

# DECREE ON TRADE COMPETITION

Based upon the Law regarding the Government No. 02/NA, dated 8 May 2003; Based upon the Business Law No. 03194/NA, dated 18 July 1994;

Based upon the proposal of the Minister of Commerce, No. 0713 /MOC.ERIT, dated 18 July 2003,

The Prime Minister issues Decree:

## CHAPTER I General Provisions

### Article 1

Objectives This Decree is issued to define rules, measures and enforcement to regulate monopolization and unfair competition in trade of all forms, aiming to promote fair trade competition, protect the rights and legal interests of consumers and to encourage business activities in the Lao PDR to function efficiently in the market economy mechanism as determined by the Government of the Lao PDR.

### Article 2

Definitions In this Decree:

- "acquisition" means the power in business management of one business entity by purchasing the property or buy all or part of the shares of another business entity;
- "business person" means a person who sells goods, buys goods for further processing and sale or buys goods for resale or is a service provider;
- "Commission" refers to the Trade Competition Commission;
- "consumer" means any buyer and/or user of goods and services purchased from a seller;
- "goods" refers to products designed for durable and non-durable consumption, including document certifying the ownership of these goods; "trade" means trade in goods and services;
- "market dominance" means sales volume or market share of any goods or services of one or more business entities is above that prescribed by the Trade Competition Commission;
- "merger" means two or more business entities coming together and forming

into one business entity with the result the individual business entity will cease to exist;

– "monopoly" means the dominance of the market individually or in collusion with other businesses;

– "price" means price charged in the sale of goods and services;

– "service" means accepting to perform or performing services, giving for use or interest in goods or any activity for payment in return or other consideration, except wages;

#### Article 3

Fundamental principle in competition Business activities of all sectors are equal under the law, they cooperate and compete with each other in a fair manner by in compliance with this Decree and concerned Laws and regulations.

#### Article 4

Scope of application This Decree applies to the sale of goods and services in business activities.

## CHAPTER 2 The Trade Competition Commission

#### Article 5

The Trade Competition Commission The Trade Competition Commission shall consist of concerned parties of the trade sector and a number of relevantly experienced people.

The Minister of Trade, by virtue of his position, is the Chairman and appoints members of this Commission.

The Trade Competition Commission shall have its office and its permanent secretariat

within the Ministry of Commerce.

#### Articles 6

It Rights and duties of the Commission The Fair Trading Commission has the rights and duties as follows:

– Determine rules on activities, rights and duties of the secretariat, and supervise the functioning of the secretariat;

– Formulate and stipulate further regulations in enforcing this Decree;

- Establish a sub-commission to implement a specific duty when necessary;
- Consider submissions and give approval for any business person as stipulated in Article 1313 of this Decree;
- Determine and publish a list of parties and type of businesses as stipulated in Article 13 of this Decree;
- Call on concerned persons for consultations, advice or clarification on any matter;
- Monitor and control business activities and order any business entity to solve, change, suspend or stop its behavior that is unfair;
- Determine market share, and the total volume amount of a business which is found to be dominating the market;
- Determine market share or assets that are considered to dominate business management of another business entity;
- Consider complaints from business persons and consumers;
- Submit to the concerned organizations to take measures for those who breach;
- Coordinate with the media and concerned business entities to publicise various activities and issues on matter relating to competition;
- Implement any other duties and responsibilities as may assigned by the Government.

## CHAPTER 3 Competition in Trade

### Article 7

Promoting a fair trade competition The Government of the Lao PDR encourages business entities of all economic sectors to undertake businesses under competitive conditions with equality, fairness, and cooperation.

### Article 8

Anti-monopoly It is prohibited for a business person to perform any act stipulated in Articles 9, 10, 11 and 12 of this Decree so as to monopolize any market of goods and services.

### Article 9

Merger and Acquisition It is prohibited for a business person to monopolize the market in the form of a merger or acquisition that destroys competitors or

substantially reduces or limits competition.

#### Article 10

Elimination of other business entities It is prohibited for a business entity to act or behave so as to cause losses directly or indirectly, by such conduct as dumping, limiting or intervening with intent to eliminate other business entities.

#### Article 11

Collusion and Arrangements It is prohibited for a business entity to collude or make arrangements to engage in unfair trade practices in any form, such as:

- Price fixing, and fixing the sale and purchase price of goods and services;
- Stocking goods, limiting, reducing the quantity or limiting the production, purchase, sale, distribution or import of goods and services;
- Colluding in tenders for purchase, sale and supply of goods and services;
- Fixing conditions that, directly or indirectly, force their customers to reduce production, purchase or sale of goods or the supply of services;
- Limiting the customer's choice to purchase, sell goods and receive services;

Prohibiting their suppliers or retailers from purchasing or selling goods to other business entities;

- Entering into allocation arrangements of markets, customers or suppliers restricting competition;
- Appoint, or give authority to an individual the for sole right to sell goods or supply services in one market;
- Arrangements to fix conditions or the manner of purchase and sale of goods or services to restrict other business entities;
- Other acts that are contrary to the trade competition regulations prescribed by the Trade Competition Commission.

#### Article 12

Cartel with foreign business persons

It is prohibited for any business entity to establish and operate a business in the Lao PDR that has business relations with a foreign business entity

either by contract, share holding or other form to act to limit the opportunity of local businesses to choose to purchase from or sell goods or provide services directly to, a foreign business entity.

#### Article 13

Exemption Any act stipulated in Article 8, 9, 10, 11 and 12 of this Decree may be exempted for some specific sector or business for socio-economic or security reasons.

The Trade Competition Commission is assigned to consider and provide exemptions from time to time.

### CHAPTER 4 Measures against offenders

#### Article 14

Measures against business entities who commit offences A business entity that commits offences under this Decree shall be dealt with as follows;

- Notice to change and rectify its behavior;
- Temporary suspension of activity until the behavior is rectified and changed;
- Close down indefinitely the activity and may be punished according to the law;
- Compensate a business entity that has incurred losses as a result of the offences.

#### Article 15

Other offences

All civil servants and authorities that commit offences under this Decree will be dealt according to the law.

### CHAPTER 5 Final provisions

#### Article 16

Implementation The Ministry of Commerce and the Trade Competition Commission are assigned to implement this Decree.

#### Article 17

Enforcement This Decree is effective from August 1st, 2004.

All rules and regulations, which are contrary to this Decree, are superseded.

The Prime Minister

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