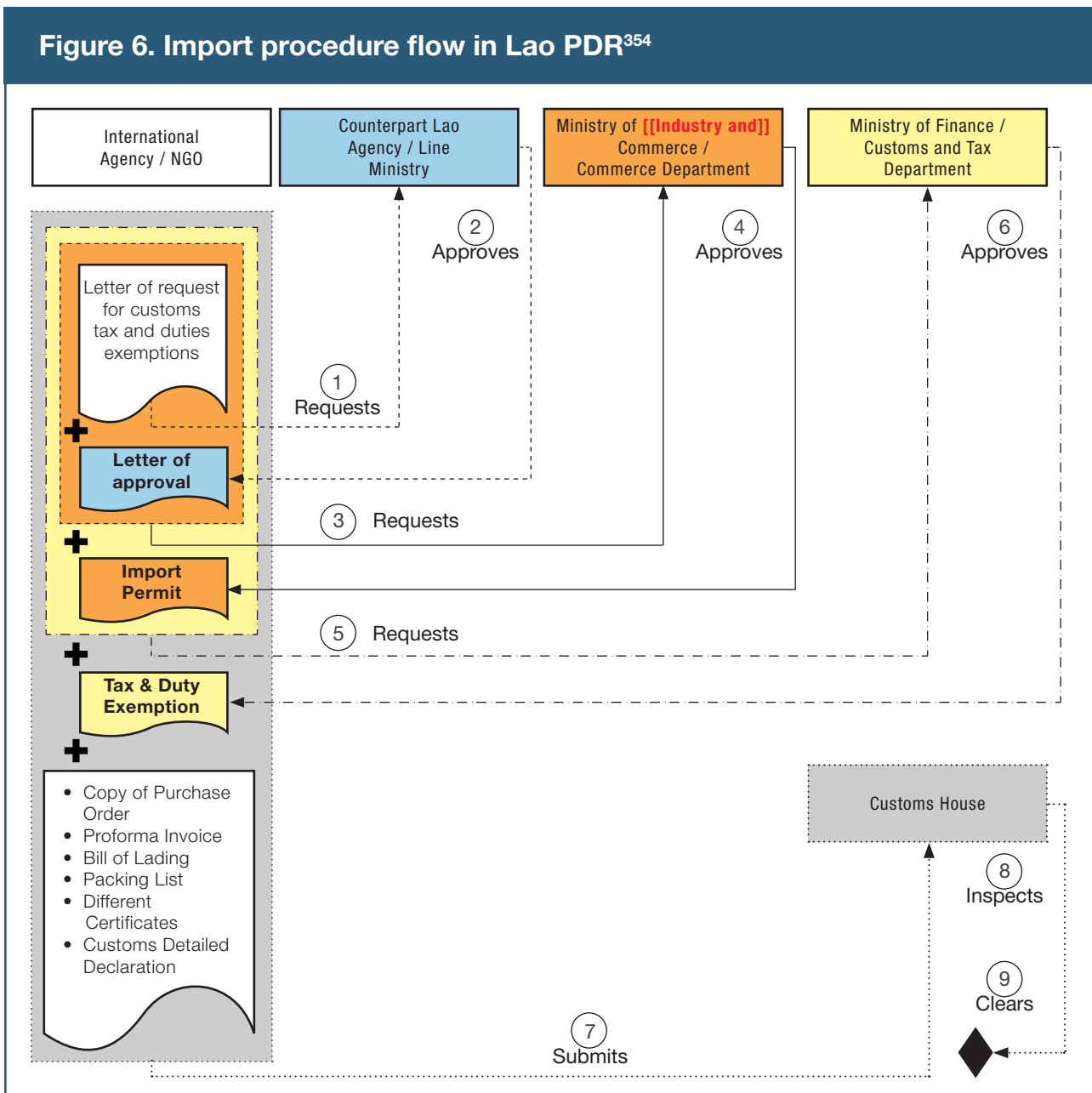
Chapter 10

Customs and tax arrangements for international humanitarian relief

10.1 Customs, duties and import/export tax exemptions

The revised International Convention on the Simplification and Harmonization of Customs procedures (also known as the revised Kyoto Convention) relates to the delivery of humanitarian assistance³⁵² and contains a number of provisions for “relief consignments”³⁵³ but has not yet been signed by Lao PDR. Currently, the Law on Customs exempts “[g]ifts, grants or loans from a foreign country” and “items of humanitarian assistance” from tax and duties.³⁵⁵ However, the law does not define what types of goods would be classified as “items of humanitarian assistance” and what processes must be undertaken to obtain this exemption.

Figure 6. Import procedure flow in Lao PDR³⁵⁴



Apart from these items, the Law on Customs provides that any organization or individual importing or exporting goods out of Lao PDR has to pay customs duties according to the duty rates of 1993.³⁵⁶

The import and export processes are governed primarily by the Customs Law³⁵⁷ and the Tax Law.³⁵⁸ Importation and exportation is administered by customs authorities³⁵⁹ under the MoF and their roles and responsibilities are set out in the Customs Law.³⁶⁰ Depending on the type of goods being imported, other line ministries may be required to approve or certify the goods. For example, the Department of Food and Drugs, under the MoH, must approve any food or drug importations. The chart on the previous page (see Figure 6) summarizes the import procedure for international organizations:

As referred to above, goods which are determined to be “items of humanitarian assistance” are exempted under the Customs Law. If not exempted, imported goods must be declared at their actual value plus insurance, transportation and other costs. Import duties must be paid at the point of importation and rates range from 5% to 40%.³⁶¹

Under the Law on Customs, “the importation of goods for diplomats, embassies and international organizations located in the Lao PDR” are exempted from both business turnover tax and excise tax with approval from MoFA.³⁶²

However, pursuant to the Tax Law, unregistered organizations would be liable to pay both business turnover tax and excise tax on all items imported into Laos. Both taxes are calculated during the importation process. Business turnover tax is calculated when the importer fills out the detailed customs declaration form and must be paid prior to the goods being removed.³⁶³ Excise tax is calculated by the declared value for customs plus customs duty.³⁶⁴

Goods and equipment

With regard to disaster relief and initial recovery goods and equipment exported or imported by, or on behalf of, assisting States and eligible assisting humanitarian organizations, originating, transit and affected States should:

- Exempt them from all customs duties, taxes, tariffs and governmental fees;
- Exempt them from all export, transit, and import restrictions;
- Simplify and minimize documentation requirements for export, transit and import;
- Permit re-exportation of any equipment or unused goods which the assisting State or assisting humanitarian organization owns and wishes to retain.

See IDRL Guidelines (2007), Article 17(1)

The Law on Customs also grants exemptions to “items accompanying ... international organizations or foreign non-governmental organizations” if they are “... subject to the agreements signed between the government of the Lao PDR and the relevant organization.”³⁶⁵

For INGOs already established in Laos, a list of equipment and materials that the INGO requires to implement activities are listed in the Memorandum of Understanding (MOU) signed with the Government.³⁶⁶ Only the goods listed in the MOU are subject to exemption of import and export duties. It is possible for an INGO to request an amendment to the MOU either to expand the list of required goods or to import some required goods on an ad hoc basis. However, the process for amending a MOU is time consuming and is not a feasible option in disaster situations.

There are alternative means for IOs and INGOs to import duty-free goods. Following a request for assistance, IOs and INGOs may seek support from line-ministries to facilitate the import of goods. By providing an organization with an official letter certifying the non-commercial use of the goods and the recognition of the organization as a humanitarian actor, line ministries can significantly accelerate the custom clearance process. Although this process is not described in the law, stakeholders commented that this was an effective option in responding to a disaster. Relying on the assistance from line ministry officials, however, may not be suitable during disaster situations. Government officials may be overloaded and should not be relied on for the facilitation of importing goods.



T. Meadley / Vientiane

In order to avoid dealing with the lengthy importation processes, some organizations prefer to contract private companies with the appropriate import licenses to import goods for relief. Freight companies are familiar with the customs process and are often able to expedite the process if the customer is willing to pay a duty.

The Law on Customs prohibits individuals unloading goods at a border checkpoint until the goods or documents have been declared to customs officials.³⁶⁷ However, the law does provide that during an emergency, goods can be unloaded or temporarily stored in a bonded warehouse.³⁶⁸ Regardless of whether the goods will be exempted from duty or not, importers are then required to fill in a detailed customs declaration on the goods. The Law on Customs states:

All imported or exported goods, whether or not a suspension, reduction or exemption from duty and other obligations has been authorized, must be subject to detailed customs declaration by the owner of the goods [...], to the customs officers.³⁶⁹

The detailed customs declaration form must be presented to the customs officials within thirty days from the date the goods were unloaded and registered in a bonded warehouse.³⁷⁰ The presentation of the detailed customs declaration can be completed by a third party or customs agent.

It is possible for the importer to remove the goods from the bonded warehouse by providing a security contract of 120% of the calculated payable duties and taxes. The circumstances for issuing a security contract are outlined as follows:

If necessary, the customs officers will authorize the removal of certain types of goods from the [bonded] warehouse or the [border] customs checkpoint before payment of customs duties and other obligations is made, but there must be a security contract in relation to the payment of customs duties and other obligations [...] by a legal entity or reliable individual in an a Memorandum of Understanding equal to 120% of the customs duties and other obligations payable.³⁷¹

In practice, a governmental counterpart will provide an official letter to support an organization when there is a need to import equipment or any other related items. As soon as the detailed customs declaration form has been completed and the security contract registered,³⁷² the customs officials will issue a movement permit which grants the importer permission to remove the goods from the bonded warehouse and deliver them to their final destination. The process of issuing security contracts can take as little as four hours for an organization familiar with the process and the required documentation. This process is generally viewed as appropriate in a disaster situation as it allows for the fast entry of goods by allowing the paperwork to be done after the entry of goods.

Once the goods have been transported, the importer is obligated to submit the goods to a final inspection by the local customs authorities. The security contract expires once the duty and applicable taxes have been paid³⁷³ or when the organization is able to prove exemption from duty or tax. The process is described in the Law on Customs as follows:

Inspection of goods shall be carried out at the point of destination in accordance with rules and regulations [and] if customs duties and obligations payable have not been paid at the customs office at the starting point, the customs office at the destination point must fully collect the customs duties and other obligations before releasing the goods for use within the country, except if such goods have been classified under another customs regime.³⁷⁴

This is the only expedited method for assisting humanitarian actors to import relief goods. There are no provisions providing pre-clearance for relief goods in case of an emergency. The most efficient manner for an assisting entity to import relief goods into the country is through contacts with ministry officials who can provide the proper documentation for both an expedited customs clearance and an exemption from duty and taxes.

Communications equipment

There are no comprehensive laws on the use and importation of telecommunication equipment. Unfortunately, Laos

has not signed the Tampere Convention which would reduce the regulatory barriers in the use of telecommunications during disaster response.

In 2009 the NAPT issued Notice No. 592/PMO on the importation of telecommunication tools defining telecommunication tools as:

telecommunication and electronic equipment which can be assembled into a telecommunications network, internet network and audio and visual wave system, control and command systems, and other electronic telecommunication systems which facilitate communication from one place to another.

Use of telecommunications equipment for disaster relief and recovery

Affected States should:

- *Waive or expedite the granting of any applicable licences and reduce any other barriers to the use, import or export of telecommunications and information technology equipment.*
- *Grant access to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with disaster relief operations.*

See IDRL Guidelines (2007), Article18(2)

In order to import telecommunication tools as defined in the Notice, international organizations must request permission from the NAPT. Once approval is obtained from NAPT, the importer must then “request approval from the sector concerned in order to import the equipment.”³⁷⁵

According to an interview with NAPT, a license is required to import any type of telecommunications equipment into Laos. An organization must be allocated a radio channel prior to applying for a license. The Frequency Spectrum Management division of NAPT allocates radio channels according to the international standards issued by the International Telecommunications Union. It usually takes up to three weeks to obtain a radio channel allocation, although this process may be expedited during an emergency.³⁷⁶

After obtaining a radio channel, an international organization may apply for a license for importation by written request to NAPT

accompanied by a letter from MoFA recognizing the legality of the organization’s status in Laos. Officials from the NAPT advised that a license may be easily procured if there was an emergency situation.

A number of stakeholders agreed that importing and using small satellite equipment such as satellite phones is not as difficult, and satellite phones are, in practice, used without licenses.

Most UN agencies have agreements with the Government that grant them licenses to import telecommunication equipment and the necessary permits for frequencies. For example, the WFP is granted “licences and frequencies required to maintain 24-hour-a-day, 7-days-a-week wireless communications with its operational units, wherever situated.”³⁷⁷ Nevertheless, UN agencies have experienced difficulties using radio systems due to the limited allocation of frequencies.

Food

All food imports must be authorized by the Food and Drug Department (FDD) of the MoH. The FDD is mandated to define standards and regulations and to ensure that food is safe for consumption and fit for purpose. The Law on Food specifies that:

Importing food for disaster relief

Originating, transit and affected States should consider whether normal requirements regarding fumigation and prohibitions and restrictions on food imports and exports can be modified or reduced.

See IDRL Guidelines (2007), Article18(4)

Food that is obtained from donations and assistance from domestic and foreign sources shall be safe and of [good] quality, shall meet standards, shall not have perished, and shall have had its quality certified by the relevant agency.³⁷⁸

Additionally, those who import food must comply with the following law:

It is prohibited to import or distribute food that is unsafe, of

[unacceptable] quality or standard, or inconsistent with the laws and regulations on food of the Lao PDR, such as: contaminated food, adulterated food, deteriorated food, counterfeit food, perished food, [...]. It is prohibited to import food whose consumption date has nearly expired.³⁷⁹

In addition to the Law on Food, the Prime Minister endorsed The National Food Safety Policy in February 2009, which aims to ensure that imported and exported foods meet national and international quality standards. Laos' food laws are mostly concerned with the quality of food products brought into the country and therefore it does not seem difficult for an INGO to receive approval of a food import from the FDD. Once a request for assistance is issued, the FDD will endeavour to ensure that all necessary procedures and approvals are granted in a timely manner.³⁸⁰

In addition to normal shipping documents, food importations must be accompanied by:

- Certificate of origin;
- Certificate of analysis;
- Any other applicable sanitary certificates.³⁸¹

Importing food is not recognized as a major concern for registered organizations in Laos. The major obstacle for small INGOs or unregistered organizations would be obtaining exemptions for duties and taxes rather than approval of the food products (see above).

Stakeholders have also reported another alternative for INGOs to obtain all necessary documentation to import food. Permanent INGOs in Laos can receive approvals for food imports by directly addressing requests to the MoH. The MoH can then issue official letters for FDD approval and customs clearance. Through this process, the average time to clear food importations is between one and three days in Vientiane. However, this ad hoc process is only feasible for organizations familiar with officials from the MoH.

Vehicles

Pursuant to the MoFA Decision on the Management of Vehicles of Embassies, Consulates, Representative Offices, International Organizations and Foreign Experts on Mission in the Lao People's Democratic Republic, these entities are exempted from paying duty and tax, and other associated fees, on imported vehicles.³⁸² Before importing or ordering the vehicles, however, the entity must submit a declaration to be approved by the MoFA.³⁸³

INGOs are generally limited by their MOUs in the number and type of vehicles they are allowed to import.³⁸⁴ INGOs are permitted to import equipment necessary to meet the requirements of the organisation,³⁸⁵ but they must comply with the above mentioned MoFA Decision.³⁸⁶ Generally the INGO will need initial approval from their counterpart ministry for their MOU before submitting a declaration to MoFA.

Consultations with stakeholders revealed that the importation of tax-free foreign vehicles, even when a MOU provides for the importation of a vehicle, is difficult and time consuming. Making an amendment to the MOU to import more vehicles is even more difficult, and most INGOs do not attempt to do so. In the event of an emergency, INGOs registered in Lao PDR will generally use their existing registered vehicles, or try to hire appropriate vehicles within Laos, before seeking to import foreign vehicles for the use of emergency assistance. Unregistered organizations will face the same kind of difficulties, but in addition to the difficulties faced in obtaining different permits to operate in Lao PDR.

UN agencies have basic agreements with the Government for the importation of vehicles. However, the constraints of importing and purchasing tax-free vehicles are so great that most interviewed organizations, including United Nations agencies, indicate that they prefer to either rent vehicles in Laos for the entire duration of the intervention or hire transport companies. This method is also problematic as Laos' rental market is small in the capital and particularly limited in the rest of the country.

Affected States should grant temporary recognition to foreign registration and plates with regard to vehicles imported by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance.

See IDRL Guidelines (2007), Article 18(1)

Medication

All drug importations must be authorized by the FDD to ensure the quality of the medication. The Law on Drugs and Medical Products states that:

Drugs and medical products that are donated from abroad can only be imported into Lao PDR when their quality is ensured and the Ministry of Health has been informed in advance of the objective of the donation and has approved it.³⁸⁷

The law also contains the following provision:

Any individual or organization intending to export and import drugs and medical products shall, in addition to the conditions mentioned in the Business Law and as specified in the Articles 19 and 20 of this law, satisfy other specific conditions as follows:

1. Have a pharmacist. For the import of drugs and medical products, the pharmacist must be of Lao nationality;
2. Have conditions and necessary facilities to store and transport drugs and medical products in good condition.

Before any drugs and medical products are imported for distribution in the Lao PDR, they shall be registered with the Ministry of Health.³⁸⁸

It is assumed that this Article is directed towards the import of medication for commercial purposes, and would not be arbitrarily enforced for disaster relief purposes. However, all medication must still be approved by the MoH prior to importation into Laos. Stakeholders reported that INGOs can send an official request to the MoFA, which will then be forwarded to the MoH upon approval. The MoH must also approve the request after which it will direct the FDD for approval and customs clearance.³⁸⁹ However, this procedure is not officially recorded in a law or regulation.

In addition to FDD approval, an importer of medicine also needs to provide:

- Certificate of sale;
- Good manufacturing practice (GMP) certificate;
- Certificate of analysis.³⁹⁰

Despite the lack of formal procedures, it does not appear that the current process for importing medicines is difficult for INGOs.

A separate avenue is also available for requesting the provision of medical supplies during a communicable disease emergency. Hospitals may make direct requests to the Department of Curative Medicine of MoH which, in cooperation with NEIDCO, may approach donors to request the provision of particular medication or supplies. While there is no legal document describing this process, this procedure was confirmed in the interview process.

Rescue animals

While Decree No. 169/PM on the Search and Rescue Committee does not make specific mention of rescue animals, the Committee does have the right to use personnel, vehicle, equipment, and the budget according to government agreements, which presumably would incorporate the use of rescue animals where necessary.³⁹¹

10.2 Other taxes, charges and currency exchanges

VAT and other tax exemptions

Lao law contains relevant provisions for tax and duty exemptions for humanitarian organizations located within Laos, but the procedures required for the exemptions are not necessarily suited to disaster situations. Tax exemptions for

Tax exemptions for disaster relief

Affected States should provide exemptions to assisting States and eligible assisting humanitarian organisations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance.

See IDRL Guidelines (2007), Article 21



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Bringing in currency for disaster relief

Assisting States and organisations should be granted the right to freely bring the necessary funds and currencies in or out of the country through legal means and to obtain legal exchange rates in connection with their disaster relief or initial recovery assistance.

See IDRL Guidelines (2007), Article 20(2)

cash, they must receive a capital importation slip “from the officials to use as proof” when the organization wants to take this money back out of Laos.³⁹⁹ Although there is no limit for a foreign currency cash deposit to an existing account, if the amount is sufficiently large the bank will report it to the National Bank of Lao PDR’s Foreign Currency Department and Banking Supervision Department to monitor the account.⁴⁰⁰

The use of foreign currency within Laos is restricted to the items listed in the Ordinance of the President on Governing the Management of Foreign Exchange and Precious Metals, the most relevant being payment for imported goods and payment for import-export related services such as transportation, insurance, and transit warehousing charges.⁴⁰¹ Otherwise, the foreign currency must be exchanged into Lao Kip to pay for all items and services purchased within Laos unless the organization has prior approval from the Government and the National Bank of Lao PDR.⁴⁰² Generally,

humanitarian organizations in Laos require approval from the MoFA and are often granted during the registration process of the INGO in Laos. Assisting organizations not registered in Laos would therefore face significant obstacles in being able to obtain the same exemptions in a timely manner.

There are three types of taxes pertaining to the operation of international organizations in Laos: business turnover tax, value-added tax, and income tax. For exemption from these three taxes, approval must be granted by the MoFA. International organizations located in Laos require approval of MoFA prior to exemption from business turnover tax.³⁹² Business turnover tax exemption provisions are included in the organization’s MOU which must be approved by MoFA.³⁹³

Enforcement of value-added tax has currently been suspended until 2010 due to the economic down-turn. Similarly to the business turnover tax, the value-added tax contains provisions for exceptions for humanitarian organizations. Those that are located in Laos will be exempt from value-added tax with approval from the MoFA.³⁹⁴ The law states that “goods and services supplied to grant aid projects, defined in agreements, treaties and contracts that the government has signed with the governments of foreign countries” will also be exempt from value-added tax.³⁹⁵

Profit tax must only be paid when an activity is generating profit and since disaster relief activities are all non-profit, this tax is not of concern. However, interestingly, profit tax law does provide the following: “In the event of natural disasters such as typhoons, diseases, fire, [and] war, the exemption from profit tax or reduction of profit tax will be decided by the government.”³⁹⁶ It is unclear though, whether this provision is directed towards affected businesses, or businesses whose products are required during a disaster situation.

Currency exchange

Lao law currently allows international organizations to bring foreign currencies into the country either in cash or through bank transfer.³⁹⁷ International organizations which gain revenue in a foreign currency are permitted to open a foreign currency account.³⁹⁸ If the organization is bringing in foreign currency in

deposit accounts are limited to withdrawals of USD\$10,000 per day, but the National Bank of Lao PDR allows international organizations operating in Laos to withdraw more to pay for the salaries of foreign staff.⁴⁰³

The National Bank of Lao PDR sets the exchange rate by using the exchange rate system based on the inter-bank market and submitting the rate to the Government.⁴⁰⁴ Foreign currency may be exchanged at a commercial bank or at a bureau that has been authorized by the National Bank of Lao PDR.⁴⁰⁵

In practice, it seems the largest problem faced by INGOs is in the transfer of funds from the central to the provincial level, and the delays they encounter in being able to actually access the money. Examples were provided by stakeholders during interviews of it taking up to a month to access money from provincial banks during the Avian Influenza threat.

Charges for health protection measures

Lao law does not contain any provision regarding health protection for travellers.⁴⁰⁶ During the recent outbreak of A(H1N1), passengers who travelled at the time of the first confirmed case in Laos, and who complained of symptoms, were submitted for medical testing. The costs of the testing by NCLE and diagnosis were borne by WHO and the United States Centre for Disease Control. The latter also provide the testing kits. Tamiflu is generally donated, so it is not likely to come at a charge.

Charges for health measures

No charges shall be made by a State Party for the following measures for the protection of public health:

- *Medical examinations to ascertain the health status of the traveller.*
- *Vaccinations or prophylaxis that is an unpublished or new (less than 10 days) requirement.*
- *Isolation or quarantine requirements.*
- *Certificate specifying the date and health measures applied.*
- *Health measures applied to accompanying baggage.*

Exceptions:

- *Travellers seeking temporary or permanent residence.*
- *Other health measures not included above.*

See IHR (2005), Articles 40(1) and (2)

10.3 Recommendations

Recommendations for customs, duties and import/export tax exemptions

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should:

- Clarify the definition of “items of humanitarian assistance” pursuant to Article 43 of the Law on Customs to include the following:
 - Supplies intended to be provided to disaster affected communities for the relief and initial recovery such as foodstuffs, medicaments, clothing, blankets, tents, prefabricated houses, water purifying and water storage items, or other goods of prime necessity.
 - Physical items, other than goods, that are necessary for disaster relief or initial recovery assistance, such as vehicles and radios.
- Grant exemptions to registered entities approved for international assistance for items of humanitarian assistance including the following:
 - On-arrival exemptions from export, transit and import restrictions, including for food and telecommunications equipment, or where this is not possible for reasons of security or public health, publish and circulate in advance the nature of any exceptions/ restrictions likely to impact on such goods and equipment.
 - On-arrival exemptions from all customs duties, taxes, tariffs and governmental fees without any

- o additional approvals required from line ministries, including for vehicles.
 - o On-arrival clearance for entry without additional inspections or bonded storage, upon provision of minimal documentation requirements, ideally limited to: the provision of the name of the registered entity; a detailed manifest including any expiry dates; a Bill of Lading; and external markings on the packaging and containers indicating it is for urgent humanitarian relief.
 - o Ensure a minimum number of agents are available for priority customs clearance outside of regular locations and business hours during the emergency period.
- Exempt VAT or other tax for the procurement of relief supplies and equipment in-country.
 - Permit the re-export of any equipment or unused goods which the entity wishes to retain without any additional approvals required from line ministries.
 - Ensure that authorities at all points of entry are regularly issued with an updated list of registered organizations and agencies accepted to facilitate the clearance process.
 - Permit the sale or disposal of imported goods and equipment, with the only requirement that a notice of the sale or disposal, containing the details of any new owners, be provided to the Customs Administration to follow up on any tax or VAT implications with the new owner.
 - Include a requirement that all focal points and procedures relating to the above, be made publicly accessible and, in the event of an emergency, are provided directly to registered entities from which assistance will be received.

The Government should also consider the following:

- Ratify/accede to the revised International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention), in particular Annex J.

Additional recommendations for telecommunications equipment

A new Decision/Order of the Chair of the NDMC on the registration of authorised entities should:

- Encourage registered entities to submit a list of equipment and devices for pre-approval by the NAPT prior to their arrival, or where this is not possible, provide the list to the NAPT immediately upon arrival for clearance within 24 hours.

The Government should also consider the following:

- Ratify/accede to the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations.

Additional recommendations for medication

Current Orders/Decisions of the Ministry of Health should:

- Ensure the maintenance of the List of Drugs and Medical Products permitted for import into Lao PDR. Such a list should ideally contain those items included in the WHO List of Essential Medicines.
- Ensure the list is made widely available to facilitate the immediate clearance of such medication upon arrival by a registered entity during an emergency, supported by clear procedures.
- Ensure priority approval for clearance of any biological substances required for prevention, diagnosis and other research relating to a communicable disease emergency.

Consider amending the current Law on Drugs and Medical Products to:

- Provide for the importation of medications for non-commercial purposes, with a view to simplifying and facilitating the rapid entry of medications for humanitarian use during disaster and communicable disease emergencies.

Recommendations for animals

- Amend the Search and Rescue Decree No. 169/PM in order to allow for the rapid entry of rescue animals required by registered entities approved for international assistance.

Additional recommendations on the transfer of funds

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should:

- Permit registered entities approved for international assistance to freely bring or transfer the necessary funds and currencies in, out or within the country through legal means and to open bank accounts in any currency.
- Allow registered entities approved for international assistance to transfer funds from the central level to the provincial level to facilitate access to funds in disaster affected areas.

Additional provisions applicable to communicable disease emergencies

A new Decision/Order/Decree of the Chair of the NCDCC on the receipt of international humanitarian assistance during a communicable disease emergency should be developed and include the following:

- Where humanitarian goods and equipment have come from an infected area and/or could reasonably be considered a potential risk to public health, ensure that any inspections are conducted with the utmost urgency and priority.
- In the event that humanitarian cargo must be quarantined, every effort must be made to treat/decontaminate and release it as a matter of priority.
- In all cases, consideration should be given to the humanitarian necessity of the goods involved and prioritized accordingly to ensure they are not unnecessarily delayed.
- Specify the charging arrangements for health protection measures which reflect the requirements of Articles 40(1) and (2) of the IHR on charges for health measures regarding travellers.
- Include a requirement that all focal points and procedures relating to the above be made publicly accessible and, in the event of an emergency, are provided directly to registered entities from which assistance will be received.





International relief personnel

Chapter 11

Chapter 11

International relief personnel

11.1 Entry permits and visas

Visas for organizations with existing legal status

MoFA Regulation No. 044,⁴⁰⁷ issued in 1998, governs the residence of diplomats, staff of international organizations and foreign experts undertaking assignments in Lao PDR. It creates three categories of passport holders: diplomatic passport holders; official passport holders and normal passport holders.⁴⁰⁸ Diplomatic passport holders include ambassadors, diplomatic corps, consulate, heads of UN or other international organizations, and their families. Official passport holders encompass administrative or technical embassy or consular personnel, and personnel of the UN and international organizations. Personnel from inter-governmental organizations, INGOs or private sector projects, foreign experts and NGO personnel are generally normal passport holders and will also be subject to the terms and conditions of their Project Permits and/or MOU.

For normal passport holders, an official letter, approved by a senior officer of the associated governmental authority of the project, must be sent to the MoFA containing:

- Name and surname, position and responsibilities of expert.
- Name of project, location for implementation and department in charge.
- Agreement on aid or employment contract and terms of an assignment in Lao PDR.
- List of family members of expert, if any.⁴⁰⁹

Multiple entry-exit visas will be issued to foreign personnel once they have submitted all the necessary documentation and registered with the appropriate authority. Unless there is a bilateral agreement to the contrary, the standard requirements for obtaining other shorter term visas apply.⁴¹⁰

Once in Lao territory, Diplomatic Passport holders must register at the Diplomatic Department of MoFA and official passport holders and normal passport holders must register at the Immigration Department of the Ministry of Public Security (MPS). ID cards are required for long term assignments, but a stamp is sufficient for short term assignments. Generally, the procedures outlined within the Regulation No. 044 are tailored more towards long-term assignments and do not cater for disaster relief activities.

In addition to the MoFA regulations, the Guidelines No. 1865/MOFA for implementing the Decree No. 71/PM also provide some procedures for short-term or periodic missions. Under these Guidelines, INGOs must submit an application and curriculum vitae of each foreign expert they intend to employ for approval by the MoFA. For their expatriate staff and dependents, INGOs must approach the MoFA for an Entry Visa, a Stay Permit Registration (which includes issuance of a Stay Permit and ID Card) and a Multiple Re-Entry Visa. There is no reference in the Guidelines as to how these conditions relate to those set out in Regulation No. 044/MoFA.

Multiple entry visas for expatriate staff working for an international organization are generally issued pursuant to the organization's MOU with the Government, as each MOU will specify the individual foreign staff required for the project. Usually, UN Agencies do not face serious problems in acquiring visas. For example, the basic agreement between the UNDP and the Lao Government specifically provides for timely issuance of visas and work permits.⁴¹¹ Generally, UN Agencies have a general turnaround time of two to three weeks in obtaining visas, whereas INGOs may face further restrictions.

The Guidelines No. 1865/MOFA specifically state that INGO staff are not authorized to work under a tourist visa.⁴¹² Despite this provision, many INGOs tend to use tourist visas over the Stay Permit of 15 days for foreign experts in order to avoid lengthy procedures and delays. It appears that the most common process for the entry of INGO foreign

staff in an emergency is to use tourist visas. Once the personnel are in Lao PDR, the INGO will commence a process of changing the tourist visa into a Courtesy Visa, which is the multiple-entry visa with a working identity card. The tourist visa has therefore effectively become an all-purpose visa, as it can be obtained at any Lao consulate or embassy abroad in less than one week with a very simplified form and two identification pictures. Alternatively, the visa can be obtained on arrival.⁴¹³ While this process seems to be working effectively, it is not currently authorized by the law. Changing a tourist visa can also be a long and costly procedure.

General immigration legislation

Lao PDR does not have a comprehensive set of immigration laws. Immigration procedures and requirements are set out in Decree No. 031/PM,⁴¹⁴ which establishes the different types of visas available to all foreigners entering Laos. For the purposes of this decree, foreign personnel would fall within the definition of “foreigner”, being a person who has other citizenship coming to Laos temporarily.⁴¹⁵ In relation to the duration of temporary stays in Lao PDR, Article 11 provides that foreigners who hold Diplomatic, Official, Courtesy, Non-immigrant, Immigrant visas are permitted to stay not more than thirty days, foreigners who hold Tourist visas can stay not more than fifteen days, and those holding transit visas, seven days. It appears that the terms of this decree are not currently enforced, as in practice, tourist visas are valid for thirty days and may be extended up to 90 days (two extensions of 30 days). The Regulation No. 044/MoFA does not refer to this decree either, so it is not clear how the two operate in tandem.

For international relief personnel, Affected States should:

- *Grant visas and any necessary work permits, ideally without cost, renewable within their territory, for the time necessary to carry out disaster relief or initial recovery activities;*
- *In disaster relief operations, waive or significantly expedite the provision of such visas and work permits;*
- *Facilitate freedom of access to and freedom of movement in and from the disaster affected area, bearing in mind the safety of disaster relief and initial recovery personnel.*

See IDRL Guidelines (2007), Article 16(1)

Pursuant to the Decree No. 031/PM on Entry and Exit, MoFA is the only entity authorized to issue a multiple entry visa, whereas Lao embassies or consulates can issue a single entry visa valid for up to 60 days.⁴¹⁶ However, the decree does not specify which type of visa would be valid for 60 days, given the time limits outlined above. Foreigners who have arrived in Laos on a short visit, but decide to stay longer, must apply to the Immigration Department within the MPS⁴¹⁷ at least three days before their visa expires, and

extensions may only be granted once.⁴¹⁸ People continuing to stay in Laos without a valid visa will be subject to penal measures.⁴¹⁹ The Decree No. 031/PM specifically prohibits foreigners from working and gaining revenue in Laos unless approved by the Ministry of Labour and Social Welfare or the individual has a business partnership in Laos.⁴²⁰ It is not clear whether this prohibition extends to relief personnel. No regulation mentions specific procedures for waiving or acquiring visas for foreign staff entering the country for an emergency mission.

Employing foreign labour

The Labour Law contains restrictions and requirements for employing foreign labour in Lao PDR. Pursuant to this law, all businesses and ‘overseas development agencies’ in Lao PDR must register all their foreign labourers. Employers are required to give priority to the employment of Lao workers. Foreign labourers are not to comprise more than 10% of a manual labour force or 20% of an ‘intellectual’ labour force, although these ratios may be exceeded if the employer receives permission from the Government.⁴²¹ The employer must obtain a license to import foreign labour and the foreign worker must obtain a working card. Employers registered in Lao must apply for a license to import foreign labour from the MLSW.⁴²² To apply for the license, the employer must have already submitted a plan to the Department of Skill and Recruitment to obtain a quota that is then approved by MLSW.⁴²³ The application for a license from MLSW must also include a list of all foreign employers, proof of the contracts, medical certificates, resumes, and guarantees of employment.⁴²⁴ Once the employer has received a license for foreign labour, the employer must also obtain approval from the Department of Immigration, Ministry of Public Security.⁴²⁵ In addition, the employee must be approved by MoFA in order to obtain a working permit and entry visas.⁴²⁶ The employee must then register and obtain a working ID Card from MLSW as well as register and obtain an ID for temporary residence with the Department of Immigration,

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Ministry of Public Security.⁴²⁷ On arrival, the foreign employee will be granted a courtesy visa. Once the employee has arrived, the employer must register and file a new application for the employee at the division of Labour Skill and Job Management at MLSW within 30 days.⁴²⁸ The new application form must include the previously issued license and approval to work, a copy of the passport and visa, and a certificate from the background check by the MoND.⁴²⁹

It is unclear in the Labour Law whether INGOs must comply with all these extensive procedures in order to employ foreign workers for disaster relief situations. If so, it would take weeks before international personnel are granted proper permits to work in Laos.

11.2 Recognition of professional qualifications and licenses

There are no specific provisions in the law on the recognition of professional qualifications. With regard to medical personnel, the Law on Health Care provides that the MoH has the duty to “issue health-care professionals with authorizations to practice.”⁴³⁰ While the Law on Health Care sets out minimum criteria to practice as a health practitioner in Laos,⁴³¹ interviews with MoH have confirmed that recognition of professional qualifications of medical practitioners is dependent on individual agreements with MoH. If the requisite permission or license is not obtained, a foreign medical practitioner may face penal punishment, as provided for in the Penal Law:

Any person treating patients without an official license for the purpose of generating gains shall be fined from 100,000 Kip to 500,000 Kip.⁴³²

While there is not a formal procedure for recognizing specific qualifications, foreign personnel may be able to operate within their status as “expert staff” if provided for in their employer’s MOU with the government. Stakeholders interviewed generally did not face restrictions or hurdles in the recognition of professional qualifications in Laos.

Income tax exemptions

Income tax must be paid by foreigners who reside in Laos for 180 days of each tax year, unless the person has an agreement to the contrary with the Government.⁴³³ Employees of international organizations located in Laos are exempt from income tax.⁴³⁴ The salaries of foreign experts assisting in aid projects in Lao PDR are also exempt from income tax, “as provided for in an agreement between the Lao government and the relevant party”.⁴³⁵ However, again this exemption for income tax must be specifically approved by the Government.

11.3 Recommendations

Recommendations for visas for organizations with existing legal status

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should:

- Provide ‘Courtesy Visas’ on-arrival for personnel from registered entities approved for international assistance, valid for a minimum period of 3 months, during which time an application can be made for a multiple-entry visa for the duration required for the provision of relief and initial recovery assistance.
- Ensure that all such visas are provided free of charge.

Recommendations for recognition of foreign qualifications

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should:

- Grant personnel of registered entities approved for international assistance temporary recognition of professional qualifications, driving licences and other types of license and certificate required for relief and initial recovery activities.

Current Orders/Decisions of the Ministry of Health should:

- Outline procedures for obtaining recognition of foreign medical qualifications in emergency situations, as required by the Decision/Order of the Chair of the NDMC on the registration of authorized entities described above.

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Rights and freedoms

Chapter 12

Chapter 12

Rights and freedoms

12.1 General rights and freedoms

The Lao Constitution provides a number of basic rights and freedoms for Lao citizens, including:

- Article 35. Lao citizens are all equal before the law irrespective of their gender, social status, education, beliefs and ethnic group.
- Article 37. Citizens of both genders enjoy equal rights in the political, economic, cultural and social fields and in family affairs.
- Article 39. (New) Lao citizens have the right to work and engage in occupations which are not contrary to the laws. Working people have the right to rest, to receive medical treatment in times of illness, [and] to receive assistance in the event of incapacity or disability, in old age, and in other cases as provided by the laws.
- Article 40. Lao citizens have the freedom of settlement and movement as provided by the laws.
- Article 41. Lao citizens have the right to lodge complaints and petitions and to propose ideas to the relevant State organizations in connection with issues pertaining to the public interest or to their own rights and interests. Complaints, petitions and ideas of citizens must be examined and resolved as provided by the laws.
- Article 42. The right of Lao citizens in their bodies, honour and houses are inviolable. Lao citizens cannot be arrested or searched without the order of the Public Prosecutor or the people's courts, except if otherwise provided by the laws.
- Article 43. Lao citizens have the right and freedom to believe or not to believe in religions.
- Article 44. Lao citizens have the right and freedom of speech, press and assembly; and have the right to set up associations and to stage demonstrations which are not contrary to the laws.
- Article 50. The rights and freedoms of aliens are protected by the laws of the Lao People's Democratic Republic. They have the right to file claims in the courts and [to lodge petitions with] other concerned organizations of the Lao People's Democratic Republic and have the obligation to respect the Constitution and laws of the Lao People's Democratic Republic.

Movement of foreign relief organizations

In Lao PDR, the rights granted to an INGO are specified within their MOU with the Lao government and the type of permit they are granted,⁴³⁶ as discussed previously. The MOU outlines which kind of activities an INGO is authorized to implement with specific mention of the location and timeframe of activity implementation. For INGOs that are already registered in Laos however, the MOU acts as a limitation in terms of location and activities. Organizations that are already located in Laos would either have to submit a request to the MoFA to amend the MOU if they wish to provide disaster relief in a different region or area to that specified in their MOU, or request a new MOU. In practice, it seems that INGOs will often liaise with their counterparts at the provincial level to be able to respond to a disaster when they are already operating in the affected province/s. However, once an INGO has been approved to operate in a particular region, there should be no further legal restrictions in accessing that particular area or accessing disaster-affected persons.

Although not specified within the law on INGOs, all MOUs must be approved by the Ministry of Defence prior to Ministry of Foreign Affairs approval. Generally, the largest problem in gaining access to disaster affected areas is in administrative delays, which is a major constraint for disaster response. However, it seems that certain areas may be less accessible than others due to historically sensitive issues. In the event of a major disaster, accessing these areas may be extremely difficult or even impossible. As described in the interview process, the granting of an MOU in these areas may be delayed by up to two years.

UN institutions do not face the same restrictions in accessing certain locations as a result of their specific links and relationships with line ministries. For instance, the government grants UNDP:

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- c) Accès aux lieux d'exécution des projets et tous droits de passage nécessaires
- d) Droit de circuler librement à l'intérieur du pays, [...] dans la mesure nécessaire à la mise en œuvre satisfaisante de l'assistance du PNUD⁴³⁷

Similar provisions are found in other agreements between UN agencies and the government of Lao PDR. However, as discussed previously, the UN may need to work with INGOs in responding to a disaster. The limitation faced by INGOs will then directly affect the work of the UN agencies. However, the LRC, being an auxiliary of the government, does not face the same difficulty.

Special measures for communicable disease control

In the event of an outbreak of a communicable disease, the Lao Government may require international travellers to fill in a health questionnaire in addition to the standard immigration form. Either the PMO or one of the ministries, most likely the MoH, would issue instructions for the distribution of the health form. For example, during the recent H1N1 outbreak, the PMO issued a notice requiring travellers entering Lao PDR to fill out a health form providing details on their health condition and their anticipated residence in Lao PDR.⁴³⁸

The Health Units⁴³⁹ at border locations are required to collect information regarding pandemics and other health problems. Health Units have the right to check the health of travellers entering Laos and are required to report any abnormal information to provincial health services. During the A(H1N1) health alert, the health units were required to follow up the remittance of the questionnaire with medical screening, and to disseminate information by handing out leaflets within the precincts of the airports.

Most of the measures for entry and exit procedures for international travellers are usually set up in an ad hoc manner according to the situation. For example, during the recent A(H1N1) health alert, the PMO issued a Notice stating:

In the case where any travellers are found to have the cold and its (sic) temperature exceeding 38 degrees, he/she shall be taken to the medical room set particularly for the doctors to monitor such case.⁴⁴⁰

The Government appears to respond promptly to communicable disease emergencies by putting necessary measures in place and increasing awareness. Nevertheless, there is currently no law that sets boundaries or limits over the authority the Government has over international travellers.

It is important to note that different government agencies are aware of the requirements of IHR and issue their orders and decisions in accordance with these requirements. For example, the Ministry of Health issued an Order in response to the A(H1N1) outbreak requiring the Health Units to follow the guidelines of WHO in their inspections of international travellers.

The NAICPPP also recommends implementing social distancing interventions, such as closing schools and limiting mass gatherings, but it is not specific on the measures which are to be taken.

Medical isolation, treatment and vaccination

Lao PDR is bound by both the IHR and the International Covenant on Civil and Political Rights (ICCPR),⁴⁴¹ which was acceded to by Lao PDR on 9 December 2000. Under the ICCPR, states are obligated to ensure that any person whose rights or freedoms have been violated has access to an enforceable remedy to be determined by a judicial, administrative, or legislative authority.⁴⁴² Pursuant to the ICCPR, every person has the right to liberty of person and shall not be subject to arbitrary detention.⁴⁴³ If a person's liberty has been deprived by detention, he/she shall be entitled to be heard before a court without delay.⁴⁴⁴



REUTERS/Stringer (LAOS)

In compliance with these obligations, Lao PDR must not arbitrarily quarantine or isolate a person as a part of health measures against communicable diseases.

The Guidelines for Isolation and Quarantine of People of Health Units at International Border Points of the Lao PDR (“the Quarantine Guidelines”) were issued by MoH in August 2007 in specific reference to complying with the IHR.⁴⁴⁵ The Quarantine Guidelines adopt the definition of Entry Point, Isolation and Quarantine contained within the IHR and appoint the Health Units to be responsible for the arrangements for people at all border passing points. Isolation and quarantine rooms are established under the Quarantine Guidelines and provision is made for ensuring that each quarantine room should be hygienic, with either cooking facilities or access to food and drink. Persons who arrive at a Health Unit presenting any of a number of identified symptoms are to be considered suspicious cases. People who have been in contact with either ill animals or humans are also considered to be possible cases. The Quarantine Guidelines provide for the isolation of suspicious cases and the quarantine of possible cases. Additionally, the Quarantine Guidelines provide directions regarding the duration, possible cancellation and completion of isolation and quarantine. By providing specific definitions, guidelines and procedures, the Quarantine Guidelines aim to ensure that isolation or quarantine will not be arbitrarily enforced.

Each border check point should have a quarantine room where a person can be detained for up to three days.⁴⁴⁶ However, as of July 2009, the Wattay International Airport’s Health Unit did not have such a room. All suspected cases were transported to the Friendship Hospital using a permanently available ambulance.

With the recent outbreak of A(H1N1), the first confirmed case was requested to remain in their home in isolation for a period of seven days.⁴⁴⁷ It is not clear whether the request to remain in isolation is an enforceable demand by law, as

it appears that the authorities have not yet faced opposition to such a request.⁴⁴⁸ The Quarantine Guidelines provide for a voluntary quarantine, during which the patient would monitor themselves according to a form provided to them, but do not acknowledge the possibility of involuntary isolation.⁴⁴⁹

Treatment of travellers

In implementing health measures, States Parties shall treat travellers with respect for their dignity, human rights and fundamental freedoms and minimize any discomfort or distress associated with such measures including by:

- *Treating all travellers with courtesy and respect.*
- *Taking into consideration the gender, sociocultural, ethnic or religious concerns of travellers.*
- *Providing or arranging for:*
 - *Adequate food and water.*
 - *Appropriate accommodation and clothing.*
 - *Protection for baggage and other - possessions, appropriate medical treatment.*
 - *Means of necessary communication if possible in a language they can understand.*
 - *Other appropriate assistance for travellers who are quarantined, isolated or subject to medical examinations or other procedures for public health purposes.*

See IHR (2005), Article 32

The Law on Health Care does state that all citizens are required to “strictly comply with the advice of health-care professionals”⁴⁵⁰ which may be applicable to a Lao citizen requested to stay in isolation. Further, the Law on Hygiene, Disease Prevention and Health Promotion states:

“Persons, families, administrative authorities and all organizations in the society shall comply with the principles of prevention and control of communicable diseases. When symptoms of epidemics occur in their location, immediate measures shall be urgently issued and the situation shall be reported to higher authorities for timely solution.”⁴⁵¹

The quarantine of persons and the deprivation of their liberty may be considered as an “immediate measure” in which compliance is compulsory. This provision of the Law on Hygiene, Disease Prevention and Health Promotion also appears to be broader in scope than the provision in the Law on Health Care, as it not only relates to citizens, but to “persons, families, administrative authorities and all organizations”, which presumably would incorporate foreign persons in Laos.

While illegally detaining someone is a criminal offence punishable by imprisonment and a fine,⁴⁵² a person may be exempted from a

criminal penalty if their action was in the “performance of a professional duty”⁴⁵³ or an “implementation of an order.”⁴⁵⁴ An implementation of an order must be in conformity with the laws and regulations of Laos.⁴⁵⁵ In addition to the Quarantine Guidelines, the Law on Hygiene, Disease Prevention and Health Promotion also provides for ‘emergency inspections’ for disease prevention, which may warrant the detention or isolation of an individual.⁴⁵⁶ If health care workers adhere to the provisions for quarantine and isolation as set out by the law, there would not be illegal detention of an individual.

Furthermore, there are no provisions in Lao law for a person who has been detained to bring proceedings before a court to determine the lawfulness of their detention except through a criminal trial. A person may file a criminal claim stating unlawful detention which must be supported by proper evidence.⁴⁵⁷ If there is sufficient evidence, the investigator will open the case and notify the office of the public prosecutor.⁴⁵⁸ At this point, there may already be an appeal for closing the investigation by the accused party.⁴⁵⁹ The period for investigation must be completed within 60 days, although there are provisions for extensions.⁴⁶⁰ Essentially, there is no pre-trial hearing available for a person who believes him/herself to be illegally detained.

While legal recourse may be limited for persons detained involuntarily, the Law on Health Care acknowledges the importance of certain basic rights in the administration of health care. Article 6 provides:

Health care shall be conducted in accordance with the following principles:

1. Respect for the right to life of humans;
2. Provision of equal, equitable and quality care in accordance with the condition of the disease;
3. [Health care] shall be humanitarian [;] in particular, [health-care providers] shall respect medical ethics, and have a high consciousness of responsibility in providing health-care services;
4. [Health-care providers] shall have evidence of consent from the patients, or their relatives in cases of necessity.⁴⁶¹

Adherence to this law by Rapid Response Teams and Health Units at the border checkpoints would assist in the recognition of basic human rights in the implementation of health measures in a communicable disease emergency.

12.2 Confidential information

Pursuant to the Law on Health Care, all health-care professionals are required to maintain strict “confidentiality in respect of illnesses or details of living or deceased patients, for the patient’s benefit, except for those cases provided by laws or regulations.”⁴⁶² However, it appears this rule is not fully enforced and understood in Laos. During the recent outbreak of A(H1N1), personal details of the person were published by the media.

12.3 Safety and security

The AADMER requires states to take measures to ensure the safety and security of assisting actors within their state. The Lao law does not provide for ensuring the safety of relief personnel. The MPS (specifically, the police) and the MoND ensure road and transport safety to access to areas affected by a disaster.⁴⁶³ According to the Decision No. 097/MLSW of 2000⁴⁶⁴, the MoND is also “responsible for using military forces and assets to undertake joint search, rescue and evacuation of the victims if needed”.

It is difficult to know if this provision includes military escorts to ensure the safety of disaster relief activities. Moreover, the same decree assigns the Ministry of Public Works and Transport the responsibility for mobilizing transport means and road networks in the case of a disaster. This role is more related to the physical accessibility to the affected areas, but it could also include the supply of vehicles and safety escorts. None of the stakeholders interviewed for this study, however, identified safety concerns for relief personnel.

*Affected States should take appropriate measures to address the **safety and security** of assisting personnel and of the premises, facilities, means of transport, equipment and goods used in connection with their disaster assistance.*

See IDRL Guidelines (2007), Article 22

12.4 Recommendations

Recommendations on rights and freedoms during communicable disease emergencies

Current Orders/Decisions of the Ministry of Health should:

- Ensure the rights of international travellers infected by communicable disease or suspected to be infected are respected, as described in art. 32 of the IHR.
- Ensure equal treatment regardless of ethnicity, religion, political standpoint or gender when addressing international travellers.

Recommendations for the movement of foreign relief organizations

The new Presidential Ordinance on disaster management, including communicable disease emergencies, should:

- Identify responsible authorities for informing assisting entities of areas affected by communicable disease, landmines or other hazards.
- Ensure assisting entities have unrestricted access to all affected persons, in particular to vulnerable groups, and people in isolation and quarantine, on the basis of need, regardless of legal status, gender, religion ethnicity and political standpoint.
- Ensure all appropriate measures are taken, including the identification and training of the responsible national department or agency, to address the security of assisting entities, including their personnel, premises, facilities, means of transport, equipment and goods. Special protective measures such as the provision of security guards or armed escorts should only be provided with the consent of the assisting entity.

Recommendations for confidential information

The new Presidential Ordinance on disaster management, including communicable disease emergencies, and current orders/decisions of the Ministry of Health, should:

- Ensure that all personal data collected in the course of disaster management or communicable disease control activities are:
 - Kept confidential and processed anonymously, except where essential for the purposes of managing a public health risk or disaster.
 - Processed fairly and lawfully.
 - Adequate, relevant and not excessive to the purpose.
 - Accurate and where necessary kept up to date, taking all reasonable steps to erase or rectify inaccurate or incomplete data.
 - Not kept longer than necessary..



Quality, control and transparency

Chapter 13

Chapter 13

Quality, accountability and transparency

13.1 Accountability and transparency of the government

While Lao law contains provisions regarding the Government's receipt of grants from international donors to ensure accountability and transparency for the use of donated funds and goods, there are no specific provisions for disaster situations.

The MoF has the mandate to manage and compile all grants from international donors including physical and financial donations.⁴⁶⁵ When a government agency receives grants from a non-government organization, they must "report to the Ministry of Finance and the concerned agency to compile."⁴⁶⁶ Donations must be processed according to Article 64 of the Law on State Budget, which provides:⁴⁶⁷

1. Revenues from domestic and foreign grants shall be recorded or remitted to the State budget and an account shall be opened with the National Treasury system for managing grants remitted to the budget.
2. With regard to foreign grants relating to projects, the State and other concerned organizations at the central and local levels are authorized to communicate and negotiate with foreign donors with the participation of the finance sector.

Although the law regulates the processing of foreign donations, there is nothing to ensure transparency and consistency by the Government in using these funds. Similarly, although the law authorizes 'the State and concerned organizations' to communicate with foreign donors, there is no clear rule about the use of funds in a manner that is consistent with the expressed intent of donors.



Diversion and use of resources

- *States and assisting organisations should cooperate to prevent unlawful diversion, misappropriation, or fraud concerning disaster relief or initial recovery goods, equipment or resources and initiate proceedings as appropriate.*
- *Affected States should use funds and relief goods donated to them, and which they have accepted in relation to a disaster, in a manner consistent with the expressed intent with which they were given.*

See IDRL Guidelines (2007), Article 6

Furthermore, it is not clear whether funds received in the wake of a disaster would be categorized as a grant relating to a 'project' pursuant to Article 64, attracting the benefit of inviting negotiation with foreign donors. If all foreign grants are simply incorporated within the State budget, foreign donors are not guaranteed a targeted use of the funds.

As seen during the 2008 floods, the focal point nominated by the government to coordinate foreign assistance is located in the MoFA. There is no legal document describing how the MoF and the MoFA coordinate in controlling the use of funds.

Pursuant to the Law on State Budget, the State budget is subject to review by internal and external inspection agencies.⁴⁶⁸ Assuming that all disaster relief funds are remitted to the State budget, the inspection agencies may operate as a control mechanism against misappropriation or diversion. Under Article 73 of the Law on State Budget, the internal inspection agencies are comprised of:

1. The Ministry of Finance;
2. The finance division at each province or city;
3. The finance office at each district or municipality;
4. State budget units.⁴⁶⁹

Internal inspection agencies are required to inspect the

implementation of laws and the performance of finance officers under their responsibility to ensure proper expenditure execution.⁴⁷⁰

The external inspection agencies are comprised of:

1. The National Assembly;
2. The Government;
3. The Central Inspection Committee;
4. The State Audit Agency;
5. Inspection task forces.⁴⁷¹

External inspection agencies are required to inspect the implementation of the law and performance of finance officers at all levels to ensure “effective, transparent and fair financial activities.”⁴⁷² Furthermore, the Law on State Budget requires that all budgetary inspections are to be carried out according to principles of comprehensiveness, completeness, objectivity, fairness, openness, transparency and uniformity.⁴⁷³

The duties and principles set out in the law relating to inspection agencies relate very broadly to the management of the State budget, and do not relate directly to ensuring that funds from foreign entities are used according to the terms under which they are donated. If the addition of the foreign donor funds into the State budget is not reflected in the associated policies or decisions on the State budget, the work of the inspection agencies may be of little benefit in accountability of the Government in respect of the use of foreign grants.

There are also no laws or regulations on how the information gathered by the inspection agencies is to be communicated to the public and to the assisting entities. In the interview process, stakeholders commented that they were unaware of which government department was responsible for controlling the funds transfers, and how funds were to be used. Many INGOs contract private audit companies to ensure transparency of use of funds. Most international organizations including UN Agencies use their own financial tracking system. However, in relation to communicable disease, it is clear to most actors involved that NEIDCO is the responsible entity. The NAICPPP defines activities in each strategy, allocating the budget and the responsible agency. Without being a financial tracking system, this process ensures a greater clarity on the use of the funds.

NEIDCO has a unique authority. Unlike NDMC or NDMO, NEIDCO is obligated to ensure that the funds are being used in accordance with its plan.⁴⁷⁴ The Planning and Financial Unit of NEIDCO is required to summarize all projects related to the prevention and control of epidemic and infectious diseases, monitor the transfer of budget to the approved project, and report whether the budget has been used in accordance with the plan.⁴⁷⁵ It is not clear, however, as to how NEIDCO operates with the Ministry of Finance in monitoring incoming foreign aid.

There are several measures imposed against inappropriate use of funds by individuals or organizations committing violations of the Law on the State Budget. For delaying or not remitting obligations to the budget, issuing instructions for payment inconsistent with the nature of expenditures provided for, impeding responses to requests, or imposing unfair disbursement of budget expenditures, individuals or organizations will be subject to re-education.⁴⁷⁶ For continuing the aforementioned actions or not maintaining an accounting record, the individual or organization will be fined.⁴⁷⁷ Pursuant to the Anti-Corruption Law, any civil servant or public official who abuses their position by embezzling, swindling, receiving bribes, or misappropriating state funds will be criminally punished by imprisonment and fines according to the amount of funds.⁴⁷⁸

Some concern exists regarding the diversion of funds and humanitarian assistance. Stakeholders report that additional fees may facilitate more expeditious procedures at the national and local level.

13.2 Quality and accountability of international relief

Both AADMER and the IDRL Guidelines provide that it is the affected state's responsibility to coordinate, regulate and monitor any humanitarian assistance.⁴⁷⁹ AADMER provides that assisting entities should provide relief goods and materials that meet the quality requirements of the state in need.⁴⁸⁰ There is an increasing number of organizations following professional standards for humanitarian organizations, many of them tailored to disaster response situations.⁴⁸¹

As described further above, Decree No. 71/PM is the primary legal instrument regulating the operation of INGOs in the country. These organizations are able to operate in Laos if they meet the obligations set out by the Ministry of Foreign Affairs, and have a MOU with a line ministry validated by MoFA.⁴⁸² The current Decree 71/PM in force stipulates that authorized INGOs have a number of obligations, including:

- To operate in compliance with the Lao Government's policy guidelines in respect of the laws, regulations and fine traditions of the Lao PDR;
- To operate within the scope and nature of activities provided by permits, agreements, memorandums of understanding and/or assistance projects signed by the relevant authorities of the Lao PDR and the relevant officers of the assistance agencies;
- To be responsible for their activities in the Lao PDR.⁴⁸³

The new draft of Decree No. 71/PM also outlines obligations of INGOs, their staff members and their dependents while operating in Laos. Additional, or amended, obligations which have been included are:

- Respecting the laws, regulations and culture of the Lao PDR;
- Being accountable for the operation of the INGO and staff in accordance with the laws and regulations of the Lao PDR;
- Carrying out the project's activities under the terms of the Memorandum of Understanding approved by the Government and jointly signed by the Lao concerned authority;
- Providing a frequent report or at least once a year on the INGO's operation;
- Ensuring open bookkeeping, including the compilation of a project implementation report and financial report which will be submitted to the donors.
- Organizing an evaluation, monitoring and financial report for each project together with the concerned Lao authorities in the site of the project at least once a year;
- At the end of the project duration, the INGO must submit a project implementation report and official letter of hand over of the project to the concerned Lao concerned to Ministry of Foreign Affairs within 30 days;
- Informing the appropriate authorities of any changes in the organization chart, office location, or number of vehicles in operation by the INGO;
- Informing the secretariat of the committee on INGO's administration and coordination of any changes in staffing.⁴⁸⁴

If these obligations remain in the finalized decree, they would certainly assist in ensuring accountability and transparency of registered INGOs responding to a disaster. However, there is still ambiguity on the obligations of unregistered organizations wishing to undertake emergency relief activities. It is not clear whether the above article only applies to INGOs which have a finalized MOU with the government and an associated permit.

Additionally, Lao law requires many of the goods that are imported for disaster relief to be inspected or registered with the Government. All drugs that are imported must be inspected by the health sector and approved by MoH.⁴⁸⁵ For donated drugs, the MoH must be notified in advance and the quality of the drugs must be ensured.⁴⁸⁶ Similarly, for the donation of food, the quality of the food must be approved by the relevant agency.⁴⁸⁷ This registration and approval process operates as an accountability mechanism on INGOs.

13.3 Recommendations

Accountability and transparency

The new Presidential Ordinance on Disaster Management, including communicable disease emergencies, should:

- Categorize disaster relief funds as grants relating to a 'project' pursuant to Article 64 of the Law on State Budget to ensure that donors are able to negotiate the use of the funds.
- Assign a relevant authority (such as MoF or MPI) to record the receipt and purpose of all foreign funds received.
- Ensure that all funds received directly by the Lao Government are recorded by that authority (such as MoF or MPI).
- Require all other assisting entities to report to NDMO or NEIDCO on use and expenditure of foreign funds received for disaster relief and communicable diseases emergencies. NDMO and NEIDCO will then be required to provide this information to the relevant authority (such as MoF or MPI).
- Appoint the External Inspection Agency as the entity responsible for monitoring the use of all foreign funds in accordance with the expressed purpose and intent of the donor.
- Clarify the link between each of the above agencies to ensure the transparent use of foreign funds.

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Overarching recommendations

- The overarching recommendation of this report is to develop a Presidential Ordinance on disaster management, which should include communicable disease emergencies. This instrument may later progress to become a law.
- The Presidential Ordinance should establish a comprehensive overall legal framework and identify principles for the management of disasters, the definition of which should include communicable disease emergencies. It should ensure that relevant ministries/agencies have the necessary legal authority to carry out their mandates to enable adequate resource allocation and to establish enforcement mechanisms. The Presidential Ordinance should also establish a basic framework for the facilitation and regulation of international assistance when necessary.
- The Presidential Ordinance should be supplemented where necessary by a number of implementing decrees/decisions/orders/regulations which provide further detail on specific aspects which may require more frequent amendment. Some recommendations for aspects concerning the facilitation and regulation of international assistance are included in this report.

Definition of disaster

The new Presidential Ordinance should include a clear definition of disaster containing the following elements:

- A multi-hazard approach, which is not limited to any particular events.
- Such events should include natural and man-made events, but exclude armed conflict.
- Such events could be sudden onset (such as flash-floods or earthquake) or slow onset (such as rodent infestations and drought).
- Such events could include those with a low magnitude, but when combined with a high recurrence may create a serious disruption to society (such as seasonal floods and storms, or pest infestations).
- Such events should also include communicable disease-related events affecting animals and/or humans which have a wider non-health sector impact (such as AH5N1 or AH1N1 outbreaks).
- Involves a serious disruption of the functioning of society causing widespread threat to human life, health, property or the environment.

Some examples of internationally agreed definitions of disaster which could be used in the Lao context include:

IDRL Guidelines Article 2.1.

“Disaster” means a serious disruption of the functioning of society which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict.

AADMER Article 1.3:

“Disaster” means a serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses. (However, this should be clarified to exclude situations of armed conflict).

Amendments to the Environmental Protection Law:

The Environmental Protection Law should be amended:

- To update the definition on disaster in accordance with the definition contained in the new Presidential Ordinance on Disaster Management.
- To acknowledge and cross-reference the new Presidential Ordinance on Disaster Management and update all

relevant provisions pertaining to roles and responsibilities of national and provincial coordinating bodies, in particular by removing references to the National Disaster Prevention Committee.

Institutional arrangements

The new Presidential Ordinance on disaster management, including communicable disease emergencies, should:

- Refer to international agreements signed and ratified by the Lao Government and relevant international instruments applicable to disaster management and communicable disease emergencies, including the IDRL Guidelines, IHR, AAMER and the HFA.
- Identify the existing responsible authorities (NCCDC, NEIDCO, NDMC, NDMO, PDMCs, PCDCs, DDMCs, DCDCs, and VPDU) for disaster management and communicable diseases emergencies and describe their overall roles, mandates, and relationships with each other, by:
 - Taking into consideration the content of the updated version of Decree No. 158/PM on the establishment of the NDMC and any potential updated version of Decision No. 097/MLSW regarding the role and responsibilities of the NDMC members.
 - Taking into consideration the content of Decree No. 377/PM on the establishment of the NCCDC and the Decision on the establishment of NEIDCO.
 - Strengthening the authority of NDMO to play an effective coordination role (rather than an implementing role) for all disaster management activities taking place within Lao PDR including the non-health sector response to a communicable disease emergency in close collaboration with NEIDCO.
 - Ensuring there is a dedicated NEIDCO focal point to liaise with the NDMO regarding preparedness and response to communicable disease emergencies.
- Revise and strengthen the role and responsibilities of LRC as an auxiliary to the public authorities in disaster management to reflect its current activities and capacities in accordance with Decree No. 36/PM on the organization of the LRC.
- Describe coordination mechanisms between the responsible authorities for disaster management and communicable disease emergencies and other governmental entities, with a specific focus on the non-health sector response to a communicable disease emergency.
- Provide for the development and regular updating of a National Disaster Management Plan, which includes the non-health sector response to a communicable disease emergency.
- Establish a single government focal point (e.g. the NDMO) to coordinate the facilitation and regulation of international assistance from external actors (such as UN, International Red Cross and Red Crescent Movement, INGOs, governments and private entities). For disaster and communicable disease emergencies.
- Ensure the adequate allocation of funding from the national budget, commensurate with the roles and responsibilities of the various institutions from national to community level. Consideration should be given to allocating a minimum percentage of the annual national budget for this purpose.

Early warning

The new Presidential Ordinance on disaster management, including communicable disease emergencies, should:

- Appoint NDMO and NEIDCO, in accordance with their respective mandates, to receive early warning and communicable disease risk information from technical governmental entities, local authorities, civil society and the humanitarian community.
- Require NDMO to report to the NDMC about emerging risks and hazards, including issues concerning non-health sector in the event of a communicable disease risk in collaboration with NEIDCO.
- Require NEIDCO to report to the NCCDC about emerging communicable disease risks and to alert the NDMC about issues concerning the non-health sector.
- Upon receiving such information, require NDMC and the NCCDC to immediately determine and authorize appropriate alert and response mechanisms based on the information received, including the sharing of such information with the international humanitarian community, diplomatic missions and other relevant actors.

Summary of recommendations

- Clearly define the process for the declaration of a disaster and communicable disease emergency and the general criteria / level of response required.

Additional decisions/orders should be developed to further clarify early warning communication channels which include the following:

- Clarification of early warning reporting channels from local to national level (in particular through PDMCs, DDMCs and VDPUs). These regulations should be accompanied by appropriate technical guidelines defining triggers and type of events.
- Further clarify current flood and drought forecasting and warning systems and ensure that they are widely disseminated and complied with by all entities involved.
- Require the NDMO or NEIDCO to inform the National Tourism Authority about early warning information and communicable disease risks for the purposes of dissemination to current and prospective international travellers.
- Develop indicators suitable for slow onset disasters to enable the declaration of a disaster to occur in a timely manner.

The Ministry of Information and Culture should adopt an additional decision to:

- Define the details for the timely dissemination of information about mitigation, early warning and emergency operations to the public, in collaboration with NDMO and NEIDCO, including:
 - The number of times that the notice should be disseminated through mass media such as television, radio stations, etc.;
 - Nominating alternative means for reaching remote communities where mass media is not available or accessible;
 - Responsibilities for covering the cost of the broadcasting; and,
 - Time indicators for communicating information to ensure that it reaches communities, national and local authorities and other organizations to allow maximum time to respond.

Determining when national capacities are exceeded

The new Presidential Ordinance on disaster management, including communicable disease emergencies, should:

- Require line ministries, governmental technical agencies and local authorities to communicate impact and need assessment information about disaster and communicable disease emergencies to the NDMO and/or NEIDCO as appropriate.
- Authorize NDMO and/or NEIDCO to determine when a disaster or communicable disease emergency has exceeded national capacities, after receiving information from line ministries, governmental technical agencies and local authorities.

Requests for international assistance

The new Presidential Ordinance on disaster management, including communicable disease emergencies, should:

- Confirm the Prime Minister as the primary authority to determine and direct the MoFA to issue an official request for or welcome of offers of international assistance.
- Confirm the MoFA as the primary authority to issue an official request for or welcome of offers of international assistance (subject to the specific requirements detailed further below).
- Authorize the NDMO, any Minister or NDMC member to alert the NDMC when a disaster situation has exceeded national coping capacities. The Chair of NDMC should then advise the PM on the need for international assistance.
- Authorize NEIDCO, any Minister or member of the NCCDC to alert the NCCDC when a communicable disease situation has exceeded national coping capacities, the Chair of NCCDC will then determine the need for international assistance.
- Authorize the UN Resident Coordinator to alert the NDMC or the NCCDC of the need for international

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- assistance (in accordance with UNGA Res 46/182).
- Once a decision on the request or acceptance of international assistance has been made, designate the NDMO to receive all individual offers of international assistance from organizations which are pre-authorized (see further below).
 - In situations of communicable disease emergencies, offers specifically addressing communicable disease control measures should be addressed to NEIDCO for approval from the relevant members of the NCCDC and all non-health sector offers should be addressed to the NDMO as above.
 - In all cases, NDMO and NEIDCO should share information about all offers received to ensure adequate coordination.
 - Acknowledge the existence of specific arrangements for offers and requests from particular organizations such as the UN, the Red Cross, ASEAN and or agreements to ensure compliance with international rules for their engagement, in particular:
 - Authorize WHO to offer assistance directly to the MoH through pre-agreed channels, in accordance with the IHR.
 - Authorize all offers of assistance from components of the International Red Cross and Red Crescent Movement to be channelled directly through the Lao Red Cross, in accordance with the Statutes of the Movement and resolutions of the International Conference of the Red Cross and Red Crescent Societies.
 - Specify that the decision regarding the request or acceptance of international assistance will be made and communicated to the international community, in the case of sudden onset emergencies, within 24 hours of the disaster, or in the case of slow onset emergencies, immediately from the time it is determined that national capacities have been exceeded.
 - Require that requests for international assistance be as specific as possible as to the types of goods and services needed and, where necessary to avoid duplication and wasted resources, indicate the goods and services which are not required.

Legal status of foreign entities providing assistance

The new Presidential Ordinance on disaster management, including communicable disease emergencies, should:

- Require the NDMC to establish a register of authorized entities eligible to receive legal facilities for the provision of disaster and communicable disease emergency relief activities. The process for determining which entities will be included in the register should be elaborated in an additional decision/order of the Chair of the NDMC.

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should include the following:

- Applications for registration should be submitted to the NDMO which will recommend the application for approval by the NDMC in consultation with MoFA.⁴⁸⁸
- Foreign entities who anticipate that they will provide initial recovery assistance in the event of a disaster or communicable disease emergency (whether or not they have current activities or legal status in Lao PDR) are required to submit a registration application to the appropriate authority which may include the following:
 - Documentation on the mandate, experience, capacity and key policies of the entity.
 - A commitment to comply with all the obligations as set out in Article 4 of the IDRL Guidelines.
 - In the case of a communicable disease emergency, must also demonstrate sufficient measures are in place to prevent or limit the spread of that particular disease.
- Entities which have not been pre-registered prior to an emergency and wish to offer international assistance should send an application for registration, together with their offer of assistance, to NDMO which will follow the registration and approval of specific offers process described above. Such requests should be assessed and decisions communicated promptly without undue delay.
- Once registered, an entity may make specific offers of assistance to the NDMO and in situations of communicable disease emergencies to NEIDCO in the case of offers specifically addressing communicable disease control. Such offers will be processed and approved as described above.

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- Once an entity's offer of assistance is accepted, the entity shall:
 - Retain its existing legal status within Laos, or where there is no pre-existing legal status, will be granted immediate temporary legal status on arrival for the duration of its operations.
 - Receive, as a minimum, the legal facilities described in Part V of the IDRL Guidelines (see further specific recommendations on this throughout this report). Such measures would be in addition to any facilities, privileges and immunities which are already required under domestic and international law.
- An authority should be appointed for ensuring ongoing compliance of assisting entities with the provisions of Article 4 of the IDRL Guidelines.

International humanitarian transport arrangements

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should include the following:

- A registered entity approved for emergency assistance should receive from the relevant authority:
 - Immediate permission for the speedy passage of their land vehicles and the waiver of any associated fees;
 - Immediate permission for overflight, landing and departure of aircraft and authorization for the aircraft to operate within Lao territory; and,
 - Immediate, temporary recognition of foreign driving licences and foreign vehicle registration and plates.

A new Decision/Order/Decree of the Chair of the NCDCC on the receipt of international humanitarian assistance during a communicable disease emergency should be developed and include the following:

- A cross-reference to the Decision/Order of the Chair of the NDMC on the registration of authorized entities, to recognize the registration process and provide additional details concerning the impact of communicable disease control measures on international humanitarian assistance.
- Where the means of transport has come from an infected area and/or could reasonably be considered a potential risk to public health, ensure that the inspection of transport containing humanitarian cargo is treated with the utmost urgency and priority.
- All humanitarian cargo should be examined as a first priority over other cargo to determine if any or all of it may be immediately cleared and transported by a different vehicle.
- In the event that humanitarian transport and/or cargo must be quarantined, every effort must be made to treat/decontaminate and release it as a matter of priority.
- In all cases, consideration should be given to the humanitarian necessity of the goods involved and prioritized accordingly to ensure they are not unnecessarily delayed.
- Include a requirement that all focal points and procedures relating to incoming and outgoing humanitarian transport be publicly accessible prior to an emergency and provided directly to registered entities from which assistance will be received in the event of an emergency.

Customs, duties and tax exemptions

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should:

- Clarify the definition of “items of humanitarian assistance” pursuant to Article 43 of the Law on Customs to include the following:
 - Supplies intended to be provided to disaster affected communities for the relief and initial recovery such as foodstuffs, medicaments, clothing, blankets, tents, prefabricated houses, water purifying and water storage items, or other goods of prime necessity.
 - Physical items, other than goods, that are necessary for disaster relief or initial recovery assistance, such as vehicles and radios.
- Grant exemptions to registered entities approved for international assistance for items of humanitarian

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assistance including the following:

- On-arrival exemptions from export, transit and import restrictions, including for food and telecommunications equipment, or where this is not possible for reasons of security or public health, publish and circulate in advance the nature of any exceptions/restrictions likely to impact on such goods and equipment.
- On-arrival exemptions from all customs duties, taxes, tariffs and governmental fees without any additional approvals required from line ministries, including for vehicles.
- On-arrival clearance for entry without additional inspections or bonded storage, upon provision of minimal documentation requirements, ideally limited to: the provision of the name of the registered entity; a detailed manifest including any expiry dates; a Bill of Lading; and external markings on the packaging and containers indicating it is for urgent humanitarian relief.
- Ensure a minimum number of agents are available for priority customs clearance outside of regular locations and business hours during the emergency period.
- Exempt VAT or other tax for the procurement of relief supplies and equipment in-country.
- Permit the re-export of any equipment or unused goods which the entity wishes to retain without any additional approvals required from line ministries.
- Ensure that authorities at all points of entry are regularly issued with an updated list of registered organizations and agencies accepted to facilitate the clearance process.
- Permit the sale or disposal of imported goods and equipment, with the only requirement that a notice of the sale or disposal, containing the details of any new owners, be provided to the Customs Administration to follow up on any tax or VAT implications with the new owner.
- Include a requirement that all focal points and procedures relating to the above, be made publicly accessible and, in the event of an emergency, are provided directly to registered entities from which assistance will be received.

The Government should also consider the following:

- Ratify/accede to the revised International Convention on the Simplification and Harmonization of Customs Procedures (Revised Kyoto Convention), in particular Annex J.

Telecommunications equipment

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should:

- Encourage registered entities to submit a list of equipment and devices for pre-approval by the NAPT prior to their arrival, or where this is not possible, provide the list to the NAPT immediately upon arrival for clearance within 24 hours.

The Government should also consider the following:

- Ratify/accede to the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations.

Medication

Current Orders/Decisions of the Ministry of Health should:

- Ensure the maintenance of the List of Drugs and Medical Products permitted for import into Lao PDR. Such a list should ideally contain those items included in the WHO List of Essential Medicines.
- Ensure the list is made widely available to facilitate the immediate clearance of such medication upon arrival by a registered entity during an emergency, supported by clear procedures.
- Ensure priority approval for clearance of any biological substances required for prevention, diagnosis and other research relating to a communicable disease emergency.

Consider amending the current Law on Drugs and Medical Products to:

- Provide for the importation of medications for non-commercial purposes, with a view to simplifying and facilitating the rapid entry of medications for humanitarian use during disaster and communicable disease emergencies.

Rescue animals

- Amend the Search and Rescue Decree No. 169/PM in order to allow for the rapid entry of rescue animals required by registered entities approved for international assistance.

Transfer of funds

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should:

- Permit registered entities approved for international assistance to freely bring or transfer the necessary funds and currencies in, out or within the country through legal means and to open bank accounts in any currency.
- Allow registered entities approved for international assistance to transfer funds from the central level to the provincial level to facilitate access to funds in disaster affected areas.

Additional provisions applicable to communicable disease emergencies

A new Decision/Order/Decree of the Chair of the NCDCC on the receipt of international humanitarian assistance during a communicable disease emergency should be developed and include the following:

- Where humanitarian goods and equipment have come from an infected area and/or could reasonably be considered a potential risk to public health, ensure that any inspections are conducted with the utmost urgency and priority.
- In the event that humanitarian cargo must be quarantined, every effort must be made to treat/decontaminate and release it as a matter of priority.
- In all cases, consideration should be given to the humanitarian necessity of the goods involved and prioritized accordingly to ensure they are not unnecessarily delayed.
- Specify the charging arrangements for health protection measures which reflect the requirements of Articles 40(1) and (2) of the IHR on charges for health measures regarding travellers.
- Include a requirement that all focal points and procedures relating to the above, be made publicly accessible and, in the event of an emergency, are provided directly to registered entities from which assistance will be received.

Visas for personnel from organizations with existing legal status

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should:

- Provide 'Courtesy Visas' on-arrival for personnel from registered entities approved for international assistance, valid for a minimum period of 3 months, during which time an application can be made for a multiple-entry visa for the duration required for the provision of relief and initial recovery assistance.
- Ensure that all such visas are provided free of charge.

Recognition of foreign qualifications

A new Decision/Order of the Chair of the NDMC on the registration of authorized entities should:

- Grant personnel of registered entities approved for international assistance temporary recognition of professional qualifications, driving licences and other types of license and certificate required for relief and initial recovery activities.

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Current Orders/decisions of the Ministry of Health should:

- Outline procedures for obtaining recognition of foreign medical qualifications in emergency situations, as required by the Decision/Order of the Chair of the NDMC on the registration of authorized entities described above.

Rights and freedoms during communicable disease emergencies

Current orders/decisions of the Ministry of Health should:

- Ensure the rights of international travellers infected by communicable disease or suspected to be infected are respected, as described in Article 32 of the IHR.
- Ensure equal treatment regardless of ethnicity, religion, political stand point, gender when addressing international travellers.

Movement of foreign relief organizations

The new Presidential Ordinance on disaster management, including communicable disease emergencies, should:

- Identify responsible authorities for informing assisting entities of areas affected by communicable disease, landmines or other hazards.
- Ensure assisting entities have unrestricted access to all affected persons, in particular to vulnerable groups, and people in isolation and quarantine, on the basis of need, regardless of legal status, gender, religion ethnicity and political standpoint.
- Ensure all appropriate measures are taken to address security, including the identification and training of the responsible national department or agency, including their personnel, premises, facilities, means of transport, equipment and goods. Special protective measures such as the provision of security guards or armed escorts should only be provided with the consent of the assisting entity.

Confidential information

The new Presidential Ordinance on disaster management, including communicable disease emergencies and current orders/decisions of the Ministry of Health, should:

- Ensure that all personal data collected in the course of disaster management or communicable disease control activities are:
 - Kept confidential and processed anonymously, except where essential for the purposes of managing a public health risk or disaster.
 - Processed fairly and lawfully.
 - Adequate, relevant and not excessive to the purpose.
 - Accurate and where necessary kept up to date, taking all reasonable steps to erase or rectify inaccurate or incomplete data.
 - Not kept longer than necessary.

Accountability and transparency

The new Presidential Ordinance on disaster management, including communicable disease emergencies, should:

- Categorize disaster relief funds as grants relating to a 'project' pursuant to Article No. 64 of the Law on State Budget to ensure that donors are able to negotiate the use of the funds.
- Assign a relevant authority (such as MoF or MPI) to record the receipt and purpose of all foreign funds received.
- Ensure that all funds received directly by the Lao Government are recorded by that authority (such as MoF or MPI).
- Require all other assisting entities to report to NDMO or NEIDCO on use and expenditure of foreign funds

received for disaster relief and communicable diseases emergencies. NDMO and NEIDCO will then be required to provide this information to the relevant authority (such as MoF or MPI).

- Appoint the External Inspection Agency as the entity responsible for monitoring the use of all foreign funds in accordance with the expressed purpose and intent of the donor.
- Clarify the link between each of the above agencies to ensure the transparent use of foreign funds.



End notes

- 1 See David Fisher, *Law and Legal Issues in International Disaster Response: A Desk Study – Summary Version* (International Federation of Red Cross and Red Crescent Societies 2007).
- 2 Adopted by Resolution 4 of the 30th International Conference of the Red Cross and Red Crescent Societies (Geneva, 2007) and since recognised by the UN General Assembly, UNECOSOC and other international and regional bodies.
- 3 Adopted by the 58th World Health Assembly in May 2005 and entered into force in Vietnam on June 15, 2007.
- 4 The following information is from: *Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* (IFRC, Geneva 2008) available at: <http://www.ifrc.org/what/disasters/idrl/resources/guidelines.asp>
- 5 For example, United Nation General Assembly Resolutions 63/139 and 63/141 of 2009 “encourage[d] Member States and, where applicable, regional organizations to strengthen operational and legal frameworks for international disaster relief, taking into account, as appropriate, the Guidelines for Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, adopted at the thirtieth International Conference of the Red Cross and the Red Crescent Societies held in Geneva in November 2007”.
- 6 The following information is from the IFRC IDRL website: <http://www.ifrc.org/what/disasters/idrl/research/ibr.asp> Further information is also available from the WHO website: <http://www.who.int/csr/ibr/en/>
- 7 This information is from the IFRC IDRL Website: <http://www.ifrc.org/what/disasters/idrl/research/tampere.asp> Further information is also available from the official Tampere Convention webpage: <http://www.reliefweb.int/telecoms/tampere/index.html>
- 8 World Conference on Disaster Reduction 18-22 January 2005, Kobe, Hyogo, Japan; Hyogo Framework For Action 2005-2015: *Building the Resilience of Nations and Communities to Disasters* (2005).
- 9 World Conference on Disaster Reduction 18-22 January 2005, Kobe, Hyogo, Japan; Hyogo Framework For Action 2005-2015: *Building the Resilience of Nations and Communities to Disasters* (2005), p1.
- 10 UNISDR and UNOCHA, *Disaster Preparedness for Effective Response Guidance and Indicator Package for Implementing Priority Five of the Hyogo Framework* (Geneva, 2008).
- 11 ASEAN Agreement on Disaster Management and Emergency Response (2005), Article 4.
- 12 Available at: <http://www.asean.org>
- 13 World Health Organisation Western Pacific Regional Committee, 56th Session, Noumea, New Caledonia, 19-23 September 2005, WPR/RC56/7.
- 14 *Asia Pacific Strategy for Emerging Diseases* (WHO, 2005), Executive Summary.
- 15 *Asia Pacific Strategy for Emerging Diseases* (WHO, 2005), Objective 3, Expected Result 1, see in particular footnotes 9 and 10.
- 16 Asian Development Bank: <http://www.adb.org/GMS/agreement.asp>
- 17 ACMECS, *Economic Cooperation Strategy Plan of Action* (2003), <http://www.acmecs.org/>
- 18 ACMECS Leaders’ Declaration on the Partnership in Combating Avian Influenza and Other Infectious Diseases, 2nd ACMCS Summit, Bangkok, 3 November 2005, <http://www.acmecs.org/>
- 19 ACMECS, *Immediate Action Plan for Preventing and Controlling Avian Influenza Pandemic* (2006), <http://www.acmecs.org/>
- 20 See http://www.mbdsoffice.com/index_2008.php
- 21 See http://www.mbdsoffice.com/index_2008.php
- 22 CIA World Factbook, <https://www.cia.gov/library/publications/the-world-factbook/>
- 23 AKIRA Yamashita, Department of Environment and Natural Resources Management, Can Tho University, Vietnam.
- 24 In 2005. Source: UNDP: Human Development Report: http://hdrstats.undp.org/countries/data_sheets/cty_ds_LAO.html
- 25 UNDP: Human Development Report: http://hdrstats.undp.org/countries/data_sheets/cty_ds_LAO.html
- 26 Messerli P, Heinimann A, Epprecht M, Phonesaly S, Thiraka C, Minot N, (hereafter Messerli et al) 2008: *Socio-Economic Atlas of the Lao PDR, an Analysis based on the 2005 Population and Housing Census*, Swiss National Centre of Competence in Research North-South, University of Bern.
- 27 Lao PDR Comprehensive Food Security & Vulnerability Analysis, WFP - Vulnerability Analysis and Mapping Unit, 2007.
- 28 Messerli et al, 2008.
- 29 *Ibid.*
- 30 *Climate Change 2007 Synthesis Report*, Intergovernmental Panel on Climate Change www.ipcc.ch
- 31 *Ibid.*
- 32 See e.g., UNESCAP, *Assessment of Socio-Economic Impacts of Disasters in Asia*: UNDP Bureau for Crisis Prevention and Recovery, Disaster Reduction Unit, 2004.
- 33 Decision of the Minister of Labour and Social Welfare, No. 1139/MLSW, dated 18 April 2003, on the Strategic Plan on Disaster Risk Management in Lao PDR 2003, 2010 and Action Plan (2003-2005).
- 34 Created on: July-17-2009. - Data version: v12.07. Source: “EM-DAT: The OFDA/CRED International Disaster Database, www.emdat.be - Université Catholique de Louvain - Brussels - Belgium”
- 35 UN IASC in-country Team for Natural Disaster Response Preparedness - Government of the Lao People’s Democratic Republic, *Rapid Assessment of Impact and Needs arising from the August 2008 Floods*, September 2008.
- 36 National Disaster Management Office, Ministry of Labour and Social Welfare, Lao PDR.
- 37 Figures: OFDA/CRED data: <http://www.emdat.be/Database/CountryProfile/countryprofile.php#summtable>
- 38 Messerli et al, 2008.
- 39 After the 2008 floods the European Commission Humanitarian Office granted the World Food Programme permission to provide food assistance to affected people but also granted the French Red Cross permission to implement food security activities aiming to increase food availability in Vientiane Province, which is not considered as poor but as a ‘rice basket’ of Lao PDR.
- 40 See for example, European Commission Humanitarian Aid, *Laos Humanitarian Background*.
- 41 Created on: Jul-17-2009. - Data version: v12.07. Source: “EM-DAT: The OFDA/CRED International Disaster Database, www.emdat.be - Université Catholique de Louvain - Brussels - Belgium”. This table does not include figures from the 2008 floods (figures are provided above as described in the United Joint Appeal in response to the 2008 floods in Lao PDR).
- 42 Messerli et al, 2008.
- 43 Source: *Natural Hazard Map, Tropical Cyclone in Lao PDR*, created on April 7th 2009, Natural Hazards Assessment Network, <http://mrnathban.munichre.com/>

- 44 *Glossary of Meteorology, 1959. See also World Meteorological Organization drought classification.*
- 45 *See for example the Intergovernmental Panel on Climate Change, Climate Change 2007 Synthesis Report, www.ipcc.ch.*
- 46 *See for example Navuth Te, Technical Support Division, Mekong River Commission Secretariat, 'Drought Management In The Lower Mekong Basin', 2007.*
- 47 *Figures provided by the Ministry of Agriculture and Forestry.*
- 48 *See e.g., Plant breeding strategies for rainfed lowland rice in Northeast Thailand and Laos programme of the Australian Centre for International Agricultural Research, Australian Government.*
- 49 *OFDA/CRED data: <http://www.emdat.be/Database/CountryProfile/countryprofile.php#sumtable>*
- 50 *Data provided by National Disaster Management Office, Ministry of Labour and Social Welfare, Lao PDR.*
- 51 *Created on: Mar-19-2009. - Data version: v12.07, Source: "EM-DAT: The OFDA/CRED International Disaster Database, www.emdat.be - Université Catholique de Louvain - Brussels - Belgium"*
- 52 *Lao PDR Comprehensive Food Security & Vulnerability Analysis, WFP – Vulnerability Analysis and Mapping Unit, 2007.*
- 53 *Savannakhet, Khammouane and Saravane are preferential targeted areas in case of major droughts for the European Commission Humanitarian Office; see DIPECHO National Consultative Meeting, 8 November 2005, Vientiane, Lao PDR. Nevertheless the European Commission also targets mountainous areas and upland areas which may be the most affected. As matter of fact upland cultivation is more vulnerable to drought than irrigated paddy field.*
- 54 *According to UNOCHA 'Seismic, volcanic and tropical storm risk map for Lao PDR', 8 March 2007.*
- 55 *Messerli et al, 2008.*
- 56 *Epidemiological Profile of Lao PDR, WHO, 2005.*
- 57 *Dr John G. Bartlett, MD, Johns Hopkins University and Dr Frederick G. Hayden University of Virginia Health Sciences Center. 'Influenza A (H5N1): Will It Be the Next Pandemic Influenza?'*
- 58 *Dr Pari Baumann 'HPAI and livelihood linkages in the Lao PDR', UN Food and Agriculture Organisation, 2007.*
- 59 *WHO, cumulative number of confirmed human cases available at: http://www.who.int/csr/disease/avian_influenza/country/cases_table_2009_07_01/en/index.html*
- 60 *WHO, Global Health Observatory, <http://gamapserver.who.int/mapLibrary/app/searchResults.aspx>*
- 61 *National Avian Influenza Control and Pandemic Preparedness Plan 2006-2010, Government of Lao PDR, p9.*
- 62 *Ibid.*
- 63 *Ibid.*
- 64 *N. J. Cox and K. Subbarao, 'Global Epidemiology of Influenza: Past and Present', CDC Atlanta, 2000.*
- 65 *WHO, Human Infections of Pandemic H1N1 2009 Virus: Perspective from WHO Lao P.D.R. (update 26), 14 July 2009.*
- 66 *WHO/Europe Outbreak Update, 11 June 2009, 16:00 GMT available at: <http://www.who.int/csr/disease/swineflu/en/>*
- 67 *Unless indicated otherwise, the following information is obtained from the CIA World Factbook, entry of Laos: <https://www.cia.gov/library/publications/the-world-factbook/geos/LA.html> as at July 2009.*
- 68 *Strategic Plan on Governance (2006-2010), Government of Lao PDR, p11.*
- 69 *Decree of the Prime Minister on the Importance of Laws and Regulations of Lao PDR, No. 64/PM, dated 21 April 1999.*
- 70 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 12; Decree of the Prime Minister on the Importance of Laws and Regulations of Lao PDR, No. 64/PM, dated 21 April 1999, Art. I.*
- 71 *Decree of the Prime Minister on the Importance of Laws and Regulations of Lao PDR, No. 64/PM, dated 21 April 1999, Art. II.*
- 72 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 16; Decree of the Prime Minister on the Importance of Laws and Regulations of Lao PDR, No. 64/PM, dated 21 April 1999, Art. III.*
- 73 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 16.*
- 74 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 17; Decree of the Prime Minister on the Importance of Laws and Regulations of Lao PDR, No. 64/PM, dated 21 April 1999, Art. IV.*
- 75 *Decree of the Prime Minister on the Importance of Laws and Regulations of Lao PDR, No. 64/PM, dated 21 April 1999, Art. IV.*
- 76 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 18.*
- 77 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 19.*
- 78 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 19.*
- 79 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 19; Decree of the Prime Minister on the Importance of Laws and Regulations of Lao PDR, No. 64/PM, dated 21 April 1999, Art. V.*
- 80 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 20.*
- 81 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 21; Decree of the Prime Minister on the Importance of Laws and Regulations of Lao PDR, No. 64/PM, dated 21 April 1999, Art. VII.*
- 82 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 22.*
- 83 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 23; Decree of the Prime Minister on the Importance of Laws and Regulations of Lao PDR, No. 64/PM, dated 21 April 1999, Art. IX.*
- 84 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 24.*
- 85 *Ordinance of the President on Legal Act Drafting, No. 02/OPR, dated 20 October 2003, Art. 11.*
- 86 *The Law on Environmental Protection, No. 02-99/NA, dated 26 April 1999.*
- 87 *Decree of the Prime Minister on the Establishment of the National Disaster Management Committee, No. 158/PM, dated 23 August 1999.*
- 88 *Decision of the Minister of Labour and Social Welfare, No. 1139/MLSW, dated 18 April 2003, on the Strategic Plan on Disaster Risk Management in Lao PDR 2020, 2010 and Action Plan (2003-2005).*
- 89 *Decision of the Minister of Agriculture and Forestry on Establishment of the Disaster Committee, No. 0896/MAF, dated 12 August 2008.*
- 90 *Decree of the Prime Minister on the Establishment of the National Committee on Communicable Diseases and Control, No. 377/PM, dated 9 December 2005.*

- 91 See WFP, *Rodent outbreaks in the Northern Uplands of the Lao PDR*, Emergency Food Security Assessment, 27 March 2009. The full report is posted on www.wfp.org
- 92 Reports were issued at the provincial and districts level in April 2008.
- 93 This definition is drawn from Article 1(6) of the Tampere Convention, which is one of the most recent multilateral treaties in this area. It is also similar to the definition adopted by the ASEAN Agreement on Disaster Management and Emergency Response of 2005, Art.1(3).
- 94 ASEAN Agreement on Disaster Management and Emergency Response of 2005, Art. 1(3).
- 95 Laos signed the AADMER on 26 July 2005.
- 96 The Law on Environmental Protection, No. 02-99/NA, dated 26 April 1999, Art. 19.
- 97 Decree of the Prime Minister on the Establishment of the National Disaster Management Committee, No. 158/PM, dated 23 August 1999.
- 98 Decision of the Minister of Labour and Social Welfare on the Assignment of NDMC Roles and Responsibilities, No. 097/MLSW, dated 30 June 2000.
- 99 Decision of the Minister of Labour and Social Welfare, No. 1139/MLSW, dated 18 April 2003, on the Strategic Plan on Disaster Risk Management in Lao PDR 2020, 2010 and Action Plan (2003-2005).
- 100 Ibid.
- 101 Interview with NDMO, June 2009.
- 102 List provided by NDMO; two members have been appointed by each entity.
- 103 See: Law on Hygiene, Disease Prevention and Health Promotion, No. 01/NA, dated 10 April 2001, Arts. 5, 6 and 25.
- 104 National Avian Influenza Control and Pandemic Preparedness Plan 2006-2010, Government of Lao PDR, p11.
- 105 25-29 November 2004, Vientiane, Lao PDR.
- 106 Partnership in Combating Avian Influenza and Other Infectious Diseases, 2nd ACMECS Summit, Bangkok, Thailand.
- 107 Decree of the Prime Minister on the Establishment of the National Committee on Communicable Diseases and Control, No. 377/PM, dated 9 December 2005.
- 108 Ibid.
- 109 Ministry of Defence, Ministry of Labour and Social Welfare, Ministry of Agriculture and Forestry, Ministry of Foreign Affairs, Ministry of Public Security, Ministry of Finance, Ministry of Communications, Transport, Post and Construction, Ministry of Industries and Handicrafts, Ministry of Public Health, Ministry of Justice, Ministry of Commerce and Tourism, Ministry of Information and Culture and Ministry of Education.
- 110 The Prime Minister's Office, the Lao Front for National Construction, the Lao Trade Union Federation, the Lao Women's Union and the Lao Youth Union.
- 111 Decree of the Prime Minister on the Establishment of the National Committee on Communicable Diseases and Control, No. 377/PM, dated 9 December 2005, Art. 3.
- 112 Ibid., Art. 2.
- 113 Ibid., Art. 2.
- 114 National Avian Influenza Control and Pandemic Preparedness Plan 2006-2010, Government of Lao PDR.
- 115 National Avian Influenza Control and Pandemic Preparedness Plan 2006-2010, Government of Lao PDR, p12.
- 116 National Avian Influenza Control and Pandemic Preparedness Plan 2006-2010, Government of Lao PDR, p16.
- 117 National Pandemic Influenza Response Plan for the Health Sector, Government of Lao PDR, p3.
- 118 Ibid.
- 119 Strategic Plan on Governance (2006-2010), Government of Lao PDR, p23.
- 120 UNDP, *Evaluation of the Implementation of the Rule of Law in Lao PDR 1997-2003*. October 2003, p17.
- 121 Ibid.
- 122 Strategic Plan on Governance (2006-2010), Government of Lao PDR, p26.
- 123 Ibid.
- 124 Draft Master Plan on the Development of Rule of Law for Lao PDR toward the year 2020, Draft 9 November 2006, p17-18.
- 125 Ibid., p18.
- 126 Ibid.
- 127 Ibid., p15.
- 128 Strategic Plan on Governance (2006-2010), Government of Lao PDR p8.
- 129 Diagram provided by the National Disaster Management Unit in June 2009.
- 130 Decree of the Prime Minister on the Establishment of the National Disaster Management Committee, No. 158/PM, dated 23 August 1999, Art. 2.
- 131 Information confirmed by the National Disaster Management Office in July 2009.
- 132 WREA was created in 2008 by Decree of the Prime Minister on the Establishment and Activities of the Water Resources and Environment Administration, No. 1409/PM, dated 1 October 2008, and replaces both the WRCC (Water Resources Coordination Committee) and its secretariat the Science and Technology Environment Agency.
- 133 Meeting with NDMO, 3 June 2009.
- 134 This responsibility now falls directly under the National Authority on Post and Telecommunications (under the Prime Minister's Office) set up in 2007.
- 135 Decision of the Minister of Labour and Social Welfare on the Assignment of NDMC Roles and Responsibilities, No. 097/MLSW, dated 30 June 2000.
- 136 Ibid.
- 137 Ibid.
- 138 NDMO's Presentation on AADMER Implementation Status in Lao PDR at the ASEAN-UNISDR-World Bank Joint Forum on DRR and Visioning Workshop on the Implementation of the ASEAN Agreement on Disaster Management and Emergency Response (AADMER) 18-22 May 2009, Bali, Indonesia.
- 139 See also: UNDP, *Assessing Capacities of the National Disaster Management Office (NDMO)*, December 2007.
- 140 Ibid., p27.
- 141 Ibid.
- 142 Decree of the Prime Minister on the Establishment of the National Disaster Management Committee, No. 158/PM, dated 23 August 1999.
- 143 Decision of the Minister of Labour and Social Welfare on the Assignment of NDMC Roles and Responsibilities, No. 097/MLSW, dated 30 June 2000, Articles. 4.1-4.2.
- 144 Decision of the Governor on the Establishment of the Disaster Management Committee for FY 2007-2008 (Pakse, Champassak), No. 442/G.CH, dated 26 May 2008.
- 145 Ibid.

- 146 Given the lack of funding directed towards these institutions, the assistance of international organisations greatly affects the capacity of PDMCs and DDMCs.
- 147 UNISDR, *A Report on progress in implementation of Hyogo Framework for Action by Lao People's Democratic Republic*, 2008.
- 148 *Ibid.*
- 149 *Ibid.*
- 150 Decision of the Minister of Agriculture and Forestry on Establishment of the Disaster Committee, No. 0896/MAF, dated 12 August 2008.
- 151 Decree of the Prime Minister on the Establishment of the National Disaster Management Committee, No. 158/IPM, dated 23 August 1999.
- 152 Deputy Director General of Department of Planning, Ministry of Agriculture and Forestry.
- 153 Decision of the Minister of Agriculture and Forestry on Establishment of the Disaster Committee, No. 0896/MAF, dated 12 August 2008.
- 154 *Ibid.*
- 155 *Ibid.*
- 156 Department of Meteorology and Hydrology.
- 157 Decision of the Minister of Agriculture and Forestry on Establishment of the Disaster Committee, No. 0896/MAF, dated 12 August 2008.
- 158 Decree of the Prime Minister on Implementation of the National Search and Rescue Committee, No. 169/IPM, dated 26 November 2004, Art. 5.
- 159 *Ibid.*, Art. 3
- 160 The Law on Environmental Protection, No. 02-99/NA, dated 26 April 1999, Art. 19.
- 161 For further details of the responsibilities, see the Decree of the Prime Minister on Implementation of the Environmental Protection Law, No. 102/PM, dated 4 June 2001.
- 162 See for reference the Decree No.188/IPM, dated 30 November 1993.
- 163 Decree of the Prime Minister, No. 21/IPM, dated 21 April 1999, and Decree of the Prime Minister, No. 36/IPM, dated 21 April 1999, on the Organization of the Lao Red Cross.
- 164 Decree of the Prime Minister, No.36/IPM, dated 21 April 1999, on the Organization of the Lao Red Cross.
- 165 The training capacity of the Lao Red Cross is widely recognized. The LRC is working with several UN agencies on Community-Based Disaster Preparedness Training. Furthermore it was recommended the "Lao Red Cross should explore training opportunities for NDMC and NDMO, with support from IFRC and other regional partners" (UNDAC Disaster Preparedness Mission – Lao PDR – 12-24 February 2007, Recommendation 57).
- 166 Lao Red Cross, *Strategic Development Plan (2006-2010)*, August 2006.
- 167 91 staff at the Headquarters (59 official Staff, 32 contractual employees), 161 staff for all 17 branches nationwide (138 official Staff, 23 contractual employees); Lao Red Cross Profile, IFRC, 2002.
- 168 As defined in the Decision of the Minister of Labour and Social Welfare on the Assignment of NDMC Roles and Responsibilities, No. 097/MLSW, dated 30 June 2000.
- 169 Decree of the Prime Minister on the Establishment of the National Disaster Management Committee, No. 158/IPM, dated 23 August 1999, Art. 1.
- 170 As defined in the Decision of the Minister of Labour and Social Welfare on the Assignment of NDMC Roles and Responsibilities, No. 097/MLSW, dated 30 June 2000, Art. 12.
- 171 During the floods in 2008, the Lao Red Cross implemented the World Food Programme's Food For Relief activities in three provinces as well as relief activities in coordination with the IFRC and the French Red Cross.
- 172 UNDAC Disaster Preparedness Mission – Lao PDR, 12-24 February 2007, Recommendation 18.
- 173 Interview with the Foundation for Assisting Poor People, April 2009.
- 174 Decree of the Prime Minister on Associations, No.115/IPM, dated 29 April 2009.
- 175 *Ibid.*, Art. 4.
- 176 Ministry of Foreign Affairs requesting international assistance in response to the floods in August 2008, ref: 035/AE.OI.1, Vientiane, 18 August 2009.
- 177 The term IASC normally refers to the Inter-Agency Standing Committee for Humanitarian Assistance at the Global Level, but for this report it refers to the IASC Country Team in the Lao PDR. The Inter-Agency Standing Committee in country team for disaster preparedness and response in co-chaired by the UN Resident Coordinator and the Head of the NDMO and is comprised of the UN, INGOs and the Red Cross.
- 178 Letter from Jan Egeland, Under-Secretary-General for Humanitarian Affairs and Emergency Relief, to all Resident Coordinators, 3 October 2005.
- 179 Lao Floods 2008: IASC After-Action Workshop Report, 6 November 2008, Vientiane. The process was supported by UN OCHA.
- 180 Decree of the Prime Minister on the Establishment of the National Committee on Communicable Diseases and Control, No. 377/PM, dated 9 December 2005.
- 181 The MCTPC now is named Ministry of Public Works and Transport (MPWT) and is not in charge of telecommunications anymore (new National Authority of Posts and Telecommunications, under the PMO).
- 182 There is now the Ministry of Industry and Commerce, and a National Tourism Authority.
- 183 It has to be noted that the new composition of the NDMC includes some mass organisations (Women's Union and Youth Union). Mass organizations are under direct supervision of the Party, present at all administrative levels and strongly anchored at the community level.
- 184 "The Ayeyawady - Chao Phraya - Mekong Economic Cooperation Strategy (ACMECS) is a cooperation framework amongst Cambodia, Lao PDR, Myanmar, Thailand and Vietnam to utilize member countries' diverse strengths and to promote balanced development in the sub-region" see: <http://www.acmecs.org/>
- 185 National Pandemic Influenza Response Plan for the Health Sector, December 2007, tables 1-3.
- 186 Decree of the Prime Minister on the Establishment of the National Committee on Communicable Diseases and Control, No. 377/PM, dated 9 December 2005, Art. 6.1.
- 187 Decision of the Chairman of the Secretariat of NCCDC on the Establishment and Mandate of NAHICO, No. 163/PMO, dated 26 June 2006.
- 188 *Ibid.*
- 189 *Ibid.*, Art. 2.
- 190 *Ibid.*, Art. 3; see Chapter 7 on request for assistance.
- 191 National Avian Influenza Control and Pandemic Preparedness Plan, 2006-2010 Second Joint Implementation Review, 13-20 May 2008, Annex 8.1.
- 192 Notice of the Prime Minister on changing the name of NAHICO to NEIDCO, No. 743/PM, dated 5 May 2009.
- 193 Additional Order of the Prime Minister, No. 24/PM, dated 17 June 2009, Art. 1.

- 194 National Pandemic Influenza Response Plan for the Health Sector, Government of Lao PDR, December 2007, tables 1-3.
- 195 *Ibid.*
- 196 USAid, WHO, WB and ADB actively collaborated in the creation (of NAHICO) and are still particularly involved and supportive.
- 197 "IHR Focal Point Instructions & Contact Details", document provided by WHO in June 2009 providing the contacts of IHR focal points. This form is based on Article 4 of the International Health Regulations (2005) and on the National IHR Focal Point Guide (<https://www.who.int/csr/ibrl/nfp/en/index.html>).
- 198 National Pandemic Influenza Response Plan for the Health Sector, Government of Lao PDR, December 2007, tables 1-3.
- 199 It has to be noted that these committees are not established in all districts.
- 200 Decision of the Governor of Champasack Province on the establishment of the Provincial Communicable Disease Control (PCDC) in Champasak Province, No. 0040/G.CH, dated 17 January 2008.
- 201 *Ibid.*
- 202 *Ibid.*
- 203 *Ibid.*
- 204 Notice of the Prime Minister's Office, No. 742/PMO, dated 4 May 2009.
- 205 National Pandemic Influenza Response Plan for the Health Sector, Government of Lao PDR, December 2007, tables 1-3.
- 206 Decision of the Minister of Labour and Social Welfare on the Assignment of NDMC Roles and Responsibilities, No. 097/MLSW, dated 30 June 2000, Art. 2(2.2).
- 207 Interview with DMH, 29 April 2009. The WREA was formally established by Decree of the Prime Minister on the Establishment and Activities of the Water Resources and Environment Administration, No. 1409/PMO.WREA, dated 1 October 2008.
- 208 ADB Technical Assistance Report, 'Lao People's Democratic Republic: Updating the National Water Policy and Strategy', December 2007, p.2. The WREA was formally established by Decree of the Prime Minister on the Establishment and Activities of the Water Resources and Environment Administration, No. 1409/PM, dated 1 October 2008, Art. 2.
- 209 Decree of the Prime Minister on the Establishment and Activities of the Water Resources and Environment Administration, No. 1409/PM, dated 1 October 2008, Art. 2.
- 210 *Ibid.*
- 211 *Ibid.*, Arts. 3(3.2, 3.3, 3.5).
- 212 *Ibid.*, Arts. 4(4.4).
- 213 Law on Tourism, No. 10/INA, dated 9 November 2005.
- 214 Considerations for Operational Procedures MRC Policy Document, p5.
- 215 *Ibid.*, p8.
- 216 *Ibid.*, p9.
- 217 Water level forecast are available online: <http://ffw.mrcmekong.org/>
- 218 Considerations for Operational Procedures MRC Policy Document, p9.
- 219 Out of a total of 23 stations used by the MRC; more information online at <http://ffw.mrcmekong.org/>
- 220 Decree of the Prime Minister on the Establishment and Activities of the Water Resources and Environment Administration, No. 1409/PMO.WREA, dated 1 October 2008.
- 221 Asian Disaster Preparedness Center (ADPC), Overview of early warning systems for hydro-meteorological hazards in selected countries in Southeast Asia: (Cambodia, Indonesia, Lao PDR, Philippines and Vietnam) Pathum Thani, Thailand, July 2002.
- 222 Department of Meteorology and Hydrology, Laos Country Report - Review of Year 2005 Flood, Forecast and Warning System in Lao PDR, p45.
- 223 Interview with DMH, 29 April 2009.
- 224 International Civil Aviation Organization, <http://www.icao.int/> ; Department of Meteorology and Hydrology, Laos Country Report - Review of Year 2005 Flood, Forecast and Warning System in Lao PDR.
- 225 Department of Meteorology and Hydrology, Laos Country Report - Review of Year 2005 Flood, Forecast and Warning System in Lao PDR.
- 226 Asian Disaster Preparedness Center (ADPC), Overview of early warning systems for hydro-meteorological hazards in selected countries in Southeast Asia: (Cambodia, Indonesia, Lao PDR, Philippines and Vietnam) Pathum Thani, Thailand, July 2002.
- 227 NDMO Presentation of the AADMER Implementation Status in Lao PDR, ASEAN-UNISDR-World Bank Joint Forum on DRR and Visioning Workshop on the Implementation of the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), 18-22 May 2009, Bali, Indonesia.
- 228 Asian Disaster Preparedness Center (ADPC), Overview of early warning systems for hydro-meteorological hazards in selected countries in Southeast Asia: (Cambodia, Indonesia, Lao PDR, Philippines and Vietnam) Pathum Thani, Thailand, July 2002, p41.
- 229 NDMO Presentation of the AADMER Implementation Status in Lao PDR, ASEAN-UNISDR-World Bank Joint Forum on DRR and Visioning Workshop on the Implementation of the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), 18-22 May 2009, Bali, Indonesia.
- 230 Interview with officials of the Department of Meteorology and Hydrology, 29 April 2009.
- 231 Defined according to the location (i.e., Vientiane Capital: 13.50m. Pakse: 12.50m).
- 232 The warning is required to be broadcast three times on the radio.
- 233 Based on the notice from the PM on the warning to prepare and solve the impact from the flood, No. 15/PM, dated 8 August 2008. The MAF issued an urgent notice of early warning No. 1386/CO. AF on 12 August 2008.
- 234 Based on the experience of ISLAND (Information Systems for Local Authorities to face Natural Disasters, EU-funded, 2005-2006) project, implemented by the Lao National Mekong Committee (LNMC) and a consortium of European organizations (NGO and consulting companies), it was observed in Champasack District that remote areas with no electricity are usually warned by a District Agriculture Officer taking his motorbike to go the village and informing directly all villagers by organizing a meeting at the temple. District officers also try to communicate as much as possible with the Village Heads using mobile phones.
- 235 NDMO Presentation of the AADMER Implementation Status in Lao PDR, ASEAN-UNISDR-World Bank Joint Forum on DRR and Visioning Workshop on the Implementation of the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), 18-22 May 2009, Bali, Indonesia.
- 236 Decision of the Minister of Labour and Social Welfare on the Assignment of NDMC Roles and Responsibilities, No. 097/MLSW, dated 30 June 2000.
- 237 As defined in the Law on Environmental Protection, No. 02-99/NA, dated 26 April 1999, Art. 17.

- 238 *Decree of the Prime Minister on the implementation of working relations between the ministries and the Prime Minister's Office, No. 220/PM, dated 19 November 1998, Art. 8.*
- 239 *Decision of the Minister of Labour and Social Welfare on the Assignment of NDMC Roles and Responsibilities, No. 097/MLSW, dated 30 June 2000.*
- 240 *Considering that in principle the chair of PDMC is the provincial Vice-Governor.*
- 241 *See Chapter 3 Country background: Disaster risks and legal framework. Communicable disease request for assistance will be discussed below.*
- 242 *National Avian Influenza Control and Pandemic Preparedness Plan, Government of Lao PDR, p10.*
- 243 *Ibid.*
- 244 *Decision of the Minister of Health on the organization and function of a Health Unit at the International Border Check-point, No. 1263/MOH, dated 28 September 2006.*
- 245 *Ibid.*
- 246 *Ibid.*
- 247 *National Avian Influenza Control and Pandemic Preparedness Plan, 2006-2010, Second Joint Implementation Review, 13-20 May, 2008, Annex 5, p2.*
- 248 *Ibid., p1.*
- 249 *Ibid., Annex 5.*
- 250 *Ibid., Annex 5.*
- 251 *National Avian Influenza Control and Pandemic Preparedness Plan, Government of Lao PDR, p10.*
- 252 *Draft National Policy on Epidemiological Surveillance and Response, dated 11 November 2006.*
- 253 *Interview with NCLE, 30 July 2009.*
- 254 *For example as defined in the global agreement between the United Nations World Food Programme and the Government of Lao PDR activities are undertaken upon a request from the government – Article XI-29; Decree of the Prime Minister on the Establishment of National Disaster Management Committee (NDMC), No. 158/PM, dated 23 August 1999, Art. 2.*
- 255 *Decision of the Minister of Labour and Social Welfare on the Assignment of NDMC Roles and Responsibilities, No. 097/MLSW, dated 30 June 2000.*
- 256 *The Law on State budget, No. 02/NA, dated 26 December 2006, Art. 74(9).*
- 257 *NDMO's Presentation on AADMER Implementation Status in Lao PDR at the ASEAN-UNISDR-World Bank Joint Forum on DRR and Visioning Workshop on the Implementation of the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), 18-22 May 2009, Bali, Indonesia.*
- 258 *As noted, the chair of the IASC in-country team is the UN Resident Coordinator.*
- 259 *This, again, is indicative of the perception INGOs have of NDMO being a coordinator in disaster management.*
- 260 *Basic Agreement between World Food Programme (WFP) and the Government of Lao PDR, dated 23 August 2005, Section 29.*
- 261 *Decision of the Chairman of the Secretariat of NCCDC on the Establishment and Mandate of NAHICO, No. 163/PMO, dated 26 June 2006.*
- 262 *The head of the secretariat of the NCCDC is the Minister to the Prime Minister Office; see the Decree of the Prime Minister on the Establishment of the National Committee on Communicable Diseases and Control (NCCDC), No. 337/PM, dated 9 December 2005.*
- 263 *Regulation of Minister of Foreign Affairs on Entry-Exit and Notice for staying in Lao PDR for Diplomats, Personnel of International Organizations and Foreign Experts for undertaking an assignment in Lao PDR, No. 044/MOFA.CO, dated 5 January 1998, Art. 2.*
- 264 *List of States with which the Lao PDR has Established Diplomatic Relations since 1950, Protocol Department, MoFA.*
- 265 *Vienna Convention on Diplomatic Relations (1961).*
- 266 *Ibid., Arts. 29, 30, 31 and 36.*
- 267 *Decision of the Ministry of Foreign Affairs on the Management of Vehicles of Embassies, Consulates, Representative Offices, International Organizations and Foreign Experts on Mission in the Lao People's Democratic Republic, No. 3122/MoFA, dated 18 November 1997.*
- 268 *Law on the Government of Lao PDR, No. 02/NA, 6 May 2003, Art. 7, ss. 14.*
- 269 *Convention on the Privileges and Immunities of the United Nations (1946) and Convention on the Privileges and Immunities of the Specialized Agencies (1947).*
- 270 *See Basic Agreement between UNDP and the Government of Lao PDR, dated 10 October 1988, Art X (1).*
- 271 *See Basic Agreement between World Food Programme (WFP) and the Government of Lao PDR, dated 23 August 2005, Section 19.*
- 272 *As defined in the Basic Agreement between World Food Programme (WFP) and the Government of Lao PDR, dated 23 August 2005, Section 29: "Upon such a request, the [government of Lao PDR] shall enter a WFP Activity Agreement to define the respective roles, obligations, commitments and responsibilities under the WFP Assisted Activity"*
- 273 *Interview with UNICEF and FAO representatives on 23 and 24 April 2009.*
- 274 *For example the Basic Agreement between World Food Programme (WFP) and the Government of Lao PDR, dated 23 August 2005, Section 29, states that an agreement should be entered "upon such a request".*
- 275 *This point was often raised during the stakeholder interview process.*
- 276 *Guidelines issued by Ministry of Foreign Affairs for the Implementation of the Decree of the Prime Minister on the Administration of NGOs in Lao PDR, No. 1865/MoFA, dated 8 July 1999, Art. 22.*
- 277 *Decree of the Prime Minister on Administration of NGOs, No. 71/PM, dated 28 April 1998, Art. 3.*
- 278 *Ibid., Art. 7.*
- 279 *Ibid., Art. 5.*
- 280 *Ibid., Art. 10.*
- 281 *Ibid., Art. 11.*
- 282 *This point was raised and discussed during a consultation meeting with INGOs, organized with the INGO network in Lao PDR, 26 June 2009.*
- 283 *Decree of the Prime Minister on Administration of NGOs, No. 71/PM, dated 28 April 1998, Art. 6.*
- 284 *Guidelines issued by Ministry of Foreign Affairs for the Implementation of the Decree of the Prime Minister on the Administration of NGOs in Lao PDR, No. 1865/MoFA, dated 8 July 1999, Arts. 4-6.*
- 285 *Decree of the Prime Minister on Administration of NGOs, No. 71/PM, dated 28 April 1998, Art. 10.*
- 286 *Ibid, Art. 11.*
- 287 *This point was raised and discussed during a consultation meeting with INGOs, organized with the INGO network in Lao PDR, 26 June 2009.*

- 288 *Guidelines issued by Ministry of Foreign Affairs for the Implementation of the Decree of the Prime Minister on the Administration of NGOs in Lao PDR, No. 1865/MoFA, dated 8 July 1999.*
- 289 *Ibid., Art. 25.*
- 290 *Ibid., Art. 5(1). Also note Law on Contract, No. 41/PO, dated 27 July 1990, Art. 7(4) Capacity to Act, which states that only legal entities can enter into contracts.*
- 291 *Decree of the Prime Minister on Administration of NGOs, No. 71/PM, dated 28 April 1998, Art. 14.*
- 292 *Ibid., Arts. 13, 14.*
- 293 *See Chapter 10.1: Other taxes, Charges, and Currency Exchanges for a more detailed explanation of accessibility of bank accounts to foreign entities.*
- 294 *Law on Civil Procedure, No. 02/NA, dated 17 May 2004, Art. 126: Proceedings Involving Foreign Elements.*
- 295 *Second Draft of new Decree of the Prime Minister on International Non-Governmental Organisations, dated 14 May 2009, Art. 5.*
- 296 *Second Draft of new Decree of the Prime Minister on International Non-Governmental Organisations, dated 14 May 2009.*
- 297 *Ibid., Art. 17.*
- 298 *Consideration should also be given to implications of the new draft decree describing the role and functions of the Committee on INGO Coordinating Mechanism.*
- 299 *Convention on International Civil Aviation of 1944, 9th Edition, 2006, Art. 14.*
- 300 *Law on Civil Aviation, No. 01/NA, dated 19 May 2005, Art. 9.*
- 301 *Ibid., Art. 14.*
- 302 *WFP, Logistic Capacity Assessment – Lao PDR – 2008, p21.*
- 303 *WFP, Logistic Capacity Assessment – Lao PDR – 2008, p21.*
- 304 *Ibid.*
- 305 *Law on Civil Aviation, No. 01/NA, dated 19 May 2005, Art. 62.*
- 306 *WFP, Logistic Capacity Assessment – Lao PDR – 2008, p21.*
- 307 *Law on Civil Aviation, No. 01/NA, dated 19 May 2005, Art. 56, and interview with Department of Civil Aviation (DCA), 1 July 2009.*
- 308 *Interview with the DCA, Wattay International Airport, Vientiane, dated 1 July 2009.*
- 309 *ASEAN Multilateral Agreement on the Full Liberalisation of Air Freight Services (2009).*
- 310 *As confirmed in interviews with DCA officers and Lao-Japan Airport Terminal Services (L-JATS).*
- 311 *Law on Customs, No. 05/NA, dated 20 May 2005, Art. 48.*
- 312 *Ibid., Art. 49.*
- 313 *For more information see WFP, Logistic Capacity Assessment – Lao PDR – 2008.*
- 314 *WFP, Logistic Capacity Assessment – Lao PDR – 2008, p34.*
- 315 *Law on Land Transport, No. 03-97/NA, dated 12 April 1997, Art. 16.*
- 316 *Ibid., Arts. 18, 19.*
- 317 *A vehicle use permit describes the vehicle's type, technical standards, and scope of transport; see Law on Land Transport, No. 03-97/NA, dated 12 April 1997, Art. 18.*
- 318 *Interview with Deputy Director of Department of Transport, Traffic Safety Division, 2 July 2009.*
- 319 *Law on Land Transport, No. 03-97/NA, dated 12 April 1997, Art. 17.*
- 320 *Ibid.*
- 321 *Law on Insurance, No. 11/90/PSA, dated 18 December 1990, Art. 37.*
- 322 *Law on Land Traffic, No. 02/NA, dated 8 April 2000, Art. 11.*
- 323 *Regulation of the Ministry of Public Works and Transport on the Management and Testing of Driving Licenses for Land Traffic, No. 3416/MCTPC, dated 4 September 2002, Art. 9 & Annex 1.*
- 324 *Ibid., Arts. 8 & 9.*
- 325 *Ibid., Annex 1.*
- 326 *Ibid., Annex 1.*
- 327 *UNDAC Disaster Preparedness Mission – Lao PDR – 12-24 February 2007, Recommendation 50.*
- 328 *WFP, Logistic Capacity Assessment – Lao PDR – 2008.*
- 329 *Ibid.*
- 330 *UNDAC Disaster Preparedness Mission – Lao PDR – 12-24 February 2007, Recommendation 50.*
- 331 *Guidelines on the Use of Military and Civil Defence Assets in Disaster Relief (Oslo Guidelines) Revision 1.1 (2007).*
- 332 *Law on Hygiene, Disease Prevention and Health Promotion, No. 01/NA, dated 10 April 2001, Art. 26(1).*
- 333 *Decree of the Prime Minister on the Establishment of the National Committee on Communicable Diseases and Control, No. 377/PM, dated 9 December 2005, Art. 2. - Role, rights, and duties of the National Committee on the Communicable Diseases and Control. See Chapter 5 of this study on Institutional Arrangements for more information about NCCDC.*
- 334 *As discussed in Chapter 6. The Ministry of Health issued an internal decision establishing Health Units at all points of entry on 28 September 2006.*
- 335 *Decision of the Minister of Health on the organization and function of a Health Unit at the International Border Check-point, No. 1263/MOH, dated 28 September 2006.*
- 336 *Ibid.*
- 337 *WFP, Logistic Capacity Assessment – Lao PDR – 2008.*
- 338 *Interviews with various stakeholders from the humanitarian community.*
- 339 *Law on Land Transport, No. 03-97/NA, dated 12 April 1997, Art. 25, International and Cross-border Transport.*
- 340 *Ibid., Art. 19.*
- 341 *Ibid., Art. 18.*
- 342 *Law on Customs, No. 05/NA, dated 20 May 2005, Art. 33.*
- 343 *Ibid.*
- 344 *Ibid.*
- 345 *Ibid., Art. 31.*
- 346 *Law on Land Transport, No. 03-97/NA, dated 12 April 1997, Art. 25.*
- 347 *AADMER, Art. 16.*
- 348 *WFP, Logistic Capacity Assessment – Lao PDR – 2008, p34.*
- 349 *Ibid.*
- 350 *Decision of the Minister of Health on the organization and function of a Health Unit at the International Border Check-point, No. 1263/MOH, dated 28 September 2006.*
- 351 *Ibid.*
- 352 *See Revised International Convention on the Simplification and Harmonization of Customs Procedures, 2000; specifically Annex J “Special procedures”, Chapter 5 “Relief Consignments”.*

- 353 *The revised Kyoto Convention defines “relief consignments” as “goods, including vehicles and other means of transport, foodstuffs, medicaments, clothing, blankets, tents, prefabricated houses, water purifying and water storage items, or other goods of prime necessity, forwarded as aid to those affected by disaster; and all equipment, vehicles and other means of transport, specially trained animals, provisions, supplies, personal effects and other goods for disaster relief personnel in order to perform their duties and to support them in living and working in the territory of the disaster throughout the duration of their mission.”*
- 354 WFP, *Logistic Capacity Assessment – Lao PDR – 2008*.
- 355 *Law on Customs, No. 05/NA, dated 20 May 2005, Art. 43.*
- 356 *Law on Customs, No. 05/NA, dated 20 May 2005, Art. 8 - Obligation to Pay Customs Duties as per the Book of Tariff Rates available online: http://laocustoms.laopdr.net/laws_and_regulations.htm*
- 357 *Law on Customs, No. 05/NA, dated 20 May 2005.*
- 358 *Law on Tax, No. 04/NA, dated 19 May 2005.*
- 359 *Comprised of Customs Department, Customs Offices at the local level, Border Customs ports and Mobile Customs Units.*
- 360 *Law on Customs, No. 05/NA, dated 20 May 2005.*
- 361 *See Book of Tariff Rates available online: http://laocustoms.laopdr.net/laws_and_regulations.htm*
- 362 *Law on Tax, No. 04/NA, dated 19 May 2005, Art. 13(8).*
- 363 *Ibid., Art. 18.*
- 364 *Ibid., Art. 27.*
- 365 *Law on Customs, No. 05/NA, dated 20 May 2005, Art. 45.*
- 366 *See Chapter 11 of the Memorandum of Understanding template provided by the Ministry of Foreign Affairs to INGOs working in Laos.*
- 367 *Law on Customs, No. 05/NA, dated 20 May 2005, Art. 16.*
- 368 *Ibid., Art. 16(2).*
- 369 *Ibid., Art. 17.*
- 370 *Ibid., Art. 19.*
- 371 *Ibid., Art. 25.*
- 372 *Law on Secured Transactions, No. 06/NA, dated 20 May 2005, Art. 31.*
- 373 *Law on Customs, No. 05/NA, dated 20 May 2005, Art. 31.*
- 374 *Ibid., Art. 31(2).*
- 375 *Notice of Minister to the Prime Minister’s Office, No 592/PMO/NAPT, dated 11 June 2009.*
- 376 *This procedure was described by an official of the National Authority of Post and Telecommunications during an interview.*
- 377 *Basic Agreement between World Food Programme (WFP) and the Government of Lao PDR, dated 23 August 2005, Section 15(a).*
- 378 *Law on Food, No.04/NA, dated 15 May 2004, Art. 25.*
- 379 *Law on Food, No.04/NA, dated 15 May 2004, Art. 34.*
- 380 *Interview with the Food and Drugs Department officials.*
- 381 *Customs Clearance Document requirements: Duties and Tax exemption certificate, Invoice, AWB/BL/Other transport document, Donation/Non-Commercial Certificate.*
- 382 *Decision of the Ministry of Foreign Affairs on the Management of Vehicles of Embassies, Consulates, Representative Offices, International Organizations and Foreign Experts on Mission in the Lao People’s Democratic Republic, No. 3122/MoFA, dated 18 November 1997, Art. 4(a).*
- 383 *Ibid., Art. 4(d).*
- 384 *All material and equipment used by an organisation and subject to tax exemption should be listed in the Memorandum of Understanding with the Government of Lao PDR – see Chapter 11 of this report.*
- 385 *Decree of the Prime Minister on Administration of NGOs, No. 71/PM, dated 28 April 1998.*
- 386 *Guidelines issued by Ministry of Foreign Affairs for the Implementation of the Decree of the Prime Minister on the Administration of NGOs in Lao PDR, No. 1865/MoFA, dated 8 July 1999 .*
- 387 *Law on Drugs and Medical Products, No. 01/NA, dated 8 April 2000, Art. 24.*
- 388 *Ibid., Art. 23.*
- 389 *This process is not formalised in a legal document, all information was obtained during interviews with the Ministry of Foreign Affairs and the Ministry of Health.*
- 390 *Customs Clearance Document requirements: Duties and Tax exemption certificate, Invoice, AWB/BL/Other transport document, Donation/Non-Commercial Certificate.*
- 391 *Decree of the Prime Minister on Implementation of the National Search and Rescue Committee, No. 169/PM, dated 26 November 2004, Art. 4(4).*
- 392 *Law on Tax, No. 04/NA, dated 19 May 2005, Art. 13(8).*
- 393 *Decree of the Prime Minister on Administration of NGOs, No. 71/PM, dated 28 April 1998, Art. 17.2.3.*
- 394 *Law on Value Added Tax, No. 04/NA, dated 26 December 2006, Art. 10(8).*
- 395 *Ibid., Art. 10(15).*
- 396 *Law on Tax, No. 04/NA, dated 19 May 2005, Art. 34.*
- 397 *Ordinance of the President on Governing the Management of Foreign Exchange and Precious Metals, No. 01/OP, dated 17 March 2008, Arts. 8, 14.*
- 398 *Ibid., Art. 8.*
- 399 *Additional Instruction of the Bank of Lao PDR, No. 01/BOL, dated 5 February 2004, for the Implementation of Some Articles of the Instruction No. 02/BOL of 29 September 2003.*
- 400 *Ordinance of the President on Governing the Management of Foreign Exchange and Precious Metals, No. 01/OP, dated 17 March 2008, Art. 12.; Additional Instruction of the Bank of Lao PDR, No. 01/BOL, dated 5 February 2004, for the Implementation of Some Articles of the Instruction No. 02/BOL of 29 September 2003, Art. 3.*
- 401 *Ordinance of the President on Governing the Management of Foreign Exchange and Precious Metals, No. 01/OP, dated 17 March 2008, Art. 5.*
- 402 *Ibid., Art. 3.*
- 403 *Additional Instruction of the Bank of Lao PDR, No. 01/BOL, dated 5 February 2004, for the Implementation of Some Articles of the Instruction No. 02/BOL of 29 September 2003, Art. 3.*
- 404 *Ordinance of the President on Governing the Management of Foreign Exchange and Precious Metals, No. 01/OP, dated 17 March 2008, Art. 7.*
- 405 *Ibid., Art. 3.*
- 406 *Additional Order of the Prime Minister, No. 24/PM, dated 17 June 2009 , assigned ministries to “strictly continue to monitor immigrants through international borders” in Art. 3.1.*
- 407 *Regulation of Ministry of Foreign Affairs on Entry-Exit and Notice for staying in Lao PDR for Diplomats, Personnel of International Organizations and Foreign Experts for undertaking an assignment in Lao PDR, No.044/MOFA.CO, dated 5 January 1998 .*
- 408 *Ibid., Chapter II, Procedures for obtaining a visa, Art. 1.*

- 409 *Ibid.*, Chapter II, Procedures for obtaining a visa, Art. 4.
- 410 *Ibid.*, Chapter II, Procedures for obtaining a visa, Art. 2.
- 411 See Basic Agreement between the Government of Lao PDR and the UNDP, dated 10 October 1988, Art. X(1).
- 412 Guidelines issued by Ministry of Foreign Affairs for the Implementation of the Decree of the Prime Minister on the Administration of NGOs in Lao PDR, No. 1865/MoFA, dated 8 July 1999, Art. 29.
- 413 As of June 2009, a tourist visa obtained on arrival costs 30USD for one month. Extension at the immigration department in Vientiane or at the border costs 1USD per day, and is valid for one month. If an individual asks for extension after expiration of his/her visa, a fine of 10USD per day after expiration is applied.
- 414 Decree of the Prime Minister on Entry – Exit Lao PDR of Lao People and Foreigners, No. 031/PM, dated 2 March 2008.
- 415 *Ibid.*, Art. 1.
- 416 *Ibid.*, Art. 7.
- 417 *Ibid.*, Art. 11 & 12.
- 418 *Ibid.*, Art. 12.
- 419 *Ibid.*, Art. 12.
- 420 *Ibid.*, Art. 12.
- 421 Labour Law (Amended), No. 06/NA, dated 27 December 2006, Art. 25.
- 422 Decision of the Minister of Labour and Social Welfare on Approval for Importing Foreign Labour to Work in Laos, No. 5418/MLSW, dated 10 December 2007, Art. 4.
- 423 *Ibid.*, Arts. 6, 9.
- 424 *Ibid.*, Art. 9.
- 425 *Ibid.*, Art. 8.
- 426 *Ibid.*, Art. 8.
- 427 *Ibid.*, Art. 8.
- 428 *Ibid.*, Art. 12.
- 429 *Ibid.*, Art. 13.
- 430 Law on Health Care, No. 09/NA, dated 9 November 2005, Art. 55.
- 431 *Ibid.*, Art. 8.
- 432 Penal Law, No. 12/NA, dated 9 November 2005, Art. 82. Performance of Medical Profession without License.
- 433 Law on Tax, No. 04/NA, dated 19 May 2005, Art. 55.
- 434 *Ibid.*, Art. 57(4).
- 435 *Ibid.*, Art. 57(3).
- 436 The Ministry of Defence is involved in the MOU approval process focusing on the access clearance.
- 437 Accord entre la République Démocratique Populaire Lao et le Programme des Nations Unies pour le Développement, 10 Octobre 1988.
- 438 Notice of the Prime Minister's Office, No.742/PMO, dated 04 May 2009, Art. 4.
- 439 Decision of the Minister of Health on the organization and function of a Health Unit at the International Border Check-point, No. 1263/MOH, dated 28 September 2006.
- 440 Notice of the Prime Minister's Office, No.742/PMO, dated 04 May 2009, Art. 4.
- 441 More information on http://www.unhcr.ch/html/menu3/bla_ccpr.htm
- 442 International Covenant on Civil and Political Rights, Art. 2(3).
- 443 *Ibid.*, Art. 9(1).
- 444 *Ibid.*, Art. 9(2).
- 445 Guidelines issued by Ministry of Health for Isolation of Ill Persons and Quarantine of People of Health Units at International Border Points of the Lao PDR, dated 27 August 2007.
- 446 Meeting with NEIDCO, 19 June 2009.
- 447 The infectious period is 7 days after the onset or 24 hours after all symptoms disappears, whichever is longer.
- 448 Meeting with NEIDCO, 19 June 2009.
- 449 Guidelines issued by Ministry of Health for Isolation of Ill Persons and Quarantine of People of Health Units at International Border Points of the Lao PDR, dated 27 August 2007, Art. 5.9.
- 450 Law on Health Care, No 09/NA, dated 9 November 2005.
- 451 Law on Hygiene, Disease Prevention and Health Promotion, No 01/NA, dated 10 April 2001, Art. 26.
- 452 Penal Law, No. 04/PO, dated 4 January 1990, Art. 99.
- 453 *Ibid.*, Art. 22.
- 454 *Ibid.*, Art. 23.
- 455 *Ibid.*, Art. 23(2, 4).
- 456 Law on Hygiene, Disease Prevention and Health Promotion, No 01/NA, dated 10 April 2001.
- 457 Law on Criminal Procedure, No. 01/NA, dated 15 May 2004, Art. 36.
- 458 *Ibid.*, Art. 37.
- 459 *Ibid.*, Art. 37.
- 460 *Ibid.*, Art. 41.
- 461 Law on Health Care, No 09/NA, dated 9 November 2005, Art. 6.
- 462 *Ibid.*, Art. 32.
- 463 Interview with NDMO officers of April 2009.
- 464 Decree No. 097/MLSW, dated 30 June 2000, on the Assignment of NDMC Roles and Responsibilities.
- 465 Ordinance of the President on Governing the Management of Foreign Exchange and Precious Metals, No. 01/OP, dated 17 March 2008, Art. 24.
- 466 *Ibid.*, Art. 24.
- 467 Law on State Budget, No. 02/NA, dated 26 December 2006, Art. 64.
- 468 *Ibid.*, Art. 80.
- 469 *Ibid.*, Art. 73.
- 470 *Ibid.*, Art. 81.
- 471 *Ibid.*, Art. 73.
- 472 *Ibid.*, Art. 82.
- 473 *Ibid.*, Art. 79(1).
- 474 Decision of the Chairman of the Secretariat of NCCDC on the Establishment and Mandate of NAHICO, No. 163/PMO, dated 26 June 2006, Art. 3.
- 475 *Ibid.*, Art. 3.
- 476 Law on State Budget, Art. 87(4.1)
- 477 Law on State Budget, No. 02/NA, dated 26 December 2006, Art. 87(4.2).
- 478 The Anti-Corruption Law, No. 03/NA, dated 19 May 2005, Art. 174 (4.2).
- 479 IDRL, Art. 3(3); AADMER, Art. 12 (1-4).
- 480 AADMER, Art. 12(4).

- 481 *SPHERE Project Humanitarian Charter and Minimum Standards in Disaster Response; IASC Operational Guidelines on Human Rights in Natural Disasters; Principles of Accountability (2003) and Standards in Humanitarian Quality and Management (2007) by Humanitarian Accountability Partnership International (HAP); Principles and Good Practice of Humanitarian Donorship of 2003.*
- 482 *Decree of the Prime Minister on Administration of NGOs, No. 71/PM, dated 28 April 1998.*
- 483 *Ibid., Art. 15.*
- 484 *Second Draft of new Decree of the Prime Minister on International Non-Governmental Organisations, dated 14 May 2009, Art. 18.*
- 485 *Law on Drugs and Medical Products, No. 01/NA, dated 8 April 2000, Art. 23.*
- 486 *Ibid., Art. 24.*
- 487 *Law on Food, No. 04/NA, dated 15 May 2004, Art. 25.*

Annex 1

List of persons consulted

United Nations:

- World Health Organisation
 - Dr. Supachai Douangchak, National Professional Officer (Health System)
 - Dr. Reiko Tsuyuoka, Epidemiologist
- UNORC
 - Ms. Verena Linneweber, Head of Office
 - Ms. Judy Kimaru, Emergency Management and Coordination Officer
- UNICEF
 - Ms. Victoria Juat, Chief of Child Protection Section and Disaster Management
 - Mr. Shane Powell, Communications Consultant
- FAO
 - Mr. Serge Verniau, Representative
 - Ms. Ricarda Mondry, Chief Technical Advisor, Avian Influenza Programme
 - Mr. Brice Pletsers, Emergency Operations Officer
 - Mr. Jaako Korpela, Laboratory Officer
 - Ms. Siena Perry, Communications Officer
 - Mr. Noelle Kibara, Communications Officer
- UNDP
 - Mr. Myint Kyaw, Administration & Financial Management Specialist
 - Ms. Viratsamay Visonnavong, Programme Analyst, Disaster Management Unit
 - Ms. Gemma Archer, Programme Officer a.i., Governance Unit
 - Mr. Franck Boulin, Chief Technical Advisor, Project on Strengthening the National Assembly of Lao PDR
 - Ms. Maria Gemma Dalena, Programme Officer, UNDP
- WFP
 - Ms. Elisabeth Faure, Deputy Country Director, Representative a.i.
 - Ms. Julie Spooner, Head of PRRO
 - Mr. Sakhorn Boongullaya, Head of Procurement and Logistic Unit
 - Mr. Steve Glassey, Disaster Management Officer
- World Bank
 - Mr. Marian Nenita, Procurement Consultant
 - Mr. Phetdara Chanthala, Health Specialist
- IOM
 - Ms. Monitra Inkochasan, Migration Health Project Coordinator
 - Ms. Vanbouakham SAIGNASITH, Return and Reintegration Officer

Non-governmental Organisation:

- Concern Worldwide:
 - Mr. Luke Stephens, Country Director
- Save the Children Australia
 - Mr. Ounkham Souksavanh, Programme Director
- Care International
 - Ms. Alexandra Maclean, Country Director
 - Ms. Melanie Kempster, Avian Influenza Programme Manager
- Action Against Hunger
 - Mr. Emmanuel Cibla, Head of Mission
- SNV

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- o Ms. Nicolette Matthijsen, Director

Government of Lao PDR:

- Prime Minister's Office
 - o Mr. Somkhuan Masouvanh, Deputy Chief of Division
 - o Mr. Khanguene Saveangsuksa, Prime Minister's Secretariat Committee
- Ministry of Agriculture
 - o Mr. Bounmy Manyvong, Head of Cabinet Office
 - o Mrs. Daravorn Tatsanyorn, Secretary of Head of Cabinet Office
 - o Mr. Savanh Hanephom, Deputy Director General of the Department of Planning
 - o Mr. Phonesavanh Vanhmixay, Chief of Section
- Ministry of Industry and Commerce
 - o Dr. Laohoua, Department of Import/Export
 - o Mr. Amphone, Deputy Chief of Cabinet
- Ministry of Education
 - o Mr. Phoukham Manoloth, Technical Officer
- Ministry of Foreign Affairs
 - o Mr. Bounthom Manibod, Director of IGOs Division, Department of International Organisations
 - o Mr. Khamping, Department of International Organizations
 - o Mr. Phoukhong Sisoulath, Project Manager, Department of Treaties and Law
- Ministry of Finance
 - o Mr. Yhommala Vorachit, Deputy Head of Income & Expenditure Policy Division
- Ministry of Health
 - o Dr. Sithat Insisiengmay, Deputy Director of Hygiene and Prevention
 - o Dr. Chanphomma Vongsamphanh, Deputy Director General, Department of Curative Medicine
 - o Dr. Phengta Vongphrachanh, Director of National Centre for Laboratory and Epidemiology, IHR focal point
 - o Mr. Somthavy Changvisommid, Director General of Food and Drug Department
 - o Dr. Sivilay Napaivong, Head of Foods Division
 - o Dr. Phongsavay, Technical Officer
 - o Dr. Philaysack Naiphavong, Tropical Diseases
- Ministry of Information and Culture
 - o Mr. Phonesavanh Chanthavong, Chief of Section
- Ministry of Energy and Mines
 - o Mr. Soukhane Phongsavad, Head of Cabinet Office
- Ministry of Public Security
 - o Mr. Inthavong Sayakone, Head of Cabinet Office
 - o Mr. Vilaikhan Sisanone, Deputy Chief of Section
- Ministry of Public Works and Transport
 - o Mr. Thongvanh Phetthaviseng, Deputy Director General, Department of Transport
 - o Mr. Thongvanh Phetaviseng, Department of Transport
 - o Mr. Bounkeut Sumontha, Deputy Director of Cabinet office
 - o Mr. Viengsavad Siphandone, Director of Department of Transport
 - o Mr. Yathor Lorpangkhaio, Director of Department of Civil Aviation
 - o Mr. Somphonh Sygnavong, Director of Aerodrome Division, Department of Civil Aviation
 - o Mr. Viengxay Singkham, Officer
- Ministry of Planning and Investment
 - o Mr. Ounheum Chittaphong, Deputy Director General of Planning and Investment Department
- National Disaster Management Office
 - o Mr. Prastih Dethphommatheth, Director General of Social Welfare Department and National Disaster Management Office
 - o Mr. Vilayphong Sisomvang, Senior Officer

- o Mr. Kindavong Luangrath, Technical Officer
- o Mr. Khamphao Homphangna, Senior Director
- National Tourism Authority
 - o Mr. Bounphone Soulinthone, Head of Office, National Tourism Authority
 - o Mr. Thaviphet Oula, Deputy Director of Planning and Cooperation Department
- NEIDCO
 - o Dr. Bounlayi Phommasack, Director of NEIDCO
 - o Nalinthone Vilaysane, Senior Programme Assistant
 - o Noel Joseph Roch, Financial Consultant
- National Authority of Post and Telecommunications
 - o Mr. Somchit Anouvong, Acting Director Division, Planning and Cooperation Department.
 - o Mr. Chaleun Sybunhuong, Deputy Director General, Telecom and Internet Department, National Authority of Post and Telecommunications
- Foundation for Assisting Poor people
 - o Mr. Thielim Sengkhoun, Chairman of Chinese Association
 - o Ms. Mong Thammatheva, President's Assistant of Foundation for Assisting Poor People.

Other:

- Mekong River Commission
 - o Mr. Sompong Boonprasert, Senior Hydrologist
 - o Mr. Navuth Te, Director of Technical Support Division
- US Embassy
 - o Dr. Andrew Lee Corwin, US CDC Country Representative
- INGO network in Lao PDR
 - o Ms. Isabelle Decout, INGO Coordinator and Liaison Officer
- European Commission
 - o Ms. H el ene Quentrec, Project Manager of Rural Development and Food Security
 - o Ms. C ecile Pichon, Disaster Risk Reduction Coordinator, DIPECHO South East Asia
- AusAid
 - o Ms. Dulce Carandang-Simmanivong, Senior Programme Manager
 - o Ms. Rakouna Sisaleumsak, Senior Programme Manager (Rural Development)
- Lao Red Cross
 - o Dr. Bountheung Menevilay, Head of Disaster Preparedness and Relief Division
 - o Mr. Saphanethong Lounnavong, Program Liaison and Learning Officer
 - o Dr. Chanphone Bounsulin, Vice-President of Lao Red Cross Champassak Branch
 - o Mrs. Buasone, DP Staff.
 - o Mrs. Chomsy, President of Lao Red Cross Savannakhet Branch
 - o Mr. Khamlar, Vice-President of Lao Red Cross Savannakhet Branch
 - o Mr. Bounyong Martmanivong, Head of Administration Division
- PDMC:
 - o Mr. Thongsouay Khantivong, Chef of Youth Union Savannakhet Office, Member of Savannakhet PDMC
- L-JATS (Lao-Japan Airport Terminal Services)
 - o Mr. Kaykeo Vorarath (General Director, L-JATS)
 - o Mr. Yoshitaka Takemura (Deputy General Director L-JATS)

Annex 2

List of references

International Instruments

- ASEAN Agreement on Disaster Management and Emergency Response (AADMER) (2005)
- ASEAN Multilateral Agreement on the Full Liberalisation of Air Freight Services (2009)
- The Ayeyawady - Chao Phraya - Mekong Economic Cooperation Strategy
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