



Summary of Prioritized Issues and Progress

Public-Private Dialogue through the Lao Business Forum

Supported by:



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Issues expected to be resolved before the 11th Lao Business Forum

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

Summary of 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 main recommendation is that the tax department brings the Lao VAT Law into 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).
- It is also recommended that the tax department issues 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 list of services that will be subject to VAT.

Relevant government agencies:

1. Tax Department, Ministry of Finance

Status:

- The drafting committee of the amended VAT Law has, in principle, agreed to exempt “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 Lao PDR, including transactions related to collateralized assets”, and included in the draft amendment of the VAT law under Article 15.16 (Draft of Amended VAT law as of 2 February 2018) and will be reviewed and approved by the National Assembly in Mid-2018.

Expected duration for resolution: Short term

2. Value added tax on transit transports

Summary of 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 transports. However, the inconsistent method of calculating VAT charges on transit transports has caused confusion for both local and foreign transport operators.

Proposed recommendations:

- Local tax authorities should neutralize related legislation on transit transports created under their own jurisdiction and apply only 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, Ministry of Finance

Status:

- Ministry of Finance 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.
- The drafting committee for the amended VAT law has agreed, in principle, to exempt VAT charges on “the supply of services of transit transport, international transports via land, water, and air”, and has already included a draft amendment to the VAT law in Article 15.11 (draft VAT law as of 2 February 2018), which is pending review and approval at the National Assembly Meeting in mid-2018.

3. Classification of printing business

Summary of issue: Printing is classified as a service sector in the enterprise registration certificate. However, according to the International Standard for Industry Classification (ISIC) code, the operations of printing businesses are under manufacturing groups, which are included in the industry sector. Therefore, it is proposed that printing businesses should receive the same incentives as those in the industry sector.

Proposed recommendation:

- Ministry of Industry and Commerce and Ministry of Information and Culture should further discuss the issue to reach a mutual agreement on whether printing should be included in the industry sector, and which government agency will be responsible for regulating printing businesses in the future.

Proposed by:

1. Manufacturing Working Group

Relevant government agencies:

1. Ministry of Industry and Commerce, Department of Industry and Handicraft
2. Department of Printing and Distribution, Ministry of Information and Culture

Status:

- According to the law on manufacturing industry, printing houses are classified under the manufacturing industry category. Therefore, printing operators are able to request operating licenses in order to receive incentives provided to the industry sector. Printing operators can submit an official request to the enterprise registration department to change the business license certificate from the “Services” to the “Industry” category, in order to receive the government incentives as the industry sector.

Expected duration for resolution: Medium term

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

Summary of issue: 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 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: 1. Cambodia - a fixed rate of \$120 to \$130 per loan item (approximately LAK 960,000 to LAK 1,040,000); 2. 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, Ministry of Finance

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 500 million incur a fee of LAK 300,000; loans between LAK 500 million and 1 billion incur a fee of LAK 500,000; loans between LAK 1 billion and 5 billion incur a fee of LAK 1 million; loans of more than LAK 5 billion incur a fee of LAK 2 million.

Expected duration for resolution: Medium term

Partially resolved issues that will require follow up with implementation

5. Access to labor market information

Summary of issue: The manufacturing and service sector in Lao PDR currently faces a shortage both skilled and unskilled labor. One of the main causes is the imbalance of demand and supply of domestic labor because access to labor market information is still limited.

Proposed recommendation:

- The Government or relevant public agencies should improve data systems relating to the labor market, and ensure the data is accessible and reliable

Related government agencies:

1. Department of Labor Management, Ministry of Labor and Social Welfare.

Status:

- In December 2017, in collaboration with the Ministry of Labor and Social Welfare, the Lao Business Forum Secretariat team successfully organized a workshop to publicize the job market website created by the Ministry of Labor and Social Welfare for both employers and job seekers from all sectors.
- The Ministry of Labor and Social Welfare officially launched the job market information website in early 2018. The website provides an important source of labor market information and will include the results of labor force survey and related legislation, which will be accessible by all interested parties.

Issues with good progress made

6. Issues related to high logistical costs

Summary of issue: High logistics and transportation costs within Lao PDR and overseas are an important issue and an obstacle to the Lao business environment. These high costs contribute directly to the costs of production and the prices of goods. The private sector faces other contributing factors which cause high logistics and transportation costs, including:

- Importation of goods (especially tax-exempt goods) and raw materials for production requires several steps and is time-consuming (new issue).
- Domestic and international transportation costs are relatively high.
- Import and export of commercial goods via traditional or custom borders.
- Limited opening hours for customs clearance at major international border checkpoints.
- Restrictions on the list of goods in transit (new issue).

6.1. Importation of goods (especially tax-exempt goods) and raw materials to be used for production requires several steps and is time-consuming (new issue)

Summary of issue: The import procedure for tax-exempt goods has generally improved recently. However, in some cases lengthy import procedures are still a concern and this issue has not been properly addressed even though it was raised with relevant government agencies at the previous LBF. Based on the information gathered from representatives of Lao logistics firms, it was found that importing tax-exempt goods involves two main steps – obtaining a tax-exemption permit and import permit – both of which require official approval from the Ministry of Finance. The International Finance Department and the Customs Department are responsible for reviewing all required documents. The following examples show the actual time required to import tax-exempt goods:

Case 1: the importation of canned fish for the World Food Programme (without Master List). After receiving an official letter from the host ministry (the Ministry of Agriculture and Forestry) on 17 January 2017, the Ministry of Finance issued an approval letter for the official permit of importation and tax-exemption on 28 August 2017 (158 working days). After that, the Department of International Finance issued a certificate and passed the process on to the customs department, adding 16 working days to complete. Overall, it took a total of 193 working days for all required documents to be cleared.

Case 2: importation of electrical equipment for a high-voltage electricity grid project in Northern Lao PDR, with financial assistance from the Asian Development Bank (with Master list). After the Ministry of Energy and Mines, the host ministry, issued an official letter to the Ministry of Finance to request importation and duty exemption on 14 July 2015, the Department of International Finance issued a certificate of importation on 28 July 2015, and the Customs Department issued an official letter to the Head of Customs Border on 10 August 2015 (20 working days). It took a total of 65 working days to clear all required documents.

Lengthy Importation procedure of raw material to be used for production: The existing procedure of importing raw materials for domestic production (for example, steel production) involves several steps. After receiving official approval of Master List of goods for annual import plans from the Department of Industry and Commerce, importing companies have to submit required documents to the Ministry of Investment and Planning (additional requirement) and the Ministry of Finance for approval of the import permit. The private sector views this as unnecessary and time-consuming, especially the step related to the Customs Department of the Ministry of Finance (in some cases, it took up to 10 months to complete the procedure). Furthermore, the fact that manufacturing companies are not able to import raw materials valued at more than their registered capital (in accordance with Ministry of Finance Instruction no 3578/MoF, dated 19 December 2012) results in excess demand for raw materials, so manufacturing companies are unable to produce goods on a regular basis.

6.2. Logistical costs within Lao PDR and overseas are relatively high

Summary of issue: Contributing factors to high logistical costs relative to neighboring countries include: 1. trade imbalance (the quantity of exports is low compared to imports), which causes the problem of transport being loaded on one side of the border and returning with an empty container because shipping lines restrict the use of containers; and 2. costs related to document clearance, including informal payments. The survey conducted by JETRO in 2016 found that cross border fees at the Vientiane-Nongkhai friendship bridge accounted for nearly 40% of the total transport costs between Vientiane and Thai seaports. Informal payments also constitute a major proportion of the high cross border fees. Based on information provided by representatives of the Lao International Freight Forwarders Association, informal payments account for around 60% to 70% of total cross border fees. In addition to these fees, there are unofficial checkpoints along the major roads, and transport operators typically need to make some informal payments ranging from LAK 100,000 to LAK 200,000, although the Prime Minister has made an official announcement to shut down all unnecessary checkpoints across the country. This is one of the critical factors contributing to high transport and logistical costs in Lao PDR.

6.3. Import-export of commercial goods via traditional or customs border checkpoints.

Summary of issue: If companies import goods via official international border checkpoints, they will be subject to partial customs clearance fees that will be recalculated at the end of the year. However, for companies that import commercial goods through traditional or customs borders, the customs clearance procedure is not clear. The Ministry of Finance notice No. 1587/MoF, on supervision of the import and export of goods via traditional and customs borders, which stated that the importation of goods via traditional borders and customs borders is permitted only for essential household and consumer goods (not in the form of commercial trade). However, importation of goods in the form of commercial trade via traditional and customs borders has still taken place. These issues affect companies and businesses that have registered for import-export licenses to import goods via international borders, due to the cost of import tax expenses, fees and other obligations. This results in their products costing more than those that have been illegally imported, and decreases their ability to price their goods competitively.

6.4. Possible extension of operating hours for customs clearance

Summary of issue: Currently, the operating hours for goods inspection and document clearance at border checkpoints are limited. If goods are transported directly from manufacturing factories, the customs officials will be able to perform inspection until 8 pm. However, for general goods that are not from factories (for instance, agriculture products) customs officials stop accepting documents at 4pm and the goods must arrive at the border before 4:30 pm. This causes a lot of trouble for transport and logistics operators, because in the event of a delay they have to pay penalty fees to the shipping lines that own the containers, as well as fines for trucks of around 1,500 baht per day. The main reason is because trucks transporting goods are only allowed in city areas between 9 am and 11 am and 1 pm and 3 pm, and they often cannot reach borders on time.

6.5. Restriction of goods in transit (new issues)

Summary of issue: Currently, the Customs Department of the Ministry of Finance has imposed an (un)official regulation that requires logistics firms to apply for a transport permit on the list of goods in transit every six months, in advance. This creates trouble for logistics and transport operators because it increases an unnecessary burden and takes a lot of time. More importantly, it is difficult to secure a list of goods to be transported in advance because client demands vary. This issue limits not only the competitiveness of transport operators, but also the competitiveness of Lao PDR in road transport of goods in transit. This is because there are alternatives to transporting through Lao PDR, such as by air and sea. In addition, imposing a restriction on the list of goods in transit is not consistent with the Government strategy of transforming Lao PDR from a land-locked country to a land-linked country.

Proposed recommendations:

- The Ministry of Finance should eliminate unnecessary requirements for the importation of tax-exempt goods, and provide clear instructions including specific, precise timeframes. The relevant government agency should also start implementing electronic clearance system for goods imported under Master Lists (the system has been created but not yet implemented).
- It is proposed that the Department of International Finance collaborates more closely with the Customs Department on the issuance of all related documents without the involvement of logistics operators once all required documents have been submitted. This means that after the Department of International Finance issues a certificate of importation of the tax-exempt goods, it should be forwarded directly to the Customs Department.
- It is proposed that relevant government agencies eliminate the restriction on lists of goods in transit and on international border checkpoints (except for goods under the government control lists).
- Relevant government agencies should review Ministry of Finance Instruction no. 3578/MoF, dated 19 December 2012, which imposes the unreasonable requirement that

the annual value of imported goods must not exceed registered capital. This is deemed inappropriate by the private sector as it does not promote business operation.

- To reduce time and cost, the relevant border checkpoints authority should reduce unnecessary steps associated with the document clearance process and cross-border fees for import-export procedures. This will also help reduce and eliminate informal fees.
- The Government should regularly report the progress of construction of dry port projects in proposed locations across the country, especially the dry port in Vientiane capital, which is Lao PDR's main route for the import and export of goods.
- The development of railway transport systems will also greatly reduce logistics costs. Therefore, it is highly recommended that the Government should start implementing railway freight transport as soon as possible.
- The relevant government authority should consider extending the operating hours for customs clearance at major international borders to 8 pm for general goods, making it equal to the procedure for goods transported from manufacturing factories.
- The procedure for the inspection of empty containers should be streamlined, especially the unnecessary requirement for completing Form 7, which usually takes a few hours.
- Strictly enforce the rules and regulations for import-export of commercial goods via customs and traditional borders.

Relevant government agencies:

1. Customs Department, Ministry of Finance
2. Investment Promotion Department, Ministry of Planning and Investment
3. International Finance Department, Ministry of Finance
4. Department of Import-Export, Ministry of Industry and Commerce
5. Transport Department, Ministry of Public Works and Transport
6. Lao Railway Department, Ministry of Public Works and Transport
7. Department of Economic Police, Ministry of Public Security
8. Department of Traffic Police, Ministry of Public Security

Status:

- The Prime Minister has issued an Ordinance on Regulatory Amendment and Coordination Mechanism of Business Operations in Lao PDR. No 02/PMO:
 - **Section 1.2.2** specifies that the Ministry of Industry and Commerce acts as the Focal Point for coordination with all parties relevant to the improvement of the 8th indicator of ease of doing business, to improve legislation and reduce the time needed for import-export procedures by 50% in 2019. The Customs Department also issued Instruction no. 03516/CD, dated 31 May 2017, on the improvement of the documentation procedure within the Customs Department to facilitate and speed up the process.
- Notification no. 420 by the Ministry of Finance, 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 International Finance required. This new regulation has already been implemented.
- The Lao Business Forum Secretariat team is recruiting an international expert to conduct an analysis of the issue to propose resolutions to relevant key government agencies.
- The Department of Import and Export is recruiting an international consultant to conduct a review of the import-export process as it relates to four government agencies: the Department of Standardization and Metrology; the Department of Food and Drugs; the Department of Agriculture; and the Department of Livestock and Fisheries.
- The Department of Traffic Police has issued a notification on the suspension of all checkpoints that were not authorized by the Provincial Administration Office, especially in Saravan Province (three checkpoints). If businesses encounter any checkpoints that create trouble for their operations, they are encouraged to report the matter directly to the Department of Traffic Police for assistance.
- The Ministry of Industry and Commerce is currently able to issue Electronic Certificates of Origin, and in the future this will be expanded to provincial levels. For the details of document requirements and procedures for importing and exporting different types of products, LNCCI will coordinate information dissemination with the members.

7. Issues related to the export of planted woods and export procedure

7.1 Export of planted woods

Summary of 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 issued an 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 the wood. In addition, the sizes of planted wood products that are allowed for export do not meet the demands of the overseas market.

7.2 Export procedure for planted wood

Currently, the export procedure for wood products requires several steps and is time-consuming. First, an exporting company needs to submit a proposal letter to invite an inspection committee (consisting of the Industry Department of Vientiane Capital, the Department of Agriculture and Forestry of Vientiane Capital, and Department of Natural Resource and Environment of Vientiane Capital) to inspect the export products at the company's warehouse in order to obtain an export permit and to check the receipt of royalty fees for extracting natural and other resources. After getting the export permit, it is necessary to submit a proposal to invite the inspection committee to check the accuracy of the amount of export products again, and to make an official record. The committee then seals the products. After all documents have been checked, the products are transported to the border, where customs officials scan and check the product codes. If the inspection fails, the seal is removed and the customs officials perform an inspection again, even though the products have already been approved by the inspection committee. After that the products can be exported.

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.
- Propose that all government agencies involved in the procedure of exporting wood products streamline the process and avoid overlapping work between agencies, ensure the consistency of the process, and provide exact timeframes for all paperwork. The

inspection of wood products by border officials should be consistent across all checkpoints.

Relevant government agencies:

1. Department of Industry and Handicraft, Ministry of Industry and Commerce
2. Department of Forestry, Ministry of Agriculture and Forestry
3. Customs Department, Ministry of Finance
4. State Assets Management Department, Ministry of Finance

Status:

- The Ministry of Industry and Commerce 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.

8. Access to import and export data

Summary of issue: The business sector has previously been unable to access sufficient and precise information on exports, causing Lao producers to lose their position in the international market, because it is difficult for them to analyse their competitiveness .

Proposed recommendation:

- The relevant government sector should make export data publicly available, periodically and officially. The data should be accessed with ease (via a website) and used for reference by all parties.

Proposed by:

1. Manufacturing Working Group

Relevant government agencies:

1. Department of Planning and Cooperation
2. Customs Department, Ministry of Finance

Status:

- The Ministry of Industry and Commerce has set up a Statistics and Information Center under the Department of Planning and Cooperation to collect data in four key areas to be reported to the Government regularly: food processing; import and export; domestic trade; and small and medium sized enterprises (SMEs). These data can be supplied to private sector.
- The Ministry of Industry and Commerce is recruiting an International Consultant to support the review of data collection processes and dissemination of statistics data and information on trade and industry. The result of this review will be used as a benchmark for future improvement.

9. Procedures for business registration and business operating licenses

Summary of 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 there are many additional rules and conditions required by provincial authorities.

Proposed recommendations:

- The Ministry of Industry and Commerce should work together with relevant government agencies to improve the standard procedures for business registration and business operating licenses.
- The Ministry of Industry and Commerce 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.

Proposed by:

1. Service Sector Working Group

Relevant government agencies:

1. Department of Enterprises Registration and Management, Ministry of Industry and Commerce
2. Office of Single Window Service, Investment Promotion Department, Ministry of Planning and Investment
3. Trade Department, Vientiane Capital

Status:

- The Prime Minister has issued the Ordinance on Regulatory Amendment and Coordination Mechanism of Business Operations in Lao PDR. No 02/PMO:

Section 1.1.1 specifies that the Ministry of Planning and Investment should “implement the Mechanism for National Single Window Service as soon as possible, by streamlining procedures with relevant stakeholders in documents examination and consideration for investment and service permits in a centralized and unified fashion, shorten the steps and reduce the time for getting investment permit but more efficient and transparent, ensuring the enforcement of the law and regulations; Single Window

Service Unit, Department of Investment Promotion, Ministry of Planning and Investment shall establish a mechanism to inform investors about the progress of documents examination and consideration for their projects.”

Section 1.2.1 specifies that the Ministry of Industry and Commerce should “1. Improve the regulations and measures on enterprises registration services (individual or legal entity) to be more convenient, efficient, and fast. After getting business registration and before start business operation, it is necessary to apply for business licensing permit with relevant government agencies:

- Improve and enforce the implementation of all legislation related to business registration and licensing at the central and local levels within the first quarter of 2018;
 - Establish necessary conditions for implementing an electronic business registration system (Online Business Registration) within 2019;
 - Implement the required steps of business registration and asset registration of businesses to be more efficient after getting a tax registration number and all operating licensing permits from relevant government sectors;
 - Improve tax registration system by issuing the tax number at the same time as business registration and adjust or remove unnecessary steps such as bank deposits of directors, staff bank accounts, leasing contract of office or building and others, but the businesses must provide all documents required after their businesses are approved;
 - Improve the procedure for getting a company seal in accordance with Article 21 (amended) of the Enterprise Law;
 - Eliminate the requirement for company sign registration (because it only shows the company’s name, not advertising sign), but establish rules for standard requirements for enterprises’ signs in detail (including size, font, and color) and administrative measures for the trade and industry sector to notify business operators and follow after registration. The rules should be flexible, and not too strict for businesses to implement.
- The Ministry of Industry and Commerce issued notification no. 1067/..., dated 19 May 2017, on the cancellation of enterprise name reservation and certification of enterprise names from the procedure of business registration, and the use of a new application form for business registration.
 - The Department of Industry and Trade of Vientiane Capital has cancelled the inspection of locations and warehouses, and also cancelled the meeting with the Single Window Coordination Committee, which significantly reduces the steps of business registration in the Vientiane Capital Trade Department.

- The minimum registered capital requirement for foreign investors has been cancelled, as indicated in the amended Investment Promotion Law.
- The Department of Investment Promotion has established a division of the single window service, which successfully completed the mechanism for establishing businesses through a “single window system” and trained administrative staff. It is expected that the system will be available for service when the amended Investment Promotion Law has been promulgated.

10. Access to finance

- Access to finance for SMEs
- Loan registration fees using land title rights
- Enforcement of court decisions

Summary of issue: Conditions for access to formal credit, such as terms of loan, interest rate, miscellaneous fees and procedures for loans remain a challenge, especially for SMEs in Lao PDR.

Proposed recommendations:

- Improve the infrastructure of the banking service sector:
 - Establish an interbank payment system clearing house
 - Implement a movable assets registry system
 - Strengthen the capacity of the National Credit Information Bureau
- Conduct a feasibility study of the creation of a Credit Guarantee Institution for SMEs
- Enhance knowledge of financial management for SMEs
- Revise the fee for collateralized assets related to land title rights in Presidential Decree no. 003.
- The Ministry of Justice should find ways to effectively enforce court instructions as soon as possible.

Relevant government agencies:

1. Banking Operation Department, Bank of Lao PDR
2. SME Promotion Department, Ministry of Industry and Commerce
3. Tax Department, Ministry of Finance
4. Court Decision Enforcement Department, Ministry of Justice

Status:

- Credit Information Bureau system: the improvement of the system is complete, and it is open for financial institutions to submit borrowers' formation and to search the credit history of borrowers. The relevant government agency is conducting a feasibility study about making the National Credit Information Bureau an independent entity.

- Regarding the feasibility study of credit guarantee institutions, the Bank of Lao PDR is reviewing the draft regulation and encouraging private sector entities that are interested in setting up a credit guarantee institution to do so.
- There is a project to support SME access to finance via commercial banks, which is supported by the World Bank and the KFW development bank.
- In the draft amendment of Presidential Decree 003, loan registration fees backed by land title rights have been revised and reduced according to the proposal from the private sector at LBF10. The draft was approved, in principle, during a session of the National Assembly Meeting at the end of 2017, and is in the stage of final revision by the National Assembly Committee.

Expected duration for resolution:

- Long term: SME access to finance
- Short term: loan registration fees backed by land title rights
- Medium term: enforcement of court decisions

11. Access to information on government procurement plans

Summary of issue: In the past, information about government procurement plans and legislation related to procurement procedures has not been publicly available, making it difficult for the business sector to participate in the bidding process and be awarded contracts on a competitive basis.

Proposed recommendation:

- The relevant government agencies should speed up the completion of the procurement website for government projects for access by all interested parties.

Relevant government agencies:

1. Department of State Budget, Ministry of Finance

Status:

- The Law on Government Procurement was approved, in principle, by the National Assembly at the end of 2017.

Expected duration for resolution: medium term, because of the lack of financial support to build the website for disseminating information about government procurement plans.

Unresolved issues

12. Value added tax on service sector

Summary of issue: Current VAT law related to the supply of services that take place abroad is still unclear, causing different interpretations between businesses and the Tax Department. The most recent draft of the Amended VAT law (as of 2 February 2018), which will be reviewed and approved by the National Assembly in mid-2018 states, in Article 14.2 (Place of Supply of Service), paragraph 2 “The Supply of Consultancy Services related to information in Lao PDR is deemed to take place in Lao PDR regardless of whether the receiver of the services is established and registered in Lao PDR or not”. This provision is not clear because if the receiver of the service is not established or registered in Lao PDR, VAT should not be collected according to the general rule for *place of the supply of service*.

Proposed recommendation:

- The Tax Department should amend the related Article (provision) of the draft VAT Law and related sub-legislation, to make it clearer.

Relevant government agency:

1. Tax Department, Ministry of Finance

Status:

- The drafting committee of the Amended VAT Law is in the process of finalizing the draft amendment of VAT law.

Expected duration for resolution: short term

13. VAT refund for export producers

Summary of issues: The VAT refund process for export producers is time-consuming, and in some cases, requests for VAT refunds are rejected without a clear explanation from tax officials.

Proposed recommendations:

- Refunds should be granted to export producers based not on the fact that the goods are exported, but on the fact that under Lao PDR VAT legislation, the service the export producers provide is deemed to take place abroad (general rule: where the receiver of the service is established).
- Consequently, because CMT producers are fundamentally different from FOB producers, the conditions for granting a refund should be different from the conditions required for the refund based on ('FOB') export, or at least it should include in the Implementation Instruction of VAT law.

Relevant government agency:

1. Tax Department, Ministry of Finance

Status:

- The Ministry of Finance officially established a hotline for the general public in April 2017 (hotline no. 1519) to voice their issues or complaints related to financial matters.
- With technical support from an International VAT Expert, the Lao Business Forum secretariat team has completed a thorough study of the issue and organized several meetings with key government agencies , including the Tax Department and Fiscal Policy Department. The study proposed detailed recommendations for both the public and private sectors. A recommendation was sent to the Fiscal Policy Department and Tax Department for consideration in 2017. The recommendation has been agreed, in principle, by the Tax Department.

Expected duration for resolution: Medium term

14. Internet excise tax

Summary of 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 Ministry of Finance 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 only amending the relevant Article.

Relevant government agency:

1. Tax Department, Ministry of Finance

Status:

- The Tax Department has issued an official notification to the Lao Business Forum secretariat/LNCCI, dated 23 January 2018, explaining that it is working on the division of the Excise Tax Law and Income Tax Law from the original Tax Law. The final draft of each law will be reviewed and approved at the National Assembly Meeting by the end of 2018. Therefore, the drafting committee will work on drafting the Excise Tax Law, and until then Internet excise can be removed from the respective Article. However, there has been no clear response as to whether Internet excise will be removed.

Expected duration for resolution: Medium term (the Final Draft of the Excise Tax Law will be decided at a National Assembly Meeting by the end of 2018 if the Tax Department agrees to remove the excise tax for the Internet).

15. Informal business operations and businesses without proper licenses

Summary of issue: There are still business owners operating without proper licenses and business registration, and they are not paying any taxes. These include general businesses and widespread online businesses. In addition, there appear to be more foreigners setting up retail shops which violate the regulations and law on enterprises, even though Agreement no. 1005/MoIC, dated 22 May 2015, states clearly the requirements for foreigners who want to run retail shops in Lao PDR.

Proposed recommendations:

- The Ministry of Industry and Commerce should assess the effectiveness of the implementation of Agreement no. 1005.
- In the long term, it will be necessary to resolve the issue related to starting a business and enforcing the legislation and sub-legislation related to the Law on Investment Promotion.

Proposed by:

1. SMEs and the Startup Working Group

Relevant government agencies:

1. Department of Domestic Trade
2. Ministry of Public Security

Status:

- The World Bank has completed a study on Informal Practices of Business Operation in Lao PDR, and provided some key policy recommendations on the issue.

16. Barriers to tourism development

16.1. Tourism promotion and advertisement

Summary of issue: Overall, Tourism is an important sector for the Lao PDR economy, providing jobs and foreign exchange. Revenue from tourism almost doubled from US\$ 380 million in 2010 to more than US\$ 720 million in 2016 as tourist arrivals rose to 4.2 million in 2016 from 2.5 million seven years ago. With improved connectivity and affluence of Asian economies, visitors from Asia-Pacific region significantly increased. Visitors from ASEAN countries, particularly Thailand and Vietnam, rose by about 40 percent during 2010-2017, accounting for 72 percent of total arrivals. Non-ASEAN, particularly Chinese and Korean visitors, more than doubled during 2013-2016. Western visitors, who tends to spend more and stay longer accounted for about 7 percent in 2016.

Tourism facilities and sites have also expanded. The number of accommodation facilities increased by 38 percent from almost 1,900 places in 2010 to 2,500 in 2016. However, the occupancy rate is about half with variation across provinces in the country. Connectivity has also improved. More airlines offer more direct flights to Lao PDR such as from Korea, Malaysia, Singapore, China etc.

Currently, there appears to be a lack of activities to attract more tourists, especially regarding information, advertising, and supervision from the public sector. Development and improvement of industries can help tourism in Lao PDR realize its potential. In additions, investing in tourism services, including human resources, and infrastructure as well as branding Lao PDR effectively, can help distinguish Lao PDR as a unique tourist destination.

Proposed recommendations:

- Align tourism with economic development goals of Lao PDR through developing a National Tourism Development Roadmap that includes:
 - Benchmarks and baselines for tourism competitiveness and institute key measurable performance indicators for concerned ministries, departments and institutions;
 - Target marketing to source markets with potential to provide improved per diem spend, length of stay and seasonal yield management;
 - Measures to improve value for money proposition by progressing importation processes, economies of scale and service quality;
 - Diversify product offering by encouraging and incentivising targeted investments in attractions and activities aligned with key market trends (i.e. experiential)
 - Measures to improve the quality and availability of hospitality and tourism education and training programmes that are responsive to industry needs and regionally/internationally benchmarked;

- Establish an intergovernmental task force to guide tourism development in an inclusive and shared approach;
- Create a Lao PDR Tourism Promotion Board to lead tourism marketing and promotion;
- Collect and analyze tourist arrival statistics regularly.
- Conduct surveys to assess the needs of tourists regularly.
- Allocate sufficient funds to promote and advertise tourism within Lao PDR and abroad continuously through channels including pamphlets, movies, video presentations, online advertising, websites, and TV commercials in other countries.
- The relevant government authority should facilitate TV programme making from abroad that will help promote tourism in Lao PDR, for example, by reducing the unnecessary steps related to document requirements and fees for permission to shoot videos or documentaries, and shortening the time needed for approval.

Proposed by:

1. Tourism Working Group

Relevant government sector agencies:

1. Department of Tourism Promotion, Department of Tourism Management, Department of Tourism Development, Ministry of Information, Culture, and Tourism
2. Ministry of Public Works and Transport, Civil Aviation Department.

16.2. Renovation of tourist sites and improvement of infrastructure

Summary of issue: Improving infrastructure, including roads, electricity and the water supply is the responsibility of the Government. Good Infrastructure will make it more convenient for businesses to progress and thrive. For the tourism sector, infrastructure plays an important role. Road access to important tourist attractions is especially important. It is vital that roads should be maintained in good condition with proper lighting, as this is a key factor in attracting more tourists. Poor road access makes travel more difficult and decreases tourist safety.

Tour operators in Vientiane Capital, Champasack and Luang Prabang all face the same issues regarding poor infrastructure, including dirty, unmaintained roads (for example, road access to Kuang Si waterfall). These issues require immediate action to accommodate an influx of tourists in 2018 as the Visit Lao Year is officially launched, and to enable Government priority of promoting tourism in.

Proposed recommendations:

- The Government should allocate a budget to support the renovation of tourist sites regularly to ensure their sustainability, focusing on cleanliness, environmental protection, and their cultural value.
- Set up a committee responsible for inspecting the condition and quality of road access to major tourist sites, and improve the condition of all major roads to important attractions.
- Large trucks should not be allowed in city areas and routes to major tourist sites because they damage the roads.

Proposed by:

1. Tourism Sector Working Group

Relevant government agencies:

1. Ministry of Information, culture, and tourism
2. Ministry of Public Works and Transport

16.3 Regulation of travel agencies (new issue)

Summary of issue: The enforcement of regulations related to the tourism sector is not clear and inconsistent between central and local levels:

- Currently, tourist police still demand travel permit documents (proposal letters) along major roads and tourist attractions. If tour operators cannot comply, they are subject to fines and not allowed to operate their businesses. This creates a problem because there is already an official notice from Prime Minister's Office no. 1997/PMO, dated 19/12/2016, to cancel all documents required (telex) for tour operators bringing group tours into the country.
- The Tourism Promotion Fund has not been properly regulated. The mechanism for collecting money and using the proceeds for tourism promotion, especially, remains unclear and causes confusion.
- Fees for document clearance at some border checkpoints (such as the Vangtao border and Luang Prabang checkpoints) are expensive (informal payment) and different to those at other border checkpoints.
- There is no proper regulation of informally practicing tour guides, and most tour guides can provide services without a license.

Proposed recommendations:

- Review and streamline procedures for establishment and operations of tourism businesses such as obtaining approval for tour program (Telex or "proposal letter"), establishment and operating licenses.
- Regularly inspect the actual practice of local authorities to ensure the regulations are properly and consistently enforced.
- Review the effectiveness of tourism-fund collecting mechanism and the utilization of the fund at provincial level.
- Fees collected at international border checkpoints must be consistent across the country.
- Regularly conduct checks on the tour guides to ensure that they have proper licenses to operate their business.

Proposed by:

1. Tourism Working Group

Relevant government agencies:

1. Tourist police department, Ministry of Public Security
2. Tourism Management Department, Ministry of Information, Culture and Tourism

3. Immigration Police, Ministry of Public Security

Responses from the Government during the PPC meeting on 20 February 2018

1. **Representative from tourist police department:** recently there has been a notification from the Ministry of Public Security regarding Tourist Facilitation in Lao PDR, which specifies that tour operators must submit a proposal letter listing all the names of tourists and indicating details of travel plans in advance to tourist police at central level and local level to obtain approval letters from relevant authority. After getting the letter, they can travel to other provinces and to various tourist destinations allowed by the government. Tour operators wishing to bring tourists into Lao PDR and organize other activities such as caravan tours and using temporary border passes to travel to other provinces must follow the Instruction of Minister of Public Security no. 1439, dated 21 November 2011, on the permission of border passes for neighboring countries to travel to other parts of the country, and also follow Instruction no. 1102/MPS 9 September 2013 on Strengthening Tourism Control.
2. **Tourism Administration Department:**
 - Regarding tourism promotion and advertising, the establishment of a Tourism Promotion Board should use the Lao Travel Association as a focal point to draft an official letter to the Ministry of Information, Culture and Tourism for approval.
 - With respect to the renovation of tourist attractions and infrastructure, the government is now drafting a law on the management of tourist attractions.
 - Regarding the administration of travel business operations, a tourism promotion fund is being implemented by the Ministry of Finance to collect the fund at borders, and the usage of the fund is specified in the Decree on Tourism Promotion Fund. The agreement on the administration of travel businesses is being drafted, which will include detailed information on the requirements for tour packages and tour guides etc.
3. **Tourism Promotion Department:** for the advertisement of tourism campaign, a marketing strategy for tourism in Lao PDR is being drafted, which will provide tourism information on a website. Tourists can also reserve tour packages via an online system and organize various activities both in Lao and abroad. When the Government organizes a consultative meeting on the draft Marketing Strategy for Tourism Promotion, the private sector will be invited to provide comments and feedback.

17. Fees related to trademark registration (new issue)

Current issue: A product trademark is an important tool for promoting new ideas and innovation to create new products into the market. An essential element of properly facilitating the trademark registration process and its controlling system would be to contribute to economic growth by: encouraging more people to develop new products; improve quality to meet market demand; support large entrepreneurs to invest in research and development; support small businesses to use new innovative ideas to raise capital; support domestic businesses to attract foreign investors; and promote export producers. A common issue faced by businesses in Lao PDR is the high fee for trademark registration, which is considered a major challenge for business development.

Proposed recommendation:

- The Ministry of Science and Technology should reduce the fee for trademark registration and provide an efficient control system (such as using modern technology in the process of collecting the data of businesses requesting a trademark for their products).
- **Proposed by:**
 1. Lao Business Women Working Group
 2. SME Working Group

Relevant government agencies:

1. Intellectual Property Rights Department, Ministry of Science and Technology

Status:

Response from the Government during the PPC meeting on 20 February 2018

1. **Intellectual Property Rights Department, Ministry of Science and Technology:** all fees related to product or trademark registration are based on Presidential Decree no 003, which consist of: an application form fee (LAK 20,000), a consultation fee (LAK 50,000), an initial assessment fee (LAK 100,000), a product classification fee (LAK 50,000), a registration certification fee (LAK 100,000), and issuance of a copied certificate fee (LAK 100,000). The product classification registration fee is LAK 800,000 per product group. Issuing a product trademark takes 18 months. In the future, it will be possible to issue a product trademark within 12 months.

18. Fees related to product registration of food and drugs are high

Current issue: The registration of food and drug products is an important tool for promoting new ideas and innovative products to markets, especially domestic and foreign food products. Facilitating the process of registration with an efficient management system is of great importance; it not only protects domestic consumers, but also enables local producers to compete with overseas markets. A common issue faced by Lao businesses is the high fees charged for food and drug product registration, especially product analysis fees, which are a burden for business development.

Proposed recommendations:

- The Ministry of Science and Technology should reduce the fees related to food and drug registration.

Proposed by:

1. Lao Business Women Working Group
2. SME Working Group

Relevant government agencies:

1. Intellectual Property Rights Department, Ministry of Science and Technology
2. Food and Drug Department, Ministry of Health
3. Tax Department, Ministry of Finance

Status: no progress (new issue)

Response from the Government during the PPC meeting on 20 February 2018

1. **Representative from Food and Drug Department:** all fees related to food and drug product registration are based on Presidential decree no 003, which consist of: a drinking water fee of LAK 80,000 (service charge LAK 50,000 and examination fee LAK 30,000), imported drug fees are LAK 200,000 per item (can be verified via the *laotradeportal* website). For the product analysis fee, it is necessary to use modern equipment or chemical substances imported from abroad, resulting in higher fees for research and analysis during product registration and certification.

19. Government policy to support startups (new issue)

Summary of issue: The majority of startup entrepreneur businesses use new ideas and innovation with high risk of failure, but relatively high returns. Startups have potential for economic growth. For instance, job creation and new working styles add value to economy, encourage new ideas and innovation and a variety of businesses and the use of new technology. Lao startups still 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 good of the 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 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 of 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 receive 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, Ministry of Industry and Commerce
3. Technology and Innovation, Ministry of Science and Technology
4. Ministry of Post and Telecommunication
5. Domestic Trade Department, Ministry of Industry and Commerce

Status: No progress (new issue)