

SECTION C – DESCRIPTION / SPECIFICATIONS/STATEMENT OF WORK

Assistance for Lao BTA Compliance and WTO Accession

I. Objective

The objective of this program is to support the Government of Laos' (GoL) efforts to implement reforms necessary to move Laos towards its goal of accession to the World Trade Organization (WTO); to successfully implement the U.S.-Lao Bilateral Trade Agreement (BTA); and to fulfill its commitments, along with the other ASEAN member nations, of achieving an ASEAN Economic Community by 2015 as outlined in the Vientiane Action Program. This will be done by providing targeted technical assistance and training for relevant line Ministries and the National Assembly to support increased interagency and executive/legislative branch coordination and understanding of shared goals.

II. Background on the Lao Trade and Investment Environment¹

Economy of Laos

The Lao People's Democratic Republic (hereinafter referred to as "Laos") remains one of the world's poorest countries, lagging far behind its economically dynamic neighbors, Thailand, China, and Vietnam. It is one of only five communist countries in the world, and of these it is the second least developed after North Korea. Laos is a predominantly agrarian economy, with its 5.7 million people mostly engaged in subsistence agriculture. Industry is dominated by small-scale manufacturing and textiles and foreign trade is minimal. Laos' economy remains donor-dependent, and foreign aid continues to be one of its mainstays.

Despite this, Laos has potential competitive advantages, particularly in natural resources, low-cost labor, and its central location within SE Asia. Its landlocked position, long considered a disadvantage, could be exploited as the neighboring economies create land-based trade links. Recent infrastructure projects have led to the development of both north-south and east-west transport corridors, linking China to trading partners in ASEAN. There has been strong and sustained economic growth in Laos, averaging about 6% *per annum* between 1988 and 2004, except for the country's participation in the 1997 regional economic downturn. However, this growth has been narrow and shallow – an artifact of ultimately unsustainable resource exploitation (chiefly timber) and the spill-over of economic activity from neighboring countries. It has not served to lift the country out of poverty.²

The chief impediment to more robust and deep economic growth is the lack of commitment to the economic reforms necessary to expand international trade and provide a strong business enabling environment that will attract foreign investment and bolster domestic production.

¹ Information courtesy of the Office of the U.S. Trade Representative and the *Southeast Asia Commercial Legal, Institutional Reform and Trade Assessment (SEA CLIR Trade)* conducted by USAID in 2006, available at: www.bizlawreform.com/country_assess/Laos_Assessment.pdf.

² Please see Appendix A for tables on Lao trading partners and comparisons with regional economies. This information is reprinted from the UNDP International Trade and Human Development Report for Laos 2006, available at: www.undplao.org/whatwedo/bgresource/humandev/UNDP-NHDR06c.pdf.

Some measures have been initiated to improve the enabling environment for business and trade. In recent years the corpus of laws in Laos has been expanded, and these laws are mostly available in English versions for potential investors to examine. Likewise, the Customs Office is working to streamline its procedures. On paper, the investment climate in Laos is relatively liberal.

However, Laos remains close to the bottom of international indices measuring the comparative ease of investing and doing business. According to the World Bank Doing Business Report 2007, Laos requires 66 days to export and 78 to import. This places it last among ASEAN member nations evaluated by the report (Burma was not included). As a comparison, Vietnam requires half the amount of time to import and export. In 2006 Laos ranked 149th out of 157 countries on the Heritage Foundation's Index of Economic Freedom. For ASEAN member nations, this puts Laos well below the average, and barely ahead of Burma. Singapore was ranked 2nd on the Index, which exemplifies the extreme economic and regulatory disparity between ASEAN member nations.

Tariffs and Regional Trade

Laos has implemented the ASEAN Harmonized Tariff Nomenclature (AHTN), which was streamlined and made more efficient through the support of the ASEAN-US Technical Assistance and Training Facility, managed by USAID. The Facility delivered the first phase of technical assistance to Laos regarding WTO accession prior to implementation of this task order. As an ASEAN country and a least-developed economy, Laos participates in the ASEAN Free Trade Agreement (AFTA). The average tariff on ASEAN-origin products is 5 percent. As 80 percent of Laos' external trade is with ASEAN countries, its participation in AFTA is a significant liberalizing step. For this reason, although this task order is designed to assist Laos with BTA compliance and WTO accession, it is critical that technical assistance is delivered within the broader context of regional economic integration and the establishment of an ASEAN Economic Community by 2015.

Despite some improvement in the Lao trade regulation regime, Laos retains 88 items of special concern on which tariffs remain high – the highest number of such special status products in ASEAN.

Under the U.S.–Laos BTA, Laos is obligated to reduce tariffs on a variety of products of U.S. origin. Laos has implemented these tariff reductions, but has done so unevenly, as central control of provincial customs operations is very weak. Most trade in Laos still requires authorization from several national and provincial authorities, which can be a time-consuming and opaque process. In Laos, provinces collect customs levies at international border crossings in their respective provinces – only a portion of which is rendered to the central government.

Intellectual Property Rights

IPR protection in Laos is under the purview of the Science, Technology, and Environment Agency (STEA), a three-person unit in the Office of the Prime Minister. The STEA personnel appear to be well-trained in IPR theory, but have little authority. In particular, STEA lacks the power to arrest, and appears to have no coordination with the police. IPR enforcement in Laos is therefore weak, and enforcement at the border is almost impossible due to its porosity.

Laos has accepted international assistance in drafting an IPR law, but the law has not yet been completed. In general, implementing regulations are still lacking. Laos issued a trademark decree in 1995, and STEA controls the issuance of trademarks on a first-come, first-registered basis. Laos became a member of the ASEAN Common Filing System on Patents in 2000 but lacks qualified patent examiners. A decree protecting patents, petty patents, and industrial designs was approved in 2002, but no system yet exists to actually issue copyrights. A draft copyright law was developed in 2005. Working on implementation of a copyright law could have significant, tangible results in improving IPR enforcement in Laos.

Foreign Investment Barriers

Laos has a challenging investment environment, opaque regulations, and inefficient infrastructure and services, particularly in terms of the financial services sector. Laos is one of the most difficult countries in the world in which to set up a business, with licenses routinely taking up to a year to acquire. Foreign direct investment in Laos is not accurately reported by the Lao government (the official figures show approved, not actual, investments), and real investment levels are therefore difficult to estimate. Thailand, France, and Australia appear to constitute most of the foreign direct investment in Laos, though as in trade, the level of Chinese investment is growing. Current U.S. investment is officially (and very unreliably) listed at \$15.2 million between 2001 and 2005, consisting chiefly of small family-level business investments, some agricultural activities, and a part-interest in a mining venture. The real level of U.S. investment is probably well below \$10 million.

The Lao National Assembly

Laos is a single-party state, government by the Revolutionary People's Party of Laos. The National Assembly of Laos is currently comprised of 115 elected members, elected for a five-year term. Most members also have full-time government jobs resulting in their limited time to undertake member duties. Since there is no separation between some MP's and their other government roles, effective oversight may be diminished. The current body was elected in national polling in April 2006. It has two regular sessions, in February and September, and is called into special session as needed. The February session considers members questions on the state of the government and its activities, while the September session considers reports describing governmental activities, approves the state budget, and approves the government's plans for socioeconomic development.

The Lao National Assembly has shown an interest to improve its institutional and human resource capacities. Historically, the National Assembly has tended to play the role of "rubber stamping" government decisions. However the provision of targeted technical assistance and capacity building will provide the National Assembly with the ability to play a more significant role in the development of Laos, including areas specific to trade and investment related reforms.³

The U.S. Laos Bilateral Trade Agreement (BTA)⁴

³ Information in this section courtesy of the U.S. embassy in Laos and The Parliamentary Centre, www.parlcent.ca/asia/lao_pdr_e.php

⁴ More information on the BTA, as well as the text, can be found at www.ustr.gov/World_Regions/Southeast_Asia_Pacific/Laos/Section_Index.html?ht=

The BTA became effective in February 2005. Under the terms of the BTA, the United States granted normal trade relations (NTR) treatment to Lao products and Laos committed to implementing a variety of market access concessions and trade rules. Implementation of the BTA will help Laos prepare to undertake obligations necessary for WTO accession. This task order is designed to facilitate WTO accession partially through addressing BTA compliance issues. The two issues are clearly complementary to one another, as demonstrated by the success of the STAR program in Vietnam, which began as a BTA compliance project and later developed into a successful WTO accession project. The Vietnam precedent has shown that achievement of BTA compliance requirements will facilitate entry into the WTO.

WTO Accession

Laos applied for WTO accession in July 1997. Ten years later the country is still in the early stages of negotiations. Membership negotiations were initiated in October 2004, when Laos highlighted reforms already undertaken and called upon WTO members to consider its status as a land-locked LDC without representation in Geneva when considering its application for membership.

In December 2006, Laos submitted its first offer on market access for goods. However, more information is sought on the Lao trading regime and the WTO awaits the Lao offer regarding trade in services. Progress has been slow, but Laos has committed to providing the services offer before the next meeting between the Lao Working Party and the WTO. Because of the overlap and correlation between WTO requirements and those outlined under the U.S.-Lao Bilateral Trade Agreement (BTA), a clear path towards WTO accession will be laid through effective implementation of the BTA.

Laos and ASEAN

As a signatory to the Vientiane Action Program, Laos is committed, along with the other ASEAN member nations, to achieving an ASEAN Economic Community by 2015. One of the critical components of this process is narrowing the development gap among member nations. Economic integration is increasing within ASEAN, and the region is becoming much more focused on the larger global marketplace. Whether Laos is prepared or not, it is now confronted with trans-border regional and global trade issues that it has never dealt with in the past. The influences and demands of its neighbors will make themselves felt as Laos integrates with a regional market economy in which the rule of law, effective arbitration, and standards of commercial behavior are highly important. Meeting the demands of that wider economic marketplace will require laws, institutions, human resources, and financial wherewithal that do not currently exist in the country.

This task order is designed to address these critical areas in the context of compliance with the BTA, Laos' hopes for WTO accession, and the development of an enabling environment for trade that will help narrow the gap between ASEAN member nations as they progress toward the realization of an ASEAN Economic Community by 2015.

The ASEAN-US Enhanced Partnership

In July 2002 Secretary of State Colin Powell announced the ASEAN Cooperation Plan (ACP), designed to enhance U.S. relations with ASEAN. In this effort, the United States recognized the need to support fast, stable, sustainable economic growth in ASEAN countries, eliminating disparities that were magnified after Burma, Laos, Cambodia, and Vietnam joined ASEAN.

Among other areas of focus, the ACP supported programs to foster ASEAN economic integration and development. Starting in 2002, State Department funding and USAID support for the ACP provided technical assistance and training to ASEAN and its individual member nations in a range of areas including: information communication technology, aquaculture, agricultural biotechnology, disaster management, competition policy, energy policy, trade policy, intellectual property rights, and HIV/AIDS.

In November 2005, the ASEAN-US Enhanced Partnership was launched to build upon the common vision of durable peace, stability, and shared prosperity. The Enhanced Partnership is comprehensive, action-oriented, and forward looking. It encompasses the three pillars of political and security cooperation, economic cooperation, and social and development cooperation and was established on the foundation of previous initiatives like the ACP.

The US and ASEAN agreed upon a Plan of Action, signed by Secretary Rice in July 2006, to implement the Enhanced Partnership, which outlines a comprehensive set of mutually beneficial activities to be undertaken over the next five years. Information on the Enhanced Partnership can be found at www.asean-us-partnership.org.

The Vientiane Action Program

The core of the ASEAN-US Enhanced Partnership is its support for implementation of the Vientiane Action Program (VAP), aimed at achieving an open, dynamic, resilient ASEAN Community by 2020, and an Economic Community by 2015. It is considered ASEAN's blueprint of activities in the medium term. The VAP outlines programs for each of the three pillars of the ASEAN community, security, economic, and socio-cultural, as well as for narrowing the development gap among ASEAN member nations.

The VAP has two dimensions with respect to regional economic development. The first is to intensify current economic cooperation activities and accelerate integration in the 11 priority sectors recommended by the High Level Task force on ASEAN Economic Integration. The second is to identify strategies for bridging development gaps within the region through close technical and development cooperation among members and strengthening linkages with dialogue partners and other ASEAN supporters.

This task order, though a bilateral initiative in Laos, must be implemented in the context of the ASEAN-US Enhanced Partnership and the VAP. This is because WTO accession for Laos is the only bilateral initiative outlined in the Enhanced Partnership, and because narrowing the development gap is a critical component of the VAP.

The Integrated Framework and the Donor Community in Laos

The Integrated Framework (IF) for trade-related technical assistance to least-developed countries is a multi-agency, multi-donor program that assists LDCs with expanding their participation in the global economy, thereby enhancing their economic growth and poverty reduction strategies.⁵

⁵ <http://www.integratedframework.org/>

In November 2006, the World Bank-funded *Diagnostic Trade Integration Study (DTIS)*⁶ was completed, which identifies obstacles to international trade in Laos, and defines priorities for assistance. The DTIS was endorsed by the GoL, which supports the findings of the report and the areas for reform highlighted in DTIS Action Matrix. The DTIS and its Action Matrix is the primary analytical document on trade and its linkages to growth and poverty alleviation in Laos that is jointly agreed upon by the donor community and the GoL. The IF process in Laos is driven by the need for GoL commitment and ownership of the developmental process and donor coordination on all interventions related to trade facilitation, including WTO accession.

The EU, World Bank, AusAID, and the Swiss Agency for Development and Cooperation (SDC), have established a multi-donor trust fund called the Development Trust Fund (DTF), with initial funding in CY2007 of €7,315,000. The DTF is an important mechanism for furthering the GoL's trade-related development agenda and is designed to implement priorities outlined in the DTIS Action Matrix. Although at present the U.S. does not plan to provide funding into the DTF, it is important for all technical assistance under this task order to be closely coordinated with the development partners involved in the DTF and the IF to ensure that technical assistance to the National Assembly is in line with the priorities indicated in the DTIS Action Matrix.

The Contractor should also be cognizant of the UNDP's work with the Lao National Assembly, which has focused predominantly on helping to building the institutional capacity of the National Assembly and provided it with a basis for an enhanced parliamentary system.

III. Statement of Work

The Contractor shall, under the direction of the USAID Regional Development Mission / Asia (RDMA), and in close coordination with the U.S. Embassy in Vientiane, provide targeted technical assistance and training for targeted line Ministries and the National Assembly to support increased interagency and executive/legislative branch coordination and understanding of shared goals in the larger GoL's efforts to liberalize its trade and investment regime consistent with its commitments under the BTA, the requirements for accession to the WTO, and achievement of an ASEAN Economic Community. Specifically, the Contractor shall provide short-term experts as appropriate to increase the capacity of selected Ministries and National Assembly members and staff to understand the requirements and benefits of the Lao-US BTA and WTO accession, and to act as an advocate for reform within the GoL. Assistance may also be provided in identifying and monitoring necessary trade and investment reforms and complementing this with training and/or workshops. Technical assistance to select Ministries and the National Assembly will likely include, but not necessarily be limited to: training, policy advice and impact analysis, advice on legal reforms and drafting, and implementing support. One area of potential focus could be on IPR enforcement issues and the draft copyright law. As this is a one-year activity, with the possibility of a follow-on, expanded program, it is essential that the Contractor identify targeted, discreet interventions that will provide clear, demonstrable progress in assisting the GoL with BTA compliance and WTO accession.

If a more robust, follow-on program is to be funded, it is critical that this program show clear results in a very limited period of time. Success will be measured based on program outcomes, not program output indicators (like number of persons trained, number of assessments conducted, number of workshops implemented, etc.).

A. Technical Assistance Areas

⁶ The DTIS and its Action Matrix are available at www.integratedframework.org/countries/laopdr.htm

The expertise provided shall focus on the major aspects of trade and investment liberalization contained in the U.S.-Lao BTA⁷. Expertise shall also address major criteria for Lao WTO Accession. An analysis should be made of what reforms are envisioned under the BTA and how they will overlap with WTO accession. Expertise shall also focus on the elements of the ASEAN-U.S. Enhanced Partnership and Vientiane Action Program specific to assisting Laos with WTO accession and narrowing the development gap between ASEAN member nations, including Laos. Assistance to Laos with WTO accession is included in the ASEAN-U.S. Enhanced Partnership Plan of Action⁸.

The Contractor shall conduct an initial needs assessment based upon the review of the above documents, meetings with relevant members of the Lao National Assembly, relevant line ministries, the U.S. Embassy in Vientiane, the U.S. Patent and Trademark Office (PTO) representative at the U.S. Embassy in Bangkok, and the broader donor community. The needs assessment must take into consideration the work of the broader donor community as outlined in the Integrated Framework and DTIS Action Matrix. The needs assessment should provide an analysis of constituent change agents within the National Assembly, relevant line ministries, and the broader GoL in matrix format.

B. Coordination

Other entities (i.e., donors, other U.S. Government agencies, the private sector, etc.) provide related assistance to the GoL regarding WTO accession, BTA compliance, and regional economic integration, and specific areas of focus shall be determined through consultations with the U.S. Embassy in Vientiane, the Patent and Trademark Office (PTO) representative at the U.S. Embassy in Bangkok, the RDM/A, State/EAP, and the ASEAN Secretariat in Jakarta. The Contractor shall collaborate effectively with these entities, and to the extent possible be aware of other trade, investment, IPR, and governance-related assistance efforts so as to avoid unnecessary duplication of assistance. Expertise must complement the priorities and current or planned activities of the broader donor community as outlined in the Integrated Framework, Action Matrix, and the World Bank's November 2006 report "Building Export Competitiveness in Laos."

IV. Deliverables

a. Work Plan Development

The Contractor shall be responsible for planning and implementing the activity. This will involve working with the GoL, RDMA, the U.S. Embassy in Vientiane, and other appropriate agencies and entities to: provide a needs assessment with an analysis of constituent change agents within the National Assembly or broader GoL; identify key technical assistance tasks to be accomplished during the life of the activity; prioritize these tasks in semi-annual work plans; and support implementation. The work plans will lay out the principal areas of focus of the Contractor's activities. The plan should incorporate input provided by the Cognizant Technical Officer (CTO) and shall be subject to USAID CTO approval. The exact content and format for the work plans will be determined in discussions with RDMA upon award of the contract. In general the work plans should reflect: achievements to date in meeting BTA commitments and adopting other trade/investment liberalization measures; achievements to date that advance

⁷ The BTA can be found at: www.ustr.gov/World_Regions/Southeast_Asia_Pacific/Laos/Section_Index.html

⁸ Information on the ASEAN-U.S. Enhanced Partnership and the Plan of Action can be found at: www.asean-us-partnership.org

Laos' membership in the WTO; and any changes in trade and investment liberalization priorities for Laos. These will be developed in consultation with the GoL, the RDMA, U.S. Embassy in Vientiane, and other relevant agencies and entities in order to ensure effective coordination.

A draft of the work plan must be submitted to the project Cognizant Technical Officer (CTO) at the RDMA within 30 days of award of this task order.

b. Quarterly Reports

The Contractor shall, within two weeks of the end of a quarter, provide RDMA with brief quarterly reports (in hard copy and electronic versions, formatted in MS Word) highlighting: progress in meeting work plan objectives and benchmarks, issues/problems/concerns/opportunities, suggested significant adjustments in the work plan for the remainder of the program, and key financial data. In addition, the Contractor shall report "success stories" that describe in concrete terms the achievements and benefits of the project.

c. Final Report

At the end of the project the Contractor will submit to USAID/RDMA one original and one copy of a final report summarizing the tasks implemented under the task order, including results achieved and problems encountered (an electronic version of the report, formatted in MS Word, shall be provided in addition to hard copies). A copy of the report must also be sent to the USAID Development Experience Clearinghouse, ATTN: Document Acquisitions, 1611 Kent Street, Suite 20, Arlington, VA 22209-2111 or email: docssubmit@dec.cdie.org. The final report should summarize the context and design of the activity, key achievements, and lessons learned.

V. Technical Assistance Requirements and Qualification

a. Staffing

USAID anticipates that this program will require targeted short-term expatriate experts and trainers, as well as coordination and oversight from within the region. USAID also encourages the Contractor to coordinate with other U.S. agencies, contractors, and grantees, other donors, the private sector, or local entities as appropriate in order to enhance the ability of the Contractor to operate effectively and in a timely fashion in Laos. The selection of short-term expatriate experts for specific assignments will be subject to USAID approval.

b. Qualifications

Technical experts should ideally have extensive knowledge or experience in:

- Managing, designing, and implementing relevant technical assistance activities in developing countries, preferably in SE Asia, command economies, and preferably at least with some level of collaboration with USAID;
- Supervising teams of short-term consultants;
- Assisting host country governments in implementing economic policy reforms – preferably in areas related to the liberalization of trade and investment regimes, WTO accession, BTA-compliance, and regional trade facilitation.
- Liaising with USG agencies, host country government officials, private sector stakeholders, and other donors;
- Working in Southeast Asia and some experience with Laos.

Identified short-term expatriate experts should have extensive experience advising the governments of developing countries on issues relating to trade and investment liberalization. Experience with WTO accession and compliance is necessary, and experience with BTA issues is preferable. Local experts should have relevant technical expertise and demonstrated experience in dealing with the types of trade and investment issues to be addressed in this activity.

c. Technical Direction

Technical direction will be provided by the CTO at the RDMA, who shall be identified by a separate letter from the USAID Contracting Officer.

APPENDIX A: Tables and Statistics

Table 1: Lao DRP Trading Partners and Trading Patterns, 2004

Trading Partner	% Lao Exports	Majors Exports	% Lao Imports	Major Imports
Thailand	36.3	Electricity, timber, cattle, agricultural goods, NTFP, tourism*	60.3	Capital goods, vehicles, fuel, fabric, other intermediate goods, consumer goods
EU	28.0	Garments, coffee	7.6	Capital goods, consumer goods
Vietnam	16.7	Wood, wood products, minerals (gypsum), forest products, animal feed	11.2	Consumer goods, plastic products, processed foods, construction materials, garments
China (including Hong Kong)	2.2	Timber, minerals, agricultural goods, NTFP	10.1	Capital goods, intermediate goods, consumer goods
Totals	83.2		89.2	

Sources: Calculated from IMF, 2005. The IMF estimates are already corrected to f.o.b. for exports and to c.i.f. for imports. Vietnam's imports and exports: General Department of Vietnam Customs. *Tourism is not included in the calculation of the Thai share of Lao exports.

Source: UNDP National Human Development Report: International Trade and Human Development, Lao PDR 2006.

Table 2: Comparison of Neighboring Economies, 2003

	Lao PDR	Thailand	China	Vietnam
GDP (US\$ Billion)	2.1	143.0	1,417.0	39.2
GDP per Capita (US\$)	375	2,305	1,100	482
Population (Millions)	5.6	62.2	1,300	82.0
Projected Population Growth Rate per Year (2003-2015) (%)	2.1	0.7	0.6	1.2
% of the Labour Force in Agriculture¹³	77	45	66	56
% of GDP from Agriculture¹⁴	49	10	15	22
Three Main Merchandise Exports	1. Garments 2. Timber 3. Electricity	1. Machinery 2. Integrated circuits 3. Computer parts	1. Machinery 2. Electronic products 3. Textiles, clothing and footwear	1. Crude oil 2. Textiles, clothing and footwear 3. Seafood
High Technology Exports as a % of Manufactured Exports	N.A.	30	27	2
Openness Index (Exports + Imports as a % of GDP)	61	125	66	128

Source: UNDP National Human Development Report: International Trade and Human Development, Lao PDR 2006, reprinting information from the UNDP HDR 2005, World Bank - World Development Indicators 2005, UNESCAP - Asia-Pacific in Figures 2004, some Lao data from CPI.

END OF SECTION C