

Speech of Ms. Valy Vetsaphong, Vice President of the Lao National Chamber of Commerce and Industry

12th Lao Business Forum

Date: November 12, 2019; Time: 08:00-12:00

National Convention Center, Vientiane Capital

- H.E. Mr. Thongloun Sisoulith, Prime Minister of Lao PDR;
- Mrs. Khemmani Pholsena, Minister of Industry and Commerce;
- Ministers, Deputy Ministers, Directors General, Deputy Directors General;
- Their Excellencies, Ambassadors, Representatives of diplomatic delegations and international organizations;
- Representatives of the domestic and foreign business communities;
- Distinguished guests, ladies and gentlemen.

It is a great honor for me to speak in front of you this morning at the 12th Lao Business Forum. On behalf of the Lao National Chamber of Commerce and Industry (LNCCI) and the Private Sector in Lao PDR, I would like to present to you the progress made on all issues consulted under the process leading to this year's Lao Business Forum.

The Public-Private Dialogue mechanism, formally known as the Lao Business Forum (LBF), is an annual, year-round discussion process aiming to improve the business environment in Lao PDR. LNCCI acts in a secretariat role for the private sector, while the Ministry of Industry and Commerce is a Focal Point for the public sector. Together, LNCCI and MOIC co-organize this high-profile annual event with financial support from the Lao PDR Competitiveness and Trade Project. In order to prepare for today's event, we have worked very hard throughout the year with both the public and private sector to resolve pending issues, as well as new issues raised during our discussion process. I would like to report our progress and key achievements as follows:

- After LBF 11, the Secretariat team followed up with the line departments of concerned ministries for discussion and to provide technical support in resolving the issues in accordance with the Notification of the Prime Minister Office's No 1919/PMO, dated 15 November 2018.
- The LBF Secretariat team organized Private Sector Working Group meetings to collect key issues from the private sector, including those from foreign investors between March and July 2019. In total, 23 issues were prioritized, including issues raised before LBF 11.
- Public-private Consultation Meetings (PPCMs) were held between July and October 2019 to discuss and propose solutions to all prioritized issues. The chairs chairmanships of PPCMs have been elevated to Deputy Ministers of the line ministries (previously, PPCMs were co-chaired by the DDG of DPC and Vice President of LNCCI). Notably, four PPCMs were successfully organized:

- 23 July 2019: PPCM with Ministry of Planning and Investment on issues related to the approval procedure of annual import plans (the “Master List”) of goods and materials exempt from customs duty and taxes under the Investment Promotion Law;
- 6 August 2019: PPCM with the Bank of the Lao PDR on access to finance issues;
- 30 August 2019: PPCM with MOIC on Starting and Operating Businesses; and
- 17 September 2019: PPCM with the Ministry of Information, Culture, and Tourism on Tourism Development in Lao PDR.

According to the agreed actions from the four PPCMs, issue-specific meetings need to be organized so that the key government stakeholders and the Private Sector can have sufficient time for in-depth discussion of each issue. Some significant progress was also made during these meetings. For instance, line departments agreed to bring some issues forward for consideration in finding solutions in the short-, medium-, and long-term. Following the agreed actions from the PPCMs, the LBF Secretariat team facilitated two important meetings on two specific issues: - with the tax department on VAT refunds on 22 October 2019; and with the Tourism Police on the regulation for bringing group tourism into the country. Issue-specific meetings will be organized after LBF 12 regarding remaining issues that require further discussion with line departments.

This year’s PPCMs with line ministries received positive feedback from participants from both the public and private sector, as a very effective mechanism to address private sector issues. We can also see that the Government pays more attention to private sector concerns, and is keen to work together to find concrete solutions to all issues.

H.E. Prime Minister Thongloun Sisoulith and distinguished guests.

Next, I would like to briefly report to the meeting on the progress made through the public-private consultative process on 23 priority issues. For detailed information on each specific issue, please refer to the issue summary that we already distributed.

The progress made on issues raised prior to LBF 11 can be summarized as follows:

- Five issues have been completely resolved:
 1. Value-added tax on non-interest income of commercial banks. The commercial banks proposed that non-interest income of commercial banks should be exempt from VAT because there is no clear regulation on how VAT on banking services can be calculated and collected. The Ministry of Finance accepted the proposal as it is now stipulated in VAT Law no 48/NA, dated 20 June 2018, Article 12, that lending and borrowing interest, income from transfer services, profit from foreign exchange rates, and other financial transactions of commercial banks or other financial institutions authorized by the Bank of the Lao PDR shall be exempt from VAT. Actual implementation has confirmed that there is no VAT collection from these finance-related services. Therefore, this issue is considered fully resolved.
 2. Value-added tax on transit transport services. The transport operators proposed that VAT charges on transit transport service should be exempt because they reduce the competitiveness of local transport companies, and because the implementation of

VAT collection from transit transport is not consistent across the country. The Ministry of Finance accepted the recommendation of the private sector and has already included the exemption of VAT on international transit transport services in Article 12 of the Law on VAT (Amended) 2018. Most recently, the Tax Department issued Official Notification No. 2798/MoF.TD, dated 8 July 2019, to provincial tax authorities to fully comply with the Amended VAT Law no 48/NA. It has now been confirmed by the transport operators that VAT on transit transport is no longer being collected by local tax authorities.

3. Internet excise tax. The private sector proposed the removal of the 10% excise tax on the Internet in LBF 10 and 11. This is because the Internet is necessary for everyday life including work, education, research and development. Therefore, it is inappropriate to consider Internet as a luxury good. The Ministry of Finance accepted the recommendation for consideration in the drafting process of the new Excise Tax Law. The Draft Law was passed by the National Assembly in June 2019, which indicates that excise tax on the Internet is set at 3% (reduced from 10% in the existing law).
4. Export regulation for wood products (planted wood). The private sector proposed that MOIC consider creating two separate lists of wood products that are allowed for export: natural wood and planted wood. Planted teak wood should be included in the list of allowed export products, and the size of each product should be modified to reflect the reality of market needs. MOIC accepted the proposal and revised the Agreement on List of Wood Product for Export No. 0939/MOIC, dated 1 August 2019. The responses from the private sector on this revision were very positive as they are now able to export a bigger variety of wood products.
5. Procedures for starting a business (previously business registration procedure). 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 complete procedures for starting a business. To resolve this issue, MOIC issued Agreement No. 0023/MoIC.DERM, dated 9 January 2019 on Enterprise Registration, which 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 getting approval from related agencies. Businesses included on the controlled list and concession activities shall comply with the law on foreign investment promotion. As a result, the number of steps required has been reduced from 10 to 4, and the total number of working days has been reduced from maximum 228 days or average 174 days to less than 40 days. However, although the registration process has been improved, the challenge remains for obtaining other required approvals/permits, especially business operating licenses; therefore, more work needs to be done to really improve the whole process of starting and operating businesses in Lao PDR. MOIC is currently leading business licensing reform initiative based on international good practice.

- Ten issues showing good progress, with further action required:
 1. Procedure for obtaining an operating license from line ministries. This issue is a big obstacle to attracting more companies to set up in Lao PDR. There is no clear supporting legislation, and the whole process takes long time. Duplication of document requirement exists among different line agencies, and some local authorities have different requirements for business licensing.
 2. Requirements of the Tourism Police for bringing group tourists. The process of obtaining an approval letter from the Tourism Police is unnecessarily difficult. In order to bring each group of tourists to visit the country, tour companies must prepare a list of tourist names, indicating the purpose of their visit and location. They then visit the Tourist Police office to obtain an original seal from the Director General of the Tourism Police Department. This process really creates unnecessary extra work for both the private sector and the tour companies. The consultative meeting between tour agencies and Tourism Police held on 23 October 2019 resulted in an agreement that tour companies shall continue to submit the list of tourists for approval from the Tourism Police, but the process can be simplified, and the proposal letter can be submitted by scanned email.
 3. Procedure for the approval of the annual import plan or “Master List” of the goods and materials exempt from import duties and taxes under the Investment Promotion Law. The process of getting Master List approval usually takes a lot of time. There has been some improvement recently by the Ministry of Planning and Investment in the form of issuing Instruction No. 01/IPMC, dated 2 January 2019, on the Policy for Tax Incentives for Annual Import Plan. This Instruction clearly specifies the steps and timeframe for Master List approval. The Instruction also eliminated unnecessary requirements such as written approval from line ministries. However, actual implementation still involves obstacles, as obtaining approval of annual imports usually takes much longer than the time specified by the Instruction.
 4. Refund of VAT for export companies. This issue still needs further discussion with the tax authority, as it is not clear to the private sector how a proper VAT refund can be obtained. The meeting between the private sector and the tax department on 22 October 2019 could not reach any concrete solution. The tax department suggested that companies can file documents directly to the tax office for follow-up on pending refunds.
 5. Competition from the informal sector. This issue includes businesses operated by foreigners not approved by the law, and illegal imported goods sold openly in the market. This problem severely affects formal businesses in Lao PDR, especially local small- and medium-sized enterprises (SMEs). It also affects government revenue collection, as businesses operated outside the legal system are not subject to any form of taxation.
 6. Procedural requirement for transporting transit goods. The transport operators assert that the existing procedure for transporting transit goods is burdensome and restricts the competitiveness of Lao companies.

7. Loan collateral registration fee using a land title certificate. Article 79 of Presidential Decree No. 003, dated 26 December 2012, stated 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 borrowing costs. The revised fees were proposed by the private sector, but are still pending for final approval from the Government.
8. Improvement of the National Credit Information Center (CIC). 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. Although the CIC in Lao PDR has been improved considerably, the system still cannot provide sufficiently good information for its members. Based on information from commercial banks and financial institutions, the CIC has a lot of limitations and user fees are relatively high.
9. Government support policy for startups. Startups in Lao PDR face many challenges. In particular, there is no law or regulation to support the registration and operation of a startup. No existing government support policy has been adopted.
10. Improvement of the Tourism Strategy Plan. The private sector believes that its active participation in developing the Tourism Strategy Plan to promote tourism in Lao PDR is crucial to the sustainable growth of the tourism sector. The private sector also believes that a National Tourism Board needs to be established to enable the public and private sectors to work together more effectively, allowing a professional team to take the lead in management and planning for Lao tourism development.

Issues raised after Lao Business Forum 11

- Two issues have been completely solved:
 1. Regulation of the determination of interest rates for lending and borrowing of commercial banks (interest rate caps). The determination of the difference between the lending and deposit rates of commercial banks (interest rate caps) created barriers for banks to make 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. The Bank of the Lao PDR issued Agreement No. 140/BoL, dated 12 February 2019, on the Determination of Interest Rates of Commercial Banks, which officially repealed interest rate caps in Lao PDR.
 2. Collection of fees for product quality and standards inspection. Importation of electronic and electrical devices requires quality and standards checks at Friendship Bridge 1, creating barriers for importers in the form of the extremely high and unreasonable fees applied. Therefore, the private sector urgently requested the Trade Facilitation Committee to coordinate in helping to resolve this issue. To that end, the Prime Minister's Office issued Notification No. 1358/PMO, dated 12 August 2019, on the suspension of product quality and standards checks on electronic and electrical devices. The Notification also specifies that no fees shall be charged. Therefore, this issue is considered solved.

- Six issues showing good progress that will be further discussed:
 1. The issuance of investment licenses. Setting up a business under the controlled list involves complicated and time-consuming processes. Some procedures are duplicates of business registration procedure. Consultation at department level with some ministries identified a lot of inconsistencies on internal regulations among different ministries, that contradict those of the Ministry of Planning and Investment.
 2. Developing Nature-based Tourism (NBT). NBT has the potential to develop tourism in Lao PDR due to its geographical location and its many natural tourist attractions. NBT can generate foreign exchange revenue, create employment for local people, and reduce poverty. NBT is particularly aligned with the Government's Sustainable and Green Development Agenda 2030. However, the development of NBT in Lao PDR has received little attention from the Government and there is no supporting regulation to promote NBT. For instance, official fees related to the development of NBT and environmental impact assessments in protected areas are very high, and set at the same rate as those of the mining and hydropower sector. Therefore, it is impossible for SMEs in Lao PDR to get involved developing this business.
 3. Loan Agreement and Security Interest Registration Procedures. Secured lending is very common and formal registration requirements are imposed by law and the Bank of the Lao PDR. High processing fees and complicated procedures are barriers to SMEs gaining 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. In addition, loan agreement and supporting documents are required to be certified by village chiefs, as well as the Notary and State Asset Management offices. This is a complicated process, especially for SMEs, which creates high transaction costs and eventually prevents them from applying for bank loans. Instead, they choose to borrow from other, informal, funding sources, even when they have to bear higher interest rates.
 4. Regulations on organizing tourism-related activities. Organizing tourism-related activities is a lengthy procedure, which is a deterrent for promoting tourism sector in Lao PDR.
 5. Unfavorable electricity tariff rates for the service sector. Unlike the industrial sector, the service sector (especially hotels, restaurants and resorts) around the country has not received any incentives on electricity rates, making monthly electricity costs very expensive. The service sector has in recent years played an increasingly important role in the Lao economy, accounting for 41.53% of Gross Domestic Product in 2018, while the industrial sector contributes 30.9% of Gross Domestic Product. Therefore, the private sector, especially the hotel and restaurant association, is of the opinion that the Government should treat the service sector in the same way as the industrial sector.

6. Support policy for 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 those in remote areas. FinTech can benefit underserved individuals and communities through features including “mobile money” and “e-wallets”. Promoting and supporting FinTech in Lao PDR, can: support Lao SMEs in making payments and collections to enhance productivity and profitability; offer innovative financial services to Lao businesses for expansion in collaboration with banks, micro-finance and other financial institutions; and provide a digital solution for general Lao consumers to minimize cash usage and connect to e-commerce. Today, there is no regulation governing FinTech operation in Lao PDR.

All distinguished participants,

All of the issues I have mentioned are priority issues that have been discussed through our public-private dialogue mechanism. Due to time constraints, we will not be able to discuss all issues today. We select key priority issues that are considered to have a large impact on the business environment, especially those affecting investment within the country, supply chains of goods and services, employment, and economic development. It is crucial that we take this important opportunity today to hear from the Government departments concerned about their actions to help the private sector deal with these problems:

- Issues requiring action by MOIC:
 - Procedure for obtaining a business operating license.
 - Competition from the informal sector.

Recommendations proposed to MOIC:

- Take the lead in coordinating with line ministries to improve the procedure of issuing business operating licenses by providing the private sector with clear guidelines and timeliness.
- Gather and disseminate information related to the requirement involved in obtaining a business license from line ministries, particularly providing clear information on the minimum capital requirement for each sector.
- Evaluate the effectiveness of the implementation of Decision No. 1005/MOIC, dated 22 May 2015, on the Operation of Wholesale and Retail Businesses; and the implementation of MOIC’s Instruction no. 0651/MOIC, dated 12 June 2018, on Foreigners Running Businesses Prohibited by the Law in Lao PDR.
- Intensify regular inspection and take necessary action against individuals and companies that import, distribute, sell and supply goods or services that are incompliant with the laws and regulations of Lao PDR.

- Issues requiring action by MPI:
 - Procedure for approval of the annual import plan (Master List) of goods exempt from customs duties and taxes in line with the Investment Promotion Law.
 - Procedure for issuing an investment license.

Recommendations proposed to MPI:

- Take the lead in coordinating with line ministries on the Master List approval process under the Investment Promotion Law to improve the overall import procedure. The mining and hydropower sectors, particularly, are facing severe delays to the approval of their import plans.
 - Take the lead in coordinating with line ministries to improve the procedure for obtaining an investment license, taking into consideration the overlapping requirements in the business registration process.
 - Reconsider revising the controlled list of activities, as the existing list is too restrictive and does not appeal to foreign investors.
- Issues requiring action by the Bank of the Lao PDR:
 - Improvement of the Credit Information Center.
 - Procedures for loan agreement and security interest registration.

Recommendations proposed to the Bank of the Lao PDR:

- On the Credit Information Center: The CIC should make every effort to consult the sector on business requirements and the development of the future new system. Involve 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 vendor selection workshops, prototyping, pilots and user acceptance testing. Practice consultation on data migration planning and system conversion. In addition, reduce user costs by charging a fixed annual fee included in the annual membership fee in order to attract more users.
- On the loan agreement and security interest registration procedure: The Bank of the Lao PDR should take the lead in coordinating with relevant ministries to eliminate unnecessary procedures from the loan registration process, and reduce related fees. In particular, the

authentication of land titles, security interest registration and notary office registration (validating the accuracy of loan agreement documents) should be reconsidered to make the whole process easier and less costly.

- Issues requiring action by the Ministry of Information, Culture and Tourism:
 - Document requirements for bringing tourist groups into the country.
 - Improvement of the tourism promotion strategy.
 - Policy to support nature-based tourism.

Recommendations proposed to MOICT:

- Take the lead in coordinating with the Ministry of Public Security for further discussion regarding document requirements for bringing tourist groups into the country.
- Allow the private sector to participate in the formulation of a tourism promotion plan, for feedback and recommendations.
- Conduct a feasibility study on the proposed Tourism Promotion Board to lead tourism development in Lao PDR.
- Evaluate the implementation effectiveness of the existing Tourism Fund collection (based on Decree no. 119/Gov, dated 10 April 2017). If the implementation of this Decree is not effective, new regulations on the Fund collection are needed, specifying clearly how the Fund should be collected and used more productively. Fund collection must be consistent across the country, allowing for more channels to collect the Fund to ensure target revenue is met. It is also important to make information about the actual amount of the Fund collected, and allocation to tourism promotion activities publicly available.
- Coordinate with line ministries to improve and adopt legislation to facilitate the promotion of nature-based tourism, focusing on reducing the steps involved in concession license approval and fees for developing NBT in protected areas, including the environmental impact assessment fee, which is extremely high in comparison with fees applied to mining and hydropower projects.
- Coordinate with the Ministry of Natural Resources and Environment, Public Works and Transport, and the City Development and Management Organization to find solutions to pollution issues (air, water and waste) which can negatively affect tourism development in Lao PDR.

Issues requiring action by the Ministry of Finance:

- VAT refund for export processing companies.
- Registration fee for bank loans using land title as collateral.
- Requirements for the approval of transport services for goods in transit not included in the prohibited list.

- Competition from the informal sector.

These issues were already discussed in LBF 10 and 11. The Ministry of Finance is requested to:

- Finalize the Implementation Instruction of the VAT Law, resolve VAT issues and provide formal responses to companies that have been unable to receive a VAT refund, including clear guidelines and expected time period.
- Coordinate with line ministries to finalize the Draft Decree 003/president on Government Official fees, or at least inform the public about the expected completion date.
- Consider the removal of procedural requirements for transport services for goods in transit that are not included in the prohibited list.
- Work closely with MOIC to discuss measures against those involved in the illegal importation of goods.

For other priority issues that are included in the summary note distributed to all participants today, we will continue to follow up on discussions with the relevant government stakeholders in the future.

Lastly, I wish this year's LBF great success in achieving its intended purpose to the highest level possible.

Thank you very much.