



Lao People's Democratic Republic  
Peace Independence Democracy Unity Prosperity

**Ministry of Public Works and Transport**

**Ethnic Group Engagement Framework**

**The Southeast Asia Regional Economic Corridor  
and Connectivity Project (P176088)**

Prepared by: Environmental Research and Disaster Prevention Division  
(EDPD)  
Public Works and Transport Research Institute (PTRI)

18 January 2022\_Revised Draft

## LIST OF ACRONYMS

CERC	Contingency Emergency Response Component
DDIS	Detailed Design Implementation and Supervision
DEA	Department of Ethnic Affairs
DoR	Department of Roads
DRC	District Resettlement Committee
EDPD	Environmental Research and Disaster Prevention Division
EGEF	Ethnic Group Engagement Framework
EGEP	Ethnic Group Engagement Plan
ESCP	Environmental and Social Commitment Plan
ESIA	Environment and Social Impact Assessment
ESF	Environment and Social Framework
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ESS	Environment and Social Standards
FPIC	Free Prior and Informed Consent
GBV	Gender Based Violence
GOL	Government of Lao PDR
IDA	International Development Association
ILO	International Labour Organization
LFND	Lao Front for National Development
LSB	Lao Statistic Bureau
LWU	Lao Women's Union
MOICT	Ministry of Information, Culture and Tourism
MPWT	Ministry of Public Works and Transport
NGO	Non-Government Organization
NR2	National Road 2
NR2W	National Road 2 West
PRC	Provincial Resettlement Committee
PTRI	Public Works and Transport Research Institute (PTRI)
RC	Resettlement Committee
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SA	Social Assessment
SEA/SH	Sexual Exploitation and Abuse and Sexual Harassment
SEARECC	Southeast Asia Regional Economic Corridor and Connectivity Project
SEP	Stakeholder Engagement Plan
VAWC	Violence Against Women and Their Children
WB	World Bank

## TABLE OF CONTENTS

<b>LIST OF ACRONYMS .....</b>	<b>I</b>
<b>EXECUTIVE SUMMARY .....</b>	<b>IV</b>
<b>1 PROJECT DESCRIPTION .....</b>	<b>1</b>
1.1 DETAILED DESCRIPTION OF COMPONENTS .....	1
<b>2 PURPOSE OF THE ETHNIC GROUP ENGAGEMENT FRAMEWORK (EGEF).....</b>	<b>5</b>
<b>3 OVERVIEW OF THE ETHNIC GROUPS IN LAO PDR .....</b>	<b>7</b>
3.1 ETHNIC GROUPS IN THE PROJECT AREAS .....	10
<b>4 LEGAL FRAMEWORK AND REGULATIONS.....</b>	<b>16</b>
4.1 POLICIES, LAWS, RULES AND REGULATIONS ON ETHNIC GROUPS IN LAO PDR .....	16
<b>4.1.1 Constitution of the Lao PDR (amended 2015).....</b>	<b>16</b>
<b>4.1.2 Ethnic Minority Policy (1992).....</b>	<b>16</b>
<b>4.1.3 The 9th National Socioeconomic Development Plan (2021-2025).....</b>	<b>18</b>
<b>4.1.4 Land Law (2019).....</b>	<b>18</b>
<b>4.1.5 A National Guideline on Consultation with Ethnic Groups .....</b>	<b>18</b>
<b>4.1.6 Law on Grievance Redress or the revised Law on Handling Petitions</b>	
<b>012/NA.....</b>	<b>19</b>
<b>4.1.7 Gender.....</b>	<b>19</b>
<b>4.1.8 Relevant International Agreements .....</b>	<b>20</b>
4.2 WORLD BANK'S ENVIRONMENT AND SOCIAL STANDARD 7 (ESS7) ON INDIGENOUS PEOPLES/ SUB-SAHARAN AFRICAN HISTORICALLY UNDESERVED TRADITIONAL LOCAL COMMUNITIES (HEREINTO REFERRED AS ETHNIC PEOPLES) .....	21
4.3 GAP ANALYSIS.....	22
<b>5 POTENTIAL IMPACTS ON ETHNIC GROUPS .....</b>	<b>24</b>
5.1 POTENTIAL IMPACTS AND MITIGATION MEASURES.....	24
<b>6 STEPS TO FOLLOW: SCREENING, SOCIAL ASSESSMENT AND PREPARATION OF EGEF .....</b>	<b>26</b>
6.1 SCREENING FOR ETHNIC GROUPS .....	28
6.2 REQUIREMENTS FOR A SOCIAL ASSESSMENT AND MEANINGFUL CONSULTATIONS.....	29
6.3 ELEMENTS OF AN ETHNIC GROUP ENGAGEMENT PLAN (EGEP).....	31
6.4 FREE, PRIOR AND INFORMED CONSENT .....	32
<b>7 IMPLEMENTATION ARRANGEMENTS AND MONITORING .....</b>	<b>33</b>
7.1 IMPLEMENTATION ARRANGEMENT .....	33
7.2 MONITORING .....	34
<b>8 GRIEVANCE REDRESS MECHANISM .....</b>	<b>35</b>
8.1 GRIEVANCES PROCEDURES .....	35
8.2 RECORDING GRIEVANCES.....	37
<b>9 ANNEXES.....</b>	<b>39</b>
9.1 ANNEX 1: SCREENING OF ETHNIC GROUP FORM.....	40
9.2 ANNEX 2: GUIDANCE ON FOUR WORLD BANK CRITERIA TO DETERMINE ETHNIC GROUP.....	42
9.3 ANNEX 3: GUIDANCE QUESTIONS FOR SOCIAL ASSESSMENT.....	44

## List of Tables

Table 1 Proportion of population by ethnicity for the 5 provinces in 2015 .....	11
Table 2 Population by ethnicity for the 5 provinces in 2015 .....	12
Table 3 Population by ethnic groups of districts along the NR2W .....	13
Table 4 Proportion of population by ethnic groups of districts along the NR2W.....	14
Table 5 International treaties and conventions in Lao PDR. ....	20

## **EXECUTIVE SUMMARY**

This document has been prepared by the Environmental Research and Disaster Prevention Division (EDPD), Public Works and Transport Research Institute (PTRI), Ministry of Public Works and Transport (MPWT) with support from international and national consultants. The purpose of this EGEF is to guide the Southeast Asia Regional Economic Corridor and Connectivity Project (SEARECC) in case Ethnic Groups are present in any of the subprojects. This EGEF will be applied to all investments of the SEARECC financed by the World Bank (WB) Group. The EGEF has been prepared in line with policies and regulations of Lao PDR on ethnicity as well as the World Bank's Environment and Social Framework (ESF).

This EGEF describes procedures to screen for Ethnic Groups, procedures to prepare Ethnic People's Plans in case Ethnic groups are found in subprojects and organizational arrangements, among others. This EGEF also provides a general overview of Ethnic Groups in the country and the five project provinces, the legislative framework in Lao PDR and gaps with the WB's ESS7 and the process for grievance redress.

### **Project Description Summary**

The proposed SEARECC project will support the Government of Lao PDR (GoL) to improve regional and domestic transport connectivity, the efficiency of logistics, and cross-border trade, and the capacity to manage multi-modal transport to benefit the people in selected economic corridors in Northern Lao PDR. It has five components:

- (a) Component 1: Lao PDR and Regional connectivity enhancement;
- (b) Component 2: Logistics services development and border-crossing management;
- (c) Component 3: Strengthening institutional capacity and regulatory framework in agriculture, transport, and investments planning;
- (d) Component 4: Project Management; and
- (e) Component 5: Contingency Emergency Response.

### **Summary of Requirement for Ethnic Peoples Engagement Framework (EGEF):**

Given that there are several different Ethnic Groups in provinces where the project will take place, this EGEF has been developed to screen the presence of Ethnic Groups in line with the World Bank's Environment and Social Standard 7 on Indigenous Peoples (ESS 7) and provide guidance for the preparation and implementation of assessments tools and mitigation instruments. Following ESS7, to be considered as Indigenous Peoples (here after Ethnic Peoples) by this project, groups need to possess the following characteristics in varying degrees: (a) Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; and (b) Collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well

as to the natural resources in these areas; and (c) Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and (d) A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

### **Summary of Steps to Identify Ethnic Groups based on this EGEF**

The following is a summary of the steps that will be followed in terms of screening, social assessment, and preparation of an Ethnic Group Engagement Plan (EGEP). Full details are provided in the document.

- a) Screening by MPWT to identify whether Ethnic Groups, as per WB ESS7, are present in, or have collective attachment to, the project area. If there are no ethnic groups found, MPWT should explain the process for determining this and document it in the ESMP and no further steps are needed.
- b) If the screening concludes that ethnic peoples are present in, or have collective attachment to, the project area, MPWT shall conduct a Social Assessment following guidance in this EGEF with assistance from consultants as necessary. The Social Assessment may be part of the Project's Environment and Social Impact Assessment (ESIA) which will be undertaken in 2022, or separate.
- c) Based on the Social Assessment and consultations, MPWT would need to prepare an Ethnic Group Engagement Plan (EGEP) with assistance from consultants as necessary, based on requirements in this EGEF.
- d) Approval by the World Bank and disclosure of the draft Ethnic Group Engagement Plan to the public.

### **Potential Impacts**

A summary of potential direct, indirect, downstream, cumulative and transboundary impacts on Ethnic Groups is as follows:

- land acquisition, economic displacement and possible loss of access to properties;
- risk for vulnerable groups if they are physically or economically displaced by the project;
- road safety and increase of heavy traffic (especially international long haul trucks) during project operation but also related risks during construction;
- temporary labour influx of workers, which might increase the risk of substance abuse;
- increased risk of Gender Based Violence (GBV), Sexual Exploitation and Abuse/Sexual Harassment (SEA/SH) and Violence Against Children (VAC) from workers (including in training/TA activities) and their proximity to vulnerable groups, as well as opening up of the corridor;
- increased risk of human trafficking from corridor connectivity;

- impacts to cultural and spiritual spaces of Ethnic Groups.
- Possible health and safety risk of COVID19 transmission; and
- Potential impact on cultural heritage
- Risks in the supply chain (such as underage or forced labour)

### **Implementation Arrangement**

The SEARECC will be implemented using existing government structure. Please see ESMF for detailed description of the project implementation arrangement.

The EDPD/PTRI will work in close coordination with and provide technical support to the Project Management Unit of MPWT and Component Management Units of other agencies who will be actually planning and implementing the project on the ground, including this EGEF. EDPD/PTRI will be tasked with overall supervision and monitoring of the EGEF implementation.

Each Component will be responsible for ensuring that E&S requirements, including EGEF requirements are mainstreamed in maintenance planning, design and pre-construction works including tendering and contracting process. At subproject level, CMUs are responsible for planning and implementation of E&S activities including undertaking day-to-day monitoring of E&S measures to be carried out by contractors. The Project provinces will establish the Environmental and Social Unit (ESU) specifically to be responsible for the implementation of E&S measures. The CMUs and the Safeguard Monitoring Working Groups (SMWGs) will be responsible to carry out subproject E&S impact screening, the required E&S planning activities and develop the necessary E&S action plans. The E&S plans will be submitted to EDPD/PTRI, who will review all the E&S documents (ESMP/Alignment Sheet, EGEP, RAPs) of the subprojects prior to submission to the World Bank to request No objection Letter. All the documents will be kept in the project files for possible WB review. For subprojects require IEE, CMUs assisted by qualified consultant of the EDPD/PTRI will prepare an IEE report. CMUs and SMWGs will take the lead in the consultation of local authorities and community during the IEE report preparation and securing approval. If an IEE report is not required, CMUs and SMWGs will take the lead in the implementation of the activities in close consultation with PONRE/DONRE.

### **Grievance Redress Mechanism**

The project team shall seek to resolve complaints as soon as possible, and thus avoid escalation of issues. However, where a complaint cannot be readily resolved, then it must be escalated. To ensure an effective and efficient grievance, a GRM for the project is proposed as follows:

**Stage 1:** The first level of complaint resolution, following traditional methods in Laos, should be the Village through its Village Mediation Unit (VMU) and/or Sub-district (*kum*) level who may be able to resolve issues on the spot. The VMU at the village level would comprise of representatives of ethnic group community leaders, and head of mediation unit or village elder persons.

Complaints can be submitted in verbal or written forms. It is expected that some complainants such as ethnic minority or vulnerable individuals/households might not be able to write any complaints. In this case, they can submit complaints verbally. If this is the case, a person from the village authority will support the write-up for these people.

Complainants may also retain the right to bypass the VMU procedure and as such can direct their grievance directly to DPWT, as provided by law in Lao PDR.

The VMU shall make the arbitrated decision within 10 days. The Village/Sub-district level, specifically the Chief of Mediation Unit, Village Chief and/or *Kum* Chief, should record the grievance and how it was resolved and communicate it to the Component Management Units (CMUs). There are no fees or charges levied for the lodgment and processing of grievances at this level.

**Stage 2:** In cases where grievances cannot be resolved on the spot, in the second stage, people will be able to file grievances directly with CMUs. People will have been informed of the CMU's contact information during consultations. The CMUs will be able to record the grievance and offer a solution within 15 days, consulting with the Component Management Units at the MPWT, as needed. This may include a visit to the project site by the CMUs if necessary. There are no fees or charges levied for the lodgment and processing of grievances at this level.

**Stage 3:** in cases where grievance still cannot be resolved, or not resolved to the satisfaction of the any complainant, he/she shall have the right to submit a complaint to the Project Manager and Director of the PMU of the MPWT as desired by the complainant. The administrative arbitration organization shall make the arbitrated decision within 20 days. Like the two previous stages, there are no fees or charges levied for the lodgment and processing of grievances at this level.

**Stage 4:** if the complainants are still unsatisfied with the arbitrated decision made by the administrative arbitration organization at the Provincial level, after receiving the arbitrated decision, they can file a lawsuit in a civil court according to relevant laws and regulations of the Lao PDR. The complainant will bear the cost at this stage but will be reimbursed for their expenses by the MPWT if their complaint is successful.

It is important to note that the WB ESF and GRM do not apply to person-to-person disputes, but only state-to-person disputes. Person-to-person disputes should be dealt with by the regular land registration dispute resolution mechanism.

In cases where a grievance still cannot be resolved, or not resolved to the satisfaction of the person making the complaint, the person has the right to submit a complaint to the District or Province authorities, as desired by the complainant. The

Complainant could also decide to submit to complaint directly to the Courts. The complainant will bear the cost for these steps but will be reimbursed for their expenses by the MPWT if their complaint is successful.

Where accessible, complainants may opt to raise their grievances directly to PMU of DPC-MPWT as the Project Management Unit of the SEARECC Project via alternative means hotline call and/or text message (WhatsApp) largely used even in most rural area or via the project website to be set up under the project. The project will assign safeguard focal person in the PMU and CMUs responsible for the GRM, including the hotline number. The grievances from the hotline and whatsapp will be included into the GRM database by recording the phone calls or screenshots the messages from the whatsapp that would be uploaded into the database. Contact detail of focal staff from PMU-MPWT; CMUs-and with the technical support form EDPD/PTRI are responsible for GRM should be provided in project information leaflet/booklet to be prepared and distributed to all project villages well in advance of consulting and GRM training for village mediation committees. Hotline/Whatsapp grievances will be recorded by the PMU and CMUs/ focal person, same as with other grievances received.

The draft EGEF was disclosed prior to consultation meetings on 15 November 2021 at the MPWT's website: <https://www.mpwt.gov.la/> and consulted via virtual connection with the national level and other stakeholders on 29 November 2021; provincial level on 30 November 2021; and, districts and village levels on 01 and 03 December 2021 and re-disclosed on 06 December 2021.

This Executive Summary should not be relied for full information; the full EGEF should be read for this purpose.

# 1 PROJECT DESCRIPTION

1. The proposed SEARECC seeks to improve regional and domestic transport connectivity and the cross-border trade efficiency for beneficiaries in selected corridors in Northern Lao PDR, and to provide immediate and effective response in case of an Eligible Crisis or Emergency.

## 1.1 Detailed Description of Components

- **Component 1: Lao PDR and Regional connectivity enhancement.** This Component will support MPWT to improve connectivity in the northern part of Lao PDR to provide safe, efficient, climate-resilient, and reliable infrastructure for both international transit routes and domestic connectivity through:
  - (i) **Sub-Component 1.1: NR2W climate resilient improvement and maintenance.** This sub-component supports the improvement and maintenance of condition, safety, and climate resilience of selected sections of NR2W<sup>1</sup> to meet the Asian Highway Class III standards, including widening of the road from 6 meters to 8 meters (6 meters of the carriageway and 2 meters of shoulders-one meter each side to accommodate pedestrian's safety) and rest areas. This subcomponent will implement the Output and Performance-Based Road Contracts (OPBRC), with 3 years for construction and 7 years for operations and maintenance. This subcomponent will ensure the equal opportunity of women and men from local communities in paid jobs under the road works contracts. The Department of Road (DOR), MPWT, will be the lead implementing agency for this sub-component. Local communities, with a particular focus increasing women's voice and agency in this male dominated sector, will participate in the monitoring of the OPBRC road improvement and maintenance contracts.
  - (ii) **Sub-Component 1.2: Local Road climate resilient improvement and maintenance.** This sub-component supports the improvement and maintenance of climate resilience and safety of selected local roads in Phongsaly, Oudomxay, Luang Namtha, Xayabouly, and Luangprabang. The performance-based contract (PBC) approach will be used for maintenance. This subcomponent will ensure the equal opportunities of women and men from local communities in paid jobs under roads maintenance. The Department of Road (DOR) and the provincial Department of Public Works and Transport (DPWT) will be the lead implementing agency for this sub-component. Local communities, with a particular focus increasing women's voice and agency in this male dominated sector, will participate in the monitoring of the road improvement and PBC maintenance contracts.
  - (iii) **Sub-Component 1.3: Improvement of the border crossing facilities.** This sub-component supports the improvement of the border crossing facilities

---

<sup>1</sup> The NR2E sections will be financed by EIB in parallel to this project.

road NR2 at (a) Pang Hok in Phongsaly bordering to Dien Bien Phu, Vietnam and (b) Muang Ngeun in Xayabouly bordering to Nan province, Thailand, through the upgrade of the existing facility and provision of goods and equipment for digitization of cross-border business processes. This subcomponent will ensure the equal opportunities of women and men from local communities in paid jobs under the cross-border facilities improvement contracts. This will also be led by the DOR with support from the Department of Urban Planning (DUP), MPWT.

- (iv) **Sub-Component 1.4: Implementation support and supervision consultant.** This sub-component will finance (a) implementation support and supervision consulting services for the design and supervision of the NR2, local roads, and cross-border facilities improvement, and (b). The sub-component will also support MPWT and DPWT working on the mechanism for local road maintenance planning and financing. This sub-component will ensure the equal opportunity of women and men in road work supervision.

➤ **Component 2: Logistics services development and border-crossing management.** This Component will support the operations of cross-border trade and logistic development through:

- (i) **Sub-Component 2.1: Dry ports and logistics development.** This sub-component supports MPWT to improve the efficiency and competitiveness of Logistics services in the economic corridor through: (i) formulation of policies to improve enabling environment for competitive logistics services; (ii) FS for dry-ports and consolidation locations, including the development of the Standard Operation Procedures (SOPs) for the development of dry-ports and consolidation locations; (iii) provide public utilities to the dry-ports and consolidation locations, to be developed as Public-Private Partnerships. This sub-component will be led by the DOT and involved agencies concerned at the provincial level.
- (ii) **Sub-component 2.2: Regional integration and cross-border transport agreements.** This sub-component will support GoL to improve cross-border transport efficiency. The proposed activities include technical assistance to (i) establish a platform for collaboration among Lao PDR, Thailand, and Vietnam; (ii) strengthen the capacity to implement cross-border transport agreements and address cross-border transport issues, such as harmonization of heavy vehicle dimensions and standards; permitted axle loads; driver licensing; climate change; road safety; communicable disease control; and, (iii) improve legislative frameworks to support implementation of cross-border transport agreements.
- (iii) **Sub-component 2.3: Strengthening capacity CIQ and Border Management.** This sub-component covers: (i) financing technical assistance to review and improve secondary legislation in border management; (ii) providing training to strengthen institutional and operational capacity of CIQ,

including communicable diseases and human trafficking; (iii) provide equipment and software customization to optimize border clearance; and (iv) promoting cross-border cooperation for improved CIQ management including information sharing. This sub-component will place a particular focus to ensure equal access to information related to CIQ for women and men. The Trade Facilitation Secretariat (TFS), MOIC, will be the lead coordinating agency for this sub-component.

➤ **Component 3: Strengthening institutional capacity and regulatory framework in agriculture, transport, and investments planning.** This component will support strengthening institutional and operational capacity in agricultural development, transport sector, and investment management at national and provincial levels.

(i) **Sub-Component 3.1: Support on agricultural trade and SPS Management.** The scope of this sub-component, which will be led by the Department of Agriculture (DOA), Ministry of Agriculture and Forestry (MAF), is mainly grouped into two parts:

**a) Capacity development to support agricultural trade** will focus on improving the enabling environment for agricultural trade activities. The key activities include: (i) financing technical assistance to review and improve business process for cross border trade for agriculture products through streamlining of export and import permits, raising awareness of traders' compliance with SPS requirements, and simplifying the registration of farm inputs; (ii) providing training to strengthen operational capacity for the MAF, Provincial Agriculture and Forestry Offices (PAFOs), and DAFOs in agricultural trade promotion; and (iii) capacity development to address key gender gaps in agricultural trade including unequal access to information for women, barriers registering businesses, accessing financial credit, technology and market

**b) Capacity Building for SPS Management** will focus on capacity building of MAF, Ministry of Health (MOH), PAFOs, District Agriculture and Forestry Offices (DAFOs), and border checkpoints for compliance of SPS requirements and reduce trade barriers in the targeted provinces and districts. Mainly, the activities cover (i) financing technical assistance to review and improve legislations relevant for SPS; (ii) providing training to strengthen institutional and operational capacity in SPS management; and (iii) financing technical assistance to carry out a laboratory assessment for upgrade and testing services.

(ii) **Sub-Component 3.2: Support on Multi-Modal Transport.** This sub-component, led by DPC, MPWT, includes (a) review and development of the legal framework, regulations, tools, and guidelines to support the implementation of multi-modal transport law, logistics development strategy and transport sector strategy, (b) development of multi-modal transport

network management framework and system, including investment planning for logistics sector development, (c) strengthening capacity for planning and implementation of the multi-modal transport network management framework and logistics development management at both national and provincial levels, (d) implementation of road safety action plan, (e) integrate disaster risk and climate change considerations into transportation and logistics investment decision-making processes, and (f) capacity development to address the gender gaps in the transport sector, including integrating gender and social inclusion (GESI) considerations in developing regulations and guidelines to support the implementation of the law and strategy. The sub-component will also develop and roll out annual advocacy and social and behavior change communication (SBCC) campaigns to support necessary changes for raising women's agency and voice, to change social norms to increase women's mobility and access to transport.

- **Component 4: Project Management.** This Component will provide technical and operational assistance for strengthening the environmental and social capacity of agencies concerned at national and local levels, the day-to-day management, monitoring and evaluation of the Project, and the carrying out of technical and financial audits. In addition, this component will provide support for compliance monitoring for environmental and social aspects. The sub-component will also strengthen the resilience of communities living along the project roads against human trafficking, communicable disease, road safety, sexual exploitation abuse and harassment through campaigns, training, dissemination of information. The following documents, which will also be prepared as part of the project requirement, include Project Procurement Strategy for Development (PPSD), including procurement plan, and Project Operational Manual (POM) - containing detailed information on the project implementation arrangements and processes, including coordination mechanism, project management, Monitoring and Evaluation (M&E) /reporting arrangement, procurement, financial management, disbursements, and safeguards.
- **Component 5: Contingency Emergency Response.** This component will provide an immediate response to an eligible crisis or emergency, as needed. In the event of an eligible crisis or emergency, the World Bank can re-allocate project funds to support emergency response and recovery.

2. The SEARECC Project is focused on the NR2 West (NR2W) corridor passing through Oudomxay and Xayabouly Provinces. The provinces of Phongsaly and Xaybouly are impacted due to the Crossing Border Facility (BCF) and the provinces of Luang Namtha, Oudomxay, Xayabouly, Phongsaly , and Luang Prabang will be impacted due to the improvement of climate resilience and safety of selected feeder roads and consolidation facilities in project provinces.

3. The road passes through diverse communities, several district towns, and one

provincial capital. A range of communities are expected to be affected (both positively and adversely) by the project, including ethnic groups whose livelihood is mainly dependent on agriculture and forest land and resources.

4. There are a number of sensitive receptors along NR2W: houses, schools, clinics, hospitals, restaurants, shops, temples, cemetery etc. Space between these receptors and the road is limited, especially in the mountainous sections of the corridor. The road often lacks pavements with the road shared by all travelers, including pedestrians. Schools, from kindergarten to secondary school are located along the road with students walking, on bicycle or motorbike to get to school. Some students, including those from Ethnic Groups, can be as young as 6-10 years old and unaccompanied by adults when walking to/from school or markets. In the more remote communities, women, often from Ethnic Groups, travel on foot along the roads for moving produce, harvested goods, and firewood. Feeder roads of NR2 are usually seasonal gravel roads in a range of 5-30 km, crossing agricultural areas with communities living alongside these roads every several km and hard to travel during the wet season.

5. NR2W crosses various agricultural landscapes, upland plantations, and farms, including upland rotational cultivation, dry season (irrigated) commercial crops farms as well as paddy fields. Some sections traverse areas covered with shrubs, grasses and sparse trees.

6. The border control point with Vietnam is on a mountain top, surrounded by forest with a community several kilometers away, on a lower location of the mountain may be a need to upgrade and potentially expand or establish parking if there is land available – this would be established during design and the border control point with Thailand is in a low sloping hilly area, surrounded by agricultural lands, several kilometers away from a community.. BCF in Thailand, there will need to be construction and probably setting up of buildings and parking. Both border posts provide accommodation to the staff working at them.

## **2 PURPOSE OF THE ETHNIC GROUP ENGAGEMENT FRAMEWORK (EGEF)**

7. The World Bank's Environment and Social Standard 7 (ESS7) on Indigenous Peoples (herein referred to as Ethnic Group or Ethnic Peoples) is triggered for this project as there is likelihood that Ethnic Groups are found in, or have collective attachment to, areas adjacent to roads being rehabilitated by the project or nearby areas linked to those roads, including border crossing facilities.

8. Given that at this stage, before project appraisal, not all sections of NR2W being financed are known, especially feeder roads, this Ethnic Group Engagement Framework (EGEF) has been prepared by the Ministry of Public Works and Transport (MPWT), with the assistance of consultants, to guide the project in case ethnic group are found in the area of prioritized roads, consolidation facilities or

border crossing facilities, or otherwise impacted positively or negatively by the project, such as the capacity building components.

9. As detailed in this EGEF, the proposed NR2 upgrade project has a total length of 295 km and divided into two main sections, the NR2 West (190 km) connecting the Thai border at Huai Kone via NR4A and NR2-East (150km) connecting with the Vietnamese border at Tay Trang, Dien Bien Phu province once prioritized roads, consolidation facilities or border crossing facilities are identified, All works for road widening at NR2 West, feeder roads, and border crossing facilities will be carried out within the existing boundaries of road sections and existing footprint of building facilities. The Component Management Units will be responsible for screening for ethnic groups and, if relevant, ensuring active participation of the different resident ethnic peoples and their representatives in the project stakeholder engagement activities and that any information shared is sensitive to their cultural needs with special attention given to the road safety action plan. Screening will also be undertaken for consolidation locations and for capacity building activities.

10. Once detailed designs are available, and likely adverse impacts known, Ethnic Group Engagement Plans (EGEPs) can be prepared for locations where there are large concentration of ethnic communities. The EGEP will need to be prepared in line with this EGEF and the Grievance Redress Mechanism (GRM) for the project may need to be adjusted taking into consideration the needs of ethnic groups, and accessibility for ethnic groups to submit feedback or grievances. Whenever feasible, locally appropriate GRMs shall be built upon. Also, whenever feasible, the GRM shall include traditional grievance or conflict resolution systems.

11. If impacts related to one or more of the circumstances requiring Free Prior and Informed Consent (FPIC) in line with ESS7 are required, then FPIC will be used for engagement, in the undertaking of assessments, and informing frameworks and plans.

12. There is a need to ensure that ethnic groups are not excluded from any benefits and that there is equity in the benefits, especially from other capacity building activities. Special attention to the needs of ethnic groups when engaging them will be needed, including ensuring translation into relevant languages during consultations of key issues and measures. Ethnic group interpreters will be used to address the language barrier to avoid misunderstandings and enhance cooperation and support full participation in activities. Therefore, at least one Ethnic Group interpreter will be used in each consultation and communication with Ethnic Group villages, regardless of where the village is located, to ensure that all villagers, especially the elderly and children, who often do not speak Lao fluently, are able to fully understand information provided by the project. Also, since ethnic languages may not be written, communication materials will need to take this into account and adapt so that messages can still reach Ethnic Groups.

### 3 OVERVIEW OF THE ETHNIC GROUPS IN LAO PDR

13. Lao PDR is a culturally diverse country, comprising of 50 ethnic groups, classified into four ethnolinguistic families namely Hmong Iew Mien, Mone-Khmer, Chine-Tibetan and Lao-Tai. These ethnic groups are further divided into around 200 sub-ethnic groups. The Main Ethnic Groups are **Mon-Khmer, Hmong-Mien, Sino-Tibetan and Lao-Tai**. The term “Ethnic Groups” is often used for ethnic minority groups belonging to the first three ethno-linguistic families (Hmong-Mien, Mon-Khmer and Sino-Tibetan) who meet the characteristics and definition of Indigenous Peoples under ESS7. The Constitution (amended 2015) recognizes ethnic groups’ self-identification as members of a distinct cultural group with a separate identity from the mainstream society. Table 01 presents composition of each ethno-linguistic families for the 5 provinces.

14. **Mon-Khmer** groups were the first inhabitants of the territory that is now modern-day Laos. They share customs, such as the exchange of great wealth at marriage, post-partum rituals, cemetery burials, sacred forests, and festivals for the territorial spirit at the end of the agricultural year. They believe in divinities, yang, which are located in specific areas and are personal. They distinguish domestic spirits – of inhabited space, space built or used by humans – from natural spirits- of nature or the forest. Their beliefs establish strong moral codes within the community and help to delineate boundaries between villages and communities. They play a part in marriage practices and gender relationships, as well as figuring prominently in beliefs concerning health and illness. Apart from strong beliefs in animistic spirits, Mon-Khmer groups also practice ancestor worship. They normally engage in swidden cultivation on the higher lands. A field is cultivated one season and then left fallow. Communities split into smaller production units living in their fields during the agricultural season in the North; while in the South the abundance of land allows periodical migration of the whole community to new productive land within a circular trajectory, which marks the limit of each village’s land. This group includes the Khmu, Pray, Lamet, Makong, Tri, Tarieng, Brao, and Kri, as well as twenty-four others.

15. **Lao-Tai** system is characterised by a sedentary geographical frame, allowing permanent paddy cultivation farming in the Mekong Valley and on its tributaries. The system also allows for swarming migration patterns, linked to land pressure, and strategies to get closer to trading crossroads. Hence, their residence is not really fixed: a fact attested by the migration history of villages in Laos. Members of the Tai-Kadai group are mostly Theravada Buddhist. The group is comprised of the Lao, Tai, Phou Tay, Lue, Nyouan, Nhang, Sek, and Tai Neua.

16. Settled mostly in Northern Laos, ethnic Mien traditionally practice pioneer swidden cultivation, in which land is cultivated until soil exhaustion forces the community to move to a new location. Ancestor worship is widespread among such patriarchal clanship structures. Apart from Buddhism and animism, ethnic Mien also observe Taoism. The Iu Mien believe there are thirty-three levels of heaven

protecting the human earth. In Lu-Mien societies, leadership structures combine both secular and religious functions. Therefore, the religious leader and the head of the tribe are the same person: a leader or clairvoyant, who has responsibility for worship of place spirits. The Hmong usually distinguish political from ritual leadership, with the head of the clan being a different person from the Saengxao (or leader of beliefs). However, sometimes, the political leader is also invested with responsibility for beliefs and traditional customs. The Hmong and Lu-Mien are the only members of this group.

17. **Sino-Tibetan** They also traditionally practice swidden cultivation, cultivating soil until it is exhausted and the community must move. This group is composed of the Akha, Phouy, Lahu, Sila, Hanyi, Lolo, and Ho.

18. **Akha** accounted for the largest percent of the provincial population in Phongsaly and Luangnamtha, (31.8 % and 25.5% respectively), followed by Khmou (18,7 % and 24.6% respectively). Meanwhile, the Khmou ethnic group is the largest proportion of population in Oudomxay and Luangprabang (58.9 % and 46.9% respectively). The Hmong accounted for the second largest group in Oudomxay (15.%), while the Lao ethnic group is the second largest ethnic group in Luangprabang (28.4%). In Xayaboury, the majority of the provincial residents is the Lao ethnic group (58.8%).

19. Ethnic groups in Lao PDR have diverse social structures and cultures, but they all share a common socioeconomic base: that is, they rely heavily on primary agricultural activities and natural resources for their livelihoods. Their levels of access to modern socioeconomic development vary from one location to another depending on how the Government allocates common resources and provides support to such areas. Each ethnic group has its own dialect, customs and cultural characteristics, but not one of these groups has its own territory within the country. Instead, all ethnic groups share common territory and have lived together peacefully for many generations. Each of the groups is distinctive in ways that are sometimes readily apparent, such as the brightly colored costumes of the Hmong, Akha, Khmu and the Yao. Other ethnic groups, such as the Tai, are not as obviously identifiable.

20. Most Lao people who belong to different non-Lao ethnic groups (Ethnic Groups hereafter) are tied to their ancestors' land and forest spirits. For this reason – and because their livelihoods are heavily dependent on the land, forests and rivers – their villages are often small and isolated from one another. Under the ethnic groups equality policy of the Constitution of 2015 (chapter four, articles 34-51) – which is not required by the SEARECC project – all ethnic groups are required to:

- (i) Practice stable agriculture, especially expansion of paddy fields and stable crops (slash-and-burn practices are discouraged);
- (ii) Learn and study Lao language for the purpose of unifying the nation (as Lao language is the official spoken and written national

language, it is the most widely shared tongue among all of Lao PDR's ethnic groups); and

(iii) Merge village administrations, especially forming a cluster of villages and/or merging smaller villages into a bigger village so that the Government can more effectively deliver public services, and to ease implementation of public administration.

21. Many ethnic groups practice a system of land use and resource management which is uniquely adapted for upland areas. This has developed over generations (i.e. is traditional), and is underpinned through ritual and customary practices (Mann and Luangkhot 2008). These customary systems of land management and allocation exist alongside the formal system, with initiatives in recent years to integrate some traditional practices into the formal law. In many rural areas of Lao PDR, communities control common property, such as forests or pastureland, and have devised local customary rules for the management of land resources and allocation of land to group members which are still officially state land.

22. Under customary or informal rules in rural areas, local communities often control common property, including upland areas, grazing land, village-use forests and sacred forests. All community members are entitled to use communal land, and village authorities may grant similar use rights to those from surrounding villages. Communal tenure systems have evolved over a long period and vary from village to village. There is no formal registration process for communal tenure, though it remains an important part of the cultural, political, social and economic frameworks of rural communities (World Bank 2006; Mann and Luangkhot 2008).

23. Rural families may also hold land use rights under informal or customary rules. These land use rights are usually attributed to family plots, paddy land or land for swidden agriculture. These land use rights may be allocated by customary local authorities under local rules, and varies from village to village. The village chief (i.e. Nai Ban) may issue a Village Heads Certificate on Land Ownership, which while not valid on its own, may be used by local authorities to resolve disputes or used by the family as additional proof of ownership when applying to the state for a land survey certificate (World Bank 2006; Mann and Luangkhot 2008; GTZ 2009).

24. The right to inheritance of land use rights is defined by the revised Land Law 2019 as the right to use land belonging to deceased persons and inheriting to descendant in accordance to the laws and will (Article 138). In practice, however, inheritance varies between ethnic communities, depending on whether matrilineal or patrilineal inheritance patterns are used (FAO, 2020).

25. As with the Mon Khmer, Hmong-Mien and Chinese Tibet groups, inheritance usually follows patrilineal principles and land is transferred from father to son. Among the Hmong, women generally do not inherit land and other substantial assets that go from their parents to their brothers. As for the Lao Tai groups, who follows bilateral inheritance practices, both sons and daughters can inherit. However, it is customary

for the family to give land to the youngest daughter who remains at home to take care of the parents. Usually, daughters are the majority who inherit from their parents. Other ethnic group, e.g., Khmou, practice more mixed residence and inheritances, whereby both male and female children are likely to inherit. In the recent years, however, inheritance patterns have changed because of rural-urban migration, relocation and merging of villages, allocation, registration, and titling of land. Non-Lao Tai households adopted more bilateral kinship and inheritance patterns when they move closer to urban centers (FAO 2020).

26. Although Article 12 of the Inheritance Law 2008, states that part of the matrimonial property of the deceased father or mother is shared equally among the children, implying both son and daughter, succession tends to follow customary practices and varies among ethnic communities. Although the Property Law Provides for the recognition of conjugal property, in practice most women do not have properties registered in their name, even in the case of land they have inherited or land that was jointly acquired with the husband (FAO, 2020).

### **3.1 Ethnic Groups in the Project Areas**

27. At least 43 different Ethnic Groups reside along the NR2W corridor. It is likely that these Ethnic Groups living along the road side may be impacted by land acquisition. The proposed NR2 upgrade project has a total length of 295 km and divided into two main sections, the NR2 West (190 km) connecting the Thai border at Huai Kone via NR4A and NR2-East (150km) connecting with the Vietnamese border at Tay Trang, Dien Bien Phu province. The number of people of each ethnic group ranges, however, from 1 person to just under 50,000 people. Ethnic Groups with more than a percent of the total population in a given district include Hmong, Hor, Khmou, Lao, Lue, Phounoy and Tai. The Khmou ethnic group account for the majority in almost all districts, except for Meuang Ngeu.

**Table 1 Proportion of population by ethnicity for the 5 provinces in 2015**

Ethnicity	Province, %				
	Phongsaly	Luangnamt	Oudomxay	Luangprabang	Xayaboury
Akha	31.8	25.5	2.7	0.0	0.0
Ewmien	3.7	3.2	0.1	0.3	0.9
Hmong	3.6	7.2	15.0	17.7	9.2
Hor	3.9	1.1	1.0	0.0	0.0
Khmou	18.7	24.6	58.9	46.9	10.8
Lahou	0.1	3.6	0.0	0.0	0.0
Lame	0.0	2.6	0.0	0.0	0.0
Lao	2.7	2.9	9.4	28.4	58.8
Lue	8.7	10.3	7.5	2.3	7.5
Ngoa	0.1	2.8	0.1	0.5	3.5
Pounoy	14.9	2.6	1.2	0.2	0.2
Pray	0.0	0.0	0.0	0.1	6.6
Tai	4.6	8.9	1.6	1.5	0.4
<b>Total</b>	<b>92.8</b>	<b>95.2</b>	<b>97.5</b>	<b>98.0</b>	<b>98.1</b>

Source: Data from the Lao Population and Housing Census (2015)

**Table 2 Population by ethnicity for the 5 provinces in 2015**

Ethnicity	Province				
	Phongsaly	Luangnamt	Oudomxay	Luangprabang	Xayaboury
Don't tell	7	-	9	3	5
Unknown	2,231	2,251	3,503	4,830	6,584
Akha	56,636	44,760	8,203	25	99
Bid	1,140	658	389	-	9
Brao	1	3	-	-	7
Cheng	1	6	2	5	3
Ewmien	6,614	5,550	387	1,407	3,493
Gria	1	10	11	13	9
Guan	-	1	1	-	-
Harak	-	11	3	2	2
Hayi	640	15	25	6	1
Hmon	6,334	12,728	46,003	76,590	35,254
Hor	6,908	1,873	3,139	107	110
Katang	-	4	86	1	1
Katu	-	1	3	-	3
Khmer	1	2	1	72	1
Khmou	33,346	43,262	181,143	202,341	41,330
Kree	49	15	12	18	13
Lahou	112	6,323	26	13	4
Lame	2	4,595	41	11	37
Lao	4,877	5,026	28,893	122,763	224,334
Lavy	45	17	4	-	1
Lolo	1,588	263	15	3	-
Lue	15,503	18,156	23,016	10,073	28,592
Makong	66	9	5	9	14
Moy	1	3	8	8	9
Ngah	-	1	-	-	2
Ngoa	94	4,933	268	2,229	13,404
Oedo	4	22	13	52	12
Othe	52	45	123	65	35
Oy	4	3	8	1	9
Pacoh	5	1	-	16	9
Phong	2	6	-	1	18
Phouth	235	359	1,045	2,218	400
Pounoy	26,510	4,586	3,733	711	586
Pray	4	10	16	459	25,162
Sadang	1	3	-	-	3
Samtao	2	1,144	-	2	2
Syla	2,538	522	5	1	1
Ta-oy	16	10	-	3	12
Tai	8,232	15,594	5,066	6,512	1,618
Thaen	8	6	5	292	26
Thaine	1,215	2,205	645	840	76
Toum	1	1	1	1	2
Tri	2	2	1	1	1
Trie	1	2	3	-	2
Xaek	13	11	41	9	14
Xing	-	8	7	12	12
Xuay	-	86	-	1	2
Yae	2	3	5	1	3
Yang	2,945	642	1,704	155	46
Yrou	-	6	5	7	4
<b>Total</b>	<b>177,989</b>	<b>175,753</b>	<b>307,622</b>	<b>431,889</b>	<b>381,376</b>

Source: Data from the Lao Population and Housing Census (2015)

**Table 3 Population by ethnic groups of districts along the NR2W**

No	Ethnic group	Oudomxay				Xayaboury
		Xay	Beng	Houn	Pakbeng	Meang Ngeun
1	Akha	224	10	112	2	0
2	Bid	2	0	1	1	0
3	Chen	1	1	0	0	0
4	Ewmien	24	1	33	0	0
5	Griang	2	0	9	0	2
6	Guan	0	0	0	1	0
7	Hara	3	0	0	0	0
8	Hayi	7	0	0	0	0
9	Hmong	14,230	5,017	12,022	1,057	4,561
10	Hor	2627	30	20	8	17
11	Kata	0	0	0	0	0
12	Katu	0	0	2	0	0
13	Khme	1	0	0	0	0
14	Khmou	39,450	20,848	48,289	24,871	5,518
15	Kree	6	0	1	1	0
16	Laho	3	0	5	0	0
17	Lame	27	0	11	2	0
18	Lao	11,463	432	9,027	2,489	1,311
19	Lavy	1	0	1	0	0
20	Lolo	15	0	0	0	0
21	Lue	7,097	8,144	1,297	177	5,785
22	Mako	0	1	4	0	0
23	Moy	2	2	0	3	0
24	Ngoaun	64	7	33	8	25
25	Oedo	4	0	8	0	1
26	Othe	93	26	1	0	0
27	Oy	3	0	1	0	0
28	Phouth	395	268	267	24	12
29	Pounoy	2,124	63	613	15	14
30	Pray	5	1	8	2	97
31	Syla	0	0	5	0	0
32	Tai	558	1509	1420	15	17
33	Thaen	1	1	0	1	1
34	Thaine	228	18	279	31	5
35	Toum	0	0	1	0	0
36	Tri	0	0	1	0	0
37	Trie	0	0	3	0	0
38	Xaek	4	3	3	17	0
39	Xingmo	3	1	1	1	2
40	Yae	4	0	1	0	0
41	Yang	59	660	34	0	2
42	Yrou	0	0	1	3	1
43	Unknown	796	448	740	676	218
	Total	79,526	37,491	74,254	29,405	17,589

Source: Data from the Lao Population and Housing Census (2015)

**Table 4 Proportion of population by ethnic groups of districts along the NR2W**

No	Ethnic group	Oudomxay				Xayaboury
		Xay	Beng	Houn	Pakbeng	Meang Ngeun
2	Hmong	17.9	13.4	16.2	3.6	25.9
3	Hor	3.3	0.1	0.0	0.0	0.1
4	Khmu	49.6	55.6	65.0	84.6	31.4
5	Lao	14.4	1.2	12.2	8.5	7.5
6	Lue	8.9	21.7	1.7	0.6	32.9
7	Pounoy	2.7	0.2	0.8	0.1	0.1
8	Tai	0.7	4.0	1.9	0.1	0.1
	Total	97.5	96.1	97.9	97.4	97.9

Source: Data from the Lao Population and Housing Census (2015)

28. Changes in natural resources, including forest and water resources will affect these ethnic groups differently, due to differences in their culture and livelihoods. The history, culture and livelihoods of the Akha, Khmu, Lao, Singily, Hmong and Lue, the major ethnic groups of the provinces can be summarized as follows.<sup>2</sup>

29. **The Akha** originally settled in the area from Kuaichao and Yunnan, which are today part of China. After moving down to the southern part of Yunnan, they migrated to the Va and Xiengtung districts of Burma (Myanmar) and then to the Lao Chao district of Vietnam, after which they resettled in mountainous areas of northern Laos in the last 200 years. The Akha believe strongly in spirits of ancestors (good spirits), who take care of their family members. They also believe there are spirits in the trees, forest and rivers (bad spirits), which may cause them sickness/illness. The Akha pray to both good and bad spirits for protection from evil. Women are required to stay by a lit fire after giving birth (Yukham or Kalum). They are prohibited from eating certain types of food and working during Yukham. Akha villages are usually situated between 600 to 1,000 meters above sea level and are usually located on hillsides. An average village has about 40-50 households. Most Akha villages are located far from rivers, and therefore they have limited involvement in fishery activities. Their houses are made of materials from the forest such as bamboo and wood planks.

30. The Akha traditionally practice a primitive form of shifting cultivation. Their main crops include upland land rice, maize and cotton; they also grow vegetables, peanuts, chili and tea. The Akha are skilled foragers and are experts at finding fruits and vegetables. They are skilled hunters, using traps, crossbows and old muskets to hunt large and small game. They raise buffalo, cows, pigs and chickens. It is, however, not common to use livestock as a daily food source, unless there are special traditional celebrations/occasions or guests.

31. **The Khmu** are among the oldest inhabitants of northern Laos. They arrived in

<sup>2</sup> Department of Ethnic Affairs of the Lao Front for National Construction (2008)

the area by the early part of the first millennium A.D. It is a mystery about where the Khmu ethnic group came from, some anthropologists believe they migrated from northern Burma, while others believe they may have migrated from Vietnam or the Yunnan region of China. Khmu, like other ethnic groups in Lao, believe in spirits. They believe in the house spirit (Hrooy Gang), the spirits of water (Hom), the spirits of the forest (Hrooy Prri) and others. Among the most feared are the Hrooy Poop and the Hrooy Suu because of their ability to take possession of people, turning them into dangerous individuals. Therefore, each village must have at least one spiritual master to defeat these spirits.

32. Khmu villages are found near streams in lower mountainous areas. The villages vary in size from 10 to 90 houses. The Khmu usually build their houses on low wooden stilts, with walls made of woven bamboo with no windows. There are two rooms: the inner room will be for their parents, which has a fireplace for cooking rice; the outer room has a separate fireplace and is used for receiving guests. Visitors to their houses are allowed to stay in the outer room only. Traditionally, each village has a communal house where young boys live. After celebrating festivals, Khmu people usually restore and maintain their houses or build new houses.

33. The Khmu practice shifting cultivation. Crops grown in such areas include cassava, maize, peanuts, and other vegetables, as well as tobacco. They raise buffalo, goats, pigs and chickens. They also fish, hunt, catch rodents, collect non-timber forest products (NTFPs) for cash and/or food. The Khmu are skilled metal workers. They are also skilled at weaving with bamboo and rattan, making baskets, fish traps and other tools and utensils. These can be sold or traded.

34. **The Hmong** migrated from the Tibetan region in China into Laos in the mid-19th century. They practice a mix of animism, naturalism and spirituality, including the spirits of ancestors, villages and regions. They also believe in the spirits of the sky, forest, rivers, etc. They believe that ancestral spirits of the male line of any family reside in the house. Hmong villages are usually located between 1,000 to 1,500 meters above sea level. Some Hmong villages can be reached only on foot or horseback. Some villages consist of a single clan, but this has been changing rapidly in recent years.

35. The Hmong practice mainly shifting cultivation, including rice and maize. They are skilled at animal husbandry, raising of cattle, buffalos, horses (historically), goats, pigs, dogs and chickens. Handicrafts form an important part of their livelihoods, including carpentry, blacksmithing, baskets, jewelry, and embroidery. They do little fishing.

36. **The Lue** originally came from Kwangtung Province of China. They migrated through Vietnam into China's Yunnan Province and into northern Laos around the 19th century. They adopted Theravada Buddhism in the 14th century. However, their beliefs still mix with their own brand of animism which includes belief in the spirits of nature and the household. They also believe in the spirit of township (Phi Meuang); this is the most feared spirit. The villagers pay respect to this spirit by

building a spirit house near to the village and offering sacrifices such as pigs and chickens.

37. Lue villages are located at altitudes between 150 to 400 meters above sea level. Their villages are usually located near rivers/streams, partly because of the need for water for farming. They produce mostly glutinous rice as a staple food. Other crops include corn, tobacco, cotton, fruits, and vegetables. They raise buffalo, pigs, and poultry. They make handicrafts, including baskets, weaving, sewing, sarongs, and handbags and also work as silversmiths.

## **4 LEGAL FRAMEWORK AND REGULATIONS**

### **4.1 Policies, Laws, Rules and Regulations on Ethnic Groups in Lao PDR**

#### **4.1.1 Constitution of the Lao PDR (amended 2015)**

38. Lao PDR does not have specific legislation for its ethnic groups. However, the former 1991 Constitution and current adjusted Constitution of 2015 (chapter four, articles 34-51) guarantee that all Lao people have fundamental rights and obligations to develop the country. The Constitution defines Lao PDR as a multi-ethnic State, with equality among all ethnic groups.. The Constitution defines Lao PDR as a multi-ethnic State, with equality among all ethnic groups.

*Article 8 states that:*

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

Article 13 states that *“The country’s economic system is for the purpose of improving the living standards, both materially and spiritually, of Lao PDR’s multi-ethnic people.”*

Article 19 emphasizes the importance of building schools to provide education for all, especially in areas inhabited by ethnic minority groups.

Article 35 guarantees that Lao citizens are all equal before the law irrespective of their gender, social status, education, beliefs and ethnic group.

#### **4.1.2 Ethnic Minority Policy (1992)**

39. The Resolution of the Political Bureau Concerning the Affairs of Various Minorities, especially the Hmong Minority (Hmong Policy 1981) adapted in 1981 was the first explicit statement of policy on ethnic groups since the founding of the Lao People’s Democratic Republic in 1975. The policy also attempted to improve the living conditions of Hmong people, and to increase national security for the country

as a whole. In 1992, the policy was adjusted and developed into a resolution of the Administrative Committee of the party to become The Ethnic Minority Policy under the Resolution on Ethnic Affairs in the New Era, which applies to all ethnic groups throughout the country. There are no specific articles in it, rather it is an agreement on the principles that all ethnic groups should have improved access to services and that all discrimination must be eradicated. The general policy of the GoL concerning ethnic groups was designed to:

- Build national sentiment (national identity);
- Realize equality between ethnic groups;
- Increase the level of solidarity among ethnic groups as members of the greater Lao family;
- Resolve problems of inflexible and vengeful thinking, and economic and cultural inequality;
- Improve the living conditions of the ethnic groups step-by-step; and
- Expand, to the greatest extent possible, the good and beautiful heritage and ethnic identity of each group and their capacity to participate in the affairs of the nation.

40. The policy calls for protection against and eradication of dangerous diseases and to allow ethnic groups to enjoy good health and a long life. The GoL is expected to provide appropriate investments to enlarge the health care network by integrating modern and traditional medicine.

41. Disseminating information in the remote areas is mandated, through many methods, especially, radio broadcasting in minority languages. The plan calls for engagement of specialist officials who speak minority languages and who possess knowledge of science, production, and socioeconomic problems.

42. The Ethnic Minorities Committee under the National Assembly is charged with the responsibility to draft and evaluate proposed legislation concerning ethnic groups, lobby for its implementation and implementation of socioeconomic development plans. Ethnic groups' research is the responsibility of the Institute for Cultural Research under the Ministry of Information, Culture and Tourism (MoICT). The lead institution for ethnic affairs is the mass (political) organization, the Lao National Front for Construction, which has an Ethnic Affairs Department.

43. The 1992 policy on ethnic groups focuses on realizing equality between ethnic groups and gradually improving the lives of ethnic groups while promoting their ethnic identity and cultural heritage. The Lao Front for National Development (LFND) introduced an official ethnic classification into forty-nine main groups comprising four ethno-linguistic facilities, namely the Lao-Tai (62.4 percent), Mon-Khmer (23.7

percent), Hmong-lu Mien (9.7 percent), and Chine-Tibetan (2.9 percent)<sup>3</sup>. ‘

#### **4.1.3 The 9th National Socioeconomic Development Plan (2021-2025)**

44. The activities indicated in the 9<sup>th</sup> National Socioeconomic Development Plan for 2021-2025 (NSED) are focused on the three transformative results aiming to; end maternal mortality, end unmet need for family planning, including among adolescent girls and end gender-based violence and harmful practices such as early marriage; ensure youth receive age-appropriate comprehensive sexuality education through school curriculums nationwide and innovative adolescent youth friendly services; implement policies and Gender equality Law; establish a referral pathway and make dignity kits available in humanitarian emergencies, increase investments for adolescents, especially young women through the “Noi framework” of 2030. The 2030 Noi Framework provides a platform for partners to address challenges Lao girls (10-19 yrs old) face in education, sexual and reproductive health, nutrition, employment and gender equality, as well as their opportunities to participate in decisions that matter to them. Tracking indicators in these areas, partners will work together to ensure young girls today grow up to be productive citizens living fulfilling lives by 2030 in line with the Sustainable Development Goals (SDGs).

#### **4.1.4 Land Law (2019)**

46. According to the revised Land Law 2019, land in Lao PDR is the national community property, where the State represents the owner of the rights in the management of land in a centralized manner across the country. The State grants the rights on long-term and secured land use to individuals, collective groups and organizations of Lao citizens (Article 3). The State acknowledges and protects the customary land use rights of individuals. The acquisition of customary lands refers to land acquisition and use by Lao citizens through exploration, development, protection and regular land use for more than 25 years, prior to the effectivity of the Land Law and without the need to provide document certifying the acquisition, except for a document from village administrative authorities and of the owners of nearby land certifying continuous land acquisition and use, without any disputes or in case with disputes, being already settled (Article 130).

#### **4.1.5 A National Guideline on Consultation with Ethnic Groups**

47. The guideline on consultation with ethnic groups was launched by the Lao Front for National Development (LFND formerly known as LFNC), in 2013, in line with the National Guideline on Public Involvement, 2012. It aims to ensure that all ethnic groups who benefit from or are adversely affected by a development project, without regard to the source of funding, are fully engaged in a meaningful consultation process at all stages from preparation into implementation. The guideline also aims to ensure that the potentially affected ethnic groups are fully informed of project objectives, as well as their potential positive and adverse impacts

---

<sup>3</sup> Lao Statistics Bureau. 2016. Results of Population and Housing Census 2015.

on their livelihood and their environment, and provided with opportunities to articulate their concerns. The guidelines provide principles and processes to carry out meaningful consultations with, and obtain Free, Prior and Informed Consent (FPIC) of all ethnic groups affected by developments projects in a culturally sensitive manner. The guideline consists of: a) objectives and scope, b) consultation process with ethnic groups at respective stages of development projects, c) consultation approaches and methods for different ethnic groups in a cultural sensitive manner, d) expected outcomes of consultation at each stage, and e) implementation arrangement and responsibility.

#### **4.1.6 Law on Grievance Redress or the revised Law on Handling Petitions 012/NA**

48. The Law on Grievance Redress or the revised Law on Handling Petitions 012/NA approved on December 5, 2014 and the President in 2015 provides provisions of objectives, principles and process of applying and handling different types of grievance, petition and complaints that may be raised by citizens. The Grievance Redress Law divides grievances into three categories as follows:

- a. Proposals are to be applied to and resolved by concerned authorities.
- b. Grievance is to be applied to and resolved by judicial institutions and court
- c. Petition is to be applied to and resolved by Provincial and National Assembly.

49. The Law on Handling of Petitions 012/NA, 2015, which has superseded the old version of Law on Grievance dated November 5, 2005 applies and protects rights and interest of all citizens and entities, state organizations, community and individuals with the aim to ensure justice, social security and order.

#### **4.1.7 Gender**

50. The Law on Preventing and Combating Violence Against Women and Their Children (VAWC), No. 56/NA 2014 defines the principles, rules and measures for preventing and combating VAWC by prevention, protection, provision of assistance to victims of violence and handling of such violence to protect the rights and legitimate interests of women and children; aims to eliminate all forms of VAWC, uphold the roles and dignity of women and children, achieve gender equality, and contribute to developing society in order to maintain peace, public order, solidarity, justice and civilization, and protect and develop the country. The Law is designed to specifically address VAWC that results in or is likely to result in danger, harm, or physical, psychological, sexual, property or economic suffering by women and children.

51. Gender mainstreaming has been included by the Lao government's National Assembly during as indicated in its National 9th NSEDP 2021-2025 and the 2030 Noi framework, with the emphasis on the protection of the rights of adolescent girls. The aims are to ensure gender equality and empower women in politics, economics, sociocultural affairs and family decision-making; reduce considerably discrimination

and violence against women. These includes recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW) and Implementation of the national action plan for prevention and elimination of violence against women and children.

#### 4.1.8 Relevant International Agreements

52. The Constitution of Lao PDR has been amended to incorporate human rights principles outlined in the international treaties and conventions of which Lao PDR is a signatory party. Chapter four, articles 34 to 51 explain the basic rights of Lao citizens. In addition, basic rights as delineated in international instruments are included in many other national laws, such as the Law on the Protection of the Rights and the Interests of Children, 2006. The GoL set up the National Human Rights Research Centre in Vientiane, whose main objective is to support, encourage, and implement human rights within the country. Its mandate also considers the carrying out of research on ethnic groups. The Centre was approved by Decree No. 95, dated 11/07/06 and by Prime Minister's Decree, No. 137, dated 24/07/2006. Lao PDR has been a member of the International Labour Organization (ILO) since 1964. Lao has ratified eight ILO Conventions, including five of the eight ILO core Conventions. Convention 169 on Indigenous Peoples has not been ratified.

**Table 5 International treaties and conventions in Lao PDR.**

No	Name of Convention	Date of Signature	Date of Ratification/ Accession
1	<u>International Covenant on Civil and Political Rights</u>	7 December 2000	29 September 2009
2	Convention on the Rights of Persons with Disabilities	15 January 2008	29 September 2009
3	International Convention for the Protection of All Persons from Enforced Disappearance	29 September 2008	Not yet ratified
4	<u>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families</u>	Not yet signed	Not yet ratified
5	<u>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</u>	21 September 2010	26 September 2012
6	<u>Convention on the Rights of the Child</u>		8 May 1991 (a)
7	<u>Convention on the Elimination of All Forms of Discrimination against Women</u>	17 July 1980	14 August 1981

No	Name of Convention	Date of Signature	Date of Ratification/ Accession
8	<u>International Covenant on Economic, Social and Cultural Rights</u>	7 December 2000	13 February 2007
9	International Convention on the Elimination of All Forms of Racial Discrimination		22 February 1974 (a)
10	UN Convention Against Corruption	10 December 2003	29 September 2009
11	UN Declaration on the Rights of Indigenous Peoples		13 September 2007

#### **4.2 World Bank’s Environment and Social Standard 7 (ESS7) on Indigenous Peoples/ Sub-Saharan African Historically Undeserved Traditional Local Communities (hereinto referred as Ethnic Peoples)**

53. The ESS7 of the World Bank recognizes that Indigenous Peoples (IPs), or Ethnic groups as used in this project, have identities and aspirations that are distinct from mainstream groups in national societies and often are disadvantaged by traditional models of development, and that they are inextricably linked to the land on which they live and the natural resources on which they depend. IPs are therefore particularly vulnerable if their land and resources are transformed, encroached upon, or significantly degraded. Projects may also undermine language use, cultural practices, institutional arrangements, and religious or spiritual beliefs. The ESS7 recognizes the roles of men and women in indigenous culture, often different from those in the mainstream groups and that women and children have frequently been marginalized both within their own communities and because of external developments and may have specific needs.

54. The objectives of ESS7 are:

- To ensure that the development process fosters full respect for the human rights, dignity, aspirations, identity, culture, and natural resource-based livelihoods of Ethnic Peoples.
- To avoid adverse impacts of projects on Ethnic Peoples or, when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts
- To promote sustainable development benefits and opportunities for Ethnic Peoples in a manner that is accessible, culturally appropriate and inclusive.
- To improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultation with the Ethnic Peoples affected by a project throughout the project’s life cycle.

- To obtain the Free, Prior, and Informed Consent (FPIC) of affected Ethnic Peoples as described in ESS7; and
- To recognize, respect and preserve the culture, knowledge, and practices of Ethnic Peoples, and to provide them with an opportunity to adapt to changing conditions in a manner and in a time- frame acceptable to them.

55. The World Bank requires Free, Prior and Informed Consent (FPIC) from ethnic groups in a project when the following circumstances apply:

- a. Have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation. Examples of the adverse impacts include:
  - Potential tension with communities, including customary communities' areas and their ancestral territories located near forest areas.
  - Reduced or loss of access to forest areas used for subsistence livelihood purposes.
- b. Cause relocation of Ethnic Peoples from land and natural resources subject to traditional ownership or under customary use or occupation; or
- c. Have significant impacts on Ethnic Peoples cultural heritage that is material to the identity and/or cultural, ceremonial, or spiritual aspects of the affected Ethnic Peoples' lives.

At this stage of project preparation, it is not clear whether the SEARECC will have impacts that will trigger the conditions for FPIC.

### **4.3 Gap Analysis**

56. The term "ethnic" is used to refer to all groups of people in the country, rather than certain specific groups as defined by the ESS7 of the World Bank. As stated above, in this EGEF, the term "ethnic groups" or "ethnic people" are used for reference to groups other than the Lao ethnic group for the sake of clarity. Some ethnic groups have identities and aspirations that are distinct from mainstream Lao groups and often are disadvantaged by traditional models of development, and that they are inextricably linked to the land on which they live and the natural resources on which they depend as per ESS7.

57. While there are some complementary links between laws and regulations of the Lao PDR related to ethnic groups and the World Bank's ESS7, there is the lack of sufficiently detailed regulations or operating procedures to facilitate full implementation of the EGDF, and on how to conduct Free, Prior and Informed Consent (FPIC). There are no specific requirements for FPIC by the laws and regulations of the Lao PDR as those provided by the ESS-7. The EGEF is therefore prepared based on the ESS7 of the World Bank, considering relevant policies, laws, and regulations of the Lao PDR. Clear mechanisms for FPIC, if applicable, are outlined in this EGEF. The EGEF also outlines a Grievance Redress Mechanism (GRM), based on the GRM for the project, which would have to be further refined in

consultation with ethnic peoples. Training and capacity buildings will also be conducted to make sure that the PMU strengthen their knowledge on these issues.

58. To assist with the consultations, the Stakeholder Engagement Plan (SEP) has also been developed to ensure that there are clear mechanisms for stakeholder engagement throughout the project life cycle. This EGEF and SEP would be used together to make sure that consultations are carried out in a way that is consistent with the needs of ethnic groups if they are found to have collective attachment to the project areas and should be further refined in consultation with the ethnic groups (if found). Using appropriate translators or ethnic language speakers, with village groups split by gender, to discuss the potential impacts of project activities, both positive and negative

59. Circumstances needed for FPIC are also detailed. The Lao Front for National Development (LFND) will be a partner of the project, especially when it comes to ethnic group issues and consultations. The LFND will have an active role in the development of this EGEF and SEP, and in case of impacts related to land acquisition, the RPF will apply, following the requirements in ESS5 as well as ESS7, if applicable.

60. A summary of what to follow under the project based on the identified gaps is as follows:

- a. The term “ethnic groups” or “ethnic people” are used for reference to groups other than the Lao ethnic group for the sake of clarity.
- b. This EGEF is prepared in accordance with the ESS7 of the World Bank, considering relevant policies, laws, and regulations of the Lao PDR and will guide the engagement with ethnic groups consistent with the definition of IGs in ESS7 found in the SEARECC project area.
- c. The EGEF will be further refined in consultation with ethnic peoples.
- d. Training and capacity buildings will be conducted to make sure that the PMU and CMUs staff are ethnic and gender sensitive and aware of ethnic culture and expectations
- e. To ensure a clear mechanism for stakeholder engagement, including ethnic groups, the SEP developed for this project is to be followed. The SEP and EGEF will be used together to make sure that consultations are carried out in a way that is consistent with the needs of ethnic groups.
- f. The LFND and LWU will continue to be the key partners of the project, especially when it comes to ethnic group issues and consultations.

## 5 POTENTIAL IMPACTS ON ETHNIC GROUPS

### 5.1 Potential Impacts and Mitigation Measures

61. The standard on Assessment and Management of Environmental and Social Risks and Impacts (ESS1) requires the SEARECC Project to:

- Identify, assess, evaluate, and manage environment and social risks and impacts and adopt a mitigation hierarchy where the project:
- Anticipates and avoid risks and impacts;
- Where avoidance is not possible, minimize or reduce risks and impacts to acceptable levels;
- Once risks and impacts have been minimized or reduced, mitigate; and
- Where significant residual impacts remain, compensate for or offset them, where technically and financially feasible.
- Adopt differentiated measures so that adverse impacts do not fall disproportionately on the disadvantaged or vulnerable
- Utilize national environmental and social institutions, systems, laws, regulations and procedures where appropriate;
- Promote improved environmental and social performance, in ways which recognize and enhance the capacity of the stakeholders involve in the SEARECC Project.

62. While the SEARECC project will have some adverse impact on ethnic groups, it has been initially assessed that they will also experience some positive impacts due to various development interventions like improved road access which come during the implementation of the SEARECC Project.

63. The potential risks and impacts related to Ethnic groups of the project was assessed based on available information. However, since the feasibility study and detailed design of the project did not start, the detailed impact has to be assessed during full-ESIA exercise.

64. Given the employment and supply chain opportunities that will be created from the project, labor influx in project areas is expected. The focus of the SEARECC Project's operational procedure is to localize the economic benefits with minimal opportunities for outside labor to service work that require specialized/skilled labor that is not present in project localities. The priority for local labor (dependent on skill, experience capacity) is expected to minimize the risk of influx, where there is a requirement for special skills. For external workers, proper labor camp will be established. If it is necessary, there will be dedicated camps established for worker accommodation in the project.

65. Specific requirements to manage risks associated with labor influx, related to

the interaction between project workers, local communities and ethnic groups, such as communicable diseases, SEA/SH, GBV and VAC, will be managed through contractual requirements, code of conduct and trainings of contractors.

66. A large influx of male labor may lead to an increase in exploitative sexual relationships and human trafficking whereby women and girls are forced into sex work. This can lead to inappropriate and criminal behavior, such as sexual harassment of women and girls, exploitative sexual relations, and illicit sexual relations with minors from the local community in general and ethnic groups in particular.

67. Trafficking in persons is defined as the recruitment, transportation, transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Ethnic groups as well as Women and children are particularly vulnerable to trafficking practices. Subprojects are located near the Lao-Thai and Lao-Vietnam borders where the occurrence of human trafficking may occur. The project will enforce stringent requirements to against trafficking.

68. While the above impacts are also relevant to non-Ethnic Groups, they may be more pronounced for Ethnic Groups due to language barriers, cultural norms and potential health vulnerabilities. For example, Ethnic Groups may be more impacted by Covid-19 transmission. They may also be more vulnerable to human trafficking, GBV, SEA/SH and VAC due to lack of information and/or their status (and potential discrimination against them) may make them targets. Ethnic Groups may also be disproportionately impacted if there is land acquisition if the land being acquired was part of their traditional or spirit lands. This EGEF and the project's RPF provide measures to ensure these potential risks are identified early on so that they can, ideally, be avoided (or otherwise minimized or mitigated in a culturally appropriate manner.)

69. Therefore, if Ethnic groups are found and they suffer from land acquisition impacts, this EGEF and the project's Resettlement Policy Framework (RPF) will both apply.

70. For the impacts highlighted above in para 62, potential mitigation measures identified during the preparation stage – which would need to be further refined working with any identified ethnic groups – include:

- a. If ethnic groups in line with ESS7 are found in the project area for any of the subproject, through the Social Assessment, part of the Environment and Social Impact Assessment (ESIA) or separate, a nuanced understanding of how ethnic groups relate to the land close to the road/being connected by the road, including how they derive their livelihoods and any impacts that could result as a result of road improvement. This would include NR2W – including

cumulatively for the whole NR2 corridor – as well as for the selected feeder roads, BCFs and consolidation facilities;

- b. Consultation with ethnic groups on road design, to identify any assets, including but not limited to, cultural places/tangible or intangible cultural heritage, trees or plants along the road corridor that could be impacted by widening (either in NR2W, feeder roads, BCFs or consolidation facilities);
- c. If road improvement could exacerbate land grabbing or logging (deemed unlikely at this stage in the project provinces), close consultation with local authorities and provincial authorities to put in place mechanisms to mitigate these risks;
- d. Consultation with ethnic groups on location of worker's camp and/or any other issues that would be relevant as a result of labor influx in the area;
- e. Mitigation measures designed together with ethnic groups where possible;
- f. Through the ESIA/separate SA, an understanding of benefits and impacts of the project's capacity building component on ethnic groups, and a consultative process to ensure any benefits are maximized and impacts avoided or minimized;
- g. A consultative process for Free, Prior and Informed Consent under ESS7, if applicable. FPIC is applicable in a limited set of circumstances (as detailed in ESS7). Otherwise, a culturally appropriate process of meaningful consultation will be followed.

## **6 STEPS TO FOLLOW: SCREENING, SOCIAL ASSESSMENT AND PREPARATION OF EGEF**

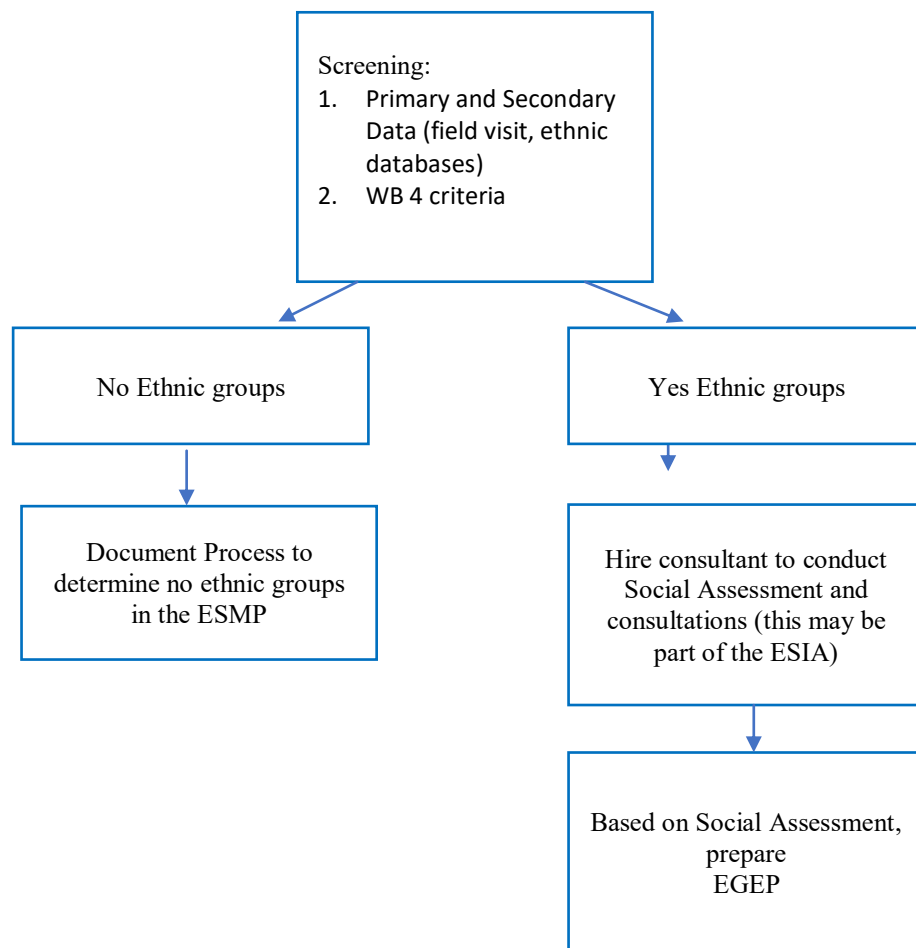
62. A participatory approach is needed during consultative meetings with local authorities and communities during project screening, design, implementation and monitoring. The following steps will be followed in terms of screening, social assessment, and preparation of an Ethnic Group Engagement Plan (EGEP).

- a. Screening by EDPD/PTRI and Provincial Resettlement Committee (PRC) to identify whether Ethnic groups are present in, or have collective attachment to, the project area. If there are no Ethnic groups found, CMUs; EDPD/PTRI and PRCs should explain the process for determining this and document it in the ESMP and no further steps are needed.
- b. If the screening concludes that Ethnic groups are present in, or have collective attachment to, the project area, CMUs; EDPD/PTRI and PRCs shall conduct a Social Assessment following guidance in this EGEF. The social assessment work to be conducted as part of the feasibility state ESIA, will include a dedicated module on potential impacts to Ethnic Groups. Where there are concentrations of Ethnic Groups that will be impacted, and a

site specific engagement plan is required, a site-specific social assessment will be conducted using participatory rural appraisal technical. (Please see Annex 3 for guidance questions on social assessment)

- c. The Social Assessment should review secondary and primary sources and conduct consultations with local ethnic groups and key informants as necessary;
- d. Based on the Social Assessment and consultations, EDPD/PTRI and PRCs would need to prepare an Ethnic Group Engagement Plan (EGEP) with assistance from consultants as necessary.
- e. Disclosure of the draft EGEP to the public.
- f. If necessary, updating the Social Assessment and/or EGEP during project implementation as part of the monitoring process in order to identify unexpected adverse impacts and/or to propose mitigation measures. This process is described in Figure 1.

**Figure 1: Steps to Follow by EDPD/PTRI and PRC**



## 6.1 Screening for Ethnic Groups

63. Once project subcomponents (NR2 sections, BCFs components, feeder roads, consolidation facilities, capacity building programs) are known, EDPD/PTRI needs to:

- 1) Further review secondary data to screen for ethnic groups, as identified by local authorities, in the villages that the road passes (i.e. using Census Databases such as the Agricultural Census 2020 and Population Census 2015);
- 2) Compile primary data by visiting the road sections and meeting with key informants and local people to assess whether ethnic groups are found/are not found in areas near or connected to the road, and to assess whether the ethnic groups found meet, to some degree, all four criteria (see Annex 2) that the WB ESS 7 refers to:
  - a. (Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; and
  - b. Collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas; and
  - c. Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and
  - d. A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

64. Once screening forms of Annex 1 and Annex 2 are applied, before moving forward, EDPD/PTRI needs to submit documentation to the WB Task Team, which of the Ethnic Groups located in project locations meet or not the four criteria of ESS7.

65. It is important to stress that ESS7 applies when there are Ethnic groups in the project area, independently of the nature of its expected impacts (para 7 of ESS7):

“ESS7 applies regardless of whether Ethnic Peoples are affected positively or negatively, and regardless of the significance of any such impacts. This ESS also applies irrespective of the presence or absence of discernible economic, political or social vulnerabilities, although the nature and extent of vulnerability will be a key variable in designing plans to promote equitable access to benefits or to mitigate adverse impacts.”

66. For subprojects where it is clearly documented that there are no Ethnic groups –after discussion and agreement with WB-, an EGEP would not need to be prepared. Instead, EDPD/PTRI’s Environmental and Social Management Plan (ESMP) would need to explain and document why ESS7 does not apply. In case there are ethnic group in some subprojects - after discussion and agreement with WB-, then site-specific EGEPs would need to be prepared and Social Assessments, proportional to the nature and scale of impacts, developed (see below).

67. For Capacity Building activities, it is possible that the project's Stakeholder Engagement Plan (SEP) may be the best mechanism to ensure the equitable participation of ethnic groups, and that an EGEP may not be needed. This should be determined during the project's ESIA stage.

## **6.2 Requirements for a Social Assessment and Meaningful Consultations**

68. Once it is clear that subprojects will be implemented in an area where Ethnic groups are present, EDPD/PTRI would be responsible for conducting a Social Assessment (SA) and related meaningful consultations. The SA may be part of the ESIA that will be conducted for the project in 2022. However, there may be cases where an additional SA is needed, for instance if feeder roads or consolidation facilities are selected once the ESIA has been completed.

69. The breadth, depth, and type of analysis in the Social Assessment should be proportional to the nature and scale of the subprojects' potential effects on a community, whether such effects are positive or adverse. The SA should be integrated into the project's Environmental and Social Management Plan (ESMP). It is likely that EDPD/PTRI would need to hire an independent expert to assist in conducting the SA and consultations. Please see Annex 3 for guidance questions on social assessment.

70. To promote effective project design, to build local project support or ownership, and to reduce the risk of project-related delays or controversies, as part of the Social Assessment there should be an engagement process with affected Ethnic Peoples as required in WB ESS10. This engagement process will include stakeholder analysis and engagement planning, disclosure of information, and meaningful consultation, in a culturally appropriate and gender and inter-generationally inclusive manner, following the guidance in the project's Stakeholder Engagement Plan (SEP). For Ethnic Group, the process of meaningful consultation will also:

- a. Involve Ethnic Groups' representative bodies and organizations (i.e. councils of elders or village chiefs) and, where appropriate, other community members;
- b. Provide sufficient time for Ethnic Groups' decision-making processes, and
- c. Allow for Ethnic Groups' effective participation in the design of project activities or mitigation measures that could potentially affect them either positively or negatively.

71. Meaningful consultation is a two-way process, that:

- a. Begins early in the project planning process to gather initial views on the project proposal and inform project design;
- b. Encourages stakeholder feedback, particularly as a way of informing project

design and engaging stakeholders in the identification and mitigation of environmental and social risks and impacts;

- c. Continues on an ongoing basis;
- d. Is based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful, and easily accessible information in a time frame that enables meaningful consultations with stakeholders in a culturally appropriate format, in relevant local language(s) and understandable to stakeholders. Disclosure with ethnic groups will be in both Lao language or even local dialects of ethnic groups which can be easily understandable format either by audio and photo or drawing /print (e.g. booklet or flyers) formats.
- e. Considers and responds to feedback;
- f. Supports active and inclusive engagement with project-affected parties;
- g. Is free of external manipulation, interference, coercion, discrimination, and intimidation; and
- h. Is documented and disclosed.

72. The SA will include the following elements, as needed:

- a. Baseline data collection on the demographic, economic, social, cultural and political characteristics of the affected ethnic groups, habitats, ancestral territories, or areas of seasonal use and occupation that they have traditionally owned or customarily used or occupied, as well as the land in the project area and the natural resources in these areas on which they depend;
- b. Based on meaningful consultations, assessment of the nature and degree of the expected direct and indirect economic, social, cultural and environmental risk and impacts on ethnic groups who are present in, or have collective attachment to, the project area, and an assessment of the degree of vulnerability of the ethnic groups and the constraints they face to access project benefits;
- c. Based on meaningful consultations, the identification and evaluation of measures necessary to avoid adverse effects, or if such measures are not feasible, the identification of measures to minimize, mitigate, or compensate for such effects, and to ensure that ethnic groups receive culturally appropriate benefits under the project;
- d. A summary of the relevant parts of the Project's Stakeholder Engagement Plan that are specific to the subprojects where ethnic groups are found, which would include stakeholder analysis and engagement planning, disclosure of information, and meaningful consultation, in a culturally appropriate and gender and inter-generationally inclusive manner. The

project's SEP would be expected to guide this<sup>4</sup>.

- e. A summary of the meaningful consultation and, if applicable, Free, Prior and Informed Consent (FPIC)<sup>5</sup> with the affected ethnic groups. The consultations should: (i) involve representative bodies and organizations and, where appropriate, other community members; (ii) provide sufficient time for ethnic groups' decision-making processes; and (iii) allow for the effective participation by ethnic groups in the design of project activities or mitigation measures that could potentially affect them either positively or negatively. Feedback on the project would be gathered through separate group meetings with ethnic groups, vulnerable groups, including their traditional leaders, NGOs, community-based organizations, CSOs and other affected persons. The consultations would also help inform the Social Assessment with regard to demographic data, such as the social and economic situation and impacts. Finally, a summary would need to be prepared of the FPIC process and how its requirements have been met.

### **6.3 Elements of an Ethnic Group Engagement Plan (EGEP)**

73. An Ethnic Group Engagement Plan (EGEP) would include the following elements, as needed:

- a. A summary of the Social Assessment;
- b. A summary of the legal and institutional framework applicable to ethnic groups in the project;
- c. A summary of the relevant portions of the SEP applicable to the project subcomponent where ethnic groups were found, including the analysis of stakeholders, consultations and disclosure;
- d. A summary of the framework for meaningful consultation and, if applicable, Free, Prior and Informed Consent (FPIC) with the affected ethnic groups during project implementation;
- e. A detailed description of culturally appropriate measures to mitigate any adverse impacts, as well as culturally appropriate and sustainable development benefits. Note that impacts refer not only to physical, but also cultural impacts on Ethnic Groups. Impacts and benefits should be closely consulted with ethnic groups and be intergenerational and gender-sensitive.
- f. Institutional arrangements, with a clear description of responsibilities and accountabilities. This should include measures to strengthen the capacity of local and national authorities, as needed, as well as the involvement of NGOs or CSOs as necessary;

---

<sup>4</sup> EDPD/PTRI should consult ethnic groups as to the cultural appropriateness of the Project's components and documents such as the SEP and identify and address any social or economic constraints that may limit opportunities to benefit from, or participate in, the Project.

<sup>5</sup> See FPIC section..

- g. The Grievance Mechanism established for the project needs to be adapted and/or changed as necessary to ensure it is culturally appropriate and accessible to affected ethnic groups, and takes into account the availability of judicial recourse and customary dispute settlement mechanisms among the ethnic groups. This should be done in consultation with ethnic groups;
- h. The cost estimates and financing plan for the EGEP implementation;
- i. Mechanisms and benchmarks appropriate for monitoring, evaluation, and reporting on the implementation of the EGEP. Monitoring arrangements should include the following tasks: (i) administrative monitoring to ensure that implementation is on schedule and problems are dealt with on a timely basis; (ii) socio-economic monitoring during and after EGEP implementation, utilizing the baseline information established by the socio-economic survey (from the SA) of ethnic groups undertaken to ensure that impacts on ethnic groups are mitigated and benefits reach ethnic groups; and (iii) overall monitoring.

74. EGEPs would be submitted to the World Bank as part of the implementation plan. Prior to the commencement of the implementation, the EGEP shall be disclosed on the MPWT website and the World Bank webpage. A copy of the EGEP, including in Lao language and other language if appropriate, shall be placed in the commune council of the target areas where ethnic peoples can access it and a summary shared with ethnic groups in an easily understandable format either by audio and photo or drawing /print (e.g. booklet or flyers) formats.

#### **6.4 Free, Prior and Informed Consent**

75. At this stage, it is unclear whether the project would have circumstances that require Free, Prior and Informed Consent (FPIC) as defined in ESS7. This will be determined with more certainty when the project sub-components are defined, screening for ethnic groups is finalized and the ESIA is undertaken. Determination on whether FPIC applies should be done in consultation with ethnic groups as part of the Social Assessment of the ESIA (or separate SA).

76. According to the WB's ESS 7 FPIC is applied when projects:

- Have adverse impacts on land and natural resources subject to traditional ownership or under customary use or occupation.
- Cause relocation of ethnic groups from land and natural resources subject to traditional ownership or under customary use or occupation.
- Have significant impacts on the cultural heritage of ethnic groups that is material to their identity and/or cultural, ceremonial, or spiritual aspects of their lives.

77. If FPIC is triggered, ethnic groups will be consulted in good faith based on sufficient and timely information concerning the benefits and disadvantages of the project and how the anticipated activities occur, before they occur (i.e. 'prior').

'Consent' refers to the collective support of affected ethnic groups for the project activities that affect them, reached through a culturally appropriate process. Consent may exist even if some individuals or groups object to project activities. FPIC does not require unanimity and may be achieved even when individuals or groups within or among affected ethnic groups explicitly disagree. This process should be properly assessed and documented as part of the Social Assessment.

78. In terms of documenting FPIC, if applicable, CMU with the support from EDPD/PTRI would ensure that the following is documented:

- a. The mutually accepted process to carry out good faith negotiations that has been agreed by CMU; EDPD/PTRI and ethnic groups; and
- b. The outcome of the good faith negotiations between CMU, EDPD/PTRI and ethnic groups, including all agreements reached as well as dissenting views.

79. The following steps shall be followed in cases where FPIC is needed as part of the Social Assessment:

- a. Assessment of ethnic group stakeholders and decision-making structures,
- b. Consultation with stakeholders to determine acceptable basis for FPIC,
- c. Propose, consult and seek feedback on the FPIC process,
- d. Conduct additional consultations that can lead to consent that is then documented in an acceptable format.

80. The consultation process will document the consultations, interviews, attendance lists, photographic evidence and minutes of other meetings and/or back-to-office reports.

## **7 IMPLEMENTATION ARRANGEMENTS AND MONITORING**

### **7.1 Implementation Arrangement**

81. The SEARECC will be implemented using existing government structure. Please see ESMF for detailed description of the project implementation arrangement.

82. The EDPD/PTRI will work in close coordination with and provide technical support to the Project Management Unit of MPWT and Component Management Units of other agencies who will be actually planning and implementing the project on the ground, including this EGEF. EDPD/PTRI will be tasked with overall supervision and monitoring of the EGEF implementation.

83. Each Component will be responsible for ensuring that E&S requirements, including EGEF requirements are mainstreamed in maintenance planning, design and pre-construction works including tendering and contracting process. At subproject level, CMUs are responsible for planning and implementation of E&S

activities including undertaking day-to-day monitoring of E&S measures to be carried out by contractors. The Project provinces will establish the Environmental and Social Unit (ESU) specifically to be responsible for the implementation of E&S measures. The CMUs and DWPTs will be responsible to carry out subproject E&S impact screening, the required E&S planning activities and develop the necessary E&S action plans. The E&S plans will be submitted to EDPD/PTRI, who will review all the E&S documents (ESMP/Alignment Sheet, EGEP, RAPs) of the subprojects prior to submission to the World Bank to request No objection Letter. All the documents will be kept in the project files for possible WB review. For subprojects require IEE, DWPTs assisted by qualified consultant of the EDPD/PTRI will prepare an IEE report. DWPTs and SMWGs will take the lead in the consultation of local authorities and community during the IEE report preparation and securing approval. If an IEE report is not required, DWPTs and SMWGs will take the lead in the implementation of the activities in close consultation with PONRE/DONRE.

84. Subproject CMUs and DWPTs will be responsible for implementation of the subproject ESMP, EGEP, and/or RAPs including the day-to-day supervision of contractors through the Construction Supervision Consultant (DDIS) and/or filed engineers.

## **7.2 Monitoring**

85. If ethnic groups are found, the DWPTs and the Public Works and Transport Research Institute (PTRI) will conduct internal quarterly monitoring activities during land registration, titling, and civil works and reports will be submitted to the project manager and the World Bank. Monitoring will focus on:

- a. Compliance, to verify that the required mitigation measures are considered and implemented in line with the EGEF/EGEP and ESMF/ESMP, how grievances have been submitted, addressed, and resolved, including those outstanding, and issues raised by stakeholders during monitoring; and
- b. Impacts monitoring, focusing on the impacts experienced by ethnic groups as identified by the EGEF/EGEP as well as any other unforeseen impacts if applicable, including gender impacts.

86. To ensure ethnic people communities are engaged in the monitoring and evaluation process, the project will strive to include ethnic groups in their own monitoring. This process of internal ethnic group monitoring would need to be described in the quarterly monitoring reports, considering results from consultation with the ethnic group, decision-making structures, as well as gender and intergenerational balance.

## 8 GRIEVANCE REDRESS MECHANISM

87. The key principles of the grievance mechanism are to ensure that:

- The basic rights and interests of affected people, including ethnic groups, are protected.
- The concerns of affected people, including ethnic groups, arising from the project implementation process are adequately addressed.
- Entitlements or livelihood support for affected people, including ethnic groups, if required, are provided on time and accordance with the above stated government and World Bank's ESF, and
- Affected people, including ethnic groups, are aware of their rights to access grievance procedures free of charge for the above purposes.
- Specific engagement mechanisms may be needed to engage ethnic groups.

### 8.1 Grievances Procedures

88. The project team shall seek to resolve complaints as soon as possible, and thus avoid escalation of issues. However, where a complaint cannot be readily resolved, then it must be escalated. In order to effectively and quickly resolve grievances of affected people, according to the Law on Grievance Redress or the revised Law on Handling Petitions 012/NA approved by the National Assembly on December 5, 2014 and the President in 2015 and also the guideline on consultation with ethnic groups was launched by the Lao Front for National Development (LFND formerly known as LFNC), in 2013, in line with the National Guideline on Public Involvement, 2012, to ensure an effective and efficient grievance, a mechanism for the project is proposed as follows:

**Stage 1:** The first level of complaint resolution, following traditional methods in Laos, should be the Village through its Village Mediation Unit (VMU) and/or Sub-district (*kum*) level who may be able to resolve issues on the spot. The VMU at the village level would comprise of representatives of ethnic group community leaders, and head of mediation unit or village elder persons.

Complaints can be submitted in verbal or written forms. It is expected that some complainants such as ethnic minority or vulnerable individuals/households might not be able to write any complaints. In this case, they can submit complaints verbally. Complainants may also retain the right to bypass the VMU procedure and as such can direct their grievance directly to DPWT, as provided by law in Lao PDR.

The VMU shall make the arbitrated decision within 10 days. The Village/Sub-district level, specifically the Chief of Mediation Unit, Village Chief and/or *Kum* Chief, should record the grievance and how it was resolved and communicate it to the Component Management Units (CMUs). There are no fees or charges

levied for the lodgment and processing of grievances at this level.

**Stage 2:** In cases where grievances cannot be resolved on the spot, in the second stage, people will be able to file grievances directly with CMUs. People will have been informed of the CMU's contact information during consultations. The CMUs will be able to record the grievance and offer a solution within 15 days, consulting with the Component Management Units at the MPWT, as needed. This may include a visit to the project site by the CMUs if necessary. There are no fees or charges levied for the lodgment and processing of grievances at this level.

**Stage 3:** in cases where grievance still cannot be resolved, or not resolved to the satisfaction of the any complainant, he/she shall have the right to submit a complaint to the Project Manager and Director of the PMU of the MPWT as desired by the complainant. The administrative arbitration organization shall make the arbitrated decision within 20 days. Like the two previous stages, there are no fees or charges levied for the lodgment and processing of grievances at this level.

**Stage 4:** if the complainants are still unsatisfied with the arbitrated decision made by the administrative arbitration organization at the Provincial level, after receiving the arbitrated decision, they can file a lawsuit in a civil court according to relevant laws and regulations of the Lao PDR. The complainant will bear the cost at this stage but will be reimbursed for their expenses by the MPWT if their complaint is successful.

It is important to note that the WB ESF and GRM do not apply to person-to-person disputes, but only state-to-person disputes. Person-to-person disputes should be dealt with by the regular land registration dispute resolution mechanism.

89. In cases where a grievance still cannot be resolved, or not resolved to the satisfaction of the person making the complaint, the person has the right to submit a complaint to the District or Province authorities, as desired by the complainant. The Complainant could also decide to submit to complaint directly to the Courts. The complainant will bear the cost for these steps but will be reimbursed for their expenses by the MPWT if their complaint is successful.

90. Where accessible, complainants may opt to raise their grievances directly to PMU of DPC-MPWT as the Project Management Unit of the SEARECC Project via alternative means hotline call and/or text message (WhatsApp) largely used even in most rural area or via the project website to be set up under the project. The project will assign safeguard focal person in the PMU and CMUs responsible for the GRM, including the hotline number. The grievances from the hotline and whatsapp will be included into the GRM database by recording the phonecalls or screenshots the messages from the whatsapp that would be uploaded into the database. Contact detail of focal staff from PMU-MPWT; CMUs-and with the technical support form

EDPD/PTRI are responsible for GRM should be provided in project information leaflet/booklet to be prepared and distributed to all project villages well in advance of consulting and GRM training for village mediation committees. Hotline/Whatsapp grievances will be recorded by the PMU and CMUs/ focal person, same as with other grievances received.

91. The project will provide GRM committees in all target villages and districts with a logbook where grievances are registered in writing and maintained as a database for monitoring and reporting. Sample templates for GRM logbooks and grievance forms are included in the SEP.

92. Following engagement and feedback, the GRM and its operationalization considers the needs of various affected groups including from vulnerable groups, ethnic groups, and their representatives to ensure on methods are culturally appropriate and accessible and take account their customary dispute settlement mechanisms. Some sensitive cases of grievances, such as those relating to Gender-Based Violence (GBV); Sexual Exploitation and Abuse and Sexual Harassment (SEA/SH) or Violence Against Children (VAC) may require a professional or concerned entities to be engaged to help investigate and resolve. Confidentiality shall be preserved for anonymous complaints. The full ESIA should further look to examine the appropriateness and accessibility of the GRM, especially for ethnic groups.

93. As mentioned, if ethnic group are found, this GRM will need to be adjusted based on the needs of ethnic groups and this would be done in consultations with them. For example, it may need that less, or more, time is needed to resolve grievances, or that Ethnic Groups would like the support of third-parties – such as EG NGOs/CSOs or village leaders to assist them in the various steps of grievance resolution.

94. Ethnic group interpreters will be used if necessary during the grievance resolution process, to address the language barrier and avoid misunderstandings. Therefore, CMUs should ensure that there are Ethnic Group interpreters available in cases where they are needed, to ensure concerns of complainants can be best addressed. This is also relevant to how the GRM is publicized, and ensuring GRM information and materials are available in languages other than Lao. Since ethnic languages may not be written, communication materials will need to take this into account and adapt so that messages can still reach Ethnic Groups.

95. In order to facilitate women and vulnerable people's access to the mechanism, they will be specifically consulted with the support from the Lao Women's Union (LWU) to ensure they are able to access the grievance mechanism.

## **8.2 Recording Grievances**

96. Established and managed by the CMUs and RCs, a complaints register will be established as part of the project to record any concerns raised by any stakeholder during the implementation of the SEARECC Project, with overall

responsibility under the SEARECC PMU. Any serious complaint (such as life-threatening, relating to GBV/SH or criminal) will be advised to the World Bank within 24 hours of receiving the complaint. A focal point of the E&S team at PMU will be responsible for the combined database. This same focal point will be analyzing and reporting the data from the database.

97. A summary list of complaints received, and their disposition, along with key statistics on the number of complaints and duration taken to close out, must be reported in the regular project reporting and be at least every 6 months if not more frequent. Each record is allocated a unique number reflecting year and sequence of received complaint (for example 2021-01, 2021-02 etc.). Complaint records (letter, email, record of conversation) should be stored together, electronically or in hard copy under the responsibility of the Project's.

98. Grievances can be submitted anonymously, or the aggrieved person can also request their name be kept confidential. Responsibility for the Grievance Log will be with the CMUs office; Component Management Units and Project Directors/Managers in PMU of the MPWT Grievances will be recorded in a Grievance Logs (Please see Table 5). This information shall include:

- Stakeholder name and contact details (if not anonymous).
- Details of the nature of the grievance.
- Date received, way it was responded to, and
- How it was submitted, acknowledged, responded to, and closed out.
- Grievances can be submitted anonymously, or the aggrieved person can also request their name be kept confidential. Responsibility for the Grievance Log will be with the Project Management Unit (PMU) and and Component Management Unit (CMUs); and RCs.
- Previous records of similar incidents
- Evidence, supporting documents and statements
- Screening, review, validation, and investigation results; any follow-up and meetings, corrective actions, staff responsible to resolve; progress (pending, solved), agreements/commitments
- Time taken to respond or resolve the complaintant(s)
- How, when and by whom a decision was communicated
- Closure date, and confirmation that the complainant was satisfied
- Quantitative data on the number of complaints received, the number of complaints relevant, and the number of complaints resolved.
- Qualitative data on the type of complaints and answers provided, and issues that are unresolved
- Management actions to avoid recurrence

**Table 5 : Sample Grievance Log for the Project**

Grievance Log								
Name of Complainant (or anonymous)	Sex (M/F)	Contact info	Date Received	Details of the nature of the grievance  (Environmental impacts, social impacts, labour, health, etc.)	To whom was grievance submitted	Actions to resolve grievance	Date grievance was settled (and what stage)	How was the response provided?

**9 ANNEXES**

## 9.1 Annex 1: Screening of ethnic group form

When to do screening: When subproject is known.

Secondary Data: Check the LSB Database for presence of ethnic groups in identified villages passing through the identified subprojects.

Primary Data/Field Work: Check directly with key informants (such as commune and village chiefs as well as local people) whether there are ethnic groups along, or in connection with, each subproject. If no ethnic groups are found, document this in the ESMP and no further steps are needed.

Checking Against WB Criteria: If the ethnic groups is among beneficiary populations and/or will be negatively affected by the subproject, a basic social economic profile of beneficiary population or project affected people will be developed by collecting both qualitative and quantitative data in the project areas from local authorities and consultation with the ethnic groups with an aim that all ethnic groups can voice their concerns and their opinions are heard throughout the project preparation and implementation process. Special attention will be given to hear voices from women and disadvantages peoples. Consultations with the ethnic groups will also be in line with the national guideline on ethnic group consultation issued in 2013 by the LFND. Screening should determine if any of the ethnic groups under the 3 ethno-linguistic families (Hmong- Mien, Mon-Khmer and Sino-Tibetan) are present in the project area based on primary and/or secondary data, assess whether they meet all four WB criteria (also see Annex 2)

- a. Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; and
- b. Collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas; and
- c. Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and
- d. A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

Who will do the screening: Component Management Units with technical support from EDPD/PTRI.

**Table 01: Ethnic Groups Screening Information**

Province/ District/ Village	Name of Ethnic Group	Number of Households	Fulfil WB Criteria 1 (Y/N) and <u>explain</u> – see <b>Error! Not a valid result for table.</b>	Fulfil WB Criteria 2 (Y/N) and <u>explain</u> – see <b>Error! ot a valid result for table.</b>	Fulfil WB Criteria 3 (Y/N) and <u>explain</u> – see <b>Error! ot a valid result for table.</b>	Fulfil WB Criteria 4 (Y/N) and <u>explain</u> – see <b>Error! ot a valid result for table.</b>

Assessment Summary:

- If no ethnic groups are found, or if ethnic groups are found but do not meet WB criteria, carefully document the process in the ESMP.
- If ethnic groups are found, provide a summary as to potential impacts and risks. Undertake Social Assessment as part of the ESIA or proceed to hire a (national) consultant, or DDIS, to assist with preparation of Social Assessment and EGEP.

## 9.2 Annex 2: GUIDANCE ON FOUR WORLD BANK CRITERIA TO DETERMINE ETHNIC GROUP

This Annex helps to explain the four criteria used by the WB to determine whether a given group should be considered an Ethnic Group.

The World Bank's ESS7 notes that the term "IP" is used in a generic sense to refer exclusively to a distinct social and cultural group possessing the following four characteristics in varying degrees.

It is important to note that as per ESS7, there is no hierarchy to the four characteristics, and all of them need to be present. However, they may be present in varying degrees. "Varying degrees" reflects the fact that some characteristics may be less evident for some groups or communities through integration into the broader society or economy, sometimes as a result of government policy. Moreover, given the varying contexts and characteristics of ethnic group today, a group may possess defining characteristics and thereby be covered by the policy in one region, but may be more fully integrated and lack the defining characteristics in another region of the same country, or in a neighboring country. The collective attachment of groups to their traditional territories, for example, may have been forcibly severed due to government resettlement programs. Some groups may no longer speak their own language, or it may be spoken by only a few or even none. The role of traditional institutions may also be eroding or have been replaced by official administrative structures. These factors alone do not disqualify groups from being covered under ESS7, but are assessed in the final determination made by the World Bank.

### 1. Self-identification as members of a distinct social and cultural ethnic group and recognition of this identity by others

#### Questions and Factors to Consider (in addition to those outlined in the legal framework or commune database)

- Does the ethnic group identify themselves as an ethnic group or a traditional community or around a distinct cultural identity?
- You can ask: What does it mean to you to be an ethnic group? How would someone outside of your community describe who you are, especially distinguishing features as a community? Do others recognize them as belonging to those groups?
- *Note:* When asking if others would recognize them, it is about whether others recognize their distinctness as per the characteristics under ESS7.

### 2. Collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas;

#### Questions and Factors to Consider

- *Note: for the purposes of this question, it is not relevant whether ethnic groups have collective title to the land or not, given that the number of ethnic groups with collective land title is still very low in Lao PDR.*
- How long has the community lived on that land? Do members of the community have historical knowledge of these ancestral lands? Is there anthropological, ethnographic or legal data that can validate? Do they consider that land to be their ancestral or traditional land? Have they moved from their traditional lands?
- Is the community using the land and resources in accordance with their customary laws, values and traditions?

### **3. Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture**

#### **Questions and factors to consider:**

- Are there traditional leaders or a traditional leadership structure? If so, how do they work with other levels of government? Does the community have an internal decision-making process?
- What are the main modes of economic activity? Has this changed over time? How have these changes, if at all, impacted their identity, other cultural practices, traditional knowledge, language, etc.?
- Does the community have traditional education/learning systems, cultural systems or health systems that are distinct from those of Khmer society?

### **4. A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.**

#### **Questions and factors to consider:**

- What is the language or dialect of the community?
- Does the community speak and understand Lao?
- Does the community have traditional education systems, using their own languages, teaching and learning methods?

### 9.3 Annex 3: GUIDANCE QUESTIONS FOR SOCIAL ASSESSMENT

If ethnic groups are identified, these guiding questions may be helpful when conducting Social Assessment.

<b>PROFILE OF THE LAND USED BY ETHNIC GROUPS</b>	
1.	Describe the land used by ethnic groups that is near, or in some way connected to, the subproject. What is the land type (public, state, communal, private, etc.)? Are there pressures on this land?
2.	Who else, legally or illegally, uses the land used by ethnic groups for their livelihoods or any other use?
3.	Are there, or have there been, any conflicts relating to this land? If so, conflict between whom?
4.	How long has the ethnic groups lived on that land? Do members of the ethnic groups have historical knowledge of these ancestral lands – have these boundaries changed? Why? Is there anthropological, ethnographic or legal data that can validate?
5.	How are livelihoods attached to these lands? Do ethnic groups rely on land and natural resources for housing, water, traditional subsistence, economic

	development, dress, traditional medicines, etc.?
6.	Is there a likelihood that road improvement or other project activities will attract outsiders to lands that ethnic groups have collective attachment to and/or are used by ethnic groups, or that it may exacerbate pressures on these lands?
<b>DESCRIPTION OF THE ETHNIC GROUPS</b>	
7.	How many people are there in the ethnic group? Please describe the ethnic group, including their name, heritage and how many people/households.
8.	Would you please give us some information about your ethnic group? What kind of activities go on in your village on a normal day? How does your group (e.g. women, elderly, farmers) experience life?
9.	Which languages are spoken by the ethnic group? Do they speak Lao language?

10.	Are there any cultural or religious items/artifacts/areas connected with the proposed subproject? Where? What is the belief/practices?
11.	Has there been migration into this commune or the surrounding area? If so, where from, and why?
12.	What is the main source of livelihoods for the ethnic group? What about for people in the commune?
<u>13.</u>	Are there traditional leaders or a traditional leadership structure within the ethnic group? If so, how do they work with local and other levels of government?
<u>14.</u>	Does the ethnic groups have an internal decision-making process? How are representatives chosen? How do women, youth, elders, persons with disabilities participate?

15.	What are the main jobs/livelihoods for the ethnic group?
16.	Does the community rely in whole or in part, traditional medicines and health practices? Has this changed over time? What are the factors for this change?
17.	Does the community have traditional conservation practices which they rely on? If so, how do they (both past and present) deal with climate change, disasters, habitat or wildlife loss?
18.	Has there been any conflict or tension over the following issues during the past years with the ethnic group and other local communities? With outsiders?

**POTENTIAL IMPACTS TO ETHNIC GROUPS**

19.	Is the road being rehabilitated, the Border Crossing Facility or consolidation facility near or within any of the following areas?			
	Land ethnic group has collective attachment to (for example for	<b>Yes/No</b>	<b>NA</b>	<b>Don't know</b>

	cultural, spiritual or livelihood reasons)			
	Medicinal plants used by ethnic groups			
	Non-timber forest products area used by ethnic groups			
	Important trees or natural landmarks of importance to ethnic group			
	Other (Specify) ..... ...			
<u>20.</u>	Are there any people in your ethnic group who are very poor/dependent/supported by others and/or considered vulnerable in any way?			
<u>21.</u>	What types of social support networks exist within your ethnic group? Could you explain us when a person needs support, what types of contributions are provided to those in need?			
<u>22.</u>	What do you think would be the positive effects of road improvement and/or the			

	proposed subproject for your ethnic group?
<u>23.</u>	What do you think would be the negative effects of the proposed subproject for your ethnic group?
<u>24.</u>	What do you think is the main problem faced by your ethnic group? How do you think can this problem be solved?
<u>25.</u>	If there were opportunities for jobs in civil works, would men and women in your group be interested?
<u>26.</u>	What is the best way to provide information to your group? What is the best way for you to share information with project planners? Does the project's proposed SEP fulfil the needs of your group?
<u>27.</u>	Is the project's proposed GRM adaptable to the needs of your ethnic group? How would this GRM need to be adapted?
<u>28.</u>	Is there anything else you would like to talk about, or want me to know?