

**ACCESSION OF THE LAO PDR  
TO THE WORLD TRADE ORGANIZATION**

Factual Summary of Points Raised

The attached Factual Summary of Points Raised on the Accession of the Lao People's Democratic Republic (Lao PDR) to the World Trade Organization (WTO) has been prepared by the Secretariat, based on the documentation being examined in the Working Party.

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## **I. INTRODUCTION**

1. The Government of the Lao People's Democratic Republic (Lao PDR) applied for accession to the World Trade Organization (WTO) in July 1997. At its meeting on 19 February 1998, the General Council established a Working Party to examine the application of the Government of Lao PDR to accede to the World Trade Organization under Article XII of the Marrakesh Agreement establishing the WTO. The terms of reference and the membership of the Working Party are reproduced in document WT/ACC/LAO/2/Rev.[4].

2. The Working Party met on 28 October 2004 under the Chairmanship of H.E. Mr. T. Groser (New Zealand), and on 30 November 2006; and under the Chairmanship of H.E. Mr. B. Gosper (Australia).

## **DOCUMENTATION PROVIDED**

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Regime of Lao PDR (WT/ACC/LAO/3), the questions submitted by Members on the foreign trade regime of Lao PDR, together with the replies thereto, and other information provided by the authorities of Lao PDR (WT/ACC/LAO/4, WT/ACC/LAO/5, WT/ACC/LAO/6, WT/ACC/LAO/7, WT/ACC/LAO/8, WT/ACC/LAO/9 and Revision 1, WT/ACC/LAO/11, WT/ACC/LAO/12, WT/ACC/LAO/13, WT/ACC/LAO/14, WT/ACC/LAO/15, [...]), including the legislative texts and other documentation listed in Annex I.

## **INTRODUCTORY STATEMENTS**

4. The representative of Lao PDR said that his Government had implemented a comprehensive reform programme since the mid 1980s to transform the economy from central planning towards a market-oriented system. Lao PDR had joined the Asia Pacific Trade Agreement in 1975 and the Association of South East Asian Nations (ASEAN) in 1997, and was negotiating regional trade agreements with dialog partners of the ASEAN. Lao PDR was thereby gradually integrating into a regional forum consistent with WTO rules and procedures. However, the institutional base for a market economy remained weak in Lao PDR, principally due to landlocked-ness and underdeveloped infrastructure. Notwithstanding these challenges, his Government remained committed to economic integration as the foundation for long-term economic development. In this context, WTO Membership would complement domestic economic and trade reforms in response to increasing competition in the global economy.

5. Lao PDR was pursuing an open trade regime consistently and was keen to ensure widespread confidence in it. The trade policy regime was being reformed to enhance transparency and secure an enabling trade environment. Over a period of ten years, his Government had been transforming the legal regime from a framework based on decrees to a system essentially based on laws passed by the National Assembly. However, as a land-locked LDC, Lao PDR was vulnerable and continued to face structural challenges. He therefore called upon Members to be sympathetic to his country's needs and flexible with respect to the terms and conditions whereby Lao PDR would be implementing its accession obligations. His Government would seek to benefit from the special and differential treatment provisions and the flexibilities granted to LDCs, including the transitional periods and technical assistance foreseen in the WTO Agreements, and the General Council's Decision on Guidelines for LDCs Accession (document WT/L/508). Customs valuation, sanitary and phytosanitary measures, technical barriers to trade, trade-related investment measures, industrial subsidies, and intellectual property rights were areas in which his Government required particular flexibility and assistance.

6. Members welcomed Lao PDR's application to join the WTO and pledged to work constructively to advance and conclude Lao PDR's accession on appropriate terms. While appreciating the domestic reforms already undertaken, some Members noted that further work was needed to achieve compliance with WTO rules and disciplines. Several Members indicated that they would continue to extend technical assistance to facilitate Lao PDR's accession to the WTO. Lao PDR was a beneficiary of the Integrated Framework. The country's status as an LDC was recognized, and in keeping with the Guidelines on LDC accessions, this would be a relevant factor in establishing the terms of accession for Lao PDR.

7. The Working Party reviewed the economic policies and foreign trade regime of Lao PDR and the possible terms of a draft Protocol of Accession to the WTO. The views expressed by Members of the Working Party on the various aspects of Lao PDR's foreign trade regime, and on the terms and conditions of Lao PDR's accession to the WTO, are summarized below in paragraphs [8] to [..].

## **II. ECONOMIC POLICIES**

### **- Monetary and Fiscal Policy**

8. The representative of Lao PDR said that controlling inflation and maintaining exchange rate stability were the main aims of monetary policy. The central bank - the Bank of Lao PDR (BOL) – was in charge of monetary policy and supervised the banking sector pursuant to Law No. 05/95 "On the Bank of Lao PDR" of 14 October 1995 with amendments of 14 October 1999. Money supply



expansion was calibrated to meet inflation and growth targets. Although the Asian financial crisis had pushed annual inflation to 129 per cent in 1999, the economy had stabilized once again, and inflation had returned to the single-digit level of the 1990s. The rate of inflation had amounted to 6.8 per cent in 2006, and a lower rate was expected for 2007.

9. The BOL regulated the monetary system through indirect monetary policy instruments such as mandatory reserve requirements, the sale of treasury bills, overdraft facilities for commercial bank borrowing, and discount facilities for loans secured against treasury bills; and, when necessary, with direct monetary policy interventions, including bank-specific credit ceilings, credit/deposit ratios, direct sale of foreign exchange to the market, and moral suasion to limit the credit expansion or to smooth transitory fluctuations in the exchange rate. The BOL had so far been successful in implementing its monetary policy framework with a view to maintaining low inflation and a stable exchange rate within a managed float exchange rate system.

10. The banking sector in Lao PDR comprised the BOL, three State-owned commercial banks, two joint venture commercial banks, two privately-owned banks, six branches of foreign banks, and one representative office of a foreign bank. Banking activities permitted in Lao PDR were stipulated in Law No. 03/NA "On Commercial Banks" of 26 December 2006, replacing Decree Law No. 01/NA of 11 March 1997. The implementing decree to the new law was in preparation. Notification No. 0777/PMO of 20 June 2001 outlined Lao PDR's plans for the long-term development of the financial and banking sector.

11. Since 1988, public finances in Lao PDR had been overhauled with emphasis on improving the tax system and controlling government expenditures for fiscal balance and sustainability. However, with increased outlays for health, education and basic infrastructure in the 1990s, public expenditure had outpaced government revenue. Over the period 1994-1998, expenditure had accounted for 21 to 27 per cent of GDP, and revenue between 11 and 13 per cent of GDP. The fiscal deficit in 1998 had amounted to 12.8 per cent of GDP. Helped by tax changes, revenue had been higher than expected since the fiscal year 2005/06, while expenditures had been in line with established targets. Over the period 2004/05-2006/07, the revenue to GDP ratio had ranged from 12.1 to 13.5 per cent, while the expenditure ratio had been in the 19 to 20 per cent range. Net domestic financing had continued to decline.

12. The Tax Law No. 04/95/NA of 14 October 1995 (with amendments of 28 September 1998) had brought about improvements in the tax system by reducing the profit tax rates, introducing *ad valorem* customs duties, enlarging the income tax base, and enhancing the role of excise taxes. The tax regime had been transformed further with the promulgation of a new Tax Law No. 04/NA of

19 February 2005. Lao PDR was aiming to broaden its tax base, improve tax efficiency, increase revenues from domestic taxes, and reduce the dependence on border duties. A break-down of government revenue in 2004/05 to 2007/08 is presented in Table 1.

Table 1: Government revenue

Government revenue (KN billion)				
Fiscal year	2004/05	2005/06	2006/07	2007/08 (estimate)
Tax revenue	2,803.1	3,641.1	4,583.3	5,137.7
Profit tax	307.2	458.9	955.4	1,149.4
Income tax	214.9	234.2	255.1	214.4
Agricultural land tax	27.6	30.1	44.8	55.0
Business licenses	2.2	6.1	1.5	2.7
Minimum tax	12.8	22.2	21.2	11.2
Turnover tax	673.5	887.1	1,043.3	1,094.6
Excise tax	522.8	800.3	987.3	1,179.2
Tax on foreign trade	472.0	567.6	573.0	585.6
- Import duties	428.6	514.5	548.1	535.6
- Export duties	43.4	53.1	24.9	50.0
Registration fees	17.6	24.7	49.0	20.0
Other fees	211.2	162.6	156.2	185.6
Natural resource taxes	94.8	217.6	283.8	410.0
Timber royalties	189.4	172.5	166.3	150.0
Hydro royalties	57.1	57.2	46.4	80.0
Non-tax revenue	584.3	624.9	604.4	691.3
Leasing income	44.2	36.1	32.7	65.0
Concessions	8.1	7.4	8.1	19.0
Fines	15.3	23.8	30.3	23.9
Administrative fees	69.2	89.2	83.1	118.4
Dividends	177.8	174.8	153.4	180.0
Interest	47.9	65.0	65.6	55.0
Overflight charges	221.8	228.6	231.2	230.0
Total Revenue	3,387.4	4,266.0	5,187.7	5,829.0

- **Foreign Exchange and Payments**

13. Some Members noted that the national currency of Lao PDR – the kip – was not convertible, and that the IMF had conducted an analysis to determine what restrictions remained that prevented Lao PDR from accepting the obligations of Article VIII of the IMF's Articles of Agreement, including the elimination of foreign exchange restrictions on the making of payments and transfers for current international transactions. Lao PDR maintained repatriation and surrender requirements, and also required tax certificates for certain transactions. Lao PDR was requested to describe its existing foreign exchange regime, indicate how work was proceeding to enable Lao PDR to accept the obligations of IMF Article VIII, and provide a timetable for the elimination of restrictions such as the repatriation, surrender, and tax certificate requirements.

14. The representative of Lao PDR replied that the present legal framework on foreign exchange management implemented by the Bank of Lao PDR (BOL) was founded on Decree Law No. 1/OP "On the Management of Foreign Exchange and Precious Metals" of 9 September 2002 and its implementing regulations (Instruction No. 2/BOL of 29 August 2003 and Additional Instruction No. 1/BOL of 5 February 2004), and Regulation No. 1/BOL of 2000. He stated that the IMF had concluded that the practice followed by the BOL had resulted in *de facto* liberalization of current account transactions for some time. However, certain provisions in the legal framework would need to be reviewed and amended before Lao PDR could formally accept the obligations of IMF Article VIII, Sections 2, 3 and 4. For the time being, Lao PDR was availing itself of the transitional arrangements of Article XIV, section 2 of the IMF Articles of Agreement.

15. Decree Law No.1 was being amended, specifically with respect to Article 13 (about the exchange rate being determined by the market) and Article 27 (the need for tax certificates for remitting profits abroad). His Government had approved the amended Decree Law in August 2007, and the amendment had been submitted to the Standing Committee of the National Assembly. The BOL would review the Instruction No. 2/BOL (2003) and the Additional Instruction No. 1/BOL (2004) relating to the obligation that foreign exchange earnings be repatriated within 120 days, and that resident exporters, except those who had been given specific permission (i.e. income used to repay external loans approved by the BOL, payment for letters of credit approved by the BOL, or conditions stipulated in a contract between a foreign investor and the Government of Lao PDR), were required to remit their proceeds through any commercial bank located in Lao PDR within a stipulated time limit. Hence, the Instruction No. 2/BOL (2003) and Additional Instruction No.1/BOL (2004) would be amended by December 2008. Lao PDR also intended to abolish Regulation No.1/BOL (2000) on foreign exchange surrender by wood exporters by December 2008. The Regulation required exporters of wood and wood products to sell a portion of their net foreign exchange proceeds - 100 per cent for logs, 80 per cent for sawn timber, and 60 per cent for wood products - to State-owned commercial banks in Lao PDR.

16. The representative of Lao PDR said that foreign exchange transactions were handled by commercial banks, foreign exchange bureaus or other business entities authorized by the BOL. Residents could keep all their foreign exchange proceeds in foreign exchange accounts; no retention ratio was specified. Residents in need of local currency for domestic payments could sell foreign currency to the commercial banks or authorized foreign exchange bureaus. Foreign exchange could be purchased for (i) payment of imported goods; (ii) payment of fees for import or export related services, including transportation, insurance and warehouse charges; (iii) settlement of foreign debt approved by the relevant authorities; (iv) transfer or repatriation of profit, interest and capital from

foreign investments made pursuant to Lao PDR's investment legislation; (v) investment in capital assets abroad with government approval; (vi) the expenses of Lao PDR's embassies, representatives or other residents authorized by his Government to operate abroad; (vii) overseas travel (official business, commercial purposes, medical treatment, studies, tourism or visits) within limits established by the BOL; (viii) expenses of students and academics duly authorized by the Ministry of Education, and within limits established by the BOL; and (ix) emigrating residents, within limits set by the BOL, to cover travel expenses and, as authorized, to export their capital. No quotas or prior approval requirements existed for the purchase of foreign exchange through banks by residents or non-residents. Asked about "additional administrative requirements" applicable to foreign currency transactions above US\$10,000, he said that these requirements referred to withdrawals of cash from personal bank accounts in excess of the equivalent of US\$10,000 per day. In such cases, the bank was obliged to conduct due diligence or a "know-your-customer" procedure.

17. In the absence of full convertibility, the Bank of Lao PDR used rates from international and domestic (official and parallel) markets to calculate a weighted average exchange rate between the Lao kip and the US dollar at the end of each trading day. This rate became the reference rate for the following day, and served as the basis for the central bank (Operations Department) and the commercial banks to determine the buying and selling rates vis-à-vis their customers, e.g. the Government, international organizations, and the general public. In December 2006, the exchange rate had been 9,696 kip to US\$1.

18. As for Lao PDR's balance-of-payments situation, he said that Lao PDR's merchandise trade balance was usually in deficit. Over the period 2005-2006, gross foreign reserves had been at levels providing, on average, 3.5 months of import cover. The external debt to GDP ratio had declined from 78.2 per cent in 2005 to 73.55 per cent in 2006. Consequently, the debt-service ratio had fallen from 7.4 per cent in 2005 to 4.5 per cent in 2006.

- **Investment Regime**

19. The representative of Lao PDR said that investment was regulated pursuant to Law No. 10/NA "On the Promotion of Domestic Investment" of 22 October 2004, and Law No. 11/NA "On the Promotion of Foreign Investment" of 22 October 2004 and its implementing regulations (Decree No. 301/PM of 12 October 2005). The Foreign Investment Law of 1994 and the implementing Decree of 2001 were no longer in force.

20. Implementing Decree No. 301/PM distinguished between activities open to foreign investment (Category 1 - listed in Annex 3 of the Decree); activities conditionally open to foreign

investment (Category 2 – Annex 4); foreign investment linked to concession rights from the Government (Category 3 - Article 25 of the Decree); and prohibited sectors (Annex 5) either posing a threat to national security or potentially harmful to the environment, health or Lao culture. Except for funeral services, which were reserved for domestic enterprises for cultural and religious reasons, domestic investment was similarly prohibited (Table 2).

Table 2: Activities Closed to Foreign Investment

ISIC Code	Activities
	<b>Industries, Handicraft</b>
2927	Manufacture of all types of weapons
2429	Manufacture for processing of all types of narcotic drugs
3698	Manufacture of cultural items destructive of the national culture and tradition
-	Manufacture of chemical substance and industrial waste hazardous to human life and environment
	<b>Financial Intermediation</b>
6511	Central Bank
	<b>Other Business Activities</b>
7492	Investigation and security activities
	<b>Public Administration, Self-Administration; Social Safety</b>
7521	Foreign affairs
7522	National defence (security)
7523	Public order and safety activities
	<b>Activities of Membership Organization Not Elsewhere Classified</b>
9192	Activities of political organization
	<b>Other Services Activities</b>
9303	Funeral and related activities
	<b>Education</b>
-	Pedagogy, religious or other teaching and producing specialists for national defence – security

21. The Committee for Promotion and Management of Investment (CPMI) served as a "one-stop service" for investment approval. Investment approval was not automatic, as the CPMI would consider the economic, social and environmental impact of each project. Pursuant to Article 19 of Law No.11/NA, the CPMI examined the investment applications and supporting documents in coordination with the relevant sectoral and local authorities, who could comment on the projects. The CPMI held weekly meetings to consider and decide on the investment applications, except for concession agreements (Category 3) and large-scale projects (over US\$20 million), especially those involving the use of natural resources, which were forwarded to the Government for approval. The timeframe for the granting of licenses was identical for domestic and foreign investment. The investor should receive a written response within 15 working days for Category 1 projects; 25 working days for Category 2 projects; and 45 working days for Category 3 projects. Data on foreign investment projects approved since 2000 is presented in Table 3.

Table 3: Approved foreign investment projects 2000-2006

Years	2001	2002	2003	2004	2005	2006
Number of projects	64	80	178	161	143	171
Value (US\$ million)	54.1	133.0	465.6	533.1	1,245.3	2,699.7

22. Investment projects were subject to a registration fee established in accordance with Presidential Decree No. 2/PD "On Fees and Service Charges" of 27 November 2002. The fee was stipulated in Lao kip for domestic investment and in US dollars for foreign investment projects (Table 4). In the past, the Ministry of Finance had also charged a fee for registration as a taxpayer equal to 0.1 per cent of the value of the investment. This fee had been abolished through Prime Minister Instruction No. 04/PM "On streamlining Investment Project Approval Procedure and Investment Promotion" of 3 March 2005.

Table 4: Registration Fees for Foreign and Domestic Enterprises

No.	Enterprise's registered capital	Registration fees
	Domestic investment:	
1	Less than 1,000,000 kip	Nil
2	From 1,000,000 to 5,000,000 kip	20,000 kip
3	From 5,000,001 to 10,000,000 kip	50,000 kip
4	From 10,000,001 to 50,000,000 kip	100,000 kip
5	From 50,000,001 to 100,000,000 kip	300,000 kip
6	From 100,000,001 to 500,000,000 kip	500,000 kip
7	From 500,000,001 to 1,000,000,000 kip	1,000,000 kip
8	Higher than 1,000,000,000 kip	2,000,000 kip
	Foreign investment:	
1	From US\$100,000 to 300,000	US\$100
2	From US\$300,001 to 600,000	US\$200
3	From US\$600,001 to 1,000,000	US\$300
4	Higher than US\$1,000,000	US\$500

23. As for investment incentives, the representative of Lao PDR said that, being an LDC, Lao PDR did not have the resources to provide any financial support or credit. Although Article 6.1 and 6.4 of the domestic investment law (Law No. 10/NA) referred to "support" from the Government and financial institutions in the establishment and operation of businesses - and Article 12.1 of Law No. 11/NA contained similar language for foreign investment - this referred merely to assistance in dealing with red tape, for example completing the paperwork demanded by banks and financial institutions for the approval of loans or credits. However, in terms of revenue foregone, Article 9.1 of Law No. 10/NA stipulated incentives in the form of tax holidays, reduced tax rates, and import duty exemptions on raw materials, machinery and equipment for domestically-funded export-oriented projects or investment leading to import substitution. Article 9.1 did not establish any specific export

performance or local content criteria for domestic investment. Foreign investment was also eligible for tax and duty exemptions or reductions according to Decree No. 301/PM, Article 34 and Annex 2. These incentives were linked to export performance, as eligibility was tied to the percentage of export. An enterprise exporting 80 per cent or more of its output was eligible for the full range of incentives. In promoted sectors (Annex 2), foreign companies were required to fulfil a minimum of three among six stipulated conditions, one of which was to use more than 50 per cent local raw material. Under the local content requirement, import duty remission or exemption was only granted for products or materials not available domestically.

24. Some Members urged Lao PDR to eliminate WTO incompatible investment measures upon accession. The export performance and local content requirements were noted, as well as provisions in Law No. 11/NA requiring foreign-invested companies to hire at least 90 per cent of the work force locally (Article 12.5) and obliging them to train, upgrade professional skills, and transfer technology to the local employees (Article 13). While recognizing the importance of technology transfer, some Members did not consider mandatory provisions on technology transfer helpful for the investment climate; the 90 per cent local workforce requirement was discriminatory as well as unhelpful; and incentives linked to minimum 50 per cent local raw material were incompatible with the Agreement on Trade-Related Investment Measures and Article 27 of the Agreement on Subsidies and Countervailing Measures.

25. In reply, the representative of Lao PDR said that the purpose of the local workforce requirement was to ensure that foreign direct investment created job opportunities for the population. Similarly, the training and technology transfer provisions had been introduced to allow the benefits of FDI to be shared more equitably. As for local content and export performance requirements, his Government would seek to avail of the transitional arrangements in respect of the TRIMs Agreement available to LDCs in the Ministerial Declaration of the Sixth WTO Ministerial Conference.

- **State Ownership and Privatization**

26. The representative of Lao PDR said that the limited period of central planning in Lao PDR had mitigated the transition to a market economy. Most State-owned enterprises had been privatized in the late 1990s, and the economic significance of the State-owned sector was now, in his opinion, similar to that in many market economies. Privatization had occurred in services sectors such as telecommunications, transportation, insurance, real estate and tourism. The preferred method of privatization was a joint venture model in which the State retained 51 per cent ownership initially, and then reduced its share at subsequent stages. In 2002, 37 enterprises remained State-owned (Table 5)

and, although precise estimates were not available, these enterprises were considered to account for approximately 4 per cent of Lao PDR's GDP.

Table 5: State-Owned Enterprises in 2002

No.	Names	Responsible agency	Products or services
1	Lao National Tourism	Prime Minister's Office	Tourist services
2	Lao Trade Import-Export	Ministry of Industry and Commerce	Import-Export
3	Lao International Import-Export	Ministry of Industry and Commerce	Import-Export
4	Technical Equipment Supply Enterprise	Ministry of Industry and Commerce	Import-Export
5	Lane Xang Development Co. Ltd	Ministry of Industry and Commerce	Import-Export
6	Lao State Fuel	Ministry of Industry and Commerce	Import and distribution of petroleum
7	Lao International Trade Services	Ministry of Industry and Commerce	Import-Export
8	Education Printing Enterprise	Ministry of Education	Education printing services
9	Education Equipment Printing	Lao Youth Union	Educational equipment
10	Electricité du Laos	Ministry of Energy and Mining	Electricity
11	Balit Exploration	Ministry of Energy and Mining	Exploration
12	Lao Cotton State Enterprise	Vientiane Capital	Textile products
13	State Printing Enterprise	Ministry of Information and Culture	General printing services
14	Pharmaceutical No.2	Ministry of Public Health	Medicine manufacturers
15	Pharmaceutical No.3	Ministry of Public Health	Medicine manufacturers
16	National Lottery Co.	Ministry of Finance	Lottery
17	Lao Labour Services Co.	Ministry of Labour and Social Welfare	Employment services
18	Banque Pour Le Commerce Exterieur du Laos	Bank of Lao PDR	Banking service
19	Lao Development Bank	Bank of Lao PDR	Banking service
20	Agricultural Promotion Bank	Bank of Lao PDR	Banking service
21	Lao Water Supply Co.	Ministry of Communication, Transport, Post & Construction	Water supply
22	La Poste du Laos	Ministry of Communication, Transport, Post & Construction	Postal service
23	Lao Airlines	Ministry of Communication, Transport, Post & Construction	Airline services
24	Design Communication Institute	Ministry of Communication, Transport, Post & Construction	Communication and design
25	Road and Bridge Construction No. 8 Co.	Ministry of Communication, Transport, Post & Construction	Construction
26	Construction Materials Survey and Analyses	Ministry of Communication, Transport, Post & Construction	Construction
27	River Transportation Co.	Ministry of Communication, Transport, Post & Construction	Transportation
28	River Construction and Transportation Co.	Ministry of Communication, Transport, Post & Construction	Construction
29	Communication and Design Co.	Ministry of Communication, Transport, Post & Construction	Communication and design
30	River survey and Design Co.	Ministry of Communication, Transport, Post & Construction	Survey and design



No.	Names	Responsible agency	Products or services
31	Consultant Services Co.	Ministry of Finance	Consultant services
32	Agricultural Machinery Co.	Ministry of Agriculture and Forestry	Agricultural equipment supply
33	Lao Air	Ministry of Communication, Transport, Post & Construction	Airline service
34	Development of Agro-Forestry Industry (DAFI)	Ministry of Defence	Wood processing
35	Agriculture and Industry Development	Ministry of Defence	Manufacturer and supplier
36	Bolisat Phatthana Khet Phoudoi (BPKP)	Ministry of Defence	Rural development service
37	Enterprise Telecommunication du Lao (ETL)	Ministry of Communication, Transport, Post & Construction	Telecom services

27. He stated that no plans had been developed to privatize the remaining 37 State-owned enterprises. However, he noted that a restructuring programme had been initiated for certain enterprises, i.e. Electricité du Laos; Lao Airlines; Lao National Tourism; the State-owned commercial banks; and in the supply of water (decentralization of the Vientiane Municipality Authority). No timetable had been set for the restructuring of these enterprises. Privatization of the State-owned commercial banks was considered premature as the banks continued to hold a large portion of non-performing loans.

- **Pricing Policies**

28. The representative of Lao PDR said that prices for most goods and services were set by market forces. Prime Minister's Decree No. 207/PM of 11 October 2001 authorized the Ministry of Industry and Commerce to monitor prices or institute price controls. Based on the Prime Minister's Decree, the Ministry had issued Instruction No. 0334/MOC/ITD of 22 March 2002, making some 30 products/product groups subject to price controls (Table 6).

**Table 6: Price controls in Lao PDR**

	Product description	Measure
1.	Fuel and gas	Maximum prices
2.	All kinds of steel for construction	
3.	Cement	
4.	Roof, floor and wall tiles	Price surveillance
5.	Zinc	
6.	Sawn wood	
7.	All kinds of house paint	
8.	PVC pipes	
9.	Tractors	
10.	Water pumps	
11.	Threshing machines	
12.	Fertilizer	
13.	Animal feed	
14.	Milling machines	

	Product description	Measure	
15.	Rice mills		
16.	Bicycles		
17.	Motorcycles		
18.	Student clothing		
19.	Writing tools		
20.	Raw materials for factories		
21.	Medicines		
22.	Rice		Minimum prices
23.	Sugar		Price surveillance
24.	Soy sauce		
25.	Fish sauce		
26.	Monosodium glutamate		
27.	Vegetable oil		
28.	Flour		
29.	Meat (cattle, pork and poultry)		
30.	Sea fish and fresh water fish		

29. Amongst these goods, maximum prices applied to fuel and gas – all of which was imported – as well as domestically-produced construction steel and cement. He confirmed that imported steel and cement were not subject to price control. As for the goods subject to price surveillance, this measure essentially implied inspection by officials from the Internal Trade Department of the Ministry of Industry and Commerce or the Provincial Offices of Industry and Commerce. The inspectors controlled that traders displayed the prices of their products appropriately, and conducted spot checks to ensure adherence to the pricing regulations. Traders were required to maintain proper records and cooperate fully with the inspecting officials. For rice, price controls implied a minimum price in support of farmers' incomes.

- **Competition Policy**

30. The representative of Lao PDR said that Decree No. 15/PM "On Trade Competition" of 4 February 2004 provided the legal basis for the promotion of fair competition in Lao PDR. The Decree provided for rules, measures and enforcement mechanisms to regulate monopolization and all forms of unfair competition in trade, aiming at promoting fair trade, protecting the rights and legal interests of consumers, and encouraging business activities to function efficiently in Lao PDR.

**III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES**

- **Powers of Executive, Legislative and Judicial Branches of Government**

31. The representative of Lao PDR said that extensive powers were vested in the National Assembly, granted through the Constitution of the Lao PDR – its first, promulgated on 15 August 1991, and subsequently amended on 6 May 2003. The 115-member Assembly had

exclusive authority to decide on matters of war and peace; to enact or amend the Constitution and laws; to elect or remove the President, the Vice-President (on the recommendation of the National Assembly Standing Committee), the President of the People's Supreme Court and the Public Prosecutor-General; to appoint or remove members of the Government on the recommendation of the President; to create or dissolve ministries; to introduce or abolish taxes; to ratify or reject Lao PDR's accession to international treaties; to grant amnesties; and to exercise any other rights or duties prescribed by law. The National Assembly supervised and oversaw the activities of the executive and judicial branches pursuant to Chapter V of the 2003 Constitution.

32. The executive comprised the President, the Prime Minister and his/her Government and local authorities (the Governors of Provinces, the Chiefs of Districts and the Heads of Villages). The President was the Head of State and the Chief of the Armed Forces. The National Assembly elected the President by two thirds majority for five year terms in office. Presidential powers, with the approval of the National Assembly, included appointing the Prime Minister for five-year terms; and issuing decrees. The Government of Lao PDR consisted of the Prime Minister, the Deputy Prime Ministers, Ministers and Chairmen of ministry-equivalent Committees. The Prime Minister supervised the work of the ministries and other government organizations. The Government was responsible for implementing the Constitution, laws and resolutions adopted by the National Assembly and presidential edicts/ordinances and decrees; preparing socio-economic development plans and annual State budgets for submission to the National Assembly; the functioning of all branches of central and local administration; suspending or revoking decisions and instructions of ministries, other government organizations or local administration if contrary to existing laws; and signing and implementing treaties with foreign States.

33. The Ministry of Industry and Commerce was responsible for international and bilateral trade policy and his Government's interests in the WTO. Other line ministries or agencies involved in trade or tariff policy matters were the Prime Minister's Office, the Ministry of Finance (including the Customs Department), the Ministry of Agriculture and Forestry (sanitary and phytosanitary measures), the Ministry of Health (health safety relating to food and drugs), the Ministry of Communication, Transport, Post and Construction (TBT), the Ministry of Energy and Mining (TBT and copyright), the Ministry of Public Security (TBT), the Water Resources and Environment Administration (environmental protection) and the National Organization of Science and Technology (TBT and protection of intellectual property rights).

34. The judiciary in Lao PDR consisted of the District and Municipal Courts; the Provincial and City Courts (Court of First Instance); Courts of Appeal; and the People's Supreme Court. District

Courts, the lowest tier of the court system, dealt with civil or criminal cases involving claims of less than KN 500,000 or prison terms of less than two years; appeals of the decisions of the District Courts and other civil and criminal cases were addressed to the Provincial Courts or City Court (Court of First Instance). Appeals of lower-court decisions could be brought to the Court of Appeal, the Supreme Court being the last resort. According to the new Law on Courts, three Courts of Appeal had been established (in Vientiane Capital and the provinces of Luang Prabang and Champasak) to reduce the workload of the Supreme Court.

35. On the right to appeal administrative decisions to the courts or an independent tribunal in line with Article X of the GATT 1994 and WTO requirements, the representative of Lao PDR said that Lao PDR did not have a law providing specific rights of appeal on trade-related actions taken by governmental bodies, but natural or legal persons had the right to lodge complaints in the courts to protect their interests or claims (Article 3 of the Law "On Civil Procedures"). In practice, administrative rulings on trade issues were rarely redressed in the court system. Complaints against administrative rulings could be lodged by importers or exporters through the administrative procedure. Thus, customs decisions could be appealed to the higher customs authorities and, if not appropriately settled, a petition could be filed in court. The Decree "On Patents" provided for judicial challenges on patent decisions. The establishment of a specialized Commercial Court or an administrative tribunal was not being contemplated at this stage.

36. National Assembly Resolution No. 05/NA of 21 October 2003, amending the Law "On the People's Courts of Lao PDR", had established civil and commercial chambers attached to the provincial courts, appellate courts and the Supreme Court of Lao PDR. In accordance with Article 48 of the Law No. 02/NA "On Civil Procedures" of 17 May 2004, commercial chambers had the jurisdiction to adjudicate on business or commercial matters, including cases relating to business or commercial contracts and documents (promissory notes, bills of exchange, cheques, etc.); commercial loan agreements; the bankruptcy and liquidation of enterprises; cases involving business or commercial relationships concerning the importation or exportation of goods, including trade support services; and violations of copyright and trademarks. The commercial chambers did not have the authority to rule on trade-related administrative decisions of the Government.

37. The representative of Lao PDR said that Decree No. 106/PM "On the Resolution of Economic Disputes" of 15 July 1994 provided a mechanism for dispute resolution, including mediation and arbitration procedures. The Decree had been upgraded to a Law on Resolution of Economic Disputes in 2005. An Office of Economic Disputes Resolution had been established in the Ministry of Justice. Arbitration sub-centres (branches) had been created in the Luang Prabang, Oudomxay and

Savannakhet provinces. Economic disputes (apart from appeals or complaints against the decisions of government bodies) could be brought to the Office of Economic Disputes Resolution within three years of the dispute. Decisions or awards by the Office of Economic Dispute Resolution could be appealed in the commercial chambers attached to the courts.

38. The representative of Lao PDR said that the hierarchy of legislation comprised - in descending order - (i) the Constitution of the Lao PDR; (ii) Laws adopted by the National Assembly; (iii) Edicts/Ordinances promulgated by the President on the recommendation of the Standing Committee of the National Assembly; (iv) Presidential Decrees or Orders; (v) Prime Minister's Decrees; and (vi) Government resolutions, and instructions or decisions of the Prime Minister or ministries. The latter were adopted to implement laws or decrees. Although the legislation hierarchy did not include treaties and international agreements ratified by Lao PDR (amending or promulgating new domestic laws), he noted that such treaties and international agreements were normally placed between the Constitution and Laws adopted by the National Assembly. Presidential and Prime Minister Decrees or Orders were based on Laws or Edicts/Ordinances specifically authorizing the issue of such Decrees or Orders. Only the National Assembly could amend the Constitution (Article 97 of the 2003 Constitution), or ratify Lao PDR's accession to treaties and international agreements such as the WTO. Following approval of Lao PDR's accession terms by the National Assembly, the Prime Minister's office would notify line ministries and publicize the ratification. The WTO Agreements would prevail over domestic legislation (except the Constitution) in case of conflict. However, Lao PDR was pursuing a programme of legislative reform - the Plan for Building New Laws and Amendment of Laws (2001-2006) - to introduce WTO-consistent legislation and implement WTO provisions. Laws recently adopted or amended included the amended Customs Law, the amended Tax Law, the amended Law on Business (renamed the Law on Enterprises), the amended Criminal Law and new laws on Petitions; Value Added Tax; Commercial Banks; and State Inspection. The representative of Lao PDR updated the Working Party on progress in legislative reform and the outlook for further reforms in legislative action plans (documents WT/ACC/LAO/9 and Revision 1).

- **Authority of Sub-Central Governments**

39. The representative of Lao PDR said that his country was divided into 16 provinces and Vientiane Capital. The provincial administration, comprising representatives of central government ministries, administered policies on behalf of - and as determined by - the Government of Lao PDR. The provinces and Vientiane Capital had no authority to set tax rates, grant subsidies or regulate trade independently of the central authorities. The sub-central authorities reported regularly to the central government to ensure that the Government's policies were properly implemented. The Ministry of

Industry and Commerce could dispatch envoys to examine the implementation of trade-related policies by the local authorities.

40. Asked how the central authorities might address complaints by importers or exporters of sub-central entities violating WTO provisions, the representative of Lao PDR replied that Lao PDR would ensure that the sub-central authorities comply with WTO obligations.

#### **IV. POLICIES AFFECTING TRADE IN GOODS**

##### **- Trading Rights**

41. The representative of Lao PDR said that business entities wishing to engage in importation or exportation registered according to the requirements and procedures laid down in Prime Minister's Decree No. 206/PM "On Goods Trading Business" of 10 October 2001 and in Supplementary Announcements of the Ministry of Commerce Nos. 0530/MOC of 10 May 2002 and 0538/MOC of 13 May 2002. The place of registration – at the level of ministry, province or district – depended on the nature of the enterprise and type of activity. Registration was effected at ministry level for State-owned enterprises established by the central authorities and joint ventures with these enterprises; for enterprises engaged in importation of vehicles, petroleum and luxury goods, or exportation of wood and wood products; and for foreign-invested enterprises with a registered capital of US\$200,000 or more. Province-level registration applied to other domestic and foreign-invested enterprises, State-owned enterprises established by the provincial authorities (and joint ventures with them), and commercial enterprises engaging in import-export trade outside the scope regulated by a Ministry. Small businesses (branches, shops, etc.) operating outside the scope of ministry or provincial jurisdiction registered at the district level. The documentation requirements and evaluation criteria were the same at the ministerial and provincial levels.

42. In addition to the application form, foreign investors submitted a copy of the foreign investment licence; sectoral approvals, as appropriate; a statement of assets; the bio-data of the owners and management, photographs and copies of their passports or other ID; the company's rules (for new enterprises); and proof of power of attorney for persons acting on behalf of the owners. Domestic investors submitted the application form; a copy of the investment licence; sectoral approvals, as appropriate; a statement of assets; the bio-data of the owner(s) and management, photographs and copies of their IDs; and verification of criminal record(s). The registration forms to be completed were reproduced in document WT/ACC/LAO/5, Annex I. Application forms were available against payment of KN 14,000, a fee for typing the registration certificate amounted to KN 15,000, and a form for making company stamp was provided against KN 5,000, levied pursuant

to Notification No. 773/MOC of 14 May 1999. The administrative fee for all registration forms was set at KN 34,000.

43. The importer or exporter engaged in trade in the goods for which he/she was registered. The goods were listed in the business certificate. An enterprise wishing to expand the scope of its business to other products would first consult with the authorities responsible for the goods in question, and then submit an application to the Business Registration Division of the Internal Trade Department of the Ministry of Industry and Commerce (and/or Provincial Industry and Commerce). Importers were not automatically considered wholesalers, and an importer was not required to also be the distributor of the imported goods. Additional requirements applied to specific goods such as medicines (competency and storage facilities) and fuels and gas (safe handling). Importers of vehicles, petroleum, luxury goods, and wood products registered with the Ministry of Industry and Commerce. Ministerial Regulation No. 462/MOC of 1993, which had stipulated eight general criteria to be met for import/export registration, and regulations affecting wholesale trade (No. 463/MOC) and retail trade (No. 464/MOC) had been revoked with the entry into force of Prime Minister's Decree No. 206/PM.

44. A Member recalled that the right to import and export, as required under the GATT, was distinct from the business of importing and exporting. The right to import and export allowed a foreign exporter located outside Lao PDR to enter its products into the customs territory of Lao PDR, clear customs formalities, and access the same channels of distribution as domestic firms. In this light, the representative of Lao PDR was requested to explain whether foreign firms were able to perform these activities in Lao PDR, and identify the provisions in Lao PDR's legislation providing for such rights.

45. The representative of Lao PDR replied that foreign firms had the same rights to import as Lao firms provided the foreign firms were registered in Lao PDR and were physically present in his country. Distribution rights were distinct from the business of importing and exporting.

#### **A. IMPORT REGULATIONS**

##### **- Ordinary customs duties**

46. The representative of Lao PDR said that Lao PDR had applied the ASEAN Harmonized Tariff Nomenclature (AHTN) since 1 October 2003. The nomenclature was based on the 2002 version of the Harmonized Commodity Description and Coding System (HS). All MFN customs duties were *ad valorem*, applied on the c.i.f value of the imported goods, with a median tariff rate of

5 per cent and a weighted average tariff of 14.7 per cent; 9.5 per cent unweighted. Lao PDR maintained six tariff bands with duty rates of 5, 10, 15, 20, 30 and 40 per cent. Low tariffs (5 to 10 per cent) were set on imported raw materials and agricultural inputs. The highest rate applied to "luxury goods" (document WT/ACC/LAO/5, Annex IV), or to protect local agricultural production, handicraft and manufacturing activities.

47. The Customs Department in the Ministry of Finance was responsible for customs administration, and the Ministries of Finance, Industry and Commerce, and Agriculture and Forestry were the government bodies involved in setting tariff levels. Any change in the tariff rates required approval by the National Assembly, following up on a proposal from the Prime Minister's Office.

*[Lao PDR's initial offer on goods and the applied tariff rates are dated November 2006 (see notice in documents WT/ACC/SPEC/LAO/2 and WT/ACC/LAO/10, respectively).]*

- **Other duties and charges**

48. The representative of Lao PDR said that, other than ordinary customs duties, Lao PDR did not levy any "other duties and charges" in the meaning of Article II:1(b) of the GATT 1994.

- **Tariff rate quotas, tariff exemptions**

49. The representative of Lao PDR said that Lao PDR did not apply tariff rate quotas on any product.

50. The representative of Lao PDR said that tariff exemptions applied to goods imported by (i) the diplomatic corps; (ii) the army or the police force; (iii) fuel imported by Lao Aviation for international transport; (iv) goods imported by the Government for use in externally-financed development projects; and (v) goods provided through bilateral grants or externally-funded humanitarian assistance. A tariff of 1 per cent was levied on investment goods under the foreign investment regime, and yarn and textiles used in the production of exported garments were exempt from import duty. No exemptions were discretionary, and the Minister of Finance did not have the authority to grant duty exemptions.

- **Fees and charges for services rendered**

51. Asked to enumerate all fees levied for customs processing or other customs-related fees, the representative of Lao PDR said that no such fees had been established. He added that the Ministry of Health collected a fee for the inspection of imported medicines (KN 20,000 per invoice); the registration of imported foodstuff (KN 50,000 per item); and for issuing import permits for food



products (0.05 per cent of the invoice). The National Organization for Science and Technology (NOST) collected a quality inspection fee of 0.01 per cent on imported fuels, steel bars, and cement.

- **Application of internal taxes to imports**

52. The representative of Lao PDR said that excise duties ranging from 5 to 90 per cent were levied on fuels, alcoholic and non-alcoholic beverages, tobacco products, perfumes and cosmetics, playing cards, fireworks, motor vehicles, recreational boats, electrical appliances and certain services in accordance with the 2005 Tax Law, Article 28. The goods and services subject to excise tax are listed in Table 7. The current tax rates did not distinguish between imported and domestically-produced goods. Previously, and as noted by some Members, the excise duty regime based on Notification No. 1061/MOF of 13 June 2003 had imposed substantially higher duties on imports than on domestic production. Purchases by embassies and international organizations, or for externally-funded projects; kerosene; alcohol for medicinal purposes (Accon 90); and exported excisable goods; were not subject to excise tax.

53. The representative of Lao PDR said that Lao PDR applied a turnover tax pursuant to the Tax Law No. 04/NA of 19 February 2005. The turnover tax constituted a general indirect tax on the consumption of goods and services, levied at a rate of 5 or 10 per cent. According to Article 13 of the 2005 Tax Law, some goods and services were exempt from the turnover tax, e.g. equipment imported for research projects, imported vaccines, education materials, goods and services related to afforestation, and goods and services related to aid projects. The turnover tax was collected at customs checkpoints (on imports) and from wholesalers. A refund mechanism allowed businesses to deduct turnover tax paid on raw materials from their monthly turnover tax bills. According to Article 14 of the Tax Law, the taxable base for turnover tax on imported goods included import duty and excise tax, if applicable, whereas domestically-produced goods circulated in Lao PDR were taxed on the basis of the actual sales price, the actual value of the contract for goods produced under contractual arrangements, the total services income for services providers, and the actual price paid by the customers for sales on credit.

54. In response to specific questions, he confirmed that goods exempt from import duty were also exempt from the turnover tax. However, goods which were zero-rated for the purpose of import duty were subject to turnover tax.

55. The representative of Lao PDR added that Lao PDR intended to replace the turnover tax with value added tax (VAT) by January 2009. A single rate of 10 per cent was being contemplated; exports would be zero-rated. The National Assembly had approved the VAT Law in December 2006,

and the Ministry of Finance was currently drafting regulations to implement the Law. VAT would initially be applied to businesses with annual turnover exceeding KN 400 million, some 4,500 to 5,000 entities qualified for the new regime at present according to Article 15 of the VAT Law. Enterprises not required to comply with the new VAT system would continue to pay turnover tax pursuant to the 2005 Tax Law.

- **Quantitative import restrictions, including prohibitions, quotas and licensing systems**

56. The representative of Lao PDR said that Lao PDR prohibited the importation of certain types of goods considered to pose a serious threat to the national economy, public morals, society, culture and traditions, health, safety or the environment. In response to requests for further clarifications and precision to a list of 15 categories of prohibited goods presented in document WT/ACC/LAO/5 (Annex II), he said that the Ministry of Industry and Commerce had revised the list of controlled goods in Notification No. 1376/MOIC.DIMEX of 10 October 2006. The present list comprised five product groups subject to import prohibition (Table 8). The list was undergoing further revision to reduce the number of affected items and to assign HS codes to the goods that would remain under import prohibition. Asked about "exceptional cases" whereby prohibited goods could be imported subject to the approval of the Prime Minister's Office, he said that this referred to, for example, arms and ammunition imported by the Ministry of Defence for military purposes, or *per se* harmful chemicals imported for medical or scientific purposes with the endorsement of the Ministry of Public Health.

Table 8: Import Prohibitions

1.	Guns, bullets, all kinds of explosives, war weapons and war vehicles
2.	Opium seeds, opium flowers, cannabis
3.	Dangerous pesticides
4.	Game machines leading to bad attitudes
5.	Pornography and literature affecting culture and national security

57. The representative of Lao PDR said that Lao PDR had been streamlining import procedures with a view to bringing them into compliance with the Agreement on Import Licensing Procedures. Prime Minister's Decree No. 205/PMO "On Export and Import" of 11 October 2001 constituted the basis for Lao PDR's present import and export controls, and the Ministry of Industry and Commerce issued Notifications to specify the goods subject to approval or non-automatic or automatic import licensing. The licensing procedures were implemented by the trade offices in Vientiane Capital and in the provinces. Requests were forwarded to the relevant authority as provided in Notification No. 1376/MOIC.DIMEX. The approval procedures and the agencies involved differed depending on the nature of the imported product. As an example, he provided a flow chart outlining the approval

procedures for chemical products (pesticides) based on Regulation No. 0886/MOAF of 10 March 2000 (document WT/ACC/LAO/5, Annex V). The present list of goods subject to import licensing (Table 9) was based on Notification No. 1376/MOIC.DIMEX of 10 October 2006.

58. The relevant authorities could elaborate their own detailed lists of goods subject to import or export control. Thus, the Ministry of Health had issued Regulation No. 08/MOH of 4 January 2005, specifying drugs and substances allowed to import, substances and drugs "affecting the brain", and chemical substances that were either strictly controlled, controlled, or on a watch list (document WT/ACC/LAO/5, Annex VI). Likewise, the Ministry of Information and Culture prohibited imports of images of Buddha and god; pornographic materials; and books, magazines, newspapers, etc. which were "against the Government's policy", and maintained strict controls on receivers and transmitters through satellites or the Internet, and equipment for radio and TV broadcasting pursuant to Notification No. 2411/C.MIC of 10 September 1997. He added that the lists of controlled goods were currently under review to bring Lao PDR's import regime into compliance with WTO requirements on import licensing procedures.

59. Goods which were not prohibited or subject to non-automatic import licensing were in principle imported under automatic licence. Originally, Lao PDR had applied a trade balancing policy, i.e. importers had been obliged to export goods to earn the foreign currency used to pay for their imports. This policy had been replaced by indicative import plans, whereby importers of goods not prohibited or otherwise controlled submitted annual plans specifying the total value of the goods to be purchased abroad. Each shipment would then be counted against the amount indicated in the plan, and goods were cleared through customs without any problem as long as the overall amount had not been exhausted. He added that the indicative import plan mechanism had been abolished through order No. 0453/MOIC.DIMEX of 26 March 2007.

60. A Member requested a rationale for making all imports subject to some form of control or licensing, recalling that Article 2.2(b) of the Agreement on Import Licensing Procedures authorized automatic import licensing to be maintained "as long as the circumstances which gave rise to its introduction prevail and as long as its underlying administrative purposes cannot be achieved in a more appropriate way".

61. The representative of Lao PDR replied that the licensing regime of Lao PDR continued to be under review to adapt to WTO requirements regarding automatic and non-automatic licensing procedures, as well as WTO disciplines on TBT and SPS measures. Technical assistance was being sought from international partners in this regard.

- **Customs valuation**

62. Based on the initial information provided by Lao PDR (document WT/ACC/LAO/3, Annex 4), some Members noted that Lao PDR acknowledged that its legislation was not in conformity with the Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation Agreement). These Members stressed that Lao PDR should focus on establishing a valuation system that implemented the hierarchy of valuation methods laid down in the Customs Valuation Agreement with transaction value being the preferred method of appraisal; banned the use of valuation methods prohibited according to Article 7 of the Agreement, including minimum customs value or arbitrary or fictitious values; ensured adequate protection of confidential business information; provided transparency and the right of appeal; and allowed importers to withdraw their merchandise against surety or deposit when the final determination of customs value was being delayed. Lao PDR should also incorporate the Interpretative Notes to the Agreement in its legislation, as Article 14 of the Customs Valuation Agreement stipulated that these notes were an integral part of the Agreement.

63. In reply, the representative of Lao PDR said that the National Assembly had passed a new Customs Law No. 05/NA on 20 May 2005, replacing the 1994 Customs Law, to bring Lao PDR's customs regime into conformity with WTO requirements. Implementing regulations and circulars were being drafted with the assistance of the IMF. He provided an action plan in document WT/ACC/LAO/12, requesting extensive technical assistance and training to implement the Customs Valuation Agreement gradually. Full compliance with the Agreement would be achieved by the end of 2012.

64. Among the challenges Lao PDR was facing in implementing the Agreement, he highlighted the lack of proper accounting and record keeping practices among importers, the low rate of voluntary compliance with existing rules, and the limited capacity of the customs administration to enforce valuation provisions. At present, the Customs Department at the Ministry of Finance was applying minimum values to a large number of products to provide consistency of treatment and to deter fraud. He stressed that rapid elimination of the minimum values could pose a serious threat to customs revenue. According to the action plan, transaction value (and the other valuation methods) would first be applied to imports by State agencies, international organizations, other tariff-exempt importers, and selected importers of "low-risk" goods by the end of 2009. The minimum price lists would be developed into an automated database, to be used primarily as a source of reference in determining customs value, during 2010. By the end of 2011, the valuation provisions of the Agreement would be applied to all

imports except those specifically identified as "high risk" to revenue, either due to the nature of the good, its origin, the importer, or for other specific reasons.

- **Rules of origin**

65. The representative of Lao PDR said that Lao PDR did not require certification of origin for non-preferential imports. A certificate of origin was required for preferential access to the Lao PDR market under the ASEAN Free Trade Area. The Customs Department in the Ministry of Finance was responsible for administering the requirement. The Department of Import and Export at the Ministry of Industry and Commerce and provincial industry and commerce offices certified Lao exports to preferential markets, while the Chamber of Commerce and Industry issued the certificates for non-preferential exports.

66. Responding to queries how Lao PDR applied, or would implement, the requirements of Article 2(h) and Paragraph 3(d) of Annex II of the Agreement on Rules of Origin regarding prior and binding assessments of origin, the representative of Lao PDR said that the present Customs Law did not cover this aspect. However, provisions would be included in the implementing regulations to the Law. A draft Decree had been submitted to the Prime Minister's Office for approval.

- **Other customs formalities**

67. A Member noted that Lao PDR had listed "consular fees overseas" in its Memorandum on the Foreign Trade Regime and asked whether this meant that Lao PDR required authentication of import documentation by consular officials or other institutions in the country of export and, if so, what fees were applied to such authentications. The representative of Lao PDR replied that this measure had been abolished since 1 May 2002.

- **Pre-shipment inspection**

68. The representative of Lao PDR said that Lao PDR did not require mandatory pre-shipment inspection. He confirmed, however, that due to valuation problems in border trade, plans had been put forward to create a joint-venture inspection company (Société Mixte d'Inspection Lao) to combat under-valuations and reinforce the collection of taxes. The company was to have been established within three years of signature of the contract of intention. This had not been achieved, and all plans for pre-shipment inspection had subsequently been scrapped.

- **Anti-dumping, countervailing duties, safeguard regimes**

69. The representative of Lao PDR said that Lao PDR had no legislation authorizing the application of anti-dumping, countervailing, or safeguard measures at present, but would not exclude the possibility that such legislation could be implemented in the future. He confirmed that his Government would not apply any anti-dumping, countervailing or safeguard measures until it had notified and implemented appropriate laws in conformity with the provisions of the WTO Agreements on the Implementation of Article VI of the GATT 1994, on Subsidies and Countervailing Measures, and on Safeguards.

**B. EXPORT REGULATIONS**

- **Customs tariffs, fees and charges for services rendered, application of internal taxes to exports**

70. The representative of Lao PDR said that export duties were levied on some products, enumerated in Table 10. The duties on exports of logs and wood products were included in the timber royalties or stumpage prices. Exports were exempt from the application of internal taxes such as the turnover tax. The requirements and procedures for business entities wishing to engage in exportation were the same as those applicable to importation.

Table 10: Export duties

No.	Product	Rate of export duty (US\$, KN or per cent)	Legal basis
1	Livestock	5	
2	Coffee	5	
3	Electricity	20	
4	Logs		Prime Minister Decree No. 187/PM of 21 October 1994; Minister Instruction No. 230/MOF of 4 March 1995.
5	Sawn wood		
6	Semi-finished wooden products		
	- lumber	40	
	- parquet	40	
7	Finished wood products		
	- plywood	3	

- **Export restrictions**

71. The representative of Lao PDR said that most goods exported from Lao PDR were not subject to any licensing arrangements or restrictions. For goods subject to export prohibition or licensing, the Prime Minister's Decree No. 205/PMO "On Export and Import" of 11 October 2001 provided the legal basis for the controls, and the specific goods subject to export measures were described in Notifications of the Ministry of Industry and Commerce, the most recent being Notification

No. 1376/MOIC.DIMEX of 10 October 2006. The export restrictions were applied to protect national security; public morals; human, animal or plant life and health; articles of artistic, historic and archaeological value; or to conserve exhaustible natural resources and were, in his view, in conformity with Articles XX and XXI of the GATT 1994. The goods currently subject to export prohibition and licensing are enumerated in Tables 11 and 12.

Table 11: Export prohibitions

No.	HS Code	Product description
1	36.01-36.03; 87.10; 93.01-93.07	Guns, bullets, explosives, war weapons and war vehicles
2		Opium seeds, opium flowers, cannabis
3		Animals and animal products which are prohibited to export according to the law
4		Logs, timber, and Akar wood from the forest
5		All kinds of orchids from the forest and Dracaena Loureiri
6		All kinds of rattan
7		Bat manure
8		Antique objects; national treasures of historic and archaeological and cultural value and naturally national historic objects
9		Old/antique Buddha and angel images; and religiously respectful objects

Table 12: Goods Subject to Export Licensing

No.	HS Code	Goods Subject to Control	Responsible Authorities
1.		Live animal, fish and aquatic animals	Department of Livestock and Fisheries, MAF
2.		Rice in the husk (paddy); rice	Department of Agriculture, Ministry of Agriculture and Forestry
3.		Resin and forestry products	Department of Forestry, MAF
4.		Mining	Mining Department, Ministry of Energy and Mining
5.		Wood and wooden products	Department of Forestry, MAF
6.		Rough diamonds	Department of Import and Export, MOIC
7.		Gold and silver	The Bank of Lao PDR

72. Some Members requested further details on banning of log exports (and other forestry products) and the export licensing arrangements for mining and forestry products, in particular the policy objectives being served by these licences, whether the goal was to limit exportation or pursue some other purpose, and what WTO justifications Lao PDR would forward for preserve these licences.

73. In response, the representative of Lao PDR said that mines and forests were exhaustible natural resources requiring conservation, for example through export licensing. He considered the banning of exportation of logs and other forestry products could be justified under Article XX(g) of the GATT 1994. He added that the lists of export prohibitions and licensing continued to be under review to with a view to reducing or adding precision to the export controls applied by Lao PDR.

- **Export subsidies**

74. The representative of Lao PDR said that the Ministry of Industry and Commerce was responsible for export promotion activities. The Ministry, in collaboration with the Lao National Chamber of Commerce and Industry and business associations and groups, promoted Lao products at home and abroad.

75. Some Members noted that Lao PDR was reserving its rights to special and differential treatment as an LDC under Article 27 of the Agreement on Subsidies and Countervailing Measures (ASCM), and that Lao PDR appeared to have included incentives contingent on export performance within the meaning of Article 3.1(a) of the ASCM in its Law No. 10/NA "On the Promotion of Domestic Investment" (Articles 9 and 11); Law No. 11/NA "On the Promotion of Foreign Investment" (Articles 16 and 18); and in Decree No. 301/PM of the Prime Minister "Regarding the Implementation of the Law on the Promotion of Foreign Investment" (Article 15 and Annex 2). As Article 25 of the ASCM obliged WTO Members to notify all subsidies, including prohibited subsidies contingent upon export or the use of domestic over imported goods, Lao PDR was requested to submit such a document to the Working Party for review.

76. The representative of Lao PDR replied that technical assistance was being sought from international partners to fulfil the notification requirement under Article 25 of the ASCM.

**C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS**

- **Industrial policy, including subsidies**

77. The representative of Lao PDR said that Lao PDR had formulated an Industry-Handicraft Development Plan for the period 1996-2005 covering the manufacturing industry, cottage and handicraft industries, power generation, mining, agro-processing industries, textiles and the production of construction materials. The manufacturing sector had been growing faster than many other sectors of the economy; its share of Lao PDR's GDP had increased from 14.4 per cent in 1990 to 29.2 per cent in 2005. The manufacturing industry, in particular food processing, was the primary source of employment, and about 92 per cent of the industrial workforce was employed in factories with less than ten employees. The principal challenges for Lao PDR's continued industrial development were import competition in the case of handicrafts, inadequate infrastructure to attract new industries, a shortage of technical and entrepreneurial skills, and the lack of electricity outside the main population centres. Lao PDR was looking for domestic and foreign capital to improve the production technology and working methods, and to improve the infrastructure in rural areas with the



available labour force. The Governors of Vientiane Capital, Champasack, Savannakhet, Khammouane, Bolikhamxay, Oudomxay, Luangnamtha, and Vientiane provinces had been discussing the establishment of an "Industrial Zone", and a Prime Minister's Decree "On Industrial Zone Development" was being developed, but so far no progress had been achieved.

78. In response to specific questions concerning the mining sector and power generation, the representative of Lao PDR said that Lao PDR sought to develop a favourable legal system for mineral prospecting and exploration and to promote foreign investment in mining. A revision of the Mining Law was underway to create a more enabling environment for investment in this area. Lao PDR did not have a specific national energy plan, but had devised a strategy to develop the electricity sector, including a target to extend the electricity grid to 90 per cent of the households by 2020. For the time being, much of the electricity was being exported. Electricity production had doubled in 1998 when a new hydro power station had come on stream. In 2004, Lao PDR had generated electricity totalling 3,347 million kWh, of which net exports had amounted to 2,147 million kWh. Lao PDR had a considerable untapped hydropower potential. The Law on Electricity stated that the sector sought to increase foreign investment in production, distribution, exportation, importation and the development of this sector.

79. Some Members noted that certain provisions of Lao PDR's laws appeared to provide incentives contingent upon the use of domestic over imported goods within the meaning of Article 3.1(b) of the ASCM, namely Law No. 10/NA "On the Promotion of Domestic Investment" (Articles 9 and 11); Law No. 11/NA "On the Promotion of Foreign Investment" (Article 18); and Decree No. 301/PM of the Prime Minister "Regarding the Implementation of the Law on the Promotion of Foreign Investment" (Article 34). Lao PDR was invited to use the format of document G/SCM/6/Rev.1 to provide a subsidy notification. Lao PDR was requested to (i) identify clearly the subsidies contingent on the use of domestic over imported goods in the manufacturing process for which it would seek a transition period, (ii) provide an action plan to the Working Party with a date certain for the elimination of such subsidies; and (iii) commit to comply with the obligation under Article 25 of the ASCM, as a WTO Member, to notify all subsidies, including prohibited subsidies contingent upon export or the use of domestic over imported goods. Some Members stressed that LDCs were exempted from the prohibition of export subsidies, but not from the prohibition of local content subsidies, and Lao PDR should therefore, in their opinion, eliminate all local content subsidies by the date of accession.

80. The representative of Lao PDR replied that Lao PDR would endeavour to comply with the obligation under Article 25 of the Agreement on Subsidies and Countervailing Measures, and was currently seeking technical assistance from international partners in this regard.

- **Technical barriers to trade, standards and certification**

81. The representative of Lao PDR said that the Decree of the Prime Minister No. 85/PM "On Management of Standards and Quality of Products and Goods" of 2 November 1995 constituted the basic legal framework for Lao PDR's present system of standards, technical regulations and conformity assessment. Amongst the relevant regulations in this area he pointed to the Regulation No. 1036/STEA-PMO "On Quality Inspection of Imported Goods" of 11 June 2002; Regulation No. 08/MOH of 4 January 2005 (e.g food additives such as acetic acid and caffeine being subject to surveillance); and the Regulation "On the Control on Production, Export-Imported Safe Food" No. 586/MOH of 12 May 2006. Products subject to mandatory technical regulations were included in the notifications of the Ministry of Industry and Commerce concerning prohibited and controlled goods for importation and exportation, the most recent being Notification No. 1376/MOIC.DIMEX of 10 October 2006.

82. He provided a checklist of illustrative TBT issues in document WT/ACC/LAO/6 and an action plan for the implementation of the Agreement on Technical Barriers to Trade in document WT/ACC/LAO/14, noting that the present 1995 Prime Minister Decree would be replaced by a new Standards Law by 2009. The new law would be supplemented by implementing Decrees/Regulations. The action plan also foresaw the finalization of a Regulation on Information Procedures and the establishment of the TBT enquiry point in 2008. Lao PDR would need to equip and train officials for the notification and enquiry points to be operational by the date of accession. Testing facilities for construction materials, textiles and chemicals would be in place by 2011. With technical assistance being provided and additional assistance being sought, he envisaged full implementation of the TBT Agreement by 2012.

83. The representative of Lao PDR said that Lao PDR had become a signatory to the ASEAN Consultative Committee on Standards and Quality (ACCSQ) in 1998, and had joined the International Organization for Standardization (ISO) in January 2007. Lao PDR had become a signatory to the IEC-APRC Affiliate Country Programme in 2002. The development of standards and technical regulations followed the ACCSQ principles as stipulated in his Government's National Master Plan No. 1352/PM.DS of 11 August 2000 for the "Development of Standards and Conformity Assessment in Lao PDR". Standards and technical regulations were developed in consultation with the principal governmental stakeholders and the private sector, and - for standards - work was also being pursued

through the ACCSQ based on ISO/IEC guidelines. As a signatory, his Government abided by the decision of the ACCSQ that IEC standards be adopted as national standards and notified to the IEC-APRC-ACP.

84. The National Organization for Science and Technology (NOST) in the Office of the Prime Minister was the central management agency for work on TBT-related matters. For matters dealing with food and drugs, the Food and Drug Administration Committee under the Ministry of Public Health was the responsible agency. Under the auspices of NOST, the National Committee on Management of Standards and Quality examined proposed new standards and technical regulations elaborated in specific technical committees. Once finalized, the National Committee would forward the proposal to the Government for approval. New technical regulations, standards, or conformity assessment procedures were published in the official gazette and other media. The single TBT Enquiry Point would be located in the Department of Intellectual Property, Standardization and Metrology at NOST, and would be operational from the date of accession. The Ministry of Industry and Commerce would be responsible for the submission of notifications to the WTO.

85. In response to a specific question, he said that Lao PDR recognized the results of conformity assessment conducted by the relevant bodies in exporting countries. The quality attestation should be accompanied by a certificate from a testing laboratory accredited by the national standardization body in the exporting country. The procedure for imported steel bars, cement, and petrol was stipulated in Regulation No. 1036/STEA-PMO, and for food and drugs in Regulation No. 586/MOH.

- **Sanitary and phytosanitary measures**

86. The representative of Lao PDR said that Lao PDR was a member of the WHO Codex Alimentarius Commission, the International Office of Epizootics, and the International Plant Protection Convention. The SPS regulations and standards of Lao PDR were based on the relevant international standards, guidelines and recommendations. Lao PDR was also participating in the regional harmonization programmes of ASEAN regarding SPS measures.

87. The main laws and regulations in the SPS area were the Food Law (2005) and the Law No. 01/98NA "On Agriculture" of 10 October 1998; Ministerial Regulations Nos. 0719/MAF "On the Management and Use of Planting Material and Seeds in Lao PDR" of 3 December 1997 and 0639/MAF "On the Quarantine of Plants in the Lao PDR" of 2 July 1993; Decree No. 66/PM "On Plant Quarantine" of 21 March 1993; Ministerial Regulation No. 0886/MAF "On Management and Use of Pesticide in Lao PDR" of 10 March 2000; Instruction No. 0005/MAF for the Regulation on Livestock Management in Lao PDR of 2 January 1997; Regulation No. 0004/MAF "On Livestock

Management in Lao PDR" of 2 January 1997; Decree No. 85/PMO "On Livestock Management in Lao PDR" of 31 May 1993; Technical Norms No. 0313/MAF "On Livestock Management in the Lao PDR" of 21 January 2000; Regulation No. 586/MOH "On the Control on Production, Exported-Imported Safe Food" of 12 May 2006; Regulation No. 035/FMC "On the Control of Export-Oriented and Imported Foodstuffs" of 26 October 1991; Elaborated Recommendations No. 035/FMC Relating to the Regulations on Quality Control of Export-Oriented and Imported Foodstuffs of 9 September 1991; Regulation No. 105/FMC "On Food Quality Control in Domestic Distribution" of 31 October 1991; and Provisions No. 048/FMC "On Quality Control of Domestically Produced Food Products" of 26 September 1991.

88. He added that in order to comply with the Agreement on the Application of Sanitary and Phytosanitary Measures, Lao PDR would need to improve its risk assessment procedures, upgrade the existing legislation, and improve and develop its SPS-related processes and infrastructure. According to Lao PDR's checklist of illustrative SPS issues (document WT/ACC/LAO/6), the principles of the Agreement regarding science-based regulations, measures based on necessity, equivalence, non-discrimination, and control, inspection and approval procedures had yet to be incorporated in domestic regulations. The transparency provisions of the Agreement would also need to be addressed. He provided an action plan for the implementation of the SPS Agreement in document WT/ACC/LAO/13, noting that Lao PDR would be amending its Veterinary Law, prepare a Law on Plant Protection and Plant Quarantine, draft an implementing regulation for the Food Law, and promulgate new decrees or regulations on food control, food additives, inspection of live animals (import and transit), animal quarantine, zoonotic disease control, plant inspection and certification, update the Regulation on Plant Quarantine, and complete work on the designation of pest and disease free areas. With the provision of technical assistance, he expected Lao PDR to be in full compliance with the SPS Agreement by 2012.

89. At the central level, the key governmental agencies involved in the elaboration of SPS measures were the Ministry of Agriculture and Forestry - Department of Agriculture (plant health) and the Department of Livestock and Fisheries (animal health); and for food safety the Ministry of Public Health - the Department of Food and Drug and the Department of Hygiene and Disease Prevention. The two Departments of the Ministry of Public Health worked on food safety issues under the supervision of the National Codex Committee. The Committee was made up of representatives of the Ministries of Industry and Commerce, Agriculture and Forestry, and Health, and was chaired by an official from the Department of Intellectual Property, Standardization and Metrology within the NOST. The implementation of food safety and animal and plant health policies was carried out by provincial and local authorities in the 16 provinces and in Vientiane Capital, e.g.

the provincial Agriculture and Forestry Offices. The single SPS enquiry point would be established in the NOST (also serving as the TBT enquiry point), and the Ministry of Industry and Commerce would be responsible for the submission of SPS notifications to the WTO.

90. In response to a specific question, he said that Regulation No. 0886/MAF - which concerned the use of pesticides in agriculture - required an import permit from the Department of Agriculture (or the Agriculture and Forestry Office in the provinces and Vientiane Capital) for each shipment, and prior registration of the pesticide with the Department or Offices. The registration was valid for two years, but the Department or Offices considered the import permit the only possible way to administer the Regulation. A quality certificate was required for all imported food, and for each shipment. As Lao PDR did not have resources to undertake extensive analysis and testing, certificates issued in the exporting country were recognized and accepted. The Food and Drug Department was the only institution in Lao PDR capable of examining and certifying food products. Registration forms for quality control on domestically-circulated foodstuff were reproduced in document WT/ACC/LAO/5, Annex VII. He provided a list of quarantine pests (2005) in document WT/ACC/LAO/11, Annex 2.

- **Trade-related investment measures**

91. Some Members noted that the investment legislation of Lao PDR – the Law No. 10/NA "On the Promotion of Domestic Investment" and Law No. 11/NA "On the Promotion of Foreign Investment" and its implementing regulations (Decree No. 301/PM) – encouraged export-oriented production and import substitution and would, with these objectives in mind, appear to include measures falling within the scope of the Agreement on Trade-Related Investment Measures. In particular, Decree No. 301/PM included provisions for import duty and tax concessions (Article 34) and eligibility criteria for investment incentives (Annex 2, footnote) that could be construed as local content or export performance requirements. Lao PDR was reminded that in order to utilize the transitional arrangements under the TRIMs Agreement, Lao PDR would be required to identify the precise measures for which it would be seeking transitions. Lao PDR should also indicate how long within the allowable period it believed it would be necessary to maintain the measures, and commit to the elimination of all measures inconsistent with the TRIMs Agreement within a date certain, e.g. seven years from the date of accession to the WTO.

92. In reply, the representative of Lao PDR took note of the request for TRIMs measures to be notified. Bearing in mind the flexibilities granted to LDCs through the Sixth WTO Ministerial Conference Declaration, Lao PDR would like to avail itself of the available transitions and phase out its incompatible TRIMs measures as foreseen for LDC Members.

- **State-trading entities**

93. Noting a preliminary statement by the representative of Lao PDR that Lao PDR did not have State trading enterprises in the sense of Article XVII of the GATT 1994 and the working definition of the Understanding on that Article, but that his Government would continue to consider this issue and report to the Working Party if necessary, some Members requested Lao PDR to elaborate on the functioning of State-owned enterprises engaging in imports or exports of goods and State "controls" on certain imports and exports, reminding Lao PDR that the obligations of GATT Article XVII and the Understanding on that Article applied equally to enterprises owned or controlled by the State, as well as enterprises to which the State granted special or exclusive privileges.

94. In reply, the representative of Lao PDR said that the 16 State-owned enterprises currently involved in importation or exportation of goods were registered with the industry and commerce authorities. The enterprises had been established and operated on the same basis as private enterprises engaged in foreign trade, and his Government did not interfere in their decision-making. No enterprise - private or State-owned - imported or exported goods on behalf of the Government or engaged in stock-building from international trade. State "control" in the context of international trade in goods referred to licensing and regulation, and did not imply the designation of specific firms to conduct trade, the setting of prices or profits, or State decision-making regarding purchases or sales.

- **Free zones, special economic areas**

95. The representative of Lao PDR said that Lao PDR had established two border trade zones (Boten and Dansavanh Village) and one special economic zone (Savan-Seno) pursuant to Decree No. 25/PM "On Dansavanh Village Border Trade Zone" of 25 March 2002; Decree No. 162/PM "On Border Trade Zone at Boten, Louangnamtha Province" of 8 October 2002; and Decree No. 148/PM "On Savan-Seno Special Economic Zone" of 29 September 2003. Decrees Nos. 25/PM and 162/PM set out the requirements for investing in the trade zones (Articles 5-7) as well as the incentives accorded to the projects (Articles 14-24). Natural or legal persons, regardless of nationality, could invest in these zones and engage in manufacturing, services or trading activities. In addition to the incentives available under the domestic and foreign investment laws, investors in these zones could avail of tariff exemptions on some goods imported into or exported from the zones, reductions or exemptions on profit tax and turnover tax, and other benefits. According to Article 15 of Decrees Nos. 25/PM and 162/PM, investors were exempt from profit tax during a grace period, to be followed by a profit tax regime that could be governed by special legislation. However, no such legislation had been drafted. As for the special economic zone, Article 6.4 of Decree No. 148/PM indicated that

preferential duty and tax treatment would be determined under separate legislation, but no such legislation existed at present.

96. In response to questions, the representative of Lao PDR confirmed that goods produced in the two trade zones and in the special economic zone would be subject to import duty when entering the normal customs territory of Lao PDR. A discount was applied to the ordinary rate of customs duty depending on the percentage of local raw materials and value added in the zones. Goods with local content up to 20 per cent were subject to a flat 10 per cent reduction in the customs duty (e.g. 4.5 per cent instead of 5 per cent). The customs duty for goods with more than 20 per cent local content was rebated by a percentage corresponding to the percentage of local content in the good in question.

- **Government procurement**

97. The representative of Lao PDR said that government procurement was regulated by Procurement Decree No. 95/CM of 5 December 1995, and its revised Implementing Rules and Regulations No. 01639/MOF of 22 December 1998. The Procurement Monitoring Office at the Ministry of Finance was responsible for administering the procurement of all ministries, governmental agencies, the provinces, the Vientiane Prefecture, and the State-owned enterprises.

98. The regulations stipulated four methods of procurement and defined the precise conditions for using each procedure whether (i) limited bidding, whereby a tender could be restricted to three to five bidders considered capable of meeting the terms of the contract; (ii) "local price comparison", i.e. the procuring entity would solicit and compare offers from at least three domestic suppliers; (iii) "international price comparison" involving the comparison of offers from at least three companies from two or more countries; and (iv) direct contracting, whereby the procuring entity would negotiate the contract terms and conditions directly with one or more supplier(s). Notices announcing the tenders and inviting offers were published in widely circulated newspapers at home or abroad, in English or in Lao. Minimum time limits for the submission of offers ranged from 10 to 45 days depending on the procurement procedure.

99. Asked whether Lao PDR would consider joining the Agreement on Government Procurement, the representative of Lao PDR said the decision would depend on the capacity of governmental agencies to manage the terms and conditions of the Agreement.

- **Transit**

100. The representative of Lao PDR said that Lao PDR was a land-locked country dependent on the effective cross-border transit of goods. ASEAN had developed arrangements to facilitate transit trade among its members and to reduce costs in the cross-border movement of goods. Goods in transit through Lao PDR were regulated according to Article 33 of the Customs Law (2005). Goods in transit were exempt from import and export duties.

- **Agricultural policies**

(a) **Imports**

101. The representative of Lao PDR said that the import duty on agricultural products ranged from 5 to 40 per cent with a simple average of 18.8 per cent. As agriculture was the backbone of the Lao economy, high tariffs were maintained on products competing directly with local production. In the past, imports of all animal parts and agricultural goods produced locally such as chillies, aubergines, tomatoes, bananas, lemons and other fruit had been banned (Notification No. 870/MOC of 19 September 1996). Although import controls had been relaxed in recent years, Lao PDR would nevertheless reserve the right to impose import restrictions on rice, the predominant staple in the traditional diet, particularly if measures were required to underpin the minimum farm gate prices established for rice. According to Notification No. 0100/MOC of 28 January 2000, each province was required to prepare an annual plan to balance the demand for rice. In case of short supply, the provincial governor could approve the importation of rice. Import controls on agricultural products were maintained pursuant to Notification No. 1376/MOIC.DIMEX of 10 October 2006. The procedure for obtaining import permits for agricultural commodities and agro-chemicals was demonstrated with a flow chart, circulated in document WT/ACC/LAO/5 Annex V.

(b) **Exports**

102. The representative of Lao PDR said that some goods were prohibited to export (Table 11) and some products were subject to export licensing (Table 12). An export tax of 5 per cent was levied on coffee beans and livestock. His Government would reserve the right to apply controls on the exportation of rice for food security considerations.

103. A Member noted that Lao PDR had no agricultural export subsidies, but would like to maintain a right to use such subsidies as long as it remained an LDC. Lao PDR was encouraged to maintain standstill on export subsidies for agricultural products.



(c) **Internal policies**

104. The representative of Lao PDR said that his country was predominantly an agrarian economy as the agricultural sector accounted for more than 50 per cent of Lao PDR's GDP, employed about 80 per cent of the workforce, and provided a livelihood - often at a subsistence level - to the majority of the population. Rice was the staple crop cultivated and consumed domestically. Other grains and pulses, vegetables, fruit, livestock, tobacco and coffee were also produced in Lao PDR.

105. The representative of Lao PDR provided information on domestic support and export subsidies in the agricultural sector for the period 2001-2003 in document WT/ACC/SPEC/LAO/1. Expenditures on "green box" measures – principally the funding of research, pest and disease control, training and extension and advisory services - had averaged some US\$5.6 million per year during this period. In addition, Lao PDR reported outlays on development programmes (Article 6.2) for input subsidies (investment and operating credits provided by the Agriculture Promotion Bank, and electricity at reduced rates to poor farmers), and a market price support programme for rice. However, the minimum farm gate price had been well below the external reference price throughout the period. The Ministry of Agriculture and Forestry had also spend an average US\$8.5 million per year on irrigation. All support was well below the 10 per cent *de minimis* level.

106. He noted that his Government had raised US\$19,500 in 1994 to establish a State-owned enterprise to purchase farm products at market prices and resell the goods in the domestic market at a later time to stabilize the market. The enterprise had operated with a profit since its establishment, and no further funding had been necessary. The Ministry of Agriculture and Forestry, the Ministry of Industry and Commerce, and the National Statistics Centre were developing a market information system for the benefit of agricultural producers.

- **Trade in civil aircraft**

107. In response to a specific question concerning the current import duty on civil aircraft and aircraft parts, the representative of Lao PDR said that the rate on aircraft parts was 10 per cent.

- **Textiles regime**

108. The representative of Lao PDR said that textiles were subject to the same general measures applied to other products. The simple average applied import duty on textiles and clothing was 9.46 per cent.

## **V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME**

### **- GENERAL**

#### **- Industrial property protection**

109. The representative of Lao PDR provided a technical note on the implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in document WT/ACC/LAO/7, and an action plan for the implementation of the TRIPS Agreement in document WT/ACC/LAO/15. With the provision of technical assistance and national capacity building, the implementation of the TRIPS Agreement would be achieved at the latest by January 2013 according to the action plan.

110. At present, industrial property protection was provided through the Prime Minister's Decree No. 06/PM "On Trademarks" of 18 January 1995 and Regulation No. 466/STEA-PMO "On the Registration of Trademarks" of 7 March 2002; Decree No. 01/PM "On the Protection of Patents, Petty Patents (Utility Models) and Industrial Designs" of 17 January 2002, and Regulation No. 322/STEA-PMO "On the Implementation of the Patents Decree" of 18 February 2003. A new Intellectual Property Law covering copyright and related rights, trademarks, trade secrets, geographical indications, industrial designs, patents, petty patents, layout designs of integrated circuits, and the protection of plant varieties was in preparation. The law would be complemented by implementing regulations and decrees to meet the requirements of the WTO.

#### **- Responsible agencies for policy formulation and implementation**

111. The representative of Lao PDR said that the Department of Intellectual Property, Standardization and Metrology (DISM) in the National Organization for Science and Technology (NOST) had overall responsibility for the coordination of the implementation of policies on intellectual property. The functions of the DISM included preparation of legislation, the formulation of strategic development plans on intellectual property, the establishment of a registration system, international co-operation, dissemination of information, and receiving petitions and claims from the public and coordinating with other agencies to resolve them. At the Ministry of Justice, the Department of Legislation provided advice in the preparation of new legislation and endorsed the bills before submission to the National Assembly. NOST would coordinate with other Ministries depending on the subject matter, e.g. the Ministry of Industry and Commerce on trademarks and trade secrets, the Ministry of Agriculture and Forestry (plant varieties), and the Ministry of Information and Culture (copyright and related rights) and other Ministries.

112. The Customs Department at the Ministry of Finance was responsible for measures applied at the border to enforce intellectual property rights. The Economic Police within the Ministry of Public Security enforced IPRs within the country.

- **Participation in international intellectual property agreements**

113. The representative of Lao PDR said that Lao PDR had become a signatory to the convention establishing the World Intellectual Property Organization in 1995, acceded to the Paris Convention for the Protection of Industrial Property in 1998, and the Patent Cooperation Treaty in 2006. Preparations were ongoing to accede to the Berne Convention for the Protection of Literary and Artistic Works (by January 2009), the Rome Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations (by January 2010), and the Washington Treaty on Intellectual Property in Respect of Integrated Circuits (by January 2012). Lao PDR had signed a bilateral agreement with Thailand on trademarks and other areas of intellectual property rights in 1996, and an ASEAN treaty on a common filing system for trademarks, industrial designs and in the area of copyright.

114. Asked about Lao PDR's intentions regarding accession to the International Union for the Protection of Plant Varieties (UPOV), and urged to join the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, the Geneva Phonograms Convention, and the Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, the representative of Lao PDR noted that the TRIPS Agreement did not require accession to IP treaties and conventions such as the UPOV. His Government would nevertheless study the implications of acceding to the various agreements. Lao PDR would need to introduce legislation on copyright and related rights before being able to join the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty.

- **Application of national and MFN treatment to foreign nationals**

115. The representative of Lao PDR noted that Article 3 of the TRIPS Agreement stipulated the principle of national treatment subject to the exceptions provided in the Paris Convention (which Lao PDR had joined in 1998), the Berne Convention (accession in preparation), and the Rome Convention (accession targeted by January 2010), and he expected Lao PDR to accord national treatment in accordance with the TRIPS Agreement once it became bound by the Agreement. At present, foreigners were required to use an accredited representative in Lao PDR to file trademark applications pursuant to the Regulation on the Registration of Trademarks No. 466/STEA/PMO (2002). The accredited representative could also be used for the registration of other types of

intellectual property, e.g. petty patent and industrial designs pursuant to the Regulation on the Implementation of the Decree on Patent, Petty Patent and Industrial Designs No. 322/STEA-PMO (2003). Concerning adherence to the MFN principle, the intellectual property legislation of Lao PDR did not accord additional favourable treatment to the nationals of any country.

- **Fees and taxes**

116. The representative of Lao PDR said that as Lao PDR was still in the process of introducing protection for various forms of intellectual property. The current fees and charges related to trademarks, patents, petty patents and industrial designs are enumerated in Table 13.

Table 13: Fees for IP Registration

<b>TRADEMARKS</b>	
Action	Fee (US\$ per mark)
Trademark registration or trademark renewal	80
- Each class (fee per class)	5
Transmission	20
Consultation for the registration	5
Search of Trademark	10
Modification of items of the application	10
Publication	20
Application per form	2
<b>PATENTS</b>	
	Fee (US\$ per item)
<u>Official fees:</u>	
1. Official fee for granted patent	30
<u>Regular services fees:</u>	
1. Application form for registration of invention	20
2. Consultation on invention	10
<u>Irregular services fees:</u>	
1. Request against registration	20
2. Amendment of application for registration	10
3. Assignment or licensing of patent rights	40
4. Duplicate of patent	10 (per copy)

<b>PATENTS</b>		Fee (US\$ per item)
Fee charge of each search report relies on the calculation of relevant foreign examination body or international organization.		
In order to maintain the patent, an annual official fee and service fee shall be paid by the owner of invention are as follows:		
5th year	Official fee	30
	Services fee	20
6th year	Official fee	40
	Services fee	20
7th year	Official fee	50
	Services fee	20
8th year	Official fee	60
	Services fee	40
9th year	Official fee	80
	Services fee	60
10th year	Official fee	100
	Services fee	80
11st year	Official fee	140
	Services fee	100
12nd year	Official fee	180
	Services fee	120
13th year	Official fee	230
	Services fee	150
14th year	Official fee	280
	Services fee	180
15th year	Official fee	330
	Service fee	210
16th year	Official fee	390
	Services fee	250
17th year	Official fee	450
	Services fee	300
18th year	Official fee	510
	Services fee	350
19th year	Official fee	570
	Services fee	400
20th year	Official fee	650
	Services fee	450
<b>PETTY PATENTS</b>		
<u>Official fees:</u>		
1.	Official fee for granted petty patent	30
<u>Regular services fees:</u>		
1.	Application form for registration of device	10
2.	Consultation on device	10
<u>Irregular services fees:</u>		
1.	Request against registration	10
2.	Amendment of application for registration	10
3.	Assignment or licensing of petty patent rights	40
4.	Duplicate of petty patent	10 (per copy)

<b>PETTY PATENTS</b>		Fee (US\$ per item)
In order to maintain the petty patent, an annual official fee and service fee shall be paid by the owner of device are as follows:		
2nd year	Official fee	10
	Services fee	15
3th year	Official fee	20
	Services fee	15
4th year	Official fee	30
	Services fee	20
5th year	Official fee	40
	Services fee	25
6th year	Official fee	50
	Services fee	30
7th year	Official fee	70
	Services fee	35
<b>INDUSTRIAL DESIGNS</b>		
<u>Official fees:</u>		
1.	Official fee for certificate of industrial design	20
<u>Regular services fees:</u>		
1.	Application form for registration of industrial design	10
2.	Consultation on industrial design	10
<u>Irregular services fees:</u>		
1.	Request against registration	10
2.	Amendment of application for registration	10
3.	Assignment or licensing of rights of industrial design	40
4.	Duplicate of industrial design	10 (per copy)
In order to maintain the industrial design, an annual official fee and service fee shall be paid by the owner are as follows:		
2nd year	Official fee	10
	Services fee	5
3th year	Official fee	15
	Services fee	8
4th year	Official fee	20
	Services fee	11
5th year	Official fee	25
	Services fee	11
From 6th - 15th year		
	- Official fee	30
	- Services fee	20
<u>Remark:</u>		
In addition to the official fee for registration of invention, device or industrial design, the Registry Unit is asked to gather a contribution fund from the owner of patent, petty patent and industrial design for publication of the result of the patent registration US\$40, device registration US\$30, and industrial design registration US\$30 per item.		

- **SUBSTANTIVE STANDARDS OF PROTECTION, INCLUDING PROCEDURES FOR THE ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS**

- **Copyright and related rights**

117. The representative of Lao PDR said that no legislation protected copyright and related rights in Lao PDR at present. However, an Intellectual Property Law including copyright and related rights - based on the WIPO model law and the requirements of the TRIPS Agreement - were in preparation, with promulgation expected in 2010. His Government was also preparing to accede to the Berne Convention in January 2009 and the Rome Convention in January 2010. A copyright and related rights information centre would be established by 2010.

118. Having reviewed a draft of the Intellectual Property Law, a Member noted that the draft generally appeared to fall short of full compliance with the requirements under the Berne Convention and the TRIPS Agreement, and specifically with respect to registration to receive protection, exceptions and exclusions, the non-inclusion of "scientific works", and the definition of related rights. Moreover, the draft law did not set forth the term of copyright protection for audiovisual works and sound recordings.

119. The representative of Lao PDR replied that many of the points raised, including registration procedures and the term of protection for audiovisual works and sound recordings, would be addressed in specific Decrees and Regulations. He noted the requirement to extend protection to "scientific" works, and this and other requirements of the TRIPS Agreement would be reflected in the draft law.

- **Trademarks, including service marks**

120. The representative of Lao PDR said that trademarks were protected pursuant to the Prime Minister's Decree No. 06/PM "On Trademarks" of 18 January 1995, and Regulation No. 466/STEA-PMO "On the Registration of Trademarks" of 7 March 2002. Applications for registration of a trademark - any visible sign capable of distinguishing a good or service consisting of letters, words, signs, pictures or a combination thereof in one or more colours - were filed with the Department of Intellectual Property, Standardization and Metrology (DISM) in the NOST. The Department processed the application, entered the approved trademark in a national register, and issued a trademark registration certificate. The registered mark was published in the Official Industrial Property Bulletin of the NOST. The normal timeframe between application and the granting of a certificate was six

months or less. The term of protection for a registered trademark was ten years, renewable indefinitely for successive periods of ten years. Applications for renewal should be filed within six months of expiry. A trademark registration could be cancelled for non-use during a continuous period of five years, unless it could be demonstrated that special circumstances had prevented the use of the trademark.

121. Excluded from registration were trademarks that were (i) not clear and did not identify any product or service; (ii) contrary to national culture, morals or public order; (iii) misleading or likely to mislead, in particular with respect to geographical origin, nature or characteristics; (iv) forged or copied; (v) comprising symbols such as national seals, flags or emblems, or other symbols closely identified with a nation's culture or heritage; (vi) comprising names or bearing the official seals of countries or governments, international organizations, or organizations established by treaties; or (vii) if the mark was identical with - or confusingly similar to - trademarks or trade names of goods or services which were widely "well-known".

122. The owner of a trademark already registered abroad had the right to demand priority when filing for registration in Lao PDR. Registration for protection of a trademark was not compulsory in Lao PDR, but the rights of the owner or his/her consent could only be recognized if a trademark had been registered. Owners of registered trademarks had the exclusive right to use the trademarks, or to authorize others to use them. Individuals or legal entities using trademarks without the consent of the owner would receive a warning from DISM, which would invite the parties concerned to find a mutually acceptable solution. If no agreement was reached, the matter could be referred to the Economic Arbitration Committee under the Ministry of Justice, or to the courts. The suspected infringer could be subject to legal sanction if he/she ignored the agreement, or if the infringement was highly damaging to the economic interests of the rightful owner, etc.

123. Responding to specific questions and comments, he acknowledged that Article 12 of the 1995 Decree made no reference to marks identical or confusingly similar to marks that were the subject of registration or pending applications (but not well-known). Decree No. 06/PM would also need to be amended to ensure full compliance with Article 15.5 of the TRIPS Agreement regarding the provision of reasonable opportunity for petitions to cancel a registration. In addition, the new Intellectual Property Law and its implementing Decrees and Regulations would incorporate the rights conferred to the trademark owner by virtue of Article 16.1 of the TRIPS Agreement to prevent the use of "similar signs" and to presume confusion where an identical mark was used without authorization.



- **Geographical indications, including appellations of origin**

124. The representative of Lao PDR said that existing legislation did not provide protection for geographical indications, but provisions would be included in the new Intellectual Property Law. Lao PDR had established a committee on geographical indications under the Ministry of Agriculture and Forestry in 2007, and was also planning the establishment of a geographical indications information centre (by 2011).

125. Having reviewed a draft of the Intellectual Property Law, a Member noted that the provisions relating to geographical indications were limited to definition and duration. This Member therefore requested further information on how Lao PDR intended to provide protection for geographical indications, including additional protection for GIs for wines and spirits, and addressing situations where the owner of an earlier protected trademark would be able to prevent the protection or registration of a confusingly similar and later-in-time geographical indication in accordance with Articles 16.1 and 24.5 of the TRIPS Agreement.

126. The representative of Lao PDR replied that the Intellectual Property Law was under review and would reflect the requirements of the TRIPS Agreement related to geographical indications.

- **Industrial designs**

127. The representative of Lao PDR said that Article 29 of Decree No. 01/PM "On the Protection of Patents, Petty Patents (Utility Models) and Industrial Designs" of 17 January 2002 provided protection for new industrial designs. The Decree covered the protection of textile designs (Article 32), but did not distinguish new from original designs. Provisions on industrial designs would be included in the new Intellectual Property Law, and amendments were being planned to the existing Decree.

128. Having reviewed the draft Law, which appeared to be restating provisions in Decree No. 01/PM, a Member noted that Lao PDR would seem to be protecting industrial designs for five years, less than the ten-year term of protection provided for under the TRIPS Agreement.

129. In reply, the representative of Lao PDR said that Article 35 of Decree No. 01/PM stipulated an initial term of protection of five years for industrial designs, renewable for two consecutive periods of five years each. Thus, the full term of protection for industrial designs was 15 years in Lao PDR.

- **Patents**

130. The representative of Lao PDR said that patents were granted for inventions considered new, involving an inventive step, and industrially applicable pursuant to Decree No. 01/PM "On the Protection of Patents, Petty Patents (Utility Models) and Industrial Designs" of 17 January 2002 and Regulation No. 322/STEA-PMO of 18 February 2003. Discoveries; scientific theories and mathematical methods; schemes, rules or methods for doing business; the performance of pure mental acts or playing games; methods for the treatment of the human body or animals; and inventions contrary to public order or national cultural morality were not recognized as patentable subject matter. The term of protection for a patent was 20 years without renewal. The requirements of Article 29 of the TRIPS Agreement were covered by Article 11, paragraph 2 of Decree No. 01/PM.

131. The rights conferred to the patent owner - including the right to assign, transfer by succession and to conclude licensing contracts - were provided through Article 18 of Decree No. 01/PM and Article 30 of Regulation No. 322/STEA-PMO and were, in his opinion, in conformity with Article 28 of the TRIPS Agreement. Exceptions to the exclusive rights conferred by a patent were laid down in Articles 20 and 21 of Decree No. 01/PM. Responding to a comment that Article 21 appeared to be attempting to provide for a compulsory licence where the provisions of Article 5(A)(4) of the Paris Convention applied, although this was not clear from the text, he said that Article 21 related to non-use or insufficient exploitation of a patented invention after four years from the date of filing or three years after the patent had been granted. Such compulsory licence would be non-exclusive and define the scope, function, time limit, adequate remuneration, and the condition of payment as provided for in the Paris Convention.

132. The representative of Lao PDR added that some aspects of the TRIPS Agreement relating to patents would be addressed in the new Intellectual Property Law and by amending the existing Decree and implementing Regulation, notably by adding more specific provisions regarding the opportunity for judicial review of decisions to revoke or forfeit a patent (Article 32 of the Agreement), the conditions for providing limited exceptions to the rights conferred (Article 30), and to allow reversal of the burden of proof in process patent infringement actions in the instances foreseen in Article 34 of the TRIPS Agreement. Lao PDR also planned to establish a patent information centre by 2010.

- **Plant variety protection**

133. The representative of Lao PDR said that existing legislation did not provide protection for plant varieties in accordance with Article 27.3(b) of the TRIPS Agreement. However, provisions on plant variety protection would be included in the new Intellectual Property Law.

- **Layout designs of integrated circuits**

134. The representative of Lao PDR said that Lao PDR had no legislation protecting layout designs (topographies) of integrated circuits at present, but protection would be provided through the new Intellectual Property Law, and a Decree on layout designs of integrated circuits protection to be implemented by 2011. Lao PDR was also preparing to accede to the Washington Treaty on Intellectual Property in Respect of Integrated Circuits (by January 2012).

- **Requirements on undisclosed information, including trade secrets and test data**

135. The representative of Lao PDR said that Article 95 of the Crime Law contained a general provision making any person disclosing confidential matters having come to his/her knowledge in the performance of his/her profession or duty, and thereby causing damage to the owner of the confidential information, liable to imprisonment of three to six months and a fine ranging from KN 50,000 to KN 500,000.

136. He acknowledged, however, that Lao PDR would need to develop more specific legislation to comply with Article 39 of the TRIPS Agreement, including a Decree on the protection of undisclosed information (by 2011).

- **MEASURES TO CONTROL ABUSE OF INTELLECTUAL PROPERTY RIGHTS**

137. The representative of Lao PDR said that measures to control abuse of intellectual property rights had been included in Decree No. 01/PM "On the Protection of Patents, Petty Patents (Utility Models) and Industrial Designs" (Articles 20 and 21), Decree No. 06/PM "On Trademarks", and Decree No 15/PM "On Trade Competition". Further provisions to control anti-competitive practices in contractual licences would be included in the new Intellectual Property Law and in the implementing Decrees to the new law.

- **ENFORCEMENT**

138. The representative of Lao PDR said that, in addition to the existing legislation on intellectual property protection (trademarks, patents, petty patents and industrial designs), provisions relevant to the enforcement of IPRs could be found in the Civil Procedure Law No. 02/NA of 17 May 2004, the Criminal Procedure Law No. 01/NA of 15 May 2004, the Penal Code Law, the Law No. 03/NA "On Judgement Enforcement" of 15 May 2004, the Law "On the People's Courts", and the Customs Law No. 05/NA of 20 May 2005. Right holders could opt for administrative measures or civil or criminal procedures to protect their rights, and any decision of the trial court could be appealed to a

higher court. So far, no intellectual property rights cases had been referred to the judicial system for resolution. He added that the enforcement procedures and remedies would be strengthened through the new Intellectual Property Law (in 2010) and the implementing decrees to the new law.

- **Civil judicial procedures and remedies**

139. The representative of Lao PDR said that right holders could evoke civil judicial procedures pursuant to the Civil Procedure Law (Articles 78, 83, 92 and 93), Decree No. 06/PM "On Trademarks" (Article 17), Decree No. 01/PM "On the Protection of Patents, Petty Patents (Utility Models) and Industrial Designs" (Article 19) and the implementing Regulations Nos. 322/STEA-PMO (Article 42) and 466/STEA-PMO (Article 23). A judge could order the production of evidence to substantiate a party's claims according to Article 20 of the Civil Procedure Law, and Article 76 of the Law provided for additional remedies including the seizure and destruction of infringing goods, materials and implements. In addition, provisions on civil judicial procedures and remedies would be included in the new Intellectual Property Law.

140. Certain requirements of the TRIPS Agreement were not clearly reflected in the existing legislation, notably the ability of a judge to enjoin a defendant from infringing intellectual property rights; order the payment of adequate damages; allow the right holder to recover enforcement costs, lost profits and/or statutory damages; indemnification of the defendant, including attorney's fees, in the event of litigation abuse by plaintiffs; and ensuring that administrative remedies would conform to these principles. Current legislation had no provision exempting public authorities and officials from liability in connection with the administration of IP laws where actions were taken or intended in good faith and within the scope of their authority. These issues would be considered further, and provisions could be included in the new Intellectual Property Law.

- **Provisional measures**

141. The representative of Lao PDR stated that judges could grant temporary restraining orders and provisional relief to prevent infringement and to preserve evidence according to Articles 119 and 124 of the Civil Procedure Law and the Law "On Judgement Enforcement". The customs authority had the right to inspect and seize infringing goods (Article 76(10) of the Customs Law). Asked about indemnification of the defending party in case of unjustified provisional relief, he said that Article 7 of the Criminal Procedure Law allowed defendants to protect their rights and legitimate interests.

- **Administrative procedures and remedies**

142. The representative of Lao PDR said that administrative procedures and remedies had been established pursuant to the Decree "On Trademarks", the Decree "On the Protection of Patents, Petty Patents (Utility Models) and Industrial Designs" and the implementing regulations to these decrees. Administrative officials had the authority to issue injunctions to order a party to desist from an infringement and to prevent infringing goods from entering the channels of commerce. For trademarks, the Department of Intellectual Property, Standardization and Metrology could issue a warning by administrative procedure to individuals and legal entities using trademarks without the consent of the owner or otherwise pursuing the use of trademarks illegitimately. The DISM would invite the parties concerned to discuss the alleged violation and find a mutually agreeable solution (acceptable also to DISM). If no agreement was reached, the matter could be referred to the Economic Arbitration Committee under the Ministry of Justice or to the courts.

143. He added that Lao PDR had a tradition to settle trademark disputes through administrative channels. Eight cases involving claims of trademark infringement had been settled thus far; seven of them through DISM, and one case by the Economic Arbitration Committee. Although the settlements needed to be "certified" by a court to be legally enforceable, he considered the administrative procedure generally effective. He stressed that the complainant could bring an infringement case directly before a court and was not required to invoke the administrative procedure.

- **Special border measures**

144. The representative of Lao PDR said that the 2005 Customs Law included provisions for intellectual property rights protection at the border. Right holders would request the Department of Intellectual Property, Standardization and Metrology in the NOST to take action, and the Department coordinated with the Customs Department in the application of border measures. Pursuant to Article 76(10) of the Customs Law, the customs authorities could inspect and seize infringing goods. He added that the implementing Decree of the Customs Law was being revised to add further provisions to meet WTO requirements. He expected this work to be completed by 2011. Provisions on special border measures would also be included in the new Intellectual Property Law and the implementing decrees to that Law.

- **Criminal procedures**

145. The representative of Lao PDR said that the existing legislation on trademarks and patents, petty patents and industrial designs allowed recourse to criminal proceedings in case of infringement

of intellectual property rights. Penalties were stipulated in the Civil Code and in the Civil Procedure Law. However, no IPR cases had so far been filed in Lao courts.

146. The new Intellectual Property Law and its implementing decrees would also include sanctions against infringement of all intellectual property rights. According to the present draft, penalties were foreseen in the form of imprisonment ranging from three months to two years, and fines between KN 1 million and KN 100 million.

## **VI. POLICIES AFFECTING TRADE IN SERVICES**

147. The representative of Lao PDR said that services accounted for around 25.5 per cent of Lao PDR's GDP in 2005. The public sector had traditionally been the principal services supplier, but with market-oriented reforms and privatization the private sector was gaining prominence. The main services sectors were wholesale and retail trade, followed by transportation, storage and communication services. Tourism was an important source of export revenue.

148. Ministries and agencies responsible for services included the Ministries of Communication, Transport, Post and Construction; Justice; Finance; Health; Education; Information and Culture; Agriculture and Forestry; Industry and Commerce; Energy and Mining; and Labour and Social Welfare; the Bank of Lao PDR; the National Organization for Science and Technology; the Water Resources and Environment Administration; the National Tourism Administration; the Committee for Planning and Investment; and the National Sports Committee. The Committee for Planning and Investment handled services in the ASEAN Free Trade Agreement, whereas the Ministry of Industry and Commerce had overall responsibility for trade-in-services issues as they arose in the WTO. His authorities were considering establishing the GATS enquiry point in the Foreign Trade Policy Department of the Ministry of Industry and Commerce.

149. He noted that foreign investment in services sectors was governed by the basic investment legislation, i.e. Law No. 11/NA "On the Promotion of Foreign Investment" and Decree No. 301/PM. Specific services sectors were also regulated by laws and regulations of relevant ministries. The investment legislation distinguished between activities to be promoted and thus subject to incentives, and sectors closed to foreign investment (Table 2), open sectors, and conditionally open sectors. Human resource development, public health, tourism and transit services were promoted sectors. However, whereas foreign investment in hotels (with more 51 rooms) was promoted, the development of camping sites and short-stay accommodation was reserved for Lao nationals. The Business Law No. 03/94/NA of 18 July 1994 reserved certain activities for Lao nationals, notably services incidental to forestry or manufacturing, retail services, clerical or secretarial services, tourist guides, road

transport services, teaching the Lao language, security guard services, building cleaning services and postal services. His Government had no plans to liberalize these requirements. Foreign investors were encouraged to give priority to Lao nationals in recruitment. Foreign employees should be no more than 10 per cent of the workforce, and the enterprises were urged to upgrade the skills of local employees.

150. Foreign investors could also open representative offices or branches. However, branches could only be established by airlines, consulting, insurance, banking and financial institutions for specified activities. In legal services, foreign nationals could provide advisory services as legal consultants, but could not represent clients directly in the court. According to Article 13 of the Prime Minister's Decree No. 64/PM of 21 February 1996, membership in the Lao Bar Association was necessary to practice law in a court. However, membership in the Lao Bar Association was limited to Lao nationals.

151. Lao PDR was preparing for the mutual recognition of professional qualifications in the framework of a Mutual Recognition Arrangement with other members of ASEAN.

152. Although some natural monopolies existed, particularly in the supply of public services, a number of sectors had been opened to competition. A monopoly on insurance services granted to Assurance Generale de Laos, a joint venture with 51 per cent foreign ownership, had expired in 2002. La Poste du Lao had retained a monopoly on the delivery of letters of less than 20 grams, but all other postal services, including courier services, were open to competition. The Telecommunications Act No. 02/NA of 10 April 2001 provided the legal framework for telecommunication services. Domestic and international fixed line telephone services were no longer a monopoly for the Lao Telecommunications Company, a joint venture with 49 per cent foreign ownership. Five companies provided mobile telephony services, and there were no specific limitations on operators of enhanced and value-added services, including internet services.

*[Lao PDR submitted an initial offer on trade in services in October 2007, available in document WT/ACC/SPEC/LAO/3]*

## **VII. TRANSPARENCY**

### **- Publication of information on trade**

153. The representative of Lao PDR said that no provision existed in law or administrative procedure to allow time for prior comment from the public (or WTO Members), or to take comments

into account in the drafting of laws and regulations. In practice, some bodies would nevertheless seek comments from the public in the preparation of legislation.

- **Notifications**

[to be completed]

**VIII. TRADE AGREEMENTS**

154. The representative of Lao PDR said that Lao PDR had joined ASEAN and the ASEAN Free Trade Area (AFTA) in 1997. By implementing the AFTA Common Effective Preferential Tariff scheme, duties on imports into Lao PDR from other ASEAN members were set to fall to zero, or maximum 5 per cent, on nearly 96 per cent of the tariff line items (10,023 lines) by 2008. For goods on the "Sensitive List" (203 tariff lines), Lao PDR would eliminate the duties by 2015, or in some cases by 2018. Lao PDR had included 464 tariff line items on the "General Exemption List", thus excluded from any reduction commitment. He estimated that about 60 per cent of Lao PDR's imports would be covered when AFTA had been fully implemented. Lao PDR was also a member of the ASEAN Framework Agreement on Services and the ASEAN Investment Area Agreement.

155. Lao PDR had signed bilateral trade agreements with China, the European Union, Malaysia, Myanmar, Democratic People's Republic of Korea, Thailand, the United States, and Viet Nam, and was also a party to the Asia Pacific Trade Agreement together with Bangladesh, China, India, Republic of Korea, and Sri Lanka. Only the agreement with the European Union provided preferential access for Lao PDR's exports, granted through the GSP scheme.

**CONCLUSIONS**

[to be completed]



## ANNEX

### Laws, regulations and other information provided to the Working Party of Lao PDR

- Law No. 5/95/NA "On the Bank of the Lao PDR" of 14 October 1995;
- Decree No. 95/PM "On the Bank of Lao" of 22 June 1993;
- Regulation No. 02/BOL "On Commercial Banks and Financial Institutions' Capital Adequacy Under Supervision by the Bank of the Lao PDR" of 15 January 1996;
- Regulation No. 04/BOL "On Protecting Soundness Practices of the Commercial Banks and Financial Institutions which are Under the Supervision of the Bank of the Lao PDR" of 15 January 1996;
- Additional Instruction No. 01/BOL "On Implementation of Some Articles of the Instruction No. 02/BOL of 29 September 2003" of 5 February 2004;
- Regulations No. 08/BOL "On Foreign Currency Exposure" of 7 May 1996;
- Decree No. 53/PCM "On the Management of Foreign Exchange and Precious Metals" of 7 September 1990;
- Law No. 11/NA "On the Promotion of Foreign Investment" of 22 October 2004;
- Decree No. 301/PM "Regarding the Implementation of the Law on the Promotion of Foreign Investment" of 12 October 2005;
- Law No. 1/94 "On the Promotion and Management of Foreign Investment in the Lao PDR" of 14 March 1994;
- Decree No. 46/PM "On the Implementation of the Law on the Promotion and Management of Foreign Investment in the Lao PDR" of 23 March 2001;
- Decision No. 013/CPC "On the Rules for Consideration Approval of Foreign Investment Project in the Lao PDR" of 27 February 2002;
- Law No. 10/NA "On the Promotion of Domestic Investment" of 22 October 2004;
- Domestic Investment Promotion Law No 03/95/NA of 14 October 1995;
- Resolution No.3/NA "Approving the Domestic Investment Promotion Law" of 14 October 1995;
- Decree No. 27/PM "On Domestic Investment Promotion" of 26 October 1995;
- Law No. 04/97/NA "Mining Law" of 12 April 1997;
- Prime Minister's Order No. 18/PM "On Forestry Management Policy for the Year 2002-2003" of 4 October 2002;
- Notification No. 11/PM "On the Management of Forestry and the Timber Industry" of 23 August 1999;
- Forestry Law No. 01/96 of 11 October 1996;
- Resolution "On the Adoption of the Forestry Law No. 04/96" of 11 October 1996;
- Decree No. 125/PDR "On the Promulgation of the Forestry Law" of 2 November 1996;
- The Constitution of the Lao PDR of 15 August 1991;
- Business Law No. 03/NA of 18 July 1994;
- Decree No. 31/PMO "On the Implementation of the Business Law" of 1 February 1996;
- Notification No. 750/MOC "On the Implementation of Enterprise Registration Based on the Business Law" of 6 August 1996;
- Decree No. 206/PMO "On Goods Trading Business" of 11 October 2001;
- Decree No. 205/PM "On Export and Import" of 11 October 2001;
- Regulations No. 462/MOC "On the Authorization for the Operation of the Import-Export Business" of 8 December 1993;
- Law No. 05/NA "Customs Law" of 20 May 2005;
- Law No. 4/94/NA "Customs Law" of 18 July 1994;
- Notification No. 870/MOC "Amendment to Notification No. 175/MOC of 4 April 1994 – On Prohibited Goods for Import or Export" of 19 September 1996;

- Notification No. 1552/MCTPC "On the Import of Motor Cycles Over 250cc" of 8 July 1996;
- List of Chemical Products Under Restricted Control No. 1364/95/DFM of September 1995;
- Decree No. 03/PR "On the Preservation of Cultural, Historical and Natural Heritage" of 20 June 1997;
- List of Medicines Prohibited in the Lao PDR based on Decree of the Ministry of Public Health No. 740/MPH of 3 April 1994;
- Notification No. 0202/MOC.FTD "On the List of Imports and Exports Subject to Licensing from Trade Authorities and Subject to Technical Certification from Related Authorities (for the year 2002-2003)" of 14 February 2003;
- Decree No. 187/PM "On the Abolishing of Export Tariffs for Agricultural Products" of 21 October 1994;
- Minister Instruction No. 230/MOF "On the Abolishing of Export Tariffs for Agricultural Products" of 4 March 1995;
- Decree No. 85/PM "On the Management of the Standards and Quality of Goods and Services" of 2 November 1995;
- Provisions No. 105/FMC for Quality Control of 31 October 1991;
- Regulation No. 0719/MAF "On the Management and Use of Plant Species and Seeds for Planting in the Lao PDR" of 3 December 1997;
- Regulation No.0639/MAF "On the Quarantine of Plants in the Lao PDR" of 2 July 1993;
- Decree No. 66/PM "On the Quarantine of Plants in the Lao PDR" of 23 March 1993;
- Regulation No. 894/MAF "On the Control and Use of Plant Pesticides in the Lao PDR" of 21 November 1992;
- List of pets and diseases of plants quarantine;
- Instruction No. 0005/MAF for the Regulation on Livestock Management in Lao PDR of 2 January 1997;
- Decree No. 85/PMO "On Livestock Management in Lao PDR" of 31 May 1993;
- Regulation No. 0004/MAF "On Livestock Management in Lao PDR" of 2 January 1997;
- Technical Norms No. 0313/MAF "On livestock management in the Lao PDR" of 21 January 2000;
- Regulation No. 586/MOH "On the Control on Production, Exported-Imported Safe Food", of 12 May 2006;
- Provisions No. 035/FMC "On the Control of Export-Oriented and Imported Foodstuffs" of 26 October 1991;
- Elaborated Recommendations No. 035/FMC Relating to the Regulations on Quality Control of Export-Oriented and Imported Foodstuffs of 9 September 1991;
- Regulation No. 105/CFD "On Food Quality Control in Domestic Distribution" of 31 October 1991;
- Provisions No. 048/FMC "On Quality Control of Domestically Produced Food Products" of 26 September 1991;
- Decree No. 162/PM "On Border Trade Zone at Boten, Louangnamtha Province" of 8 October 2002;
- Decree No. 25/PM "On Dansavanh Village Border Trade Zone" of 25 March 2002;
- Decree No. 148/PM "On Savan-Seno Special Economic Zone" of 29 September 2003;
- Implementation of Rules and Regulations No. 01639/MOF "On Government Procurement of Goods, Construction, Repairs and Services" of 22 December 1998;
- Regulation No. 466/STEA-PMO "On Registration of Trademarks" of 7 March 2002;
- Decree No. 06/PM "On Trademarks" of 18 January 1995;
- Decree No. 01/PM "On Patent, Petty Patent and Industrial Designs" of 17 January 2002;
- Regulation No. 322/STEA-PMO "On the Implementation of Decree on Patent, Petty Patent and Industrial Designs" of 18 February 2003;

- Regulation "On Conditions for Establishing Banks in the Lao PDR" of 30 November 1995;
- Decree No. 01/NA "On Commercial Banks" of 11 March 1997;
- Insurance Law No. 11/90/PSA of 29 November 1990;
- Telecommunications Act No. 02/NA of 10 April 2001;
- Decree No. 64/PM "On Private Education" of 14 August 1995;
- Regulations No. 159/OPM "On the Management of Hotels and Guesthouses" of 30 July 1997;
- Regulations No. 1150/PM "On the Establishment and Management of Tourist Service Operators" of 25 October 1993;
- Regulations No. 1413/49/MCTPC "On the Establishment of Businesses of Transportation Shipping and Repair Services by the State; State Private Collectives and Private Individuals" of 22 June 1996;
- Law No. 3/97/NA "On Road Transportation" of 12 April 1997; and
- Decree No. 35/PDR "On the Enforcement of the Law on Road Transportation" of 31 May 1997.

Table 7: Excise Tax

No.	Goods and services liable to Excise Tax	Tax rate ( in per cent)
1	Fuel: - Gasoline (super) - Gasoline (normal) - Diesel - Plane gasoline - Lubricant, hydraulic oils, grease, and brake oil	25 24 12 10 5
2	Liquor or alcoholic drinks - Liquor or drinks with alcoholic content from 15° upwards - Liquor, wine and other drinks with alcoholic content under 15° - Beer	70 60 50
3	- Mineral water, ready-made drinks, and similar drinks - Aerated drinks - Soda and energy drinks	10 20 30
4	Ready-made tobacco, cigarettes in packets, and cigars	55
5	Perfumes and cosmetics	30
6	Playing cards and similar items, traditional rockets, fireworks	70
7	Vehicles: - Vans with 15 seats and less, - Buses with more than 15 seats - Lorries - Motorcycles - Jeeps with soft cover - Jeeps with hard cover (with maximum of 2000 CC) - Jeeps with hard cover (2,001 CC to 4,000 CC) - Jeeps with hard cover (with engine volume of minimum 4,001 CC) - Cars with a maximum of 1,000 CC - Cars with a engine volume between 1,001 and 1,500 CC - Cars with engine volume between 1,501 and 3,000 CC - Cars with minimum engine volume of 3,001 CC - Tall/low pick-up trucks with two doors and a cabin - Tall/low pick-up trucks with four doors and a cabin	25 20 10 20 30 65 70 75 60 65 75 90 20 25
8	Speed boats, motor boats for sport activities, including their motors and accessories	10
9	Electrical appliances such as: air-conditioners, satellite TV signal receivers, audio-video players, cameras, audio-video recorders, musical instruments, including components and accessories	15
10	Freezers, water heaters, washing machines, vacuum cleaners	10
11	Importation, sales and services of billiard/snooker tables, football game tables, and other game-playing machines	20
12	Entertainment services: night clubs, discotheques, karaoke	25
13	Mobile phone, cable TV, internet services	10
14	Lottery services	10
15	Casino activities	15

Table 9: Goods Subject to Import Licensing

Item	HS code	Product description	Relevant Authorities
1.		Live animals, fish and aquatic animals	
2.		Animal meat and other parts for human consumption; and products from animals and processed products from animal meat	
3.		Dairy products	
4.		Rice in the husk (paddy); rice	
5.		Cereals, products from vegetables, other processing for human consumption	
6.		Beverage, alcohol and orange juice	
7.		Food for animals	
8.		Cement, mortar and concrete	
9.		Fuel	
10.		Gas	
11.		Chemicals that are reacted to Ozone and products containing such substances	
12.		Bio-chemical products	
13.		Pharmaceutical products, medicine for human and animal as well as medical equipment	
14.		Chemical fertilizer	
15.		Some types of cosmetic	
16.		Pesticide and toxic products for mouse and germs/microbes/bacteria	
17.		Sawn wood processed by sawmill company	
18.		Log and seedling	
19.		Textbooks and books	
20.		Rough diamonds	
21.		Silver and gold	
22.		Steel (long and round piece of steel and other shapes)	

Note:

- List based on Notification No. 1376/MOIC.DIMEX of 10 October 2006.
- Relevant authorities may provide their list of controlled goods for import (see below).

Controlled Products pursuant to Ministry of Health Regulation No. 08/MOH of 4 January 2005

I. Substances to produce drugs that can be imported:

Codeine phosphate; Fentanyl citrate; Morphine hydrochloride; Opium (raw, powder or tincture); Pethidine hydrochloride.

II. List of substances and drugs affecting the brain:

Barbital Sodium; Bromazepam; Chlordiazepoxide hydrochloride; Clonazepam; Clorazepate; Diazepam; Flunitrazepam; Midazolam; Meprobamate; Nitrazepam; Pentazocine hydrochloride; Phenobarbital sodium.

III. Chemical substances

Strictly Controlled List (Schedule I): Acetic Anhydride; N-acetylanthranilic Acid; Ergometrine; Ephedrine; Isosafrole; Methylene Dioxyphenyl; Propanone; Norephedrine; Piperonal; Pseudoephedrine; Safrone.

Control List Schedule II: Acetone; Anthranilic Acid; Methyl Ethyl Ketone (MEK); Barium Sulphat; Benzaldehyde; Benzal Cyanide; Diethylamine; Phenyl; Propanone; Ethyl Ether; Hydrochloric Acid; Methylamine; Nitroethane; Phenyl Acetic Acid; Piperidine; Potassium Permanganate; Pyridine; Sulphuric Acid; Toluene.

Watch List Schedule III: Acetic acid, Glacial; Caffeine; Methyl Iso Butyl Ketone (MIBK); Phosphorous Trichloride; Thionyl Chloride.

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