



Summary of Prioritized Issues and Progress

Public-Private Dialogue through the Lao Business Forum

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Issues Raised Prior to 11th Lao Business Forum

Fully Resolved Issues

Law and regulation-related issues

1. Value-added tax on banking services (non interest income)

Summary of the issue: Value-added tax on the non-interest income of commercial banks has not been implementable because the current VAT law related to banking and financial institution services is not clearly defined, and the method of calculation is complicated.

Proposed recommendations:

- The tax department should bring the Lao VAT Law in line with international practice by exempting all banking and financial services. However, non-banking/financial services supplied by banks/financial institutions remain subject to VAT. If that recommendation is accepted by all relevant stakeholders, the provisions of Article 18 of Instruction No. 3111/MoF of 27 November 2009 on the Implementation of the Value Added Tax Law, after revision and approval by all stakeholders, should be included in the latest VAT Implementation Instruction. (Article 18 specified in detail which banking services and operations of financial institutions were exempt/not exempt from VAT).
- The tax department should also issue a formal notification to commercial banks on the implementation of VAT law related to banking services before the amendment of the VAT law is officially completed. It is important that the tax department gives sufficient time for commercial banks, in advance, by providing a list of services that will be subject to VAT.

Relevant government agencies:

1. Tax Department, Ministry of Finance (MoF)

Status:

- Article 12.14 of the Amended VAT Law no 48/NA dated 20 June 2018, stipulates that “Deposit and lending interests, revenue from money transfer, interest from exchange rate and other financial transactions of other commercial banks or financial institutions as authorized by the Bank of the Lao PDR (BoL), including transactions related to collateralized assets” shall be exempt from VAT.

- According to the actual implementation, the non-interest income of commercial banks is fully exempt from VAT and was never collected from the outset.

2. Value-added tax on transit transport

Summary of the issue: Transportation vehicles transiting cargo through Lao PDR to a third country destination are subject to a VAT levy for the transiting journey. This diminishes the competitiveness of transportation companies in Lao PDR and is confusing for business operators. In addition, local tax authorities have implemented their own regulations to collect VAT on transit transport. However, the inconsistent method of calculating VAT charges on transit transport has caused confusion for both local and foreign transport operators.

Proposed recommendations:

- Local tax authorities should neutralize related legislation on transit transport created under their own jurisdiction and apply only the VAT law approved by the central Government.
- Therefore, it is recommended that VAT charges on transit transport be exempt based on the general rules as specified in the law on VAT.

Relevant government agency:

1. Tax department, MoF

Status:

- MoF issued notification no. 128, dated 17 May 2017, to the Director General of the tax department regarding the calculation method for the supply of transport services, ensuring that VAT charges on transport transit are calculated in a transparent, consistent and convenient fashion across the country.
- According to the amended VAT law no 48/NA dated 20 June 2018, Article 12 stipulates that transit transport services shall be exempt from VAT charges, and the law became effective from January 2019
- Recently, the Tax Department issued Official Notification No. 2798/MoF.TD, dated 8 July 2019, to provincial tax authorities to full comply with the Amended VAT Law no 48/NA.
- The latest information from transport operators suggests that the VAT on transit transport is no longer collected at provincial level, including Khammuan province. Therefore, this issue has been fully resolved.

3. Excise tax on Internet usage

Summary of the issue: Internet usage is an essential part of today's society and necessary for research, analysis, and development. Therefore, it is inappropriate to consider the Internet as a luxury good, and the 10% excise tax on the Internet (stipulated in Article 20 of the Tax Law of 2015) should be abolished.

The Prime Minister's Office issued notification no. 1194/PMO, dated 9 August 2017, instructing line ministries to follow up on Lao Business Forum issues, including that section 1.1 specifies that MoF should take necessary action to remove the Internet excise tax by amending only the specific Article, then seeking approval from the National Assembly Meeting in August 2017. However, there has been no progress on this issue.

Proposed recommendation:

- The Tax Department should consider abolishing the Internet excise tax stipulated in Article 20 of the Tax Law of 2015, by amending only the relevant Article.

Relevant government agency:

1. Tax Department, MoF

Status:

- According to the Final Draft Law on Excise Tax, which was passed by the National Assembly in August 2019, Article 15.2 of the Draft states that excise tax on Internet usage is 3% (reduced from the current rate of 10%)

4. Export procedure of planted woods

Summary of the issue: Instruction no. 1009, dated 18 October 2016, lists wood products and indicates which can be exported, and Agreement no. 1833/MoIC, dated 3 October 2016, relates to the approval of the list of wood products for export. However, the Agreement does not clearly define the difference between planted and natural woods. This created a lot of problems for exporting companies that plant eucalyptus trees for production and export, including teak and acacia wood, as they are not able to export these planted woods. Recently, the Ministry of Industry and Commerce (MoIC) issued Agreement no. 0002/MoIC, dated 3 January 2018, to approve the list of planted wood products for export. However, this Agreement does not include planted teak so it is currently not possible to export this form of wood. In addition, the sizes of planted wood products that are allowed for export do not meet the demands of the overseas market.

Proposed recommendations:

- Consider including planted teak wood products in the list of “planted wood” for export.
- Consider increasing the approved size of wood products that can be exported according to market demand, or the Government should specify a list of products that are not allowed for export instead of a list of wood products that can be exported.

Relevant government agencies:

1. Department of Industry and Handicraft, MoIC
2. Department of Forestry, Ministry of Agriculture and Forestry

Status:

- MoIC issued Agreement no. 0002/ MoIC, dated 3 January 2018, on the approved list of wood products for export. This Agreement adopted the list of timber products for export (amended list) consisting of: the list of “natural wood” products for export (Appendix 01); the list of “planted wood” products for export (Appendix 02); and the list of “bamboo and rattan” products for export (Appendix 03). This Agreement is also based on Government Notification No. 2035/PMO, dated 21 December 2017, on the amendment of Agreement no. 1833/MoIC, which does not specify the adoption of teak wood products.
- MoIC issued Amended Agreement No. 0939/MOIC.ID, dated 01/08/2019, to replace Agreement No. 0002/MOIC.ID on the approved list wood products for exports, which includes key detailed information as follows:
 - A separate list of wood products for export between forested woods and planted wood.
 - Planted teak wood is included in the list of wood products for export.
 - Some forms of other planted wood products can be now exported without being processed.
 - The dimension of wood products allowed for export has also been increased.

5. Businesses registration procedure

Summary of the issue: Business registration and licensing procedures for general business activities are cumbersome and costly, and require several unnecessary, unreasonable conditions. In addition, there are huge discrepancies between central and local authorities in terms of procedures for business registration and licensing. In most cases, it takes longer to register a business at local level because provincial authorities require many additional rules and conditions.

Proposed recommendations:

- MoIC should work with relevant government agencies to improve the standard procedures for business registration and business operating licenses.
- MoIC should use the step-by-step mapping of business registration procedures supported by the Second Trade Development Facility Project (TDF2) as a reference for the implementation of Prime Minister's Order No. 02/PMO, dated 1 February 2018.

Starting business issues has now been fully resolved.

Other related procedure to starting a business will require further discussion as follows.

1. Ministry of Public Security (MoPS) is required to issue a notification or instruction regarding the company seal for consistent implementation across the country. This is because the procedure for obtaining company seals in some provinces is different for the registration of company seal is needed for another government agency. If this procedure is formalized across the country by only one agency to be responsible for issuing and registering the company seal at the same time within 5 days, it would be very convenient.
2. MoPS should take serious action on Foreign Investors Background Check to follow international norms: 1) This procedure should be done after business registration certificate is issued and there needs to be formal procedure, time require and official fees; or 2) consider to eliminate this process altogether (following the rights and responsibility of the MOPS specified in the Law on Immigration Control). If this procedure is formalized and can be done at the same with registration certificate, it can be issued simultaneously or no later than 2 days (from 10 days to 8-9 days), this will also be a basis for the online registration in the year 2022 Plan.
3. MOF should cancel the manual issuance of VAT registration and adopt the automatic registration system. If the registration of VAT can be automatic, it will be eliminated from the procedure for starting business.
4. MICT should remove the requirement for approval of company signage with proper regulation. Some local authority still requires new companies to get

approval first before they can make signage. If this process can be removed, it will also be eliminated from starting business procedure.

5. Ministry of labor and social welfare should expand the certification of social welfare across the country to ensure that it can be done in 1-2 days. Now this procedure is done at the central level only, which cause delays more than one month. If this can be done locally, it will reduce the time to 1-2 days as indicated in the Instruction of Social Security Law 2019.

Relevant government authority

1. DERM, MOIC
2. Tax Department
3. Family Book Management and **Grass-Root** Level Development (company seal and registration) and General Public Security Department(Background checks of foreign investors) MOPS
4. National Office of Social Security Fund, MLSW
5. Culture Department, MICT

Progress update

- Agreement No. 0023/MoIC.DERM, dated 9 January 2019, on Enterprise Registration stipulates that if a business is not on the controlled list an enterprise registration certificate can be issued straight away (no more than 10 working days) without approval from related agencies. Businesses falling under the controlled list and concession activities shall comply with the law on foreign investment promotion.
- Notice No. 0489/MoF.O, dated 5 March 2019, on the Issuance of a Tax identification number (TIN), and Announcement No. 5489/TD, dated 17 October 2018, on Introduction of Tax Management System (TaxRis) removed the issuance of TIN certificate, and the TIN shall be issued together with an enterprise registration certificate.
- Enterprise name reservation has been cancelled (Notice No. 1067/DERM, dated 19 May 2017).
- The requirement for an enterprise location certificate has been eliminated from the enterprise registration procedure.
- The requirement for enterprise seal or stamp has been eliminated, and shall be obtained once enterprise registration is complete.
- Reduced time needed for labor registration from three weeks to two days.
- Reduced time required for checking investor backgrounds from 10 days to 5 days.

- the procedure for registering Article of Association will be done after issuing business registration certificate according to the Notice no. 1618/MoF 30 May 2019 on the Improvement of the Procedure for Coordination Mechanism between Assets Registration Management Department and tax Authority
- New business registration system has been implemented by including the TIN number across the country (since 15 October 2018 and today More than 12795 new enterprises have been registered under the new enterprise registration procedure at all levels)
- MOIC recently issued a notification no. 2140/ dated 3 October 2019:
 - enterprises can now their Business Registration Certificate to apply for seal from MOPS as indicated in Article 21 of the Enterprise Law 2013
 - enterprises will receive seals and authorization certificate within 5 days after submitting application form.
- As a result, the procedures for enterprise registration have been reduced from 10 steps to 4, and from 228 days or average 174 to 40 days.

Issues with some progress made, but further discussion required

Law and regulation-related issues

6. Operating license issuance of line ministries

Pursuant to the issues raised during the 11th Lao Business Forum 2018 regarding cumbersome procedures for business registration and operating licenses, relevant government agencies have taken action to address the issue. This is especially notable with regard to the time needed for business registration procedures, which has been significantly reduced to only 5 to 10 working days. Major improvements include: the issuance of a tax identification number together with the business registration certificate; the cancellation of requirements for company seal and signage; reduction in steps on requirements for employee registration and foreign investor background checks; and the approval of the industry and trade activities requiring business operating licenses, which helped speed up the process significantly. However, after getting a business registration certificate, it is still very difficult to obtain business-operating licenses from the line ministries. The procedures for getting business operating licenses have always been challenging. For instance, there are no clear guidelines or procedures to follow to obtain operating licenses from line ministries; the whole process typically takes a lot of time; and additional documents are excessively and unreasonably requested at times, which causes delays. More specifically:

- Several line agencies have not provided specific guidelines or clear steps and predictable timeframes for issuing business-operating licenses. In addition, the application form accepting system and the reporting system within the ministry in charge of issuing Business Operation Licenses is too complicated (i.e.: an application form is submitted to the ministry's cabinet for study; upon completing the study, the ministry's cabinet further submits the form to the department concerned for consideration and feedback; after a study by the relevant department the application is returned to the ministry's cabinet; thereafter the ministry's cabinet submits a report to the minister for consideration and approval of the issuance of a Business Operations License; thereafter the minister will submit an application form to the line sectors in charge of the issuance of Business Operation Licenses).
- In the issuance of a TIN to a Representative Office, MPI and the Department of Tax shall collaborate through the Link to each other. Once MPI issues a Representative Office Establishment License, the TIN can be printed on such a Representative Office Establishment License.

- The procedures to obtain a investment license is unclear according decree 03/PM, dated 10 January 2019, for companies that are already running but have not previously operated under controlled activities.
- The procedures at the MPI One-Stop Service are still slow and complicated. At present, for activities under the controlled list, investors must go to the One-Stop Service to apply for investment licenses. The One-Stop Service then seeks comments for approval from line ministries. However, after getting the investment permit, investors must obtain a business registration certificate from MoIC, then obtain operating licenses from line ministries, which involves several further steps and creates complications, since the investors typically go through all steps on their own.
- The procedure to obtain a business registration certificate and operating license at local level is not consistent with central level.
- Foreign investors interested in establishing a business in Lao PDR still have limited access to relevant information on investment and business registration procedures, especially information **on new regulations and legislation, and the minimum registered capital requirement for each sector.**

Even if the private sector sees significant improvements in the “Starting a Business” indicator according the World Bank Ease of Doing Business Ranking, in reality such improvements do not necessarily reflect an improvement in the whole process of starting and operating a business in Lao PDR.

Proposed recommendations:

- MoIC should take the lead and work together with line ministries in order to improve the procedure for getting a business license.
- Line ministries should consider adopting the same application form submitted at MoIC for business registration to issue new business licenses and eliminate unnecessary documents.
- Regarding the issuance of TINs for Representative Offices, MPI and Tax Department should collaborate on information system linkage, as at MoIC. This is because MPI is in charge of registering Representative Offices, so it should be able to issue the TIN at the same time as registering the Representative Office.
- Line ministries should consider streamlining internal procedures by eliminating unnecessary steps, such as approval by the Office of Ministry, meaning that the application forms for business licensing must be forwarded directly to the line departments, then to the Office of the Minister for final approval.

- For activities under the controlled list, the procedure to obtain business licenses should include investment permit with comments obtained line ministries to speed up the process and avoid unnecessary delays.
- Line ministries should reconsider the activities in controlled list, as it creates obstacles and may deter the inflow of foreign investment.
- Strictly implement the business registration and licensing process at local level to be consistent with the central level.
- The relevant agency should create better information dissemination platforms on the requirements and procedures for starting a business, especially through an online system, or through networking between Chambers of Commerce such as the LNCCI and Foreign Chambers of Commerce in Lao PDR.

Relevant government agencies:

1. Department of Enterprise Registration, MoIC
2. Department of Investment Promotion, MPI
3. Other line departments

Status:

- Regarding the procedure to obtain an operating license, MoIC has already issued No. 0044/MOIC.DERM, dated 18 January 2019, on the Adoption of the Industry and Commerce Activities that require operating licenses (meaning that activities not included in the list of industry and commerce can operate after getting a business registration certificate, and no longer need to obtain an operating license).
- The outcome of the public-private consultative meeting on starting and operating a business in Lao PDR, dated 30 August 2019, can be summarized as follows:
 - MoIC is now working with line ministries on issuing the operating licenses, targeting 30 priority licenses (out of more than 200 licenses), taking into consideration international best practices to speed up the issuing procedure for the selected 30 licenses. At present, Industry and Commerce is the only sector that specifies an activity list as a requirement for licensing. MoIC is also working to consolidate the whole list of activities that requires licensing from line ministries to streamline the procedure of obtaining an operating license.

- Regarding the issuance of a TIN by a Representative Office, the Investment Promotion Department has discussed plans to link its database with the tax department's online tax system.


7. Procedure for approving a list of tourists entering Lao PDR (formerly known as Telex)

Summary of the issue: To facilitate the tour operators in bringing tourist groups to visit the country more easily, the Government issued Notification no 1997/PMO, dated 19 December 2016, on the Cancellation of Telex. The Telex process entailed collecting visitor details, including the places they would visit. This was obtained from tour operators before allowing tourist groups into the country, with some fees charged depending on the number of tourists. Tour operators also needed to declare what sites they would visit and which restaurants they would eat at; the details were outlined in the Telex. One of the primary reasons for requiring Telex was to prevent blacklisted individuals from entering Lao PDR. This created difficulties for tour operators as it was not practical. For instance, sometimes visitors wanted to change where they would visit or eat, and the tour operators would be fined for violations. As a result, the Government saw this as a roadblock for tour operators and eventually decided to announce the abolishment of Telex after a longstanding demand from tour operators that it was unreasonable, not supportive of tourism promotion, and creating difficulties for them to bring tourist groups to Lao PDR. Soon after the abolishment of Telex was announced, a new regulation emerged from the tourism police with similar purpose, but which only requires the name of visitors to be declared. The tour operators would still need to prepare documents and physically submit them to the tourism police for each tour group. Therefore, tour operators still have to submit the names of tourists to the tourism police even after the abolishment of Telex. The tour operators view this new regulation as a replacement of Telex, meaning that the Government did not solve the longstanding issue. The tour operators would like the new regulation to be abolished based on the following reasons:

- Using the list of visitors for screening unwanted or blacklisted individuals to enter the country has no added value, and is pointless because all visitors coming to Lao PDR via tour operators must apply for a visa. More importantly, they would have to pass immigration checkpoints at borders, so it should be the responsibility of the immigration authority to deny entry of any blacklisted persons.
- The number of visitors coming to Lao PDR via tour agencies is only a small portion of total visitors to the country, and the registered tour operators must guarantee their safety and any damage caused by their clients; as a result, tourist groups are less likely to be blacklisted than those coming to Lao PDR individually.

- Visitors coming to Lao PDR via tour operators are typically high-income individuals and able to spend money more and stay longer; the Government should support tour operators in attracting these groups of tourists instead of creating barriers for them.
- Visitors who travel to Lao PDR by motorbike are also increasingly common, but still need to enter the country via tour operators, which also require their names to be screened and approved by tourism police, and an officer must be assigned to travel with them, which increases costs for tour operator. This regulation is a burden for them, as the number of tourists from this group will decline in the future. This group of tourists tends to stay in Lao PDR longer and they can travel to different parts of the country, so the Government should reconsider allowing them to enter Lao PDR on their own should they choose, without any officer assigned to travel with them, in order to reduce the costs.

Proposed recommendations:

- The Ministry of Information, Culture and Tourism (MICT) should coordinate with line ministries to support and promote tourism development in Lao PDR.
 - The relevant authority should urgently consider removing the tourist list document as a requirement for bringing tourist groups into Lao PDR, in order to facilitate their travel within the country with no restrictions, as long as the destinations are not prohibited by the Government, regardless of whether they are individuals, tourist groups, or caravans with cars or bikes.
 - The relevant authority should allow tour operators to declare and pay duties on a monthly basis by bank transaction and send the details of the traveler lists by email or fax without having to visit the government office every time. This would reduce costs and help reduce the workload of both the authority and the tour operators, and allow the authority to check and monitor the electronic records of the tour programs when required.
-  The outcome of the public-private consultative meeting on tourism, dated 23 October 2019, can be summarized as follows:
- The private sector and the concerned authority agreed that the list of group tourists entering Lao PDR will continue to require official approval of the tourism police. The procedure for getting the list approved will be improved by proposed use of simple IT communication (such as email and fax). In the future if there is enough budget, it is proposed that IT system or applications be developed for allowing online submission and authorization.

Related government agencies:

- Tourism Management Department, MICT
- Tourism Police Department, Ministry of Public Security

Status:

The outcome of the public-private consultative meeting on tourism, dated 17 September 2019, can be summarized as follows:

- A tourism police representative would bring the issues raised by the private sector for consideration, especially the document requirements for lists of tourists entering the country. It might be possible only to obtain approval in the case of tourists travelling to dangerous areas, or when tourists holding a border pass wish to go outside a restricted area.
- The meeting proposed that a specific consultative meeting to be organized on this issue.

Implementation of the law and regulations

8. Approval procedure of the annual import plan (Master List) of goods and materials exempt from custom duties and taxes under the Investment Promotion Law

Summary of the issue: Pursuant to Lao Business Forum 11 held in 2018, the approval procedure of annual import plans (known as the Master List) of goods and raw materials exempt from taxes under the Investment Promotion Law still remains a challenge, taking up to two to three months to complete. In some cases, goods and raw materials need to be imported before the Master List is approved to accommodate the business activities under the IM8 regime; companies have to provide security in the form of cash or a letter of guarantee issued by a legal entity, creating more burden for the businesses.

In addition, the Law on Customs stipulates “After releasing goods from the warehouse, within fifteen (15) working days, a detailed customs declaration shall be made. Money or the guarantee letter shall be returned”. Otherwise a fine is imposed. However, it is not possible to comply in practice unless the approval of the Master List is completed within 15 days.

The latest feedback from the private sector working group meetings held between March and June 2019 revealed that the approval process for the Master List is still involves difficulties and delays, particularly with regard to approval from line ministries. Sometimes, the private sector has to take the lead to follow up with line ministries even after submitting all required documents to the Single Window Office of the Investment Promotion Department to process and approve their annual import plans.

Regarding the import of goods and equipment exempt from taxes under the ODA scheme, the process typically involves several steps and takes a lot of time, even when there is confirmation and agreement between the Government and International Organizations.

Proposed recommendations:

- MPI should urgently improve the Master List approval procedure under the Investment Promotion Law by: issuing Implementation Instructions with specific steps and timeframes; eliminating the requirement for indicating import checkpoints in the procedure for Master List approval; clearly determining the expected timeframe; and consulting with the private sector on the Implementing Instructions before they become effective.
- The Customs Department should start implementing the Lao National Single Window System and the Modern Master List Management System, and issue supporting legislation for the private sector.

Status:

- The Investment Promotion Department issued Instruction No. 01/IPMC, dated 2 January 2019, on the Policy for Tax Incentives for the Annual Import Plan. This Instruction clearly specifies steps and timeframe for Master List approval. The Instruction also eliminated unnecessary requirements such as written approval from line ministries.
- The Investment Promotion and Management Committee issued a notification to MoF to cancel Instruction no 3578/MoF, dated 19 December 2012, issued by MoF on the implementation of Customs-Tax Policy in accordance with Investment Promotion Policy. Therefore, when companies urgently need to, they can import goods worth more than \$30,000, and general imports can also be made with a value exceeding the initial registered capital.
- Notification no. 420 by MoF, dated 14 February 2018, indicated that one step of the import procedure for tax-exempt goods would be removed within the Ministry. Specifically, approval letters from the Minister of Finance would be

directly forwarded to the Customs Department for clearance of the Master List, with no certification letter from the Department of External Finance and Debt Management required. This new regulation has already been implemented.

- The Customs Department has already completed installation and started use of the Electronic Management and Clearance System of Master List across the country.
- The Investment Promotion Department also improved internal workflow to reduce time by inviting representatives from each line ministry to meet once a week to approve the Master List. As a result, if all required documents are submitted correctly, the approval process shall be completed within two weeks.
- Regarding the import procedure under the ODA scheme, MoF issued Notification no. 420/MoF, dated 14 February 2018, to eliminate one step from the process. After the Minister of Finance issues a Letter of Agreement, it will be forwarded directly to the Customs Department for follow-up and shall not require further confirmation from the Department of External Finance and Debt Management. This Notification has already been implemented. However, no further improvement has been made to make the whole process faster.
- The Public-private consultative meeting with MPI on this issue was held on 23 July 2017. The responses from the MPI representative relating to Instruction No. 01/MPI dated 02/01/2019 can be summarized as follows:
 - This instruction shall replace the previous Instruction issued by MoF. The importation of materials can be allowed multiple times in a year depending on production needs and the total value of imports can exceed registered capital. Companies can create their annual import plan or the Master Lists with the possibility of adding more items to the list known as “emergency import plans”. The goods and materials imported must only serve one purpose – direct production inputs. Some investment projects can request temporary imports.
 - For replacement spare parts, fuel and gas, and goods or materials that can be purchased domestically, exemption is not allowed.
 - The eligibility for tax exemption is such that business activities must be on promoted list based on the Investment promotion law.
 - The approval procedure of the Master List typically takes 31 days, with exceptions for large investment projects such as hydropower and mining, which usually take longer. The future improvement plan will allow the Head of Office of the MPI to approve annual import plans valued at less than \$1 billion; if the value exceeds \$1 billion, the Minister of Planning and Investment must approve. For investment projects approved at provincial level, the application

of the annual import plans must be submitted to a Provincial Department of Planning and Investment. Lastly, for investment projects in special economic zones, the approval of the Master List shall be granted by the Office of Special Economic Zone Management and will not need further approval from MPI.

- For projects funded by the Grant Aid program, or Government Loans or Government Investments, MoF shall approve the Master List and needs no further approval from MPI.
- For the garment industry, the Master List shall be approved first by MoIC, then forwarded to customs department, and needs no further approval from MPI. As for other exporters, approval is required by MPI only.
- For hydropower and mining, initial approval from the Ministry of Energy and Mines is needed, then it is forwarded to MPI for final approval.
- MPI has streamlined its internal approval procedure to speed up the process. For instance, a weekly technical meeting is held at MPI with representative from line ministries to discuss and pass master lists; this has significantly increased the efficiency of the approval process and each Master List can be approved in two weeks when required documents are submitted by the private sector.

9. VAT refund for exporting producers

Summary of the issue: The VAT Refund issue was discussed at LBF 10 and 11, and some good progress has been made. Article 17 of the Amended VAT Law No. 48/ NA dated 20 June 2018 stipulates that exporting goods is zero-rated. However, in practice it appears that several companies are still unable to claim their VAT refund, and some face delays without proper explanation from the tax authority. In particular, companies producing goods via the Cut-trim-make (CTM) approach are not given clear guidelines on the refund procedure. Many are refused refunds by reason of incorrect accounting records. Since the CMT producers only receive payments from the owners of the goods overseas on the service they provide, it is not possible for them to keep accounting records of the total value of the exported goods that are outsourced. Difficulty in getting a VAT refund has a negative impact on export businesses, especially those performing CMT activities. Therefore the private sector, especially exporters, have requested that the government concerned should find a concrete solution to this issue to enable exports to obtain a VAT refund as specified in the VAT Law.

Proposed recommendations:

- The Tax Department should urgently finalize the Implementation Instruction of the current VAT Law.
- The Accounting Department should provide clear explanations and reasons to exporters who are unable claim their VAT refunds.
- The Tax Authority should urgently take necessary action to resolve this issue, or at least provide specific reasons to companies that have submitted all documentation but are still waiting for a response, including those who have been denied refunds in the past without proper explanation.

Status:

- Article 17 of the current Law on Value Added Tax (Amended) no. 48/NA, dated 20 June 2018, stipulates that exporting goods shall be zero-rated. Therefore, exporters are entitled to a VAT refund.
- The Tax Department is now drafting the Implementing Instruction.
- The outcome of the public-private consultative meeting on tourism, dated 22 October 2019, can be summarized as follows: the Tax Department suggested that, for the time being, companies with pending VAT refunds can submit official letters to the Tax Department. For CMT companies (who only provide the services, but are not the owners of the goods), the Accounting Department asserts that the importation of goods for processing and re-export can be traced by accounting system provided that there is a proof of contracts of the services between the companies and their overseas counterparts, and that the transactions of the service fees can be recorded without including the total value of the goods in their balance sheets. The Tax Department, Customs Department, Accounting Department, and Import-Export Department will further discuss this issue to find concrete solution in the tracking the movement of the goods imported to be processed for re-export under the CMT regime. In addition, the Tax Department will also include more details in the Implementation Instruction of the Amended VAT Law no 48.

10. Competition of the informal sector

Informal practices by individuals and firms running businesses without proper registration and licenses are still widespread in Lao PDR. These businesses do not pay taxes or abide by the rule of law. Informal businesses can take several forms, such as: foreigners running wholesale-retail shops (prohibited as per MoIC Decision no.

1005/MOIC, dated 22 May 2015, on Wholesale and Retails Business); distributing imported goods without Lao language labeling as specified in the Instruction of the Minister of MOIC no. 2501/MOIC, dated 16 December 2015, on Lao Language Labeling; selling illicit products that have health consequences, without a pictorial health warning or tax stamp; and other services provided by individuals or firms without business registration and licenses. Such unlawful practices have a serious impact on the potential loss of government tax revenue, and create an unfair advantage over the formal firms in Lao PDR.

For example: illegal or illicit trade is the supply, distribution and sale of smuggled or counterfeit tobacco products, on which the obligation of duties and taxes have not been paid:

- The first type is the importation, for commercial use, of tobacco products on which payment of applicable taxes, such as duties, excise and value-added tax is paid partially or not at all.
- The second type is the importation, for duty free sale, of tobacco products in the local market, on which taxes are not paid in full.
- The third type is counterfeit products, which are intended to be an identical or near identical copy of a genuine branded product and its packaging, to give it the appearance of being genuine.
- The primary reason for this increased illicit product is the mandatory pictorial health warning attached to the package, which is not on the illegal products. Consumers are switching to these illegal products with no health warning after the Ministry of Health issued a notification prescribing health warning notices to be printed on packaging for tobacco products locally produced and imported for selling in the local market and in duty free shops in Lao PDR.

Proposed recommendations:

- MoIC should reassess the effectiveness of Decision No.1005/MOIC, dated 22 May 2015.
- MoIC should publicize and reassess the results of implementing Minister Order no. 0651/MOIC, dated 12 June 2019, on measures against the illegal operation of businesses by foreigners.
- MoIC should enforce and implement the Law on Business Competition no. 60/NA, dated 14 July 2015

- Concerned government stakeholders must reinforce regular inspection and impose strict measures against violators (importers, distributors, sales representatives, and service providers, and any form of illegal business practices) by denouncing these acts and organizing press conferences to boost public confidence.
- Appoint a taskforce under MoIC to receive complaints, issues and information regarding unlawful business operations, then take necessary action accordingly.
- The simplification of starting business procedures and the implementation of the laws and legislation related to investment promotion are likely to help resolve these issues in the long term.

Relevant government agencies:

1. Department of Domestic Trade, MoIC
2. DIMEX, MoIC
3. Customs Department, MoF
4. Tax Department, MoF

Status:

- The responses from the Government during the public-private consultative meeting held on 30 August 2019 can be summarized as follows:
 - The Customs Department is to work together with the Domestic Trade Department to conduct inspection of illicit goods sold in the markets.
 - In 2018, after the issuance of Decree no. 508, the Commerce Authority confiscated a large amount of illegal goods (including illegal tobacco worth over LAK 1 billion). The Government also called for the private sector to provide information on the illegal goods being sold in the market so that the relevant authority could take necessary action immediately. With regard to the wholesale and retail business run by foreigners, MoIC issued Notification No. 0651/MOIC, dated 12 June 2019. The results of the implementation of this Notification will be reassessed and reported.
 - MoIC has already completed the assessment process with regard to the results of the implementation of the Agreement on Wholesale and Retail in 2015. New legislation and amendments shall be made, depending on the outcome of the assessment.

11. Procedural requirements for transport services of goods in transit

There are two key constraints to transporting goods to a third country through Lao PDR:

- Difficulty in getting a transport permit for a list of goods in transit, currently authorized by the Customs Department.
- Restrictions on the international border crossing points where vehicles transport transit cargo, currently implemented by the Customs Department.

These constraints reduce the competitiveness of Lao logistics firms because air and sea transport are alternatives to land transport through Lao PDR. Transporting goods via Lao PDR will be no longer attractive if it is too cumbersome to obtain a transport permit for a list of goods transiting to a third country. Difficulty in obtaining a permit for goods in transit, coupled with restrictions at border crossing points run by the Customs Department not only cause higher logistical costs, but are also inconsistent with government strategy to transform Lao PDR into a transportation hub – from a land-locked country to land-linked country.

Currently, transporting goods in transit through Lao PDR is quite cumbersome, even for regular goods that are not controlled by the Government or classified as “hazardous or dangerous”, because transport operators must obtain an approval letter from Customs Departments indicating a list of all of the goods they will transport up to 6 months in advance. In addition, the restriction of international border checkpoints, as referred to in certain provisions in the Greater Mekong Sub-region Cross-Border Facilitation Agreement (GMS CBTA) is considered unreasonable, because GMS CBTA has not been implemented. The restriction of international border checkpoints is also inconsistent with the actual scope of GMS CBTA. Therefore, transporting goods in transit should also be governed by bilateral transport agreements for better trade and transport facilitation.

Proposed recommendations:

- It is proposed that the Customs Department establishes a proper legislation (manual) related to in-transit transportation which can be implemented across the country. Such legislation must: 1) exclude the procedural requirements for obtaining the lists of goods in transit (with the exception of goods on the government control lists); and 2) specify clearly the lists of goods that are of potential revenue for the Government, to ensure consistency and transparent implementation.
- The Customs Department should review related regulatory requirements for transit transport to be consistent with Notification no 0749/CD. This is because the source country – Thailand – has started using a paperless system that creates difficulties for obtaining all of the stamps and signatures from relevant Thai

authorities. In addition, the Customs Department should honor Notification no. 0749/CD, and the requirement for contractual agreement between the clients of logistics firms and their trading partners should be eliminated. This is because this requirement is not mentioned in Notification no. 0749/CD, thus creating trouble for logistics firms, and because it does not conform to international practices.

- The relevant government agency should consider including more border checkpoints to allow for transporting goods in transit, in addition to the existing scope of GMS CBTA, adding borders specified in bilateral transport agreements, in order to make Lao PDR a competitive transportation hub in the region.

Relevant government agencies:

1. Customs Department, MoF
2. Department of Import-export, MoIC
3. Transport Department, Ministry of Public Works and Transport

Status:

- According to a recent update from the transport operator representatives, some documents are no longer needed by the Customs Authority (i.e. the purchase agreement).
- The approval of the list of the transit goods is now faster, but there is still no clear guideline or instruction to follow.

12. Fees for registering loans backed by land title rights (issue related to access to finance for small- and medium-sized enterprises)

Summary of the issue:

Article 79 of Presidential Decree No. 003, dated 26 December 2012, states that the fee to register a loan pledge agreement for use of land title rights is equal to 0.2% of the total borrowed amount. This is considered a high rate and has a direct impact on borrowers, who must pay significantly higher fees compared to the previous rate of LAK 50,000 per loan item. Comparable registration fees in three neighboring countries are: Cambodia – a fixed rate of \$120 to \$130 per loan item (approximately LAK 960,000 to LAK 1,040,000); Vietnam - a fixed rate of VND 80,000 per loan item (approximately LAK 30,000); and Thailand - fees are divided into two categories (banks charge a 1% fee but not more than a maximum of THB 200,000, while non-bank financial institutions charge a 0.5% fee but not more than a maximum of THB 100,000 per loan item).

Proposed recommendation:

- The relevant government unit considers revising the fee charged on registering loans backed by using land title rights as per Presidential Decree No. 003, by setting a fixed rate of between LAK 100,000 and LAK 500,000 per item. Alternatively, if based on a non-fixed rate, it should be charged at 0.2%, with a maximum ceiling of no more than LAK 1,000,000 per loan item. This would create a strategy and facilitate efficient businesses operation, by reducing costs and enabling competition in international markets.

Proposed by:

1. Banking and Insurance Working Group

Relevant government agencies:

1. Land Administration Department, Ministry of Natural Resources and Environment
2. Tax Department, MoF

Status:

- The latest draft amendment of Presidential Decree No. 003 has already revised the fees for registering loans using land title rights as follows: loan amounts below LAK 100 million incur a fee of LAK 200,000; loans between LAK 100 million and LAK 500 million incur a fee of LAK 300,000; loans between LAK 500 million and LAK 1 billion incur a fee of LAK 500,000; loans between LAK 1 billion and LAK 5 billion incur a fee of LAK 1 million; loans of more than LAK 5 billion incur a fee of LAK 2 million. The proposed revised fees were agreed and approved in principal by the National Assembly in 2017. Final revision of the Decree is pending.

13. Enhancement of the Credit Information Sharing System

Credit information sharing has a positive impact on easing financing constraints. Public and private credit registries exist to improve the information available on borrowing firms and individuals. The information they make available – including a borrower’s total number of current loans, repayment history, and previous bankruptcies – can allow lenders to extend greater credit at more favourable interest rates.

Under Decision 928 from the BoL, dated 20 September 2012, a Credit Information Centre (CIC) was established as the place for accumulating credit information from commercial banks and financial institutions in Lao PDR, and to provide information to commercial banks and financial institutions to be used as reference in the consideration of extending credit.

Lao PDR scores quite well in the World Bank Doing Business Ranking in terms of depth of information coverage because the CIC includes both firms and individuals, positive and negative credit data, provides online access and contains more than two years of historical data. However, the number of individuals and firms covered by the CIC is only 14.5% of the adult population, which is lower than the East Asia and Pacific region average.

As a public credit registry, the CIC has been improving its services, but Lao PDR does not have a fully-fledged credit bureau. CIC does not provide sufficient information to meet the needs of users. The sector has raised concerns before about information coverage and the quality of customer credit information provided by the CIC, which has the following limitations:

- Information coverage is seen as too limited:
 - Retail and utility provider data not included.
 - CIC not linked to other Government databases.
- Data quality issues, caused by:
 - Monthly refresh and manual data upload, prone to errors and delays.
 - Limited data validation performed by CIC and cross-referencing other databases.
 - Limited enforcement of the membership rules on obligation to provide accurate data.
- Limited search capability and reporting:
 - Database search through manual query, but no system-to-system interface.
 - No automated set of standard reports.
 - Lack of value-added services, such as credit scoring and credit trend reports, bespoke reporting of sectoral data, and historical evolution of credit grades (A/B/C).

Proposed recommendations:

- The CIC should endeavor to include data from utility companies and from other Government institutions including the Ministries of Industry and Commerce, Finance, Home Office, and National Resources and Environment. It should also consider including economic data (for example from the National Economic Research Institute) and information from the courts on company dissolutions. Best practice experience in providing value-added services from credit bureaus in regional countries should be incorporated. An upgrade and release planning should be made available.
- Data validation should be improved and there should be better enforcement of compliance with accurate data reporting standards by the supervision departments of the Bank of the Lao PDR.
- A dialogue should be organized by the CIC to regularly update the membership on new developments underway through newsletters and communication sessions. Many members do not seem aware of the system enhancement plans of the CIC. The Lao Business Forum, with support of the Lao Bankers Association and the Microfinance Association could play a role here.
- The CIC should make every effort to consult the sector on business requirements and development of the future system:
 - Involvement of the user community in business requirement gathering through process, documentation and data analysis, workshops, focus groups and membership surveys.
 - Include user community representatives in project governance over business requirement validation, approval and sign-off.
 - The user community should participate in the vendor selection workshops, prototyping, pilots and user acceptance testing.
 - Consultation on data migration planning and system conversion.

Related government authority:

1. Information Technology Department, BoL
- Responses from the Government during the public-private consultative meeting with the BoL on 6 August 2019:
 - The existing credit information system does not include information from utility and telecom companies, and does not have a credit rating/scoring system available for individuals or legal entities. The Decree on Credit Information Sharing has been drafted and passed by the Government Meeting, and only requires final approval from the Prime Minister. The Draft Decree specifies that

the credit information sharing system shall cover data collected from utilities and telecom companies. Once these data are incorporated into the system, it will be have credit rating/scoring capability for both individuals and legal entities. More importantly, the Credit Information Centre will become an independent legal entity, but will remain under the supervision of the BoL. The establishment of the new Credit Information centre is expected to be complete by the end of 2019, and the new system and full functionalities of the new CIC will be able to operate after 3 years.

- In the past, non-bank financial institutions were not required to join the CIC. However, in 2019 two legislations will be amended to include requirements that non-bank financial institutions become members of the CIC. The amended legislation has already been implemented, and now 30% of the microfinance institutions have joined the CIC.

14. Government policy to support startups (new issue)

Summary of the issue: The majority of startup entrepreneur businesses use new ideas and innovation with a high risk of failure, but relatively high returns. Startups have the potential for economic growth. For instance, job creation and new working styles add value to the economy, encourage new ideas and innovation and a variety of businesses and the use of new technology. Lao startups face several challenges:

- No specific law or regulations to support the establishment and administration of startups.
- Little incentive from the Government to support startups.
- Lack of a good definition of “startups” among the general public.
- The infrastructure required to support a “startups ecosystem” is still limited (for example, in relation to the quality and cost of Internet usage in Lao PDR).

In contrast, in recent years it appears that neighboring countries have shown great interest in and provided policy support for startups. For example, the Vietnamese Government has announced plans to create a business enabling environment that is attractive to businesses, with high potential growth (especially businesses that use new technology and intellectual property). This can be seen in "Vietnamese Prime Minister's Instruction (no. 844/ QD-TTG, dated 18 May 2016) on the approval of policy support the creation of startups enabling business environment and transforming the country into a startup nation by 2015". In addition, Thailand announced the “Thailand 4.0” policy to support and promote business innovation and new ideas using new technology, which includes several measures to promote startups including the National Startup Promotion Center.

Since startups can bring potential benefits to a country's development, the Government of Lao PDR should play a central role in taking the initiative to provide a policy strategy and action plans to support the startup community.

Proposed recommendations:

- The relevant government sector should clearly provide a definition of “startup”.
- Create public awareness of startups by providing a policy to support startup promotion, such as Startup Nation in Vietnam; Thailand 4.0; and Startup India, Stand up India. Such a policy should include specific measures to support and promote startups, including tax incentives, a budget for organizing activities to promote the use of new technology, and training, by bringing together private sector participation to collect feedback on the creation of policy to support the startup community in Lao PDR.
- Establish and improve regulations and laws that can provide direct support to the Starting a Business procedure for startups, such as a regulatory framework to govern online businesses and e-commerce.

Proposed by:

1. SMEs and Startup Working Group

Relevant government agencies:

1. Enterprise Registration and Management Department
2. Department of SME Promotion, MoIC
3. Technology and Innovation, Ministry of Science and Technology
4. Ministry of Post and Telecommunications
5. Domestic Trade Department, MoIC

Status:

The Ministry of Science and Technology commented at the Public-Private Consultative Meeting on Policy to Support and Promote Innovative Entrepreneurship Startup in Lao PDR on 26 September 2018, to the effect that the Ministry would take the lead in promoting sciences and innovation, and pointing out six development plans to:

- Create a better understanding of sciences and innovation development processes through television and workshops/seminars, and work together with LNCCI to organize similar meetings in the future.
- Create legislation, regulation, and policy to support startups.

- Improve human resource development to catch up with international standards.
- Support research and development and use the results to increase productivity across the sector.
- Provide services on science and technology through the import of technical know-how and machines from overseas, and focusing on standard and quality improvement and improving the intellectual property registration system.
- Open doors for international cooperation.
- In addition, the SME promotion department is working on improving the Decree on SME Fund, which will be completed in 2019 and include a startups support policy as one of its key activities.

15. Improving the Tourism Promotion Strategy

Although the number of tourist arrivals and tourism revenue significantly increased in the past year, Lao PDR still lacks good leadership in developing the tourism sector so that it can achieve its goal, and tourism promotion activities are not sufficiently organized. Infrastructure improvement and tourism site maintenance always face budget shortages due to the collection of funds not being properly implemented; therefore, the tourism fund is inadequate to develop and promote tourism in Lao PDR.

Therefore, the Tourism Working Group believes that by allowing the private sector to take part in the decision-making process on strategic planning to develop, support, and promote tourism objectively, it will be extremely important to develop Lao tourism, attract more tourists and use the tourism fund more fruitfully. The private sector also believes that it is essential to establish a Tourism Promotion Board (the Board) to allow the public and private sectors to work together more effectively. Based on the lessons learned by other countries, the Board should be an independent entity, with full authority to lead and manage tourism promotion activities according to its own agenda. The Board should consist of a team of full-time professionals that can implement the tourism work plan at full capacity. The Board will act as a key entity to identify new ideas and strategies to develop and promote tourism, and allocate the fund to support all tourism-related activities in Lao PDR and overseas. Most importantly, the Board must be a transparent organization that can be audited by an external auditor regarding its revenue and expenditure. Several countries in the ASEAN region have independent tourism

promotion boards with specific mandates to plan and promote tourism development, including Thailand, Singapore, Malaysia, Vietnam, Indonesia, and the Philippines.

Proposed recommendations:

- Review the effectiveness of the existing tourism promotion strategy and improve the national tourism marketing plan on a regular basis. The tourism marketing plan should be based on successful experiences from other countries, and all planned activities must be fully implemented in order to achieve expected targets. It is important to allow the private sector to take part in the process of planning and developing a new marketing strategy.
- Conduct a feasibility study to set up an independent tourism promotion board in Lao PDR to lead in marketing and promoting Lao tourism, allowing tourism-related businesses and multiple government stakeholders to become board members to discuss, establish, and monitor and evaluate planned activities to support and promote tourism at central and provincial level. The Board must consist of a team of professionals to manage and implement all functions of the organization.

Relevant government agency:

- MICT

Status:

Responses from the Government during the public-private consultative meeting held on 17 September 2019:

- MICT has created several Strategic Plans at national, regional, and provincial levels (for instance: the Tourism Strategy Plan of Lao PDR endorsed by the Prime Minister; the Regional Tourism Development Plan, endorsed by Minister of Information, Culture and Tourism; and the Tourism Marketing Strategy Plan. Promotion and Management of the Tourism Destination Plan is being drafted. The drafting process of these plans includes inputs from several key government stakeholders. The creation of a provincial tourism strategy plan faces a budget shortage; therefore, only the private sector at local level has participated in the consultative process. The number of tourist arrivals in the first 6 months of 2019 reached 2.2 million (a 5% increase compared to the same period in 2018), using the World Tourism Organization counting method. Regarding the promotion of nature-based tourism, there is no strategic plan to

support. The Department of Tourism Development is working on Green Tourism Development 2030. The Department is also working with the Ministry of Natural Resources and Environment to determine indicators for the use of materials that are harmful to the environment, thus affecting the tourism service sector. In the future, a standard ranking for tourist attractions will be created in cooperation with the Ministry of Science and Technology. The service standards of hotels and the restaurant sector will also be ranked in the future.

- Tourism Management Department: the collection of the tourism promotion fund is clearly specified in the Decree on Tourism Fund no 119/Gov. If any legislation still needs amendment, proposals can be submitted to the Minister of Information, Culture and Tourism.
- Planning and Finance Department: the implementation of tourism fund collection is not consistent. Regarding the use of the fund, 60% is allocated to local authorities and 40% is given to central government. The fund is mostly used for promotion, human resource development, and facilitation.

Issues raised after Lao Business Forum 11

Fully solved issues

Law and regulation-related issues

16. Imposition of interest rate capping regulation

Summary of the issue: The determination of the difference between commercial bank lending and deposit rates (interest rate caps) created barriers to banks in making lending decisions, especially for SMEs, which directly impacted on the ability to access bank credit. Therefore, the private sector proposed that this regulation should be repealed.

Relevant government agency:

- Monetary Policy Department, BoL

Status:

- The LBF Secretariat recruited an International Banking Consultant to conduct a regulatory banking study on the impact of interest rates caps in Lao PDR. Initial findings were shared with the banking sector and the BoL in late 2018. BoL issued Agreement No. 140/BoL, dated 12 February 2019, on the dextermination of iinterest rates of commercial banks, which officially repealed the interest rate caps in Lao PDR.

Implementation of laws and regulations

17. Collection of inspection fee for measurement of standard and quality

Summary of the issue: The Ministry of Science and Technology started a pilot program to conduct inspection of product quality at a border checkpoint (Friendship Bridge 1), following the Instruction of the Prime Minister's Office no 1441/PMO, dated 22 September 2017. The implementation of this pilot program caused extreme difficulties for importers. The Department of Standardization and Metrology, Ministry of Science and Technology, issued Agreement No. 0058, dated 12 January 2018, on the Safety Control of Electric Devices and Electronic Products. The Agreement also specifies that each imported item shall be subject to an inspection fee (even if only a few samples are selected for inspection). The imposition of such a fee increases the cost of imports,

impacting the price of goods sold in the market, and is not aligned with the Decree on Official Fee no. 003/President.

Issues with some progress made, but further discussion still required

Law and regulation-related issues

18. Procedure for investment license

Summary of the issue: The procedure for obtaining an investment license is unclear according to Decree 03/PM, dated 10 January 2019, for companies that are already running but have not previously operated under controlled activities.

- The procedures at the MPI One-Stop Service are still slow and complicated. At present, for activities under the controlled list, investors must go to the One-Stop Service to apply for an investment license. The One-Stop Service then seeks comments for approval from line ministries. However, after getting the investment permit, investors must obtain a business registration certificate from MoIC, and then obtain an operating license from line ministries, which involves several further steps and create complications, particularly as the investors typically go through all steps on their own.
- The procedure for obtaining a business registration certificate and operating license at local level is not consistent with the procedure at central level.
- Foreign investors interested in establishing a business Lao PDR still have limited access to relevant information on investment and business registration procedures, especially information on new regulations and legislation, and the minimum registered capital requirement for each sector.
- Even if the private sector sees significant improvements in the World Bank Ease of Doing Business Ranking “Starting a Business” indicator, in reality such improvements do not necessarily reflect an improvement of the whole process of starting and operating a business in Lao PDR.

Proposed recommendations:

- MPI should take the lead in coordinating with line ministries to streamline the procedure for issuing investment licenses.

- For activities under the controlled list, the procedure for obtaining a business license should include an investment permit with comments obtained from line ministries in order to speed up the process and avoid unnecessary delay.
- Line ministries should reconsider the controlled list activities, as they create obstacles and may deter the inflow of foreign investment.
- Strictly implement the business registration and licensing process at local level to be consistent with central level.
- The relevant agency should create better information dissemination platforms on the requirements and procedures for starting a business in Lao PDR, especially through an online system, or through networking between Chambers of Commerce such as LNCCI and the Foreign Chambers of Commerce in Lao PDR.

Relevant government agencies:

1. Department of Enterprise Registration, MoIC
2. Department of Investment Promotion, MPI
3. Other line departments

Status:

- The response from the Government representative during the public-private consultative meeting held on 30 August 2019:
 - According to the Investment Promotion Law and the Decree on the List of Controlled Activities no 003, the approval of an investment license takes 25 working days. But this is not possible in practice because some line agencies have their own regulations on an approval period beyond that written in Investment promotion law (8 working days), for example, the health and banking sectors. To resolve this issue, MPI has called for action from line ministries to make their regulations consistent with investment promotion law. Meanwhile, MPI is reviewing the list of controlled activities to see if more activities can be removed from the list.

19. Government policy to support the development of nature-based tourism

Nature-based Tourism (NBT) has the potential for development in Lao PDR due to its geographical location and its many suitable natural tourist attractions. Not only does NBT help promote environment conservation and protection, but it also has the potential to generate foreign exchange revenue and is aligned with the Government Sustainable and Green Development 2030 agenda. By definition, NBT is a form of tourism that includes

all kinds of nature-related tourism activities (including ecotourism) such as: trekking; kayaking; rock climbing; and natural sightseeing, including birdwatching and stargazing; as well as cultural heritage associated with nature and the human experience of the rural landscape. NBT is becoming increasingly popular around the world due to the lower cost of developing tourist attractions, and it can contribute to the sustainable economic development of a country. In particular, it can help poverty reduction in rural areas by generating income and creating employment for local people, especially women and young workers. NBT also helps connect tourists with local people and spreads an understanding of their responsibility to protect the environment, while making contributions to society.

Lao PDR has many beautiful natural landscapes suitable for the promotion and development of NBT. At present, 17% of the country area has been protected. The Government recently declared the country's first two national parks – Nakai Nam Theun and Nam Et-Phou Louey – the two largest protected areas in Indochina. According to the International Union for Conservation of Nature, Lao PDR is rich in biodiversity, with an estimated 10,000 species of flowering plants, 166 reported species of reptiles and amphibians, 700 to 800 species of birds, at least 90 species of bats, and more than 100 species of large mammals.¹ Properly protecting and caring for these natural parks and biodiversity will result in popular natural tourist destinations that can attract high-value visitors and generate high revenue for the country. However, developing NBT in Lao PDR still faces several challenges because of the lack of concrete measures to protect the environment and supporting government policy, including:

- No policy measures or implementation framework to deal with environmental protection, air and water pollution, or pollution from slash and burn activities. A lack of a proper waste and water treatment system. Biodiversity is declining every year because of the lack of government measures to stop illegal hunting in protected areas, thus diminishing the value of NBT.
- Infrastructure improvement such as road maintenance and bridge access to natural attractions remains poor, causing NBT to be more costly and therefore unattractive for potential investors.
- No legislation to support the development of NBT in Lao PDR. For instance, there is no regulatory framework to support the development of protected areas for NBT. The concession fees for developing tourist attractions in protected areas are unclear and very high, as they are based on the fees charged for mining and hydropower exploration, making it impossible for small- and medium-sized business operators to acquire the concession rights to develop NBT.

¹ Developing Nature-Based Tourism as a Strategic Sector for Green Growth in Lao PDR, © World Bank.

- Limited participation of the private sector and local authorities in national strategic planning for tourism development – in particular, strategic planning for NBT development.

Proposed recommendations:

- The relevant government authority should improve or amend existing legislation to support the development of NBT and community-based tourism, focusing on the elimination of unnecessary steps in acquiring concession rights and reducing the fees for NBT development. The collection of fees should be transparent. Supporting legislation should focus on protection of the environment surrounding tourist attractions and the health of tourists (for hotels and restaurants). However, it is important to note that any new legislation should not create any barriers to the private sector.
- Include NBT development in the national agenda. Regularly monitor and evaluate such a plan.
- Establish concrete measures to deal with pollution and untreated waste.

Relevant government agencies:

- 1 MICT
- 2 Ministry of Natural Resources and Environment
- 3 MPI
- 4 Ministry of Public Works and Transport
- 5 Office of the Prime Minister

Status:

- Government responses during the public-private consultative meeting held on 17 September 2019: No direct response or clear answers to the proposed solutions.

Implementation of laws and regulations

20. Credit and security interest registration procedures

Secured lending is very common and formal registration requirements are imposed by law and the BoL. High processing fees and complicated procedures are barriers to SMEs seeking access to formal credit. Land titles are the most readily available collateral. Official land titles (“golden border”) are registered at the Land Management Division of the Ministry of Natural Resources and Environment. Urban areas are 70% to 80% covered, but in rural areas have only 20% to 30% coverage. However, sporadic land title registration is not affordable for the rural population.

The BoL placed a restriction on the use of Village Head-certified land titles (“white border”) in November 2017. This has had negative consequences for small borrowers as this regulation means that they are now unable to access to bank loans.

Loan and security interest agreements need to be notarized in order to be accepted by the People’s Court in case of a dispute. A security interest agreement needs to be registered in order to have preferential rights of priority. For immovable assets with the Division of Land Management of the Ministry of National Resources and Environment, and State Asset Management Department under MoF.

The registration process for a loan agreement and security interest is cumbersome and the fees are considered high. Information gathered from commercial banks shows that loan documentation and registration consists of six main steps, involving four government agencies. Details of time and costs are as follows:

- Total time to complete the entire process: between 2 and 4 weeks, not counting time spent on agreements between the bank and the customer.
- Total number of government office visits involved: between 7 and 11. Some office visits involve regional travel and/or waiting time at the office.
- Total third-party fees* payable range from LAK 2 to LAK 4 million (excluding out-of-pocket expenses, own time, travel costs and bank fees).

Formal requirements present an unnecessarily high burden on the lending process, restricting access to finance, specifically:

- Lack of substance or added value of certain steps:

- Notary Office stamping, when checks and verifications of agreement correctness, encumbrances or court proceedings are not performed, while authentication has already been performed by the Village Head.
- Registration (perfection) of security interest over immovable asset at both the Land Management Office and the Department of State Asset Management.
- Lack of transparency of fees:
 - Difficult to know in advance what level of fees are involved, as payment of “express fees” may be required.
 - Regional variations in fees.
- Online consultation of land register and court judgments not possible.
- Limitations placed on access to finance by only using officially registered land titles.

Proposed recommendations:

- Process simplification:
 - Online service for request for authentication of land title, encumbrances and pending government land projects.
 - Notarization of loan and security agreements should be eliminated or performed online.
 - Registration of the security interest in immovable assets at the Department of State Asset Management should be eliminated.
 - Standard and published fee scales.
 - Fixed amount/capped fees for sets of documents, not based on number of pages or loan amount.
 - Where possible, fee payments should be made via bank transfer or accepted via a Point-of-Sales terminal only.
 - Permission to use Village Head-certified land titles for “soft collateral” lending in areas with low rates of formal land titling under certain circumstances (< amounts, pledging of security interest, authentication by the Village Head and reporting to the CIC).

Status:

- Responses from the Government during the public-private consultative meeting with the BoL, held on 6 August 2019:
 - Notary Department, Ministry of Justice: it is indeed the case that there are a lot of unnecessary procedural requirements involved in document registration with the Notary Office. There is also duplication of work between registering documents at the Notary Office and the Office of State Asset Management. The purpose of registering loan documents with the Notary Office is to validate the

- accuracy of all documents, which is necessary. In the future, all unnecessary requirements will be eliminated. The official fee for getting documents checked at the Notary Office is only LAK 20,000 per contract agreement (in practice the fee is charged per page of all required documents, which is much higher than the officially stated fee). Regarding the proposed electronically linked system, it is not possible for the Notary Office due to a budget shortage. In future, meetings need to be organized among all concerned stakeholders to improve the procedure for registering loan and security interest agreements.
- Land Department, Ministry of Natural Resource and Environment: regarding the improvement of land-backed collateral registration, systematic land-titling across the country will be complete by 2025. In addition, the online land registration system is being developed, which can be used all over the country. The Law on Land (Amended) 2019 clearly specifies the procedures and timeframe for registering land titles; however, actual implementation is still a challenge. At present, registering land-backed collateral typically takes 10 days. By the end of 2019, the Land Service Center will be created throughout the country to align with the Law on Land. In the future, the Land Service Center will provide services for all land-related document registration, and the users can pay the service fee via the banking system. This service program will first be piloted in Vientiane Capital. The creation of this Service Center will require close coordination with multiple parties involved, especially the Notary Office and the Tax Authority. The registration fee for land-backed collateral loans is under final revision.

21. Difficult procedure for approving tourism-related activities

Organizing enjoyable activities to attract tourists and promote tourism in Lao PDR is extremely difficult and time-consuming – especially, for example, organizing an international marathon and bicycle racing events in the country that can help boost tourism revenue. At present, the approval procedure from the relevant government agency for organizing such events is unclear and takes a lot of time. Therefore, this burden really holds back the tourism promotion in Lao PDR. Article 38 of the Law on Sports no. 15/NA, dated 6 July 2012, states that “In order to organize any Sport Event at the national level, subregional level, regional level, and international level in Lao PDR, the Prime Minister shall give an official authorization with the recommendation from the Minister of Education and Sports”. As a result, when organizing a sports event to promote tourism, such as a marathon or bicycle racing, the organizers will need to seek approval from both Ministry of Education and Sports and the Office of Prime Minister, which is viewed as troublesome and time-consuming. Thus, such events hardly take place in Lao PDR.

Proposed recommendations:

- MICT should coordinate with line ministries to support and promote tourism development in Lao PDR.
- The relevant authority should urgently consider removing the tourist list document as a requirement for bringing tourist groups into Lao PDR, to enable them to travel within the country with no restrictions, as long as the destinations are not prohibited by the Government, regardless of whether they are individuals, tourist groups, or a caravan with cars or bikes.
- In the meantime, the relevant authority should allow tour operators to declare and pay duties on a monthly basis by bank transaction and send the details of the traveler lists by email or fax without having to visit the government office every time, in order to reduce costs and help reduce the workload of both the authority and the tour operators, and allowing the authority to check and monitor the electronic records of the tour programs when required.
- The Government should issue a specific regulation to facilitate the procedure for organizing sports events that promotes tourism in Lao PDR (for example, marathons and bicycle racing), and consider removing unnecessary steps and providing a specific timeframe for approval of any tourism-promoted events.

Related government agencies:

- Department of Elite Sports, Ministry of Education and Sports
- Department of Sports for All, Ministry of Education and Sports
- Research Department, Office of the Prime Minister

Status:

- Responses from the Government representatives during the public-private consultative meeting held on 17 September 2019:
 - Department of Elite Sports, Ministry of Education and Sports: There are two types of sports events that need approval from both the Ministry and Prime Minister's Office. Sports for All (for general sport events) and Elite Sports (sports events that require specific rules to determine their outcome, technical knowledge, judges or referees based on international practices). Organizing elite sports events requires approval in two steps: first from the Ministry of Education and Sports and then from the Prime Minister's Office. If the event only involves domestic athletes, only approval from the Ministry is needed. If the sports event involves

participants from other countries, approvals from both the Ministry and the Prime Minister's Office shall be required. This is to ensure that safety and order can be maintained by the government department concerned, including Ministry of Foreign Affairs, to handle a large inflow of foreign athletes; and the Ministry of Public Security to provide security control during the event. For sports events taking place in the provinces, event organizers can coordinate directly with the provincial authority without going through central level. In future, it will be necessary to organize technical meetings with key government stakeholders, especially the Ministries of Education and Sport, Information, Culture and Tourism, Public Security, and Foreign Affairs to further discuss this issue in order to find concrete solution.

22. Unfavorable electricity tariff rates for the service sector

As the tourism sector plays an important role in the socio-economic development of the country, the promotion of tourism-related businesses (hotel, restaurants, resorts) and reducing the cost of tourism products should receive more attention from the Government. At present, the service sector, especially hotels, restaurants, and resorts (unlike the industrial sector), has not received any incentives on electricity rates, making the monthly electricity costs very expensive. The service sector in recent years has played an increasingly important role in the Lao economy, accounting for 41.53% of Gross Domestic Product in 2018, while industrial sector contributes 30.9% of Gross Domestic Product.² Therefore, the private sector, especially hotel and restaurant association, is of the opinion that the government should treat the service sector like the industrial sector as well. According to the 2017 data, the electricity rates for commercial (or service sector) is 40% higher than industry (for instance, low voltage electricity rate for industry: LAK 779/kilowatt hours and commercial: LAK 1,101/kilowatt hours).³

Comparing to Laos' neighboring country such as Thailand, which has a more advanced tourism development, the electricity tariff rate for commercial is lower than industry by 30%.⁴

Proposed recommendation:

- The Government should consider adjusting the electricity tariff rates for the commercial or service sector to match the industrial sector to help reduce the costs of service businesses, especially those revolving around and promoting tourism development in Lao PDR.

Relevant government agencies:

- Energy Policy and Planning Department, Ministry of Energy and Mines
- Electricite Du Lao

² Lao Statistics Bureau: <https://www.lsb.gov.la/en/#.XXhv25MzaRs>

³ ຄຳເພື່ອ (ກີບ ຕໍ່ກິໂລວັດໂມງ) ອີງຕາມແຈ້ງການຂອງກະຊວງພະລັງງານ ແລະ ບໍ່ແຮ່ ເລກທີ 0325/ພບ, ລົງວັນທີ 09 ມີນາ 2012.

⁴ <https://zestybliss.files.wordpress.com/2016/01/panel-1-4-del-mundo-competition-and-security-of-supply.pdf>

Status:

- Responses from the Government representative during the public-private consultative meeting on the tourism sector, held on 17 September 2019.
- Energy Policy Department: the ratio of electricity usage for the service sector is low (16.2%) compared to that of the industrial sector (42%). According to the instruction of the Government, food security is a critical concern for the country. Therefore, the Ministry of Energy and Mines will only consider the revision of the electricity rate for agriculture first. If the tourism sector receives endorsement from the Government to subsidize or support the electricity rate, the Ministry will take the issue into consideration.

23. Support policy for the financial technology services

Financial technology (FinTech) has the potential to promote financial inclusion in Lao PDR, especially for those with no access to formal financial services and in remote areas. FinTech can benefit underserved individuals and communities through features including “mobile money” and “e-wallets”. The promotion of financial inclusion is also in line with the sustainable development agenda, and for Lao PDR it is crucial because the unbanked population accounts for 60%. Fintech such as e-wallets has a potential benefit for Lao PDR as it is aligned with the financial inclusion roadmap:

- Increase financial inclusion in rural communities through better financial literacy, training and cost-effective products.
- Offer last-mile payment solutions to the unbanked society in rural areas and increase convenient access to financial services.
- Support Lao SMEs in the area of payments and collections to enhance productivity and profitability.
- Offer innovative financial services to Lao businesses for expansion in collaboration with banks, microfinance institutions and other financial institutions.
- Provide digital solutions to general Lao consumers to minimize cash usage and connect to e-commerce.

Therefore, it is crucial for concerned government authorities, especially the BoL, to consider the importance and potential benefits of FinTech for improving financial inclusion in Lao PDR. In particular, it is important to improve regulations for

implementing the e-money framework and allowing more players to enter the industry. At present, investors interested in providing such services face several challenges:

- Lack of transparency in evaluation process of e-wallet pilot application from the Financial Institution Supervision Department (September 2017) and Payment System Department (March 2018).
- Laws and regulations take a long time to draft and even longer to approve.
- No “sandbox” to prove project concept in a controlled environment.
- No feedback from regulators on applications.

Proposed recommendation:

- Since the BoL has not provided any clear guidelines or instructions to implement the e-money framework, and there is no predictable timeframe to allow FinTech to operate, the BoL should review the existing regulations to support the e-money framework and provide clear feedback and clarification to the firms that apply to operating licenses for this industry.

Relevant government agencies:

- Financial institution supervision department, BoL
- Payment system department, BoL
- Information Technology Department, MPT

Status:

- The Responses from the Government representative during the PPC on financial service sector, held on 6 August 2019:
 - Department of Payment System Management: the financial service providers must comply with the Law on Payment no. 32/NA and requirements of the BoL. The service providers must have sound financial security, proper governance and management system, risk management, financial consumer protection, and ensure the competitiveness and effectiveness of the payment system with minimal transaction costs. Recently, the BoL has approved the establishment of the first payment company in the country – the Lao Digital Payment Network. This company will control all small financial transactions in Lao PDR. Therefore, all financial products will involve this company as the key intermediary for payment facilitation. Although Lao PDR does not have supporting regulations in place, a few players have already been granted permission to pilot digital financial products such as e-wallet, payment via QR code, payment via WeChat, and

AliPay (the use of crypto currency for transactions in Lao PDR is strictly prohibited). In the future, once the legislation on digital financial payment is complete, non-bank financial service providers can apply for licensing and will be able to provide e-payment services. In addition, the Strategic Plan for National Payment System is being developed and will require the involvement of several key stakeholders.

- The Information Technology Department, Ministry of Post and Telecommunications proposed further discussion between the Ministry of Post and Telecommunications, Ministry of Science and Technology, and the BoL on the future development of the Lao IT infrastructure, in order to enable inclusive financial access for rural people. In addition, all concerned parties must create a better business enabling environment, allowing interested companies to start testing their products while waiting for the making or adopting of the new regulations.