

LAO BUSINESS FORUM BRIEF

Improving the Business Environment Through Constructive Dialogue



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Business Startup in Lao PDR

I. Background and Context

The business startup process in Lao PDR continues to be highly burdensome and time-consuming. In the most recent World Bank Doing Business report for 2018, Lao PDR ranked 164th among 190 countries surveyed in the Starting a Business indicator (which measures the overall procedures, time, cost and paid-in minimum capital that is required to start a limited liability company). The country's overall Ease of Doing Business ranking fell from 139th in 2017 to 141st in 2018.¹

Small and microenterprises constitute the overwhelming majority of businesses in Lao PDR. According to the Department of Small and Medium Enterprise Promotion (DOSMEP), approximately 100,000 businesses are registered in the country.² 98,700 of these are small enterprises (1–19 employees); 1,100 are medium-sized enterprises (20–99 employees); and 200 are large enterprises (100+ employees).³



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This brief is published by the Secretariat of the Lao Business Forum, based at the Lao National Chamber of Commerce & Industry (LNCCI).

The LBF Brief provides a summary and analysis of a specific business issue that was highlighted as a priority during the annual LBF process and which significantly impacts the Lao PDR business environment. The views expressed in the LBF Brief reflect the opinions and perspectives held by relevant stakeholders.

Small enterprises and startups continue to bear the brunt of the costly and complex start up process. They do not have adequate resources or capacity to manage lengthy start up delays. Indeed, the process is so difficult that many companies do not formally register. This has significant impacts on the Lao PDR economy as informal, unregistered firms do not pay taxes, thereby lowering the country's tax revenues; in addition, informal firms do not have proper access to finance and cannot grow as fast.⁴ Finally, registered firms in Lao PDR have identified competition and unfair practices by informal enterprises as the largest obstacle to doing business.⁵

It is clear that cumbersome business startup procedures in Lao PDR have multiple adverse consequences for the country's economy. Proactive and concrete remedial measures – beyond the mere introduction or amendment of legislation – are required to address the problem.

II. Business Startup in Lao PDR and the LBF – Issue Analysis

One of the key issues discussed by the LBF's Services Sector Working Group was the inconsistency in registration and licensing procedures at the provincial and national levels.⁶ It is often more difficult to register a business at the provincial level due to the large number of additional regulations and procedural requirements imposed by provincial authorities.

In light of Lao PDR's performance in the World Bank's 2018 Doing Business report, the Government of Lao PDR announced a plan to improve the country's ranking from the current 141 to under 100 within 2 years. Toward that end, it seeks to target specific indicators that would have the most significant impact on improving the country's overall ranking.

Actions Taken to Address the Issue

In February 2018, the Prime Minister's Office introduced the Ordinance on Regulatory Amendment and Coordination Mechanism of Business Operations in Lao PDR No. 02/PMO. Key sections of the notification stipulate the following:⁷

- Ministry of Planning and Investment (MPI) should “implement the Mechanism for National Single Window Service as soon as possible.” (Section 1.1.1)
- The Ministry of Industry and Commerce (MoIC) should “improve the regulations and measures on enterprises registration services – for an individual or a legal entity – to be more convenient, efficient and fast.” (Section 1.2.1)

Additional steps taken by the government to streamline business startup procedures include:

- Elimination of the minimum registered capital requirement for foreign investors, as per the revised Investment Promotion Law
- Issuance by the MoIC of Notification no. 1067 dated May 19, 2017 regarding the cancellation of enterprise name reservation and certification of enterprise names from the business registration procedure and the use of the new business application form
- Elimination of the inspection requirement for warehouses as well as the Single Window Coordination Committee, both of which have reduced the number of procedures required for business registration (Department of Industry and Trade of Vientiane Capital)
- Creation of a unit of the single window service (Investment Promotion Department)

III. Business Startup in Lao PDR - International Perspectives

The World Bank's Starting a Business category ranks Laos 164th among 190 countries surveyed. This indicator, as previously noted, is based on two factors: time (the number of days that are required for startup; and procedures (the number of steps in the startup process). Currently, there are eight steps and 67 days involved in the startup process for a business in Lao PDR.

The most effective mechanism for Lao PDR to improve its ranking is to significantly reduce the number of procedures by eliminating or consolidating procedures, thereby reducing the overall timeframe.⁸

Singapore, the 6th ranked country in the Starting a Business indicator as well as the best-performing ASEAN member, provides a textbook example of international good practice as it relates to the business startup process. Three steps are involved:⁹

1. Register online with the Accounting and Corporate Regulatory Authority (ACRA) including company name search and filling the company incorporation and tax number (GST) – Overall timeframe: less than 1 day
2. Make a (non-mandatory) company seal – Overall timeframe: 1 day
3. Sign up for Employee Compensation Insurance at an insurance agency – Overall timeframe: 1 day

Singapore has effectively leveraged technology to streamline its business start-up process and it has also combined procedures. For instance, business name registration and incorporation will automatically generate a tax identification number. The result is that it takes less than 3 days to register a business in Singapore.



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IV. Gender Inclusion and Business Startup in Lao PDR

There is no comprehensive data to indicate a significant gender-based disparity in terms of business startup procedures in Lao PDR. Discussions with Lao PDR businesswomen and the Lao Businesswomen's Association (LBWA) suggest that cumbersome business procedures cut across businesses, regardless of the gender of the owner. However, there is anecdotal evidence, based on discussions with donor organizations that work with rural SMEs, that women-owned businesses encounter challenges during their interaction with provincial authorities. Further research and analysis are required.

V. Post-LBF Update and Next Steps

Based on LBF's Services Sector Working Group deliberations, the following recommendations were proposed regarding the business startup process:¹⁰

- The MoIC should significantly improve its coordination with other Lao government entities that have a role in the business registration and licensing process in order to streamline procedures
- The MoIC should adopt the business registration procedural mapping initiative that is being supported by the 2nd Trade Development Facility Project in conjunction with its effort to implement PMO Order No. 02/PMO dated February 1, 2018

During the July 5, 2018 LBF meeting, the European Chamber of Commerce and Industry in Lao PDR (ECCIL) presented its report which detailed specific steps that Lao PDR could take to improve its World Bank Doing Business Ease of Doing Business ranking from triple digits (141st) to double digits (99th and lower) in 2 years. ECCIL recommended that the Government focus on a smaller subset of the 10 Doing Business Indicators that would have the most significant impact.

Government Responses to Private Sector Recommendations

During the July 5, 2018 LBF 11 plenary meeting, the Vice Minister of Planning and Investment discussed the latest implementation status of PM Order No. 2, specifically the progress achieved to date in inter-ministerial coordination to improve the country's performance across the 10 World Bank Doing Business indicators: 1) Starting a Business; 2) Dealing with Construction Permits; 3) Getting Electricity; 4) Registering Property; 5) Getting Credit; 6) Protecting Minority Investors; 7) Paying Taxes; 8) Trading Across Borders; 9) Enforcing Contracts; 10) Resolving Insolvency.

The Starting a Business indicator has been the principal focus of attention in the short- to medium term. MPI plans to prepare a detailed implementing instruction for PM Order No. 2 and coordinate with relevant governmental entities to create indicator-specific working groups.

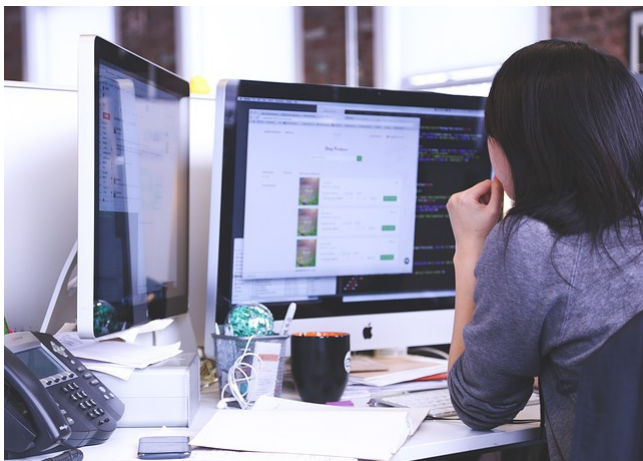


Image Source: Pixabay

Key indicator-specific updates announced by the MPI during LBF 11 are detailed below:

Starting a Business

- MPI signed an agreement on 20 April 2018 to set up a task force and secretariat team to support implementation of Doing Business reforms
- MPI also convened meetings with the Investment Promotion and Management Committee
- The one stop shop was officially launched on 25 May 2018
- A new IT system has been developed to track investor documentation
- An investor hotline (1503) has been set up
- The MPI finalized Instruction No. 0537/MoIC dated 4 May 2018 on starting a business (an individual or a legal entity)
- Issued a Notice on Business Registration (individual or legal entity) No. 1120/MOIC.ERM dated 15 May 2018 and organized a consultation meeting with central level line agencies
- Worked with the Ministry of Finance on the new business registration system that will enable investors to obtain a business registration and a tax identification number concurrently
- Conferred with the Ministry of Public Security to assess the feasibility of completing company seals within 5 working days
- Conferred with the Ministry of Information, Culture and Tourism on ways to streamline procedural requirements for obtaining a company signage permit

Status Update on Other Doing Business Indicators

Doing Business Indicator	Status
Dealing with Construction Permits	<ul style="list-style-type: none"> -Ministry of Public Works and Transport is coordinating reform efforts -Urban planning law has been amended and approved by the National Assembly -Article 19 of Presidential Decree No. 327 of 26 December 2017 stipulates that the timeframe for obtaining a construction permit should not exceed 30 days
Getting Electricity	-The Ministry of Energy and Mines is working with Electricite du Lao to reduce the number of steps to obtain an electricity permit from 6 steps to 3 steps. In addition, they plan to set up a committee to review the regulatory framework for obtaining an electricity connection
Registering Property	-The Ministry of Natural Resources and Environment will participate in a plan to streamline procedures for property registration and transfer of property rights, among others
Paying Taxes	-The Tax Department in the Ministry of Finance will review current tax legislation with the objective of clarifying contradictory provisions
Trading Across Borders	-MoIC and MoF will continue ongoing efforts to improve this key indicator
Protecting Minority Investors	-Bank of Lao PDR has established a special internal task force comprised of members of various government entities focused on capital markets

Post-LBF Assessment from Private Sector Participants and Other Stakeholders

Post-LBF interviews were conducted with two leading members of the Lao ICT startup community along with an international consultant advising the MPI on the implementation of the Ordinance on Regulatory Amendment and Coordination Mechanism of Business Operations in Lao PDR (PMO Decree # 02) in order to assess their overall view of the forum as well as the government's responses to the key recommendations presented.

The international consultant highlighted the following:

- The Investment Promotion Department of MPI has limited internal capacity to implement its coordinating responsibilities related to PM Order No. 2 (coordination with line ministries to improve the 10 indicators in the WB Ease of Doing Business Report for Lao PDR)
- Staff members across stakeholders need specific, prescriptive guidance on steps to take; there are varying levels of preparation and engagement across ministries
- Short-term and long-term priorities across indicators have not been determined. One key challenge is that Lao PDR's National Legislative Plan drives the country's legislative agenda. Legislation is considered by the National Assembly based on the schedule outlined in the plan; this restricts the flexibility in setting legal and regulatory reform priorities

The ICT startup company owners who attended the LBF believe that the DB initiative is a step in the right direction; however, they indicated that streamlining registration procedures alone is inadequate. There is a need to change the institutional culture in the government agencies that oversee business registration procedures.

Notes

¹ *Doing Business 2018: Reforming to Create Jobs*, World Bank, 2018

² *Business Formalization in the Lao PDR*, Asian Development Bank (ADB) and Australian Aid, September 2016, p.7

³ *Ibid.*, p. 7

⁴ *Ibid.*, p. 10

⁵ *Ibid.*, p. 10

⁶ *Summary of Prioritized Issues and Progress - Public-Private Dialogue through the Lao Business Forum*, Lao Business Forum (LBF) Secretariat, 2018, pp. 17-19

⁷ *Summary of Prioritized Issues and Progress - Public-Private Dialogue through the Lao Business Forum*, Lao Business Forum (LBF) Secretariat, 2018, pp. 17-19.

⁸ *ECCIL White Paper 2018: Improving Lao PDR's Position in the Ease of Doing Business Index*, European Chamber of Commerce and Industry in Lao PDR (ECCIL), 2018, p. 19.

⁹ *Doing Business 2018: Reforming to Create Jobs*, World Bank, 2018

¹⁰ *Summary of Prioritized Issues and Progress - Public-Private Dialogue through the Lao Business Forum*, Lao Business Forum (LBF) Secretariat, 2018, pp. 17-19



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The Lao Business Forum is a public-private dialogue platform that was launched in March 2005. The objectives of the LBF are to: 1) facilitate public and private sector dialogue, including participation by the broadest range of private sector companies, from domestic SMEs to foreign investors; 2) ensure consistent enforcement and transparent interpretation of laws and regulations; 3) remove the bureaucratic impediments that businesses encounter in entry and exit processes and provide feedback on business-related policies, laws and regulations that impact the private sector; and, 4) provide feedback on draft government laws and regulations that could potentially impact the business community and assist the Lao government in private sector-related policy development.

