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**Working Party on the
Accession of Lao PDR**

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ACCESSION OF THE LAO PDR

Additional Questions and Replies

The following submission, dated 20 October 2006, is being circulated at the request of the Government of the Lao People's Democratic Republic (Lao PDR).

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policies

(c) Foreign exchange and payments system

Question 1

Obligation of converting foreign exchange revenues into kip:

- **As indicated in the "Foreign exchange and payment system" paragraph 1, holders of foreign exchange are obliged to present their foreign exchange holdings to a bank for exchange into kip or may open foreign exchange accounts, are residents able to keep all their foreign exchange revenues in their foreign exchange accounts or there is a retention ratio?**

Purchasing foreign currencies:

- **As indicated in the "Foreign exchange and payment system" paragraph 4, commercial banks and foreign exchange bureaus may sell foreign currencies to the general public for nine categories of purposes,**
 - (i) **It seems that the general public includes residents only. Are there any regulations for non-residents to purchase foreign currencies?**
 - (ii) **Are there any quotas set for the general public purchasing foreign currencies for payments abroad? Do they have to get prior approval from the Bank of the Lao PDR for purchasing foreign currencies?**
 - (iii) **Are residents allowed to purchase foreign exchange for paying fees charged by foreign service providers not related to trade in goods, travelling or studying abroad?**

Answer:

Referring to Article 11 of the Instruction on the Implementation of the Law on Managing Foreign Currency and Precious Metals No. 02/BOL, dated 29 August 2003, residents are allowed to keep all their foreign exchange revenues in foreign exchange accounts. No ratio for retention is specified. If residents need local currency for domestic payment, they can sell foreign currency at the commercial banks or authorised foreign exchange bureaus.

- (i) Articles 4 and 8 of the Instruction on the Implementation of the Law on Managing Foreign Currency and Precious Metals No. 02/BOL, dated 29 August 2003, apply to both residents and non-residents.
- (ii) Under Article 4 of the Instruction on the Implementation of the Law on Managing Foreign Currency and Precious Metals No. 02/BOL, dated 29 August 2003, there is no quota on the purchase of foreign currency transactions through banks, although transactions above US\$10,000 have additional administrative requirements. According to Article 5.8, 5.9, 5.10 the public does not need to ask for a prior approval from the Bank of the Lao PDR.
- (iii) Under Article 5 of the Instruction on the Implementation of the Law on Managing Foreign Currency and Precious Metals No. 02/BOL, dated 29 August 2003, residents are allowed to purchase foreign currencies for medical treatment, international travel and studying abroad.

IV. POLICIES AFFECTING TRADE IN GOODS

3. Internal policies affecting foreign trade in goods

(c) Sanitary and phytosanitary measures

Question 2

As indicated in the Sanitary and Phytosanitary measures, including measures taken with respect to imports, we request that the Lao PDR provides detail descriptions of the border quarantine inspection measures for transit commodities from neighbouring countries. In addition, phytosanitary measures for quarantine pests and the list of those pests are also requested.

Answer:

The authority to regulate the importation of plants to Lao PDR is based on Law No. 01/98NA of 10 October 1998 on Agriculture, Decree No. 66/PM of 23 March 1993, which relates to plant quarantine in the Lao PDR, and Regulation No. 0894/MOAF of 21 November 1992 which relates to the control and use of plant pesticides in the Lao PDR. Moreover, Lao PDR has been a signatory to International Plant Protection Convention (IPPC) since 1959. The issuance of a Phytosanitary Certificate is based on International Standards for Phytosanitary Measures (ISPM) No. 12, Article 3.3 which stipulates: "if a consignment is not imported, but is in transit through a country without being exposed to infestation or contamination by pests, the National Plant Protection Organization (NPPO) does not need to issue either a phytosanitary certificate or a phytosanitary for re-export. If however, the consignment is exposed to infestation or contamination by pests, the NPPO should issue a phytosanitary certificate. If the consignment is split up, combined with other consignment or repackaged, the NPPO should issue a phytosanitary certificate."

In addition, Regulation No. 0894/MOAF of 21 November 1992, which relates to the management of plant protection in the Lao PDR, stipulates the quarantine pests list. This list will be updated in the near future (see Annex 1)

VI. TRADE-RELATED SERVICES REGIME

1. General

- Distribution Services

Question 3

As indicated in the Memorandum on the Foreign Trade Regime, distribution channel in Lao includes wholesalers and retailers. We would like to know if distribution services conducted by commission agent and franchising are allowed.

Business Law of Lao provides that employment is limited to nationals in retail trade. Does it include all levels of employees? Please clarify the scope of employment.

Please offer the detailed information regarding the laws, which are relevant to distribution services or indicate the website where we can get the information.

Answer:

As a land-locked, least-developed country with limited industrial activity, these types of services are important for national employment in Lao PDR and assist in poverty alleviation. The commission agent and franchising services are still in the early stages of development; and as a result foreign participation is not allowed.

We confirm that the limitation is on all level of employees.

The information regarding distribution services can be found in the Prime Minister's Implementation Decree for the Law on the Promotion of Foreign Investment No. 301/PM, dated 12 October 2005 (available in document WT/ACC/LAO/5/Add.1).

- Educational Services

Question 4

As indicated in the Memorandum on the Education Service of Trade-Related Service regime, the liberalization of education service in Lao, in terms of encouraging the supplies of private education, has been undergone quite successfully. However, the authority of private education didn't clarify if the liberalization includes all the levels of education? More precisely speaking, are the first, secondary and tertiary education services open to the foreign supplier? And, if it was, can the Lao authority indicate these items which have been or will be subject to the liberalization?

Answer:

Foreign investment in Lao PDR occurs under the framework established by the Law on the Promotion of Foreign Investment No. 11/NA dated 22 October 2004 and Prime Minister's Implementation Decree for the Law on the Promotion of Foreign Investment No. 301/PM, dated 12 October 2005 (WT/ACC/LAO/5/Add.1 refers). This Law and the Implementation Decree set out which sectors are open to foreign investment and under which conditions. Investments at all levels of the education sector are covered by this legal framework. Different levels of education are subject to different forms of government approval. For more information, please refer to the Law and the Prime Minister's Implementation Decree which has already been provided to the WTO (Decree No. 46/PM, WT/ACC/LAO/4/Add.1 refers).

- Environmental Services

Question 5

As indicated in the Memorandum on the Foreign Trade Regime, please identify what are the concessions granted for servicing selected districts as in the last paragraph on page 40. In addition, please describe market access and national treatment requirements on other areas of environmental services such as cleaning services of exhaust gases.

Answer:

Concessions on cleaning services are provided under the Law on the Promotion of Foreign Investment No. 11/NA dated 22 October 2004.

On other areas of environmental services including cleaning services of exhaust gases, foreign participation is not allowed.

2. Policies affecting Trade in Services

Question 6

As indicated in the Policies affecting Trade in Services (c), application for the establishment of the foreign commercial presence in Lao PDR must pass expert evaluation and obtain the approval by FIMC. We request that Lao PDR explain the above approved and evaluated criteria and requirements in architectural and construction services.

As indicated in the Market Access and National Treatment (d), foreign investors may employ foreign skilled personnel and experts, however the priority should be given to Lao nationals. We request that Lao PDR explain whether the percentage of employing Lao nationals is restricted in foreign-invested company.

Answer:

When establishing a foreign commercial presence in Lao PDR, foreign investors have to follow the general procedures as stated in the Decree of the Prime Minister regarding the Implementation of the Law on the Promotion of Foreign Investment No. 301/PM, dated 12 October 2005. For projects with technical elements, the Department for Promotion and Management of Domestic and Foreign Investment will request the Ministry of Communication, Transport, Post and Construction's consideration and approval. There are four establishment licensing criteria for Architecture and Construction investments, these are:

- Must be financially sound.
- Must have at least two full-time technical staff with at least a diploma in architecture and construction, have sufficient work experience and must be a member of the Lao Architecture and Construction Association.
- Must be registered and have investment licence and business licence.
- Must have a permanent office in Lao PDR.

There are no limitations on foreign-invested company employing Lao nationals including on the numbers that could be employed.

3. Market Access and National Treatment

(a) Limitations on the number of service suppliers

Question 7

As indicated in the Memorandum on the Trade-Related Services Regime 3(a) Limitations on the number of service suppliers, the limits on the number of services suppliers exist in public water and electricity, telecommunications and postal services. Please elaborate on whether or not there are any limitations on the number or percentage of foreign suppliers providing the services in question.

Answer:

There are limitations in the following sectors:

- Public water-operated by Lao Water Supply Company.

- Electricity-Power generation by Independent Power Producers is open to foreign investment on a joint-venture basis with the government; transmission and distribution are not open to foreign participation.
 - Telecommunications-with regard to fixed line telephone services there is no limitation on the number of service suppliers; with regard to mobile phone services the maximum number of operators is limited to five.
 - Postal services-operated by La Post du Laos.
- (d) Limitations on the total number of natural persons that may be employed in a particular service sector**

Question 8

As indicated in the Memorandum on the Trade-Related Services Regime 3(d) Limitations on the number of natural persons that may be employed in a particular service sector, some services activities are limited to natural persons of Lao nationality. We would like to know why retail services, road transport services, and building-cleaning services have this kind of limitation.

Answer:

As a land-locked, least-developed country with limited industrial activity, these types of services are important for national employment in Lao PDR and assist in poverty alleviation. Therefore, limitations on employment by nationality exist in certain sectors. Services liberalisation is a sensitive issue for Lao PDR and the government believes that it has the right to reserve these services for nationals.

4. Most-Favoured-Nation Treatment

Question 9

As indicated in the Memorandum on the Trade-Related Services Regime 4, Most-Favoured-National Treatment, foreign service providers that want to obtain public accountant licenses must be from countries that have signed a bilateral agreement in this regard with the Lao PDR. Please further explain how many countries have signed the bilateral agreements with the Lao PDR in this regard.

Answer:

To date, no country has signed a bilateral agreement with Lao PDR in relation to public accountant licenses.
