

# Laos

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RISK & COMPLIANCE REPORT

DATE: March 2018

**Executive Summary - Laos**

<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No longer on list
<b>Higher Risk Areas:</b>	<p>US Dept of State Money Laundering Assessment</p> <p>Non - Compliance with FATF 40 + 9 Recommendations</p> <p>Weakness in Government Legislation to combat Money Laundering</p> <p>Not on EU White list equivalent jurisdictions</p> <p>Corruption Index (Transparency International &amp; W.G.I.)</p> <p>World Governance Indicators (Average Score)</p> <p>Failed States Index (Political Issues)(Average Score)</p> <p>International Narcotics Control Majors List</p>
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b></p> <p>sweet potatoes, vegetables, corn, coffee, sugarcane, tobacco, cotton, tea, peanuts, rice; cassava (manioc), water buffalo, pigs, cattle, poultry</p> <p><b>Industries:</b></p> <p>mining (copper, tin, gold, and gypsum); timber, electric power, agricultural processing, rubber, construction, garments, cement, tourism</p> <p><b>Exports - commodities:</b></p> <p>wood products, coffee, electricity, tin, copper, gold, cassava</p> <p><b>Exports - partners:</b></p> <p>Thailand 32.8%, China 20.7%, Vietnam 14% (2012)</p> <p><b>Imports - commodities:</b></p> <p>machinery and equipment, vehicles, fuel, consumer goods</p> <p><b>Imports - partners:</b></p> <p>Thailand 63.2%, China 16.5%, Vietnam 5.6% (2012)</p>	

**Investment Restrictions:**

The government of Lao PDR officially welcomes both domestic and foreign investment as it seeks to graduate from Least Developed Country status by the year 2020. The pace of foreign investment has increased over the last several years. Mining and hydropower compose eighty percent of Foreign Direct Investment (FDI).

Goods prohibited for import and export range from explosives and weapons, to literature that presents a negative view of the Lao government, to certain forestry products and wildlife.

Agriculture production and most manufacturing production are private. State-owned enterprises (SOEs) currently account for only one percent of total employment. Over 90% of manufacturers have fewer than 10 employees. Equity in medium and large-sized SOEs can be obtained through a joint venture with the Lao government.

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## Section 1 - Background

Modern-day Laos has its roots in the ancient Lao kingdom of Lan Xang, established in the 14th century under King FA NGUM. For 300 years Lan Xang had influence reaching into present-day Cambodia and Thailand, as well as over all of what is now Laos. After centuries of gradual decline, Laos came under the domination of Siam (Thailand) from the late 18th century until the late 19th century when it became part of French Indochina. The Franco-Siamese Treaty of 1907 defined the current Lao border with Thailand. In 1975, the communist Pathet Lao took control of the government ending a six-century-old monarchy and instituting a strict socialist regime closely aligned to Vietnam. A gradual, limited return to private enterprise and the liberalization of foreign investment laws began in 1988. Laos became a member of ASEAN in 1997 and the WTO in 2013.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

Laos is no longer on the FATF List of Countries that have been identified as having strategic AML deficiencies

### FATF Statement re AML Strategic Deficiencies: 23 June 2017

The FATF welcomes Lao PDR's significant progress in improving its AML/CFT regime and notes that Lao PDR has established the legal and regulatory framework to meet its commitments in its action plan regarding the strategic deficiencies that the FATF had identified in January 2015. Lao PDR is therefore no longer subject to the FATF's monitoring process under its on-going global AML/CFT compliance process. Lao PDR will work with APG as it continues to address the full range of AML/CFT issues identified in its mutual evaluation report.

### Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Laos was undertaken by the Financial Action Task Force (FATF) in 2011. According to that Evaluation, Laos was deemed Compliant for 1 and Largely Compliant for 2 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for all 6 of the Core Recommendations.

### Key Findings from latest Mutual Evaluation Report (2011):

1. There is a lack of awareness of AML/CFT international standards and the required implementation measures, which is compounded by a lack of dedicated resources and insufficient political commitment to undertake the required reforms.
2. The Lao PDR has not undertaken a formal AML/CFT risk assessment, although drug related illicit proceeds is estimated to be about 10 percent of GDP or USD750 million. While opium cultivation fell by 94 percent and opium addiction by 80 percent in the last decade, the Lao PDR has emerged as a key transit and storage country for ATS, precursors and heroin from neighbouring countries.
3. There has been a significant expansion of the banking sector. In the past two years, six new commercial banks commenced operations. There are now 23 banks with total assets of USD 576 million that accounts for 99.2% of the financial sector's total assets.

4. There are major deficiencies in the criminalisation of ML in Article 64 of the Penal law, including the physical and material elements of the ML offence required in Article 3 of the Vienna Convention and Article 6 of the Palermo Convention; and gaps in predicate offences, notably organised crime, terrorism and financing of terrorism (FT). There is the absence of a freezing mechanism and a deficient mutual legal assistance (MLA) framework on criminal matters.

5. There is no terrorism or FT offence and the measures adopted to implement UN Security Council Resolutions (UNSCRs) are insufficient and contain major deficiencies. The absence of a FT offence has an impact on other related issues such as the investigative powers of law enforcement agencies; freezing, seizure and confiscation of terrorist funds; FT as a ML predicate offence; and the possibility of affording MLA.

6. There has been no confirmed case of ML investigation, prosecution or conviction.

7. Only 28 suspicious transaction reports (STRs) have been submitted to the Anti-Money Laundering Intelligence Unit (AMLIU) since 2007. Further, AMLIU has never disseminated a STR, and any report to be disseminated must first be approved by the Bank of Lao (BOL) senior management.

8. The key ML preventative instrument is AML Decree 55. The Decree contains a range of basic preventative measures but despite the wording of some provisions consistent with the FATF standards, the Decree does not meet the FATF definition of law, regulation or other enforceable means due to a lack of sanctions. The exception is the inclusion of sanctions in the Decree for STR reporting violations.

9. Implementation of AML Decree 55 has occurred only in the banking sector. The overall implementation of Decree 55 within the commercial banking sector is difficult to assess due to the absence of AML/CFT supervision by the AML regulator, AMLIU. There has been no implementation of AML Decree 55 provisions by competent authorities for the DNFBP sectors in the Lao PDR.

10. Key recommendations made to the Lao PDR include:

- criminalise ML and FT consistent with international requirements;
- provide a clear legal framework and mechanisms for freezing and confiscation, both for ML and FT;
- improve the operational effectiveness of AMLIU through enhanced STR reporting, analysis and autonomy with STR dissemination;
- introduce binding and enforceable requirements for preventative measures both for the financial and DNFBP sectors, beyond STR reporting;
- enhance regulation and supervision for AML/CFT purposes;
- ensure that the competent authorities are properly designated and provided with adequate funding, qualified staff and technical resources, and effective AML/CFT training;
- enhance licencing requirements for all financial institutions, particularly banks;
- introduce effective, proportionate and dissuasive civil or administrative sanctions, applicable to financial institutions and DNFBP; and
- provide an appropriate legal framework and mechanisms for MLA and extradition.

**Laos is categorised by the US State Department as a Country/Jurisdiction of Primary Concern in respect of Money Laundering and Financial Crimes.**

**OVERVIEW**

A fast-growing economy, weak governance, and Laos' geographic position at the heart of mainland Southeast Asia combine to make it vulnerable to money laundering. The financial sector in Laos has expanded rapidly over the last decade, and while the government has enacted several new regulations aimed at preventing money laundering, officials' knowledge remains relatively limited and implementation is untested, leaving Laos an attractive target for money launderers. Wide-spread corruption, drug trafficking, environmental crime, the casino industry, and human trafficking all present significant vulnerabilities for Laos' AML regime. Laos identified its main money laundering predicate as drug trafficking and production.

Laos continues to work to address identified AML deficiencies. Laos has established the legal and regulatory framework to meet its commitments in its action plan regarding noted AML/CFT deficiencies; however, implementation and enforcement challenges remain.

**VULNERABILITIES AND EXPECTED TYPOLOGIES**

A cash-based economy, limited capacity in the legal sector, and lax law enforcement make Laos an attractive environment for criminal networks. High-value commodities, including land, property, and luxury vehicles are routinely purchased with cash. Laos has a large informal economy and uses informal value transfer systems. Beyond the formal border crossings, Laotian borders are notoriously porous, enabling smugglers to cross with relative ease.

There are three casinos in Laos, including one in the Golden Triangle Special Economic Zone in Boten Province bordering Thailand and Burma. The Ministry of Planning and Investment has responsibility for signing an agreement with an investor in the gaming sector and the Minister of Finance for taxes and the collection of fees. At present, there are no laws or decrees regarding supervision of the gaming industry, though the Prime Minister's office has expressed a desire to increase industry supervision via a decree.

Working with a donor, Laos started work on its AML/CFT national risk assessment (NRA) in 2017 and expects to complete the project by mid-2018. The NRA should identify those high-risk areas vulnerable to money laundering to form the basis for the government's development of an AML/CFT strategic plan.

**KEY AML LAWS AND REGULATIONS**

In recent years, Laos has made a number of technical reforms, including criminalizing money laundering, expanding the legal authority for seizure and forfeiture, strengthening the independence and capabilities of the FIU, and enhancing the cross-border cash declaration system, financial institution supervision, and STR reporting requirements. Implementation and enforcement of these items now must be sustained.



In 2015, Laos issued a new AML/CFT law. Laos also established the National Coordinating Committee on AML/CFT (NCC) to oversee AML/CFT implementation. The NCC is a non-permanent group composed of senior government officials appointed or removed by the Prime Minister. With NCC oversight, the government issued several regulations, instructions, and guidelines throughout 2015.

The Anti-Money Laundering Intelligence Office (AMLIO), the Laotian FIU, has signed MOUs with eight foreign countries and regularly exchanges information related to individual and corporate accounts that are under investigation. Laos does not have a records-exchange mechanism in place with the United States, but mutual legal assistance is possible through multilateral conventions.

Laos is a member of the APG, a FATF-style regional body.

#### AML DEFICIENCIES

Despite having established the necessary legal framework and a FIU, enforcement of AML laws remains a challenge. Awareness and capacity among the state-owned commercial banks, which have the largest market share in Laos, remain weak. Most of the STRs submitted to the FIU originate from overseas financial institutions operating in Laos. When a domestic bank does report, the quality of the information received is generally poor.

Deficiencies include a lack of oversight for MVTs providers, weak implementation capacity, and a lack of protection against liability for individuals reporting suspicious activity, although safe harbor regulations have been discussed. Legal persons are not subject to criminal liability for money laundering, although this should change when the new penal code is approved by the National Assembly. As of December 2017, the new penal code had not been fully ratified.

Laos needs to expand risk-based supervision beyond financial institutions, especially to the high-risk casino sector, which is now covered by an STR requirement.

Laos' system to identify, freeze, and seize assets is new and untested.

Laos is not a member of the Egmont Group, but is working to become one with the support of sponsor FIUs.

#### ENFORCEMENT/IMPLEMENTATION ISSUES AND COMMENTS

Despite the introduction of the 2015 AML/CFT law, parallel financial investigations are not routinely conducted alongside predicate crime investigations. The People's Court of Vientiane Capital prosecuted just one case of money laundering in 2017. AMLIO conducted initial on-site AML inspections of all commercial financial institutions, but AMLIO and other supervisors need to commence AML inspections of banks outside the capital and of non-financial institutions.

AMLIO is taking steps to enhance awareness of AML requirements, including by holding regular AML workshops with reporting entities.

While there appears to be a broad agreement among ministries to maintain the AML progress that Laos has made so far, domestic cooperation among agencies is not as

effective as it should be. International cooperation on AML and asset forfeiture also requires improvement.

### ***Current Weaknesses in Government Legislation (2014 INCRS Comparative Tables):***

According to the US State Department, Laos does not conform with regard to the following government legislation: -

**Record Large Transactions** - By law or regulation, banks are required to maintain records of large transactions in currency or other monetary instruments.

**Maintain Records over time** - By law or regulation, banks are required to keep records, especially of large or unusual transactions, for a specified period of time, e.g., five years.

**System for Identifying/Forfeiting Assets** - The jurisdiction has enacted laws authorizing the tracing, freezing, seizure, and forfeiture of assets identified as relating to or generated by money laundering activities.

**Arrangements for Asset Sharing** - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

**Ability to freeze assets without delay** - The government has an independent national system and mechanism for freezing terrorist assets in a timely manner (including but not limited to bank accounts, other financial assets, airplanes, autos, residences, and/or other property belonging to terrorists or terrorist organizations)

**Disclosure Protection - "Safe Harbour"** - By law, the jurisdiction provides a "safe harbour" defense to banks or other financial institutions and their employees who provide otherwise confidential banking data to authorities in pursuit of authorized investigations.

**Criminalised Financing of Terrorism** - The jurisdiction has criminalized the provision of material support to terrorists and/or terrorist organizations.

**Know Your Customer Provisions** - By law or regulation, the government requires banks and/or other covered entities to adopt and implement Know Your Customer/ Customer Due Diligence programs for their customers or clientele.

**Reports Suspected Terrorist Financing** - By law or regulation, banks and/or other covered entities are required to record and report transactions suspected to relate to the financing of terrorists, terrorist groups or terrorist activities to designated authorities.

**Criminalised Tipping Off** - By law, disclosure of the reporting of suspicious or unusual activity to an individual who is the subject of such a report, or to a third party, is a criminal offense.

### ***EU White list of Equivalent Jurisdictions***

Laos is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

Laos is not considered to be an Offshore Financial Centre

### US State Dept Narcotics Report 2017

#### Introduction

The Lao People's Democratic Republic is a major transport hub for amphetamine-type stimulants (ATS), opium, and heroin, and is a major producer of opium. Geographically, Laos sits at the heart of the regional drug trade in mainland Southeast Asia and shares remote and poorly-controlled borders with Burma, Thailand, Cambodia, Vietnam, and China. Economic development and the improvement of road, bridge, and communications networks in Laos have created opportunities for the illicit drug trade to grow.

The Lao government recognizes the threat posed by illegal narcotics production and trafficking and has well-articulated policies to address it. However, the Lao government relies heavily on donor aid for implementation. Lao law enforcement often lacks the resources and knowledge to independently combat internal drug crime. Additionally, Laos must police 3,000 miles of mountain and riverine borders, often very remote, exploitable by drug traffickers.

According to U.S. government estimates, opium poppy cultivation decreased 96 percent between 1998 and 2007 due to aggressive government action and international cooperation, particularly U.S. alternative development assistance. Cultivation, however, has rebounded recently, with an estimated 5,700 hectares (ha) reported in 2015, according to the United Nations Office on Drugs and Crime (UNODC). Although ATS production within Laos appears to be minor, drug seizures indicate that the volume of ATS smuggled through Laos is substantial.

#### Conclusion

Counternarcotics cooperation between Laos and the United States continues to evolve, but the significant gains in poppy eradication and crop substitution of the 1990s and 2000s are increasingly at risk due to factors that include high opium demand. The amount of ATS trafficking and usage in Laos is also troubling. ATS addiction is exceedingly hard to treat and the effort is straining Laos' limited treatment resources. ATS smuggling also weakens controls along Laos' borders with China, Burma, Thailand, Cambodia, and Vietnam.

Laos' justice, law enforcement, and security systems lack the resources necessary to counter the rise in narcotics-related crime that has accompanied the country's growing economic development and growing sophistication of criminal groups. Institution-building within the Lao government and basic law enforcement training are needed, emphasizing interdiction, investigation, prosecution, and corrections. Regional law enforcement cooperation among Vietnam, China, Burma, Thailand, and Cambodia is also vital to Laos' fight against drug trafficking.

The United States will continue to work on improving cooperation with Laos as it seeks to address these problems.

### US State Dept Trafficking in Persons Report 2016 (introduction):

Laos is classified a Tier 2 country - a country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Laos is a source and, to a much lesser extent, a transit and destination country for women, children, and men subjected to sex trafficking and forced labor. Lao trafficking victims often are migrants seeking better opportunities outside the country who experience labor or sexual exploitation after arriving in destination countries, most often Thailand, as well as Vietnam, Malaysia, China, Taiwan, and Japan. Some migrate with the assistance of brokers charging fees, but many also cross borders independently with valid travel documents. Traffickers, including victims' family members, are often known to those in the rural communities where they lure victims with false promises of legitimate work abroad. Many victims, particularly women and girls, many younger than 18 years old, are exploited in Thailand's commercial sex industry and in forced labor in domestic service, factories, or agriculture. Lao men and boys are victims of forced labor in Thailand's fishing, construction, and agricultural industries. Lao victims of forced labor in the Thai fishing industry have been identified in Indonesian waters. NGOs report individuals offering transportation services near the Thai border facilitate the placement of economic migrants into forced labor or sex trafficking in Thailand. The government reports foreign traffickers increasingly collaborate with local Lao middlemen to facilitate trafficking. Many trafficking victims may be among the more than 10,000 migrants deported or "pushed back" annually from Thailand without official notification, often sent back to Laos in boats across the Mekong River. Vehicle drivers sometimes intercept these migrants when they arrive back in Laos and facilitate their re-trafficking. A small, possibly increasing, number of women and girls from Laos are sold as brides in China and subjected to sex trafficking. Some local officials may contribute to trafficking by accepting payments to facilitate the immigration or transportation of girls to Thailand.

Laos is reportedly a transit country for some Vietnamese and Chinese women and girls who are subjected to sex trafficking and forced labor in neighboring countries, particularly Thailand. Local organizations reported concerns that some of the Vietnamese men and women working in or near (often illegal) logging and construction areas along the Laos-Vietnam border may be victims of trafficking. They reported similar concerns about Burmese nationals working as manual laborers or involved in the sex trade near the "golden triangle" tri-border area with Burma and Thailand.

There is little data on the scope of trafficking within Laos. Some Vietnamese, Chinese and Lao women and children are subjected to sex trafficking in the country, usually in larger cities or in close proximity to borders, casinos, or special economic zones, reportedly to meet the demand of Asian tourists and migrant workers. Some Lao adults and children are subjected to forced labor in the agricultural sector within Laos. Reports indicate child sex tourists from the United Kingdom, Australia, and the United States travel to Laos intending to exploit child sex trafficking victims.

The Government of Laos does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. In December 2015, the Lao National Assembly approved the Law on Anti-Trafficking in Persons, which was promulgated in February 2016. The government completed its 2016-2020 national action plan. Despite these measures, the government did not demonstrate overall increasing anti-trafficking efforts compared to the previous reporting period; therefore, Laos is placed on Tier 2 Watch List for a third consecutive year. Per the Trafficking Victims Protection Act, Laos was granted a waiver from an otherwise required downgrade to Tier 3 because its government has devoted sufficient resources to a written plan that, if implemented, would constitute significant efforts to meet the minimum standards. The number of victims identified declined significantly, and prosecutions and convictions declined for a second consecutive year. The government investigated some foreign tourists suspected of exploiting child sex trafficking victims, but did not initiate any prosecutions in these cases.

### **US State Dept Terrorism Report 2009**

Since 2002, the Government of Laos has consistently denounced international terrorism and expressed a willingness to cooperate with the international community on counterterrorism. While domestic opposition elements have in the past employed terrorist tactics, such as ambushing civilian buses in 2003 and bombing civilian targets in 2004, Lao officials at many levels saw international terrorism as an issue of only marginal relevance to Laos. They believed that Laos, as a small and neutral country, would not be targeted or exploited by international terrorists.

Laos does not have a separate counterterrorism law, but the Lao judicial system allows for the prosecution of acts of terrorism as crimes under the Lao criminal code, and Lao officials have amended the criminal code to strengthen counterterrorism sanctions. Laos' border security was weak; border officials could not effectively control access to the country at any of the country's border checkpoints. Crossing the border along the Mekong River into Burma, Thailand, and Cambodia could be accomplished easily and without detection. Border delineation remained poor in more remote sections of the country, especially along its land borders with Vietnam and China. It was likely that unmonitored border crossings by locals occurred on a daily basis. Since September 11, 2001, Lao authorities have strengthened airport security, and airport security forces have participated in U.S.- supported security seminars to raise their standards, but security procedures at land immigration points remained lax compared with those of most other countries in the region. In addition, official Lao identity documents, including passports and ID cards, were easy to obtain.

Lao authorities have issued orders limiting the amount of cash that could be withdrawn from local banks or carried into or out of the country and strengthened reporting requirements of state and privately owned commercial banks. Banking regulation remained extremely weak, however, and the banking system was vulnerable to money laundering and other illegal transactions.

## International Sanctions

None Applicable

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	29
World Governance Indicator – Control of Corruption	15

Corruption is a high risk for companies operating in Laos and deters foreign investment. Political patronage pervades all business sectors, and a culture of corruption has been perpetuated by senior LPRP (Lao People's Revolutionary Party) leaders and by foreign investors willing to buy political support and pay off officials. Petty bribery is another dimension of corruption in Laos; companies are likely to encounter this when trading across borders, paying taxes or acquiring public services. The judiciary is weak and inefficient, thus impeding the proper enforcement of anti-corruption laws. The Law Against Corruption criminalizes abuse of power, embezzlement, passive bribery and fraud in the public sector, but officials are rarely prosecuted. **Information provided by GAN Integrity.**

## Corruption and Government Transparency - Report by US State Department

Corruption is a serious problem in Laos and appears to be growing alongside the economy. The GOL has developed several anti-corruption laws but enforcement remains weak, with no high-profile cases ever having been brought to trial. According to the State Inspection Authority, the Lao Government has prosecuted some individuals for corruption but it cannot publicize the information. In September 2009, Laos ratified the United Nations Convention Against Corruption.

The State Inspection Authority, located in the Prime Minister's Office, is charged with analyzing corruption at the national level and serves as a central office for gathering details and evidence of suspected corruption. Additionally, the State Inspection Department in each Ministry is responsible for combat internal ministry corruption. Laos is not a signatory to the OECD Convention on Combating Bribery. Both giving and accepting bribes are criminal acts punishable by fine and/or imprisonment. Foreign businesses frequently cite corruption as an obstacle to operating in Laos. Officials commonly accept bribes for the purpose of approving or expediting applications.

In 2014 an asset declaration regime entered into force for government officials requiring them to declare income, assets and debts for themselves and their family members. Assets over \$2500 are required to be disclosed, including land, structures, vehicles and equipment, as well as cash, gold, and financial instruments. However, the effectiveness of this program has yet to be determined.



### Section 3 - Economy

The government of Laos, one of the few remaining one-party communist states, began decentralizing control and encouraging private enterprise in 1986. Economic growth averaged 6% per year from 1988-2008 except during the short-lived drop caused by the Asian financial crisis that began in 1997. Laos' growth has more recently been amongst the fastest in Asia and averaged nearly 8% per year for the last decade.

Nevertheless, Laos remains a country with an underdeveloped infrastructure, particularly in rural areas. It has a basic, but improving, road system, and limited external and internal land-line telecommunications. Electricity is available to 83% of the population. Agriculture, dominated by rice cultivation in lowland areas, accounts for about 25% of GDP and 73% of total employment.

Laos' economy is heavily dependent on capital-intensive natural resource exports. The economy has benefited from high-profile foreign direct investment in hydropower dams along the Mekong River, copper and gold mining, logging, and construction, although some projects in these industries have drawn criticism for their environmental impacts.

Laos gained Normal Trade Relations status with the US in 2004 and applied for Generalized System of Preferences trade benefits in 2013 after being admitted to the World Trade Organization earlier in the year. Laos began a one-year chairmanship of ASEAN in January 2016. Laos is in the process of implementing a value-added tax system. The government appears committed to raising the country's profile among foreign investors and has developed special economic zones replete with generous tax incentives, but a small labour pool remains an impediment to investment. Laos also has ongoing problems with the business environment, including onerous registration requirements, a gap between legislation and implementation, and unclear or conflicting regulations.

#### **Agriculture - products:**

sweet potatoes, vegetables, corn, coffee, sugarcane, tobacco, cotton, tea, peanuts, rice; cassava (manioc, tapioca), water buffalo, pigs, cattle, poultry

#### **Industries:**

mining (copper, tin, gold, gypsum); timber, electric power, agricultural processing, rubber, construction, garments, cement, tourism

#### **Exports - commodities:**

wood products, coffee, electricity, tin, copper, gold, cassava

#### **Exports - partners:**

Thailand 30.4%, China 27%, Vietnam 17.6% (2015)

#### **Imports - commodities:**

machinery and equipment, vehicles, fuel, consumer goods

#### **Imports - partners:**

Thailand 60.9%, China 18.6%, Vietnam 7.3% (2015)

## Banking

The Lao banking sector is in flux, with new private and foreign banks opening to provide modern banking options to Lao and foreign businesses. Laos does not have a national deposit insurance system and supervisory standards are low. Technical expertise and the ranges of services offered at domestic banks are limited. While continuing to receive outside assistance, central bank supervision of the sector remains somewhat weak. Although non-performing loans have decreased significantly since 2003, through work-outs, write-offs, and transfers off balance sheets, the three state-owned commercial banks (SCBs) remain, according to IMF estimates, insolvent.

## Stock Exchange

In January 2011, The Lao Securities Exchange opened for business. Initial trading was in just two companies. Despite the attractions for foreign investors in this resource-rich country, outside participation in the bourse will be limited at first. The funding for the set-up of the exchange has come from South Korea, which has invested \$9.8m, or 49% of the capital, for the venture. The Bank of Laos, the country's central bank, has invested the rest.

### Executive Summary

Laos, officially the Lao People's Democratic Republic (Lao PDR), is a rapidly growing developing economy at the heart of Southeast Asia, bordered by Burma, Cambodia, China, Thailand, and Vietnam. Laos' economy has grown at an annual average of eight percent for a decade, placing Laos amongst the fastest growing economies in the world. Over the last thirty years, Laos has made slow but steady progress in implementing reforms and building the institutions necessary for a market economy, culminating in accession to the World Trade Organization (WTO) in February 2013.

The Lao government's commitment to WTO accession and the creation of the ASEAN Economic Community (AEC) in 2015 led to major reforms of economic policies and regulations aimed at improving the business and investment environment. The Lao government is increasingly tying its economic fortunes to the economic integration of ASEAN and export-led development.

The rapid economic growth of the country has been driven by the exploitation of natural resources and development of hydropower, with both sectors largely led by foreign investors. However, the government recognizes that growth opportunities in these industries are finite, and has prioritized the development of high-value agriculture, light manufacturing, and tourism while continuing development of a range of energy resources and improving electrical transmission capacity to neighboring countries.

Laos in 2016 holds the rotating chairmanship of ASEAN, and has chosen to use its chairmanship to focus on ASEAN "connectivity." The Lao government hopes to leverage its lengthy land borders with Burma, China, Thailand, and Vietnam, and to implement policies that showcase Laos not as landlocked, but "land-linked," providing easy access to larger, emerging neighbor economies. The government hopes to increase exports of agriculture, manufactured goods, and electricity to its more industrialized neighbors.

Some businesses and international investors are beginning to use Lao production bases as an opportunity to reach the broader Mekong region, including southern China. Others are placing parts of their global value chains in Laos, often as a way to diversify from existing production bases in Thailand. The Special Economic Zone in Savannakhet has successfully attracted major manufacturers from Europe, North America, and Japan.

Economic progress and trade expansion in Laos remain hampered by a shortage of workers with technical skills, weak education and health care systems, and poor—although improving—transportation infrastructure. Institutions, especially in the justice sector, remain highly underdeveloped and regulatory capacity is low. Investors report that corruption at all levels is a major concern.

The lack of clarity in policy and the uneven application of law are disincentives to further foreign investment in the country. The Lao government is making efforts to improve and its five-year plan directs the government to formulate "policies that would attract investments" and to "begin to implement public investment and investment promotion laws." Investors, however, have found that practice has not yet caught up with the spirit of new laws. Furthermore, the multiple ministries and three separate methods for foreign investment into Laos lead to confusion, with many potential investors turning to either engaging local

partners or law firms to navigate the often confusing bureaucracy, or turning their efforts entirely toward other countries in the region.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2015	139 of 168	<a href="http://transparency.org/cpi2015/results">transparency.org/cpi2015/results</a>
World Bank's Doing Business Report "Ease of Doing Business"	2015	134 of 189	<a href="http://doingbusiness.org/rankings">doingbusiness.org/rankings</a>
Global Innovation Index	2015	Not ranked	<a href="http://globalinnovationindex.org/content/page/data-analysis">globalinnovationindex.org/content/page/data-analysis</a>
U.S. FDI in partner country (\$M USD, stock positions)	2015	USD Amount	No available data
World Bank GNI per capita	2014	\$1,660	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

#### *Millennium Challenge Corporation Country Scorecard*

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a per capita gross national income (GNI) of \$4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: <http://www.mcc.gov/pages/selection/scorecards>. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: <http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015>.

### **1. Openness To, and Restrictions Upon, Foreign Investment**

#### Attitude Toward Foreign Direct Investment

The Lao government officially welcomes both domestic and foreign investment as it seeks to keep growth rates high and graduate from Least Developed Country status. The pace of foreign investment has increased over the last several years. According to the Lao government's statistics, mining and hydropower compose eighty percent of Foreign Direct Investment (FDI). China, Vietnam, Thailand, Korea, France, and Japan are the largest sources of foreign investment.

The 2010 Law on Investment Promotion introduced uniform business registration requirements and tax incentives that apply equally to foreign and domestic investors. Foreigners may invest in any sector or business except in cases where the government deems the investment to be detrimental to national security, health or national traditions, or to have a negative impact on the natural environment. There are no statutory limits on foreign ownership or control of commercial enterprises, but in practice, many companies seek a local partner. Companies involved in large FDI projects, especially in mining and hydropower, often either find it advantageous or are required to give the government partial ownership, frequently with money borrowed from the investor or multilateral institutions.

Foreign investors seeking to establish operations in Laos are typically required to go through several steps prior to commencing operations. In addition to an investment license, foreign investors are required to obtain other permits, including; an annual business registration from the Ministry of Industry and Commerce; a tax registration from the Ministry of Finance; a business logo registration from the Ministry of Public Security; permits from each line ministry related to the investment (i.e., Ministry of Industry and Commerce for manufacturing; Ministry of Energy and Mines for power sector development); appropriate permits from local authorities; and an import-export license, if applicable. Obtaining the necessary permits can pose a challenge, especially in areas outside the capital. In 2013, the Lao government began allowing businesses to apply for tax registration at the time of incorporation, slightly simplifying the business registration process.

Many business owners and potential investors claim the process to be overly complex and regulations to be erratically applied. Investors also describe confusion of roles between the ministries, with multiple ministries unexpectedly involved in the approval process.

Foreign partners in a joint venture must contribute at least 30 percent of the company's registered capital. Capital contributed in foreign currency must be converted into Lao kip (LAK). Currency conversion is based on the exchange rate of the Bank of the Lao People's Democratic Republic on that given day, typically near 8000 LAK to USD during the reporting period. Wholly foreign-owned companies may be either a new company or a branch of an existing foreign enterprise. Throughout the period of operation of a foreign invested enterprise, the assets of the enterprise must not be less than its registered capital.

Individual companies in the petrochemical industry are required to file an annual import plan. The government controls the retail price and profit margins of gasoline and diesel. Goods prohibited for import and export range from explosives and weapons to certain forestry products and wildlife. Agriculture production and most manufacturing production are private. State-owned enterprises (SOEs) currently account for only one percent of total employment. Over 90 percent of manufacturers have fewer than 10 employees. Equity in medium and large-sized SOEs can be obtained through a joint venture with the Lao government.

Although accurate statistics are difficult to obtain, there is no question that foreign investment has increased dramatically over the last several years. According to UNCTAD, total FDI stock doubled between 2008 and 2013, reaching USD 2.8 billion. There are also small but growing signs of growth in higher-quality FDI, focused on manufacturing, largely through one Special Economic Zone in the southern part of the country.

#### Other Investment Policy Reviews

The Organization for Economic Cooperation and Development (OECD) initiated an Investment Policy Review of Laos in April 2015 and plans to release the document in mid-2016.

The World Bank's 2014 Lao PDR Investment Climate Assessment is available at <https://www.worldbank.org/en/country/lao/publication/lao-pdr-investment-climate-assessment-2014-policy-uncertainty-in-the-midst-of-a-natura-resources-boom>.

#### Laws/Regulations on Foreign Direct Investment

The 2010 Law on Investment Promotion introduced uniform business registration requirements and tax incentives that apply equally to foreign and domestic investors. Foreigners may invest in any sector or business except in cases where the government deems the investment to be detrimental to national security, health or national traditions, or to have a negative impact on the natural environment. There are no statutory limits on foreign ownership or control of commercial enterprises, but in practice many companies seek a local partner.

Most laws of interest to investors will be featured on the Lao Trade Portal website, <http://www.laotradeportal.gov.la>, with many laws and regulations translated into English, or on the Official Gazette, <http://laoofficialgazette.gov.la>. The 2012 Law on Making Legislation stipulated that any legislation not posted by the end of 2014 to the electronic Official Gazette would be void. While many laws were placed on the site before the end-2014 deadline, others older laws, which would have been voided on January 1, 2015, have been placed on the site since without being formally re-approved by the relevant legal bodies, resulting in a legal gray area.

The Lao National Assembly approved a new Competition Law in July of 2015, which also affected the investment environment. In addition to provisions that outlaw restraint of competition, the law also contains provisions addressing consumer protections, unfair or abusive business practices, monopolies, mergers, and acquisitions.

Neither the government's investment bureaucracy nor the commercial court system is well developed. Investors have experienced government practices that deviate significantly from publicly available law and regulation. Some investors decry the court's limited ability to handle commercial disputes and the judicial system's vulnerability to corruption. The Lao government has repeatedly underscored its commitment to increasing predictability in the investment environment, though in practice, with some exception in the special economic zones and for larger companies, foreign investors describe inconsistent application of law and regulation.

### *Business Registration*

Laos does not have a central business registration website. Timelines and government agencies involved in business registration can vary considerably. Many investors and even locals will hire consultancies or law firms to shepherd the effort-intensive registration process, which can take from a few weeks to several months.

The Lao government has attempted to streamline business registration through the use of a "one-stop shop" model. For general business activities, this service is located in the Ministry of Industry and Commerce. For activities requiring a government concession, the service is located in the Ministry of Planning and Investment. For Special Economic Zones (SEZ), one-stop registration is run through the Secretariat to the Lao National Committee on Special Economic Zones (SNCSEZ) in the Office of the Prime Minister. According to Prime Minister's Decree 177, the Savan-Seno SEZ authority is required to establish one-stop service to facilitate the issuing of investment licenses and improve the efficiency of business operations.

Business owners give the one-stop shop concept mixed reviews. Many acknowledge that it is an improvement, though describe it as an incomplete reform with several steps that must still be taken outside of the "single stop."

The 2004 decree on the promotion and development of small- and medium-sized enterprise (SME) does not differentiate between Lao and foreign-owned business. According to the Lao government, small enterprises are those having an annual average of less than 20 employees, or total assets below 250 million kip (USD 31,000), or an annual turnover below 400 million kip (USD 50,000). Medium-sized enterprises are those having an annual average of less than 100 employees, or total assets below 1.2 billion kip (USD 150,000), or an annual turnover below 1 billion kip (USD 125,000). In practice, services and special funds for SMEs are only known to be available to Lao businesses.

- <http://iab.worldbank.org> provides quantitative indicators on 104 economies' laws, regulations, and practices affecting how foreign companies invest across sectors, start businesses, access industrial land, and arbitrate disputes.
- [www.GER.co](http://www.GER.co) provides links to business registration sites worldwide. Navigate through that site to the best official business registration site in your country/economy. The site's ten green dot rating indicates whether a website provides clear and complete instructions for registering a limited liability company. Business registration in practice involves registration with multiple public agencies and websites often don't describe the full process. Learn more at: <http://ger.co/how-it-works/information-portals>.
- <http://www.doingbusiness.org/data/exploretopics/starting-a-business#close> provides indicators from 189 economies on the ease of starting a limited liability company, based on a survey of incorporation lawyers.

#### Industrial Promotion

The government has informally encouraged foreign investment in several key industries, including light manufacturing, agribusiness (with a particular focus on local processing and organics), tourism and travel, energy, mining, and transport and logistics services. The Lao government's official website for industrial promotion is [www.investlaos.gov.la](http://www.investlaos.gov.la).

#### Limits on Foreign Control and Right to Private Ownership and Establishment

Legislation does not clearly establish a "right" to establish and own a business, though that right exists in practice. The right to own land is a subject of some debate, though private land, or in some cases land use rights, are bought and sold by Lao individuals and entities. Foreign individuals and entities are unable to own land in Laos, though may obtain extended leases of up to 99 years in some circumstances.

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#### Privatization Program

The Lao government has no specific privatization program.

## Screening of FDI

The government has no known official policy for screening FDI in Laos, although senior government officials have occasionally stated in public that Laos should only accept the “right kinds” of investments.

## Competition Law

A new competition law was approved in 2015 which applies to both foreign and domestic individuals and entities. The law was drafted with the assistance of the German government and other donors. The competition law was one of the Lao government’s policy efforts to implement the ASEAN Economic Community, or AEC, before 2016. The law established two new government entities, the Business Competition Control (BCC) Commission and the BCC Secretariat. The BCC Commission is the senior body and its membership is decided by the Prime Minister with the advice of the Minister of Industry and Commerce. According to the legislation, it should include senior officials from multiple ministries as well as businesspeople, economists, and lawyers. The BCC Commission can draft regulations, approve mergers, levy penalties, and provide overall guidance on government competition policy and regulation. The BCC Secretariat, a lower-level institution equivalent to a Ministry of Industry and Commerce department or division, can hear complaints, conduct investigations, and conduct research and reporting at the request of the Commission.

## **2. Conversion and Transfer Policies**

### Foreign Exchange

There are no current restrictions on foreign exchange conversion, though restrictions have previously been imposed. In 2013, Laos suffered fiscal and monetary difficulties, which resulted in low levels of foreign reserves. In response, the Bank of the Lao PDR (BOL) imposed daily limits on converting funds from Lao kip into U.S. dollars and Thai baht, leading to difficulties in obtaining foreign exchange in Laos. The BOL restricts loans made in USD and Baht to businesses that generate foreign currency. There were no reports of restrictions on, or difficulties in, repatriating or transferring funds associated with an investment.

In order to facilitate business transactions, foreign investors generally open commercial bank accounts in both local and foreign convertible currency at domestic and foreign banks in Laos. The Enterprise Accounting Law places no limitations on foreign investors transferring after-tax profits, income from technology transfer, initial capital, interest, wages and salaries, or other remittances to the company’s home country or third countries provided that they request approval from the Lao government. Foreign enterprises must report on their performance annually and submit annual financial statements to the Ministry of Planning and Investment (MPI).

The Bank of Lao PDR maintains an adjustable peg against the U.S. dollar for the Lao currency, the kip or LAK, and allows fluctuations within a band of plus or minus five percent. The peg is adjusted to account for fluctuations in value of both the U.S. dollar and the Thai baht. In recent years, the kip’s value has fluctuated far less than the allowed five percent from the adjustable peg. In 2015, the kip appreciated against the Thai baht while depreciating slightly against the U.S. dollar.

### *Remittance Policies*



There have been no recent changes to remittance law or policy in Laos. Formally, all remittances abroad, transfers into Laos, foreign loans, and payments not denominated in Lao kip must be approved by the BOL. Related rules can be vague and official practice is reportedly inconsistent. The U.S. Treasury has not identified unfair currency manipulation techniques in Laos.

### **3. Expropriation and Compensation**

Foreign assets and investments in Laos are protected by laws and regulations against seizure, confiscation, or nationalization except when deemed necessary for a public purpose. Public purpose can be broadly defined, and land grabs are feared by Lao and expatriates alike. In case of government expropriation, the Lao government is supposed to provide fair market compensation. Revocation of an investment license cannot be appealed to an independent body, and companies whose licenses are revoked must then quickly liquidate their assets. Small landholdings, land with unclear title, or land on which tax has not been paid is particularly risk to expropriation.

### **4. Dispute Settlement**

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Laos currently has a poorly developed legal sector. The government aims to become a "rule of law state" by 2020 and continues to work with many international donors on a comprehensive legal sector reform plan. From 1975 to 1991, Laos did not have a constitution, and government decrees, issued by many ministries and officials, provided the country's legal framework. While there have been dramatic improvements in the legal system in more recent years, there are relatively few lawyers, inexperienced judges, and laws often remain vague and subject to broad interpretation. The Lao judicial system is not independent and faces challenges in meeting the needs of a modern market economy. Contract law in Laos is lacking in many areas important to trade and commerce. While it does provide for sanctity of contracts, in practice contracts are subject to political interference and patronage. A contract can be voided if it is disadvantageous to one party, or if it conflicts with state or public interests. Foreign businessmen have described contracts in Laos as being considered "a framework for negotiation" rather than a binding agreement. Although a commercial court system exists, in practice most judges adjudicating commercial disputes have little training in commercial law. Those considering doing business in Laos are strongly urged to contact a reputable law firm for additional advice on contracts.

Bankruptcy

The 1994 bankruptcy law permits either the business or creditor the right to petition the court for a bankruptcy judgment, and allows businesses the right to request mediation. The law authorizes liquidation of assets based upon the request of a debtor or creditor. There is no record of a foreign-owned enterprise, whether as debtor or as creditor, petitioning the courts for a bankruptcy judgment. According to the World Bank's Ease of Doing Business Report, Laos ranks 189 of 189 countries for ease of resolving insolvency.

Investment Disputes

According to the Law on Investment Promotion, dispute resolution should be escalated through the following methods: mediation, administrative dispute resolution, dispute resolution by the Committee for Economic Dispute Resolution, and finally, litigation. However,

due to the poor state of the Lao legal system and low capacity of most Lao legal administrators, foreign investors are generally advised to seek arbitration outside the country. There are few publicly available records on international investment disputes. In disputes involving the Ministry of Planning and Investment, decisions can only be appealed back to the Ministry itself. There is no separate independent body. Thus, a company alleging unfair treatment by the government has no independent recourse. Lao laws can contradict each other and lack implementing regulations. Application of Lao law remains inconsistent and knowledge of the laws themselves is often limited, especially outside of the capital.

#### International Arbitration

Laos is a member of the United Nations Convention on International Trade Law (UNCITRAL Model Law) abiding by their rules on ad hoc International Arbitration. There is no clear information on Lao government recognition or arbitration of international arbitral awards.

#### *ICSID Convention and New York Convention*

Laos is not a member state to the International Centre for the Settlement of Investment Disputes (ICSID Convention). It is, however, a signatory to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention).

#### Duration of Dispute Resolution – Local Courts

Relatively few records of successful dispute resolution are available. Anecdotal evidence suggests that disputes can carry on for years, though the most well-known cases are also extremely complex. Enforcement of decisions is reportedly inconsistent.

### **5. Performance Requirements and Investment Incentives**

#### WTO/TRIMS

There is no information available on TRIMS-related disputes or complaints involving the Lao government.

#### Investment Incentives

Laos offers a range of investment incentives through its Special and Specific Economic Zones, managed by a department directly under the Prime Minister, and through special government concessions managed by the Ministry of Planning and Investment. Many of these incentives can be found at [www.investlaos.gov.la](http://www.investlaos.gov.la) and are generally governed by the Investment Promotion Law.

#### *Research and Development*

There is not a clear precedent to determine whether U.S. or foreign firms can participate in government financed/subsidized research and development. Government funding for such endeavors is minimal and usually occurs in government-run research centers.

#### Performance Requirements

Laos does not have performance requirements. Requirements relating to foreign hiring are governed by the 2014 Labor Law, though in practice, large investors have been able to extract additional government concessions on use of foreign labor.

## Data Storage

Laos does not currently have laws or regulations on domestic data storage or “forced localization.”

## 6. Protection of Property Rights

### Real Property

The government continues to consider changes to its existing land policy, though progress has been slow and is complicated by sensitive issues including community-held land rights, traditional land rights, slash-and-burn or “shifting cultivation,” and a history of expropriation for infrastructure, mining, and power projects.

Foreign investors are not currently permitted to own land in fee simple. However, Article 58 of the Law on Investment Promotion stipulates that foreign investors with registered investment capital of USD 500,000 or above are entitled to purchase land use rights of less than 800 square meters in order to build housing or office buildings. The Lao government grants long-term leases, and allows the ownership of leases and the right to transfer and improve leasehold interests. Government approval is not required to transfer property interests, but the transfer must be registered and a registration fee paid.

A creditor may enforce security rights against a debtor and the concept of a mortgage does exist. Although the Lao government is engaged in a land parceling and titling project through the Ministry of Natural Resources and Environment, it remains difficult to determine if a piece of property is encumbered in Laos. Enforcement of mortgages is complicated by the legal protection given mortgagees against forfeiture of their sole place of residence.

Laos provides for secured interest in moveable and non-moveable property under the 2005 Law on Secured Transactions and a 2011 implementing decree from the Prime Minister. In 2013, the State Assets Management Authority at the Ministry of Finance launched a new Secured Transaction Registry (STR), intended to expand access to credit for individuals and smaller firms. The STR allows for registration of movable assets such as vehicles and equipment so that they may be easily verified by financial institutions and used as collateral for loans.

Outside of urban areas, land rights can be even more complex. Titles and ownership are not clear, and some areas practice communal titling.

### Intellectual Property Rights

Intellectual property protection in Laos is weak, but steadily improving. The U.S.-funded Lao PDR-U.S. International and ASEAN Integration (LUNA II) project is assisting the Lao government to build capacity in the area of IPR and to assist with progress on the IPR-related commitments undertaken as a part of Laos' 2013 WTO accession package.

Government reorganization in 2011 created the Ministry of Science and Technology, which controls the issuance of patents, copyrights and trademarks. Laos is a member of the ASEAN Common Filing System on patents but lacks qualified patent examiners. Since Thailand and Laos have a bilateral Intellectual Property Rights (IPR) agreement, in principle a patent issued in Thailand would also be recognized in Laos.

Laos is a member of the World Intellectual Property Organization (WIPO) Convention and the Paris Convention on the Protection of Industrial Property but has not yet joined the Bern Convention on Copyrights.

In 2011 the National Assembly passed a comprehensive revision of the Law on Intellectual Property which brings it into compliance with WIPO and Trade-Related Aspects of Intellectual Property standards (TRIPS). The consolidation of responsibility for IPR under the Ministry of Science and Technology is a positive development, but it lacks enforcement capacity.

Laos is not listed in USTR's Special 301 Report or the Notorious Markets report.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

#### *Resources for Rights Holders*

##### Regional Contact:

Peter Fowler  
Regional IP Attaché  
662-205-5913  
Peter.Fowler@trade.gov

##### Contact at Embassy Vientiane:

Noah Geesaman  
Economic and Commercial Officer  
(+856) (20) 487 000  
GeesamanN@state.gov

##### Country/Economy resources:

The American Chamber of Commerce in Laos: [www.amchamlao.com](http://www.amchamlao.com)  
U.S. Embassy Attorney List: [laos.usembassy.gov/attorneys.html](http://laos.usembassy.gov/attorneys.html).

## **7. Transparency of the Regulatory System**

Regulations in Laos can be vague and conflicting. The 2013 Law on Making Legislation mandated that all laws be available online at the official gazette website, [laoofficialgazette.gov.la](http://laoofficialgazette.gov.la). Draft bills are also available for public comment through the official gazette website. Though the situation continues to improve, the realities of doing business in Laos can fail to correspond with existing legislation and regulation. Implementation and enforcement often do not strictly follow the letter of the law, and vague or contradictory clauses in laws and regulations provide for widely varying interpretations. Many local firms complain of informal or gray competition from firms that offer lower costs by flaunting formal registration requirements and operating outside of government regulatory structures.

The nascent legal, regulatory, and accounting systems are not particularly conducive to a transparent, competitive business environment. International accounting norms apply and major international firms are present in the market, though understanding and adherence to these norms is limited to a small section of the business community. There are only four companies listed on the Lao stock exchange. Regulations dictate that companies listed on the exchange are to be held to accounting standards, but capacity to enforce those

standards is low. According to the Law on Making Legislation, laws should be made available for comment through the electronic gazette, though this occurs inconsistently in practice.

## **8. Efficient Capital Markets and Portfolio Investment**

Laos does not have a well-developed capital market, although government policies increasingly support the formation of capital and free flow of financial resources. Due to a monetary and fiscal crisis in 2013, there have been liquidity concerns, particularly related to foreign currency. The soundness of the banking system also appears to have suffered due to lending to off-budget infrastructure projects and provincial spending, and there are reports of some companies in the construction sector facing asset seizures by commercial banks.

The largest denomination of currency is LAK 100,000 (USD 12.50). Credit is generally not available on the local market for large capital investments, although letters of credit for export can sometimes be obtained locally. Laos completed its first Thai-baht denominated bond sale in 2013, raising USD 49 million. In January 2014, Laos issued a second round of government bonds denominated in Thai baht, raising approximately USD 90 million, and a third round in October 2014 worth USD 170 million.

The banking system is under the supervision of the Bank of Lao PDR, and includes 32 banks with assets of approximately USD 6.8 billion. Private foreign banks can establish branches in all provinces of Laos. ATMs have become ubiquitous in urban centers. Technical assistance to Laos' financial sector has led to some reforms but overall capacity within the governance structure remains poor.

The Lao Securities Exchange (LSX) began operations in 2011 with two stocks listed, both of them state-owned – the Banque Pour l'Commerce Extérieur (BCEL), and electrical utility Electricité du Laos (EDL). In 2012, the Lao government increased the proportion of shares that foreigners can hold on the LSX from 10 to 20 percent. As of April 2016, there are only four listed companies: BCEL, EDL-Gen, Petroleum Trading Laos, and Lao World.

### **Money and Banking System, Hostile Takeovers**

The banking system is dominated by large, government-owned banks. The health of the banking sector is difficult to determine. The Bank of Lao PDR (BOL), the central bank of Laos, temporarily ceased licensing new banks in 2014. BOL officials justify the move as a means to better regulate existing banks which rapidly moved into the market. There is no publicly available data, but non-performing loans are widely believed to be a growing concern in the financial sector, fueled in part by years of rapid growth in private lending. The government's fiscal difficulties in 2013 and 2014 led to non-payment on government infrastructure projects. The construction companies implementing the projects in turn could not pay back loans for capital used in construction. Many analysts believe the full effects of the government's fiscal difficulties have not yet worked their way through the economy.

## **9. Competition from State-Owned Enterprises**

The Lao government maintains ownership stakes in key sectors of the economy such as telecommunications, energy, finance, and mining. Where state interests conflict with private ownership, the state is in a position of advantage.

In 2011, under the auspices of the Ministry of Post and Telecommunications, four large telecoms with high state ownership stakes cut service connections to a foreign-owned telecom in retaliation for alleged marketing violations.

There is no centralized, publicly available list of Lao SOEs. The Lao government reports that there are 135 State-Owned Enterprises in Laos with more than USD five billion in assets. The government occasionally floats ideas of increasing private ownership in SOEs through listing on the LSX, such as Lao Airlines, or spinning off parts of larger organizations, such as the state electrical utility.

#### OECD Guidelines on Corporate Governance of SOEs

The government has not specified a code or policy for its management of SOEs and has not adopted OECD guidelines for Corporate Governance of SOEs. There is no single government body that oversees SOEs. Several separate government entities exercise SOE ownership in different industries. SOE senior management does not uniformly report to a line minister. Comprehensive information on boards of directors or their independence is not publicly available. While there is scant evidence one way or the other, private businesses generally assume that court decisions would favor an SOE over another party in an investment dispute.

#### Sovereign Wealth Funds

There are no known sovereign wealth funds in Laos.

### **10. Responsible Business Conduct**

There is low general awareness of responsible business conduct (RBC) and corporate social responsibility (CSR). There is no systematic government or NGO monitoring of RBC. RBC is not generally included in the government's investment policy formulations.

### **11. Political Violence**

Laos is generally a peaceful and politically stable country. The risk of political violence directed at foreign enterprises or businesspersons is low. A string of unexplained attacks on vehicles traveling in the area of Xaysomboun province in late 2015 and early 2016 caused several diplomatic missions to issue warnings to their citizens to avoid the area. For similar reasons, restrictions have also been placed on routes between Vang Vieng and Luang Prabang. The motives for the attacks remained unclear as of the time of reporting. There has been little-to-no political violence in the last decade.

### **12. Corruption**

Corruption is a serious problem in Laos that affects all levels of the economy. The Lao government has developed several anti-corruption laws but enforcement remains weak, with no high-profile cases ever having been brought to trial. According to the state inspection authority, the Lao Government has prosecuted some individuals for corruption, but reports are made only to the National Assembly and press coverage of such National Assembly sessions tends to cover the issue broadly without giving details. In September 2009, Laos ratified the United Nations Convention against Corruption.

The Lao Government Inspection and Anti-Corruption Authority (GIACA), located in the Prime Minister's Office, is charged with analyzing corruption at the national level and serves as a central office for gathering details and evidence of suspected corruption. Additionally, an

office of GIACA within each Ministry and provincial government office is responsible for combating internal ministry/provincial government corruption.

Laos is not a signatory to the OECD Convention on Combating Bribery. According to Lao law, both giving and accepting bribes are criminal acts punishable by fine and/or imprisonment. Nonetheless, foreign businesses frequently cite corruption as an obstacle to operating in Laos. Officials commonly accept bribes for the purpose of approving or expediting applications.

In 2014 an asset declaration regime entered into force for government officials requiring them to declare income, assets and debts for themselves and their family members. Assets over USD 2,500 are required to be disclosed, including land, structures, vehicles and equipment, as well as cash, gold, and financial instruments. Implementation of this program appears weak.

Domestic and international firms have repeatedly identified corruption as a problem in the business environment and for the further development of the Lao economy.

#### *UN Anticorruption Convention, OECD Convention on Combatting Bribery*

Laos has signed and ratified the UN Anticorruption Convention. Laos is not a party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

#### *Resources to Report Corruption*

Contact at government agency or agencies are responsible for combating corruption:

At the central level, contact the Government Inspection Authority:

Dr. Bounthong Chitmany  
Chair of Government Inspection Authority  
Sivilay Village, Xaythany District, Vientiane Capital, 13th South Road  
5570 8217

At the provincial level, contact the local provincial office of the inspection authority.

### **13. Bilateral Investment Agreements**

According to UNCTAD, Laos has bilateral investment agreements with Australia, Burma, Cambodia, China, Cuba, Denmark, France, Germany, India, Indonesia, Japan, Kuwait, Malaysia, Mongolia, Netherlands, North Korea, Pakistan, Philippines, Russia, South Korea, Singapore, Sweden, Switzerland, Thailand, the United Kingdom, and Vietnam. On February 1, 2005 a Bilateral Trade Agreement (BTA) came into force between the United States and the Government of Laos which contains some investment provisions.

#### *Bilateral Taxation Treaties*

Laos and the United States do not have a bilateral taxation treaty.

### **14. Foreign Trade Zones/Free Ports/Trade Facilitation**

The Foreign Investment Law allows for the establishment of Special Economic Zones (SEZ) and Specific Economic Zones as an investment incentive. Prime Ministerial Decree 443 on Special

Economic Zones and Specific Economic Zones was issued in 2010 and provides guidance on the establishment of the zones, though as of April, 2016 the Lao government continued work on a new law on SEZs.

Special Economic Zones are intended to support development of new infrastructure and commercial facilities and include incentives for investment. Specific Economic Zones are meant to develop existing infrastructure and facilities and provide a lower level of incentives and support than Special Economic Zones. Laos has announced plans to construct as many as 40 special and specific zones over the coming years hoping to attract USD three billion in foreign investment.

There are currently 12 SEZs across the country, including: Savan-Seno Special Economic Zone, Golden Triangle Special Economic Zone, Boten Beautiful Land Specific Economic Zone, Vientiane Industrial and Trade Zone, Saysettha Development Zone, Phoukyou Specific Economic Zone, Thatluang Lake Specific Economic Zone, Longthanh – Vientiane Specific Economic Zone, Dongphosy Specific Economic Zone and Thakhek Specific Economic Zone.

The Savan-Seno Special Economic Zone in Savannakhet province is developing as a production, supply, and distribution center with increasingly sophisticated manufacturing businesses and advanced infrastructure. Savannakhet has drawn several large foreign investors and opened a new dry port and logistics center in early 2016. Other SEZs in the northern part of the country have targeted growth through a tourism model, relying upon casinos to attract tourists from neighboring countries. Prostitution, wildlife trafficking, and drug trafficking have been reportedly problematic in these SEZs.

Lao laws pertaining to trade should be applied uniformly across the entire customs territory of Laos, including all sub-central authorities, special economic zones, specific economic zones and border trade regions. In practice, however, customs practices vary widely at ports of entry in the provinces. Centralization of customs collection by the central government has led to more uniform practices and increased the flow of customs revenue to the central government. In order to comply with National Single Window requirements under the ASEAN Single Window, in 2012 Laos began operating the Automated System for Customs Data (ASYCUDA) at the busiest point of cross-border trade, the Lao-Thai Friendship Bridge linking Vientiane with Thailand, and has slowly expanded the use of ASYCUDA at other border crossings as well. On several border crossings with Vietnam, Lao and Vietnamese officials will jointly conduct inspections to facilitate movement of goods.

## 15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

Economic Data	Host Country Statistical source		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	2014	12000	2014	12000	<a href="http://www.worldbank.org/en/country">www.worldbank.org/en/country</a>



Foreign Direct Investment	Host Country Statistical source		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	N/A	N/A	2014	0	BEA data available at <a href="http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm">http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm</a>
Host country's FDI in the United States (\$M USD, stock positions)	N/A	N/A	N/A	0	BEA data available at <a href="http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm">http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm</a>
Total inbound stock of FDI as % host GDP	N/A	N/A	N/A	N/A	N/A

*Table 3: Sources and Destination of FDI*

The IMF does not maintain foreign investment data for Laos.

*Table 4: Sources of Portfolio Investment*

Data not available.

## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

Civil law system similar in form to the French system

### International organization participation:

ADB, ARF, ASEAN, CP, EAS, FAO, G-77, IAEA, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRC, ILO, IMF, Interpol, IOC, IPU, ISO (subscriber), ITU, MIGA, NAM, OIF, OPCW, PCA, UN, UNCTAD, UNESCO, UNIDO, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

## Section 6 - Tax

### Exchange control

For further information -

[http://www.dfdl.com/images/stories/Articles/News/DFDL\\_Laos\\_DTA\\_Tax\\_Breakfast\\_Seminar.pdf](http://www.dfdl.com/images/stories/Articles/News/DFDL_Laos_DTA_Tax_Breakfast_Seminar.pdf)

### Treaty and non-treaty withholding tax rates

For further information -

[http://www.dfdl.com/images/stories/Articles/News/DFDL\\_Laos\\_DTA\\_Tax\\_Breakfast\\_Seminar.pdf](http://www.dfdl.com/images/stories/Articles/News/DFDL_Laos_DTA_Tax_Breakfast_Seminar.pdf)

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

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