To the
Ministry of Justice

Attn. to the Chief of Cabinet

June 30th, 2011

Respected Sir,

**Ref.: Proposed New Personal Income Tax Rates for Foreign Nationals**

We are writing this letter for your kind consideration, as members of the international community of foreign companies that invested in the Lao PDR, we have some concerns regarding the possible interpretation of the proposed new tax rates contained in Presidential Decree No. 001/P, dated 01 March 2011 (the "**Presidential Decree**").

As you are aware, we are committed to the long term development of the Lao PDR and we along with our members contribute considerably to the annual tax budget of the Lao economy.

Firstly, we would like to congratulate the Government of the Lao PDR on the excellent management and growth of the Lao economy and its ability to bring international companies to invest in the Lao PDR. One of the most important factors for achieving this foreign investment has been through the offering of tax incentives to international companies.

We, along with our members, are concerned that the interpretation of the Presidential Decree removes the 10% personal income tax rate for foreign nationals. When foreign companies registered and formed their relevant Lao PDR limited companies and invested in the Lao PDR, investment incentives, namely the 10% personal income tax for foreign employees, were granted via the 2004 Foreign Investment Law by the Government of the Lao PDR. The possible current interpretation of the Presidential Decree has raised the following concerns that we would like to raise for your kind consideration:

## Change of Law:

- We note that companies that registered investments in the Lao PDR under the 2004 Foreign Investment Law are entitled to tax incentives as committed by the Government of the Lao PDR. These investment incentives include reduced rates personal income tax for foreign employees (10%) and reduced profit tax.

- The possible current interpretation of the Presidential Decree on the amendment of the tax rates suggests that the Government of Lao PDR may have removed investment incentives previously granted to existing foreign companies under the 2004 Foreign Investment Law.

## International Law:

- The removal of investment incentives granted to foreign companies will have implications under international law and will have an immediate negative impact on Foreign Direct Investment.

## Foreign Direct Investment:

- Foreign companies invested in the economy of the Lao PDR through their respective projects with the understanding that the Government of the Lao PDR had committed via the 2004 Investment Law that they would be provided a flat 10% tax rate for their foreign experts. This is a major tax incentive as it allowed foreign companies to relocate experts in their relative fields to the Lao PDR. The introduction of the Presidential Decree, as it appears to be interpreted by some, removes said incentives. This will have a dramatic negative impact on current and future investment plans.

## Budget Plans:

- As you are aware, large operations and projects determine and finalize their budgets at least 3-5 years in advance. Any change to the conditions from which a company calculated its budget and costs, would of course significantly impact such budget plans. If the Presidential Decree is being interpreted to remove the 10% tax rate for foreign experts, international companies simply will not be able to make up the difference and account for this sudden and massive increase in costs.

## Human Resources:

- Our members are also very concerned that there will shortly be a human resources crisis. Foreigner experts at international companies are threatening to terminate their positions and return to their home countries if they lose the 10% tax rate and their tax burden suddenly increases by almost 300%. In such a scenario, we, along with the Lao PDR, may face acute shortage of skilled labour and/or experts for respective businesses.

Realizing the gravity of situation and being magnanimous in nature, we humbly request you to provide clarification on the Government of the Lao PDR's interpretation of the Presidential Decree and that the same does not remove the legally provided 10% tax rate for foreign experts. If the Government of the Lao PDR is interpreting the Presidential Decree to remove the 10% tax rate for foreign experts, we request the following transitional period:

- Provide an exemption to all the companies/projects formed under the previous 2004 Investment Law from the Presidential Decree. Under international law and for the above practical reasons above, we and on behalf of the international companies in the Lao PDR, suggest the Government of the Lao PDR provide companies registered under the 2004 Investment Law and earlier investment laws, a transition period of at least three (3) years so as to prepare for the massive tax increase.

Hoping for a favourable consideration,

Yours truly

Guy Apovy
President

Recipients:

National Assembly
Ministry of Justice
Ministry of Finance
Ministry of Industry and Commerce
Lao National Chamber of Commerce and Industry
Lao Business Forum
Delegation of the European Union