

COMPILATION OF CONSTITUTIONAL AND LEGISLATIVE PROVISIONS ON TREATY PRACTICE OF THE LAO PEOPLE'S DEMOCRATIC REPUBLIC

IMPORTANT NOTES	2
1. Constitution of the Lao People's Democratic Republic 2003	4
2. Statutory Provisions related to Treaty Practice	6
A. The 2009 Presidential Ordinance on the Conclusion, Accession, and Implementation of International Treaties	6
B. Law No. 01-95 on Government the Lao PDR (8/3/1995).....	10
3. Official Online Sources of Treaty Status Information	12

IMPORTANT NOTES

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This document was last amended in December 2012.

1. Constitution of the Lao People's Democratic Republic 2003

[Extract of relevant provisions]

Article 53:

The National Assembly has the following rights and duties:

...

- (11) To decide on the ratification of or [withdraw from] treaties and agreements signed with foreign countries in accordance with the laws;

...

Article 67:

The President of the State has the following rights and duties:

...

- (13) To issue the ratification of or [secession from] treaties and agreements signed with foreign countries;

...

Article 70:

The government has the following rights and duties:

...

- (8) To sign treaties and agreements with foreign countries and guide their implementation

Note:

The full text of the Lao PDR's Constitution both in its original language and English translation (endorsed by the Law Committee of the National Assembly of

the Lao PDR) can be accessed on the websites of the National Assembly of the Lao PDR and the Lao PDR's Ministry of Finance:

- http://www.na.gov.la/index.php?option=com_content&view=article&id=26%3Apreamble&catid=35%3Aconstitution-of-lao-pdr&Itemid=50&lang=la
- [http://www.mof.gov.la/sites/default/files/news/Constitution%20\(2003\)%20Eng.pdf](http://www.mof.gov.la/sites/default/files/news/Constitution%20(2003)%20Eng.pdf)

2. Statutory Provisions related to Treaty Practice

A. The 2009 Presidential Ordinance on the Conclusion, Accession, and Implementation of International Treaties

[Summary of main provisions]

- The Ordinance provides that
 - a) The enactment of the law, sub-laws and regulations shall not prejudice Lao PDR's obligations under treaties to which it is a party.
 - b) Treaty the provisions of which are not consistent with laws adopted by National Assembly or not yet reflected in laws shall be transformed into domestic law to become nationally effective.
 - c) In case of conflict between domestic law and treaty, the latter prevails, but such treaty prevalence over domestic law must be consistent with the national constitution and reservations made by Lao PDR.
 - d) Treaties that are already consistent with the Lao PDR's Constitution and laws may be directly applicable.

- **Article 3(1)** defines treaty as follows:

International treaties mean international agreements concluded in written form between states or between a state and an international or regional organization or other subjects of international law, whether embodied in a single or more related instruments and whatever their designation such as convention, agreement, arrangement, protocol, memorandum of understanding, exchange of diplomatic notes or others;

Treaties concluded between two states or two parties are called bilateral treaties, while treaties concluded between more than two states or parties are called multilateral treaties.

- The 2009 Ordinance also contains provisions on the implementation, publication, record keeping, registration and management of international treaties.

- The relevant agencies or ministries are responsible for preparing instruments of ratification/accession of international agreements (**Sections 2 and 3** of the 2009 Ordinance).
- The Ministry of Foreign Affairs is responsible for the deposit of such instruments (**Articles 25 and 30** of the 2009 Ordinance).
- The Ministry of Foreign Affairs, in coordination with relevant ministries and agencies, has the right and duties to negotiate and sign important international treaties (**Article 15** of the 2009 Ordinance).
- When acceding to an international treaty, the Ministry of Foreign Affairs shall take the lead and coordinate with other relevant agencies to obtain for a decision from the Government (**Article 21** of the 2009 Ordinance).
- When acceding to an international treaty, the Ministry of Justice shall provide opinion to the Ministry of Foreign Affairs and consultation to the relevant agency, in order to obtain a decision from the Government (**Articles 21 and 22** of the 2009 Ordinance).
- Before ratification of international treaties relating to foreign loans or international and regional organizations, the Ministry of Justice shall provide legal opinions to the relevant agencies (**Article 28** of the 2009 Ordinance).
- The Ministry of Foreign Affairs signs the Instrument of Acceptance, as well as the Instrument of Ratification, and deposit them with the relevant parties or with the depository of the treaties (Articles 26 and 30 of the 2009 Ordinance).
- Under **Article 29** of the 2009 Ordinance, international treaties required ratification from the National Assembly are as follows:
 1. international treaties on the strengthening of friendship and cooperation, peace, security, boundaries, territory and state sovereignty;
 2. international treaties on fundamental rights and obligations of the citizens, and or mutual legal assistance in criminal and civil matters;
 3. international treaties on universal international organizations and important regional organizations;

4. treaties contained provisions inconsistent with relevant laws or not provided in domestic laws;
 5. treaties relating to the national budget;
 6. treaties which contains provision requiring ratification;
 7. other important international treaties agreed upon by the concerned parties.
- If no amendment or no new legislation is needed, international treaties will have direct application in Lao PDR upon the entry into force of the treaty in question (**Article 32** of the 2009 Ordinance).

- **Article 32** of the Ordinance provides:

The international treaties which are directly applicable *are those treaties which have their provisions* consistent with and provided for in the Constitution and domestic laws of the Lao People's Democratic Republic, and those treaties which do not require the amendment of existing laws and regulations or not require the enactment of new laws and regulations.

The direct effect of international treaties begins upon the entry into force of the treaties in question.

- **Article 33** of the 2009 Ordinance on Publication states:

When the international treaties entered into force for the Lao People's Democratic Republic shall be published and disseminated by the designated submitting agency for the conclusion.

The Ministry of Foreign Affairs coordinates with the Ministry of Justice, other relevant ministries and agencies to publish the international treaties in the Official Gazette.

The Ministry of Foreign Affairs is responsible for the periodic publication and dissemination of the list of international treaties to which Lao People's Democratic Republic is a party.

- The submitting agency is responsible for taking implementing action (**Article 34** of the 2009 Ordinance). They have to give annual report to the

Government through the Ministry of Foreign Affairs (**Article 34(5)** of the 2009 Ordinance).

- **Article 36** of the 2009 Ordinance states:

The international treaties shall be interpreted in accordance with the international law.

In case of divergence of the contents of any international treaty in the course of implementation, the submitting agency for the conclusion of international treaties shall coordinate with the Ministry of Foreign Affairs, Ministry of Justice and other relevant agencies prior submitting to the Government for interpretation of the international treaties in the name of the Government.

The Standing Committee of the National Assembly has competence to interpret the international treaties in the name of State or the ratified international treaties. The Submitting Agency for the conclusion of international treaties shall submit the document for interpretation of the treaties to the Government through the Ministry of Foreign Affairs in order to further submit to the National Assembly.

Within thirty days after the Government or the National Assembly have interpreted the treaties, the Ministry of Foreign Affairs shall notify the concerned parties of their interpretation.

- The Ministry of Foreign Affairs and Ministry of Finance for treaties on loans and official development assistance (**Article 37** of the 2009 Ordinance).
- The Ministry of Foreign Affairs will register bilateral treaties with the UN Secretary General (**Article 39** of the Ordinance).

Notes:

- The text of the 2009 Ordinance is not yet available in English translation. The above summary of its contents is based on a translation prepared by CIL with the assistance of the Lao PDR Ministry of Foreign Affairs.
- The official text in Lao is available on the website of the International Law Project which is a joint Government of Lao PDR - UNDP initiative

implemented by the Department of Treaties and Law at The Ministry of Foreign Affairs, at:

http://www.ilp.gov.la/Lao_Law/state_ordinance_Lao.pdf

B. Law No. 01-95 on Government the Lao PDR (8/3/1995)

[Extracts of relevant provisions]

...

Article 7: Rights and duties of the government.

The government invests with rights and duties as follows:

...

11. to negotiate, sign treaties and conventions with foreign countries, to administer and check the foreign affairs activities, the implementation of signed treaties and conventions,

...

Article 11

Issues to be discussed at the meeting. The issues to be treated and agreed upon are as follow:

...

10. Contents of negotiation, treaties, and agreements with foreign country;

...

Article 27: Relation with the National Assembly

The government has the obligations to submit for the consideration and adoption of the NA session the annual report, strategic plan for socio-economic development and State budget, to amend the State budget, to clarify interest points, to respond to the NA or its member's questions in relation to the performance of the government duties or of any member of the

government. During the recess, member of the government is obliged to report his activities to the permanent committee of the NA and provide data as required by the NA. In conducting the foreign or domestic affairs of important aspect, the government shall receive prior approval from the NA. If the affairs related to important treaties or agreement the government shall submit such affairs to the NA for ratification.

Note:

The text of this law both in Lao and English translation is available on the website of the International Law Project Lao PDR at:

- http://www.ilp.gov.la/Lao_Law_Lao.asp
- http://www.ilp.gov.la/Lao_Law/Governmental_law.pdf

3. Official Online Sources of Treaty Status Information

The Lao Treaty Database is available online on the website of the International Law Project. The project is a joint Government of Lao PDR - UNDP initiative implemented by the Department of Treaties and Law at The Ministry of Foreign Affairs: <http://www.ilp.gov.la>