

TECHNICAL ASSISTANCE COMPLETION REPORT¹

Division : **SEFM**

TA No., Country and Name		Amount Approved: \$650,000	
TA4770-LAO : Promoting Governance in Financial Transactions		Revised Amount: \$650,000	
Executing Agency Department of Accounting, Ministry of Justice (MOJ) of Lao People's Democratic Republic (PDR)		Source of Funding \$500,000 grant by the TASF and \$150,000 by government of Luxembourg	Amount Undisbursed: \$49,937.42
			Amount Utilized: \$600,062.58
TA Approval Date: 10 March 2006	TA Signing Date: 26 June 2006	Fielding of First Consultant(s): 2 October 2006	TA Completion Date Original: 31 March 2007 Actual: 31 August 2007
			Account Closing Date Original: 31 March 2007 Actual: 14 July 2009
<p>Description ADB's 2004-2006 Country Strategy and Program update reaffirmed the priority given to strengthening governance as key to poverty reduction. A critical component in strengthening governance was development of a legal system that gives all citizens fair access to justice. Weak capacity continued to pose serious constraints for resolving disputes arising from financial and commercial activities. In particular, implications have been significant for the financial sector where risks for commercial lending have been assessed as being exceptionally high due to deficiencies in the legal system. ADB's Loan 1946-LAO: Banking Sector Reform Program sought to assist in mobilizing the judiciary to apply a strengthened legal system and for the Bank of the Lao PDR (BOL) to use an effective prudential system that would bring failed borrowers to account. The TA was thus designed to also assist in the ADB's banking sector reform and private sector development program interventions.</p> <p>Expected Impact, Outcome and Outputs The TA aimed to strengthen the formal and informal mechanisms for commercial dispute resolution so as to ensure predictable, transparent, and speedy resolution supported, where needed by court judgments effectively enforced. The expected impact was higher confidence in the legal system of the Lao PDR, improving governance and potential for economic growth. The expected outcome was strengthened formal and informal mechanisms for dispute resolution on defaulting commercial/financial transactions to assist the Lao PDR in the implementation of a secured transactions regime. Expected outputs included (i) a sequenced plan to streamline the operations of the commercial divisions of the court; (ii) implementing regulations adopted; (iii) training for judges and enforcement officers at the commercial division of the civil court; (iv) appropriately trained trainers to conduct training sessions; (v) a secured transactions registry in operation, awareness building/technical training workshops and seminars; and (vi) legal department established at the state-owned commercial banks with capacity to undertake mediation and arbitration at the Office of Economic Dispute Resolution and file cases at commercial division of the court. The TA design is relevant to the evolving nature of banking sector and private sector development reforms in Lao PDR. The executing agency (MOJ) and the implementing agencies (Ministry of Finance, the People's Supreme Court, Bank of Lao PDR, Banque pour le Commerce Exterieur Lao, and Lao Development Bank) were consulted in the design of the TA.</p> <p>Delivery of Inputs and Conduct of Activities The TA was extended from 10 to 11 months on request by the Government to allow more training activities. TA activities were carried out promptly. A team of six international legal specialists with expertise in (i) governance and judicial training; (ii) secured transactions; (iii) mediation and arbitration; (iv) enforcement; (v) secured transactions registry; and (vi) nonperforming loan resolutions were fielded with corresponding six national consultants. Other than the team leader who rendered 4 person-months, the other international specialists put in an average of 2.7 person-months of inputs each. On average, the remuneration per person-month of international specialist was \$19,329, and of national specialists, \$2,716. Twenty-three international trips were fielded at an average cost of \$3,520 per trip. Sufficient ADB review missions were fielded. The MOJ was very supportive of the TA and the Vice Minister of Justice was directly involved in all TA activities. A high-level advisory group chaired by the Vice Minister of Justice and with representatives from the BOL, the People's Supreme Court (PSC), and the legal committee of the National Assembly was established to provide comments on the output of the TA. Although the assigned Project Director provided less than satisfactory coordination support, the Vice Minister's "open-door" approach had facilitated TA activities significantly. The performance of the EA was rated satisfactory.</p> <p>Evaluation of Outputs and Achievement of Outcome</p> <p>(1) Efficiency in the Production of Outputs (cost and process) The TA is rated satisfactory in the efficiency of production of outputs. Sufficient consultation was carried out with stakeholders in Government, the Lao Bar</p>			

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Association, the Lao Bankers' Association, Lao Chamber of Commerce, and the professional accounting and auditing firms in Lao PDR. These outputs included:

- A revised set of Specialized Rules for the commercial division of the court and a new section for inclusion in the Lao Bench Book on specialized rules, and a recommendation on streamlining the operations of the commercial division of the court were submitted for consideration of the PSC;
- Two decrees were produced for the Office of Economic Dispute Resolution to support the (i) Law on Resolution of Economic Disputes; and (ii) matters relating to foreign arbitration. These were submitted to the Prime Minister's Office for consideration by completion of the TA;
- A comprehensive procedures manual for enforcement was submitted to MOJ's Department of Judgment Enforcement which included recommendations on (i) appointments, authorities, responsibilities, and training; (ii) audit and review functions relating to the effectiveness of enforcement outcomes; (iii) new forms and systems on litigations; and (iv) auction procedures;
- Three proposed organization structures, job descriptions and estimated costs associated with establishing legal units within the three SOCBs were submitted to the senior management of SOCBs and were well received by the chairmen and international banking advisors of these banks;
- Draft decree to the Secured Transactions Law and a proposed roadmap for the implementation of a secured transactions registry (STR) were submitted to the advisory group and the Ministry of Finance (MOF). Workshops were conducted with participation from the private sector and the Government to highlight the features of the draft decree and the proposed STR roadmap;
- Extensive series of workshops and training (including training of trainers) were carried out on topics such as the Business Enterprise Law, bankruptcy, Law of Contracts, mediation and commercial arbitration, enforcements and non-performing loan resolutions through case studies, case writing, and mock trials. Forty eight judges went through three sets of modular training. Seventy-five enforcement officers of commercial division of court were trained on enforcement. Twenty-eight SOCB and BOL staff were trained in mediation and arbitration. These participants included provincial and Vientiane Municipality government staff.

(2) Effectiveness (Achievement of Outcomes) Other than the components on the secured transactions registry and the establishment of the legal units in the SOCBs, the TA had been effective in achieving the TA outcomes. The MOF was the agency responsible for implementing the Secured Transactions Law and the secured transactions registry. Although the MOF had acknowledged that the STR roadmap was to be further considered by the MOF, the immediate constraint was the funding source for operationalizing the STR. The TA output of an STR "in operation" was therefore not achieved. The setting up of legal units in the SOCBs was an action under consideration by the banks. The TA's stated risk in the design and monitoring framework, i.e., not enough time and resources to undertake all steps and necessary activities in producing outputs, was thus not fully mitigated in the TA design. The sustainability of outcomes was also highly dependent on future external funding assistance for continued capacity building and development.

(3) Quality of Outputs The quality of the outputs was satisfactory. The consultants were rated either exceptional or satisfactory. The firm was also rated satisfactory.

(4) Client Satisfaction with Outputs and Outcome The Government expressed strong appreciation for the support from the Government of Luxembourg and ADB during (i) ADB staff review missions, and (ii) the final public dissemination workshop held in Vientiane in August 2006 which had around 60 high-level participants from the public and private banks, Lao Bar Association, the Mekong Private Sector Development Facility, and the Government. The Government however expressed the view that there were too many specialized topics and outputs under the TA which required different agencies ranging from the MOJ, MOF, PSC to assume lead roles, thus making coordination amongst Government agencies difficult. The Government apologized for delays in their responses to TA outputs and attributed these to the limited number of staff with sufficient capacity and whose other responsibilities had to take priority over the TA activities.

(5) Timeliness of Delivery of Outputs The TA outputs were delivered in a timely manner.

Overall Assessment and Rating For the reasons indicated in the achievement of outcomes, the TA is rated partly successful.

Major Lessons Reforms of judicial systems, including capacity building, take decades to implement. Although ADB was able to provide some legal technical assistance to the MOJ, SOCBs, and the PSC in the years 2003-2005 via the Banking Sector Reform Program and through 2006-2007 from this TA, the Lao PDR's judicial reform would require long-term sustainable development support. ADB's intermittent TA support might achieve some degree of short-term capacity building outcome but to bring about the deep and extensive reforms would demand a longer-term sectoral development approach to be truly effective. ADB would have to re-assess its institutional capacity and funding resource in determining its longer-term strategic intervention in the sector for the Lao PDR.

Recommendations and Follow-Up Actions The Mekong Private Sector Development Facility (MPDF, managed by the International Finance Corporation) had expressed interest in following-through on ADB's work on the draft decree to the Secured Transactions Law and the secured transactions registry. ADB had shared the TA's outputs with the MPDF. ADB had also endorsed the People's Supreme Court's request for further TA assistance to the European Union office in Vientiane.