

ASIAN DEVELOPMENT BANK

TAR: LAO 35304

TECHNICAL ASSISTANCE
(Financed by the Japan Special Fund)

TO THE

LAO PEOPLE'S DEMOCRATIC REPUBLIC

FOR PREPARING THE

PRIVATE SECTOR DEVELOPMENT PROGRAM

December 2004

CURRENCY EQUIVALENTS

(as of 14 November 2004)

Currency Unit	–	kip (KN)
KN1.00	=	\$0.00009282
\$1.00	=	KN10,773

ABBREVIATIONS

ADB	–	Asian Development Bank
BDS	–	business development service
FIE	–	foreign-invested enterprise
GDP	–	gross domestic product
PDR	–	People's Democratic Republic
PSD	–	private sector development
PSDP	–	Private Sector Development Program
SME	–	small and medium enterprise
TA	–	technical assistance

TECHNICAL ASSISTANCE CLASSIFICATION

Targeting Classification	–	General intervention
Sector	–	Industry and trade
Subsector	–	Small and medium-scale enterprises, industry
Theme	–	Private sector development
Subtheme	–	Policy/institutional/legal/regulatory reforms Public-private partnerships Promoting economic efficiency and enabling markets

NOTE

In this report, "\$" refers to US dollars.

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I. INTRODUCTION

1. With the introduction of the New Economic Mechanism in 1986 and its implementation since 1989, the Lao People's Democratic Republic (PDR) is making a transition from central planning to a market-oriented economy. The Government of the Lao PDR has recognized the significance of the private sector, which encompasses domestic small and medium enterprises (SMEs) and foreign-invested enterprises (FIEs), for economic growth and poverty reduction, and requested the Asian Development Bank (ADB) to assist with its development. As outlined in the technical assistance (TA) framework in Appendix 1, this project preparatory TA¹ will design and prepare the Private Sector Development Program (PSDP), which is included in the 2004 country strategy and program update for the Lao PDR.² The Fact-Finding Mission of November 2004 reached an understanding with the Government on the TA's purpose, approach, and implementation arrangements.³

II. ISSUES

2. The Lao PDR has shown steady economic growth since the late 1980s, and its gross domestic product (GDP) has grown by an average of 6% per year since that period. The growth rate for 2003 was 5.8%. The economy is still dominated by agriculture, which contributes more than half of GDP; however, the agriculture sector has been in decline recently, and manufacturing (including handicraft) has been the most rapidly growing sector with growth of more than 11% in 2003. The size of the state-owned enterprise sector is limited, and represents less than 1% of the number of firms and less than 7% of the total share of employment.⁴

3. The private sector consists of domestic SMEs and larger FIEs. Most domestic enterprises are SMEs, and estimates indicate that they account for 56% of industrial output.⁵ Approximately 22,000 SMEs account for 98% of manufacturing enterprises and more than 50% of commercial activities. Estimates suggest that more than 80,000 SMEs are involved in services and trade. While the Lao PDR has only about 400 FIEs, they are the largest employer in the manufacturing sector, accounting for about 55% of total employment.

4. ADB's 2004 country strategy and program update for the Lao PDR emphasizes private sector development (PSD) as a critical component of poverty reduction (the initial poverty and social analysis is in Appendix 2).⁶ The Government's Second Socioeconomic Development Plan (2001–2005) also states that economic growth should be hastened through strong PSD combined with poverty-reducing interventions. Although the incidence of poverty fell from about 39% in 1998 to 32% in 2003, wide variations in poverty levels between urban and rural areas are likely to persist.

5. Thus, given the significance of both the domestic SME and the FIE subsectors, a comprehensive program is needed to support their development. The Government has recognized this and has taken a number of important steps in this regard. First, the Government

¹ The TA first appeared in *ADB Business Opportunities* (Internet edition) on 6 September 2004.

² A \$10 million PSDP loan is in the pipeline for 2006.

³ Subsequently, the TA's scope and approach was streamlined in consultation with the Government and with the assistance of the Lao PDR Resident Mission.

⁴ The state-owned enterprise sector is most active in utilities.

⁵ Ministry of Industry and Handicraft and United Nations Industrial Development Organization. 1999. *Survey of Industrial Establishments and Small-Scale Manufacturing Establishments*. Vientiane.

⁶ The Lao PDR has a young population with about 70% being under the age of 30, giving rise to increasing pressure to foster PSD for employment generation.

has recently issued a decree on SME development,⁷ which, for the first time in the Lao PDR, installed an institutional framework for policy coordination among key Government agencies. Second, the Government is also developing its financial sector, supported by World Bank, International Monetary Fund, and ADB (particularly by ADB's Banking Sector Reform Program).⁸ Finally, in recognition that the Multi-Fibre Agreement will soon be phased out, the Government is actively participating in globalization and regionalization through the Free Trade Agreement of the Association of Southeast Asian Nations, accession to the World Trade Organization, and various cooperation projects in the Mekong region.

6. Furthermore, external funding agencies have been involved in a number of important PSD projects in the Lao PDR. The major aid agencies active include the Japan International Cooperation Agency, which has provided assistance with formulating economic policy, and the United Nations Industrial Development Organization, which helped the Government draft the SME decree. The European Union and the Deutsche Gesellschaft für Technische Zusammenarbeit (German Technical Cooperation) are currently formulating activities in the SME sector, particularly in relation to export promotion and training. The Mekong Project Development Facility provides enterprises with a business development service (BDS). The Swedish International Development Agency has initiated project activity on enterprise taxation. In addition, a number of credit lines support SMEs' access to finance. According to a 2003 microfinance survey by the United Nations Development Programme, the Bank of the Lao PDR (the central bank) and credit lines provided by donor agencies account for 64.6% of total liabilities and capital for state-owned commercial banks. In the case of the Agricultural Promotion Bank, these two sources account for 92.4% of liabilities and capital. However, no agency has yet provided a comprehensive policy reform program combined with TA directly targeting PSD. To ensure an integrated and incremental approach toward PSD, active consultation with other external funding agencies is called for throughout TA implementation.

7. Despite recent progress and activities, considerable efforts are needed to develop a more enabling environment for PSD. Overall, the Lao PDR still has a limited legal and institutional framework, which prohibits the development of a conducive business environment, and the costs of doing business continue to be high. Domestic enterprises remain small in size, averaging only two paid employees. While FIEs play an important role in the economy, inflows of foreign direct investment have been slowing down, falling from 8% of GDP in 1996–1997 (approximately \$105 million) to 4% of GDP in 2000–2001 (approximately \$70 million). Accordingly, the current business environment needs to be reformed to enhance the growth of domestic enterprises and facilitate a more active inflow of foreign investment. The specific challenges include the following:

- (i) **Constrained regulatory environment.** The existing legal, regulatory, and administrative environment is not favorable to the start-up and growth of private enterprises. For instance, the process for registering and licensing a business is extremely burdensome and complicated, with limited mechanisms for providing information to the public.⁹ The problems associated with the regulatory environment are compounded by significant gaps in the legal framework. Even though the Government is currently engaged in drafting major commercial laws,

⁷ The Prime Minister's Office issued the Decree on the Promotion and Development of Small and Medium Enterprises (No. 42/PO) in April 2004.

⁸ ADB. 2002. *Report and Recommendation of the President to the Board of Directors on a Loan to the Lao People's Democratic Republic for the Banking Sector Reform Program*. Manila.

⁹ For example, a World Bank survey indicates that for enterprises to register and receive operating licenses could take up to 1 year.

including a business law, considerable efforts are needed to develop an effective, enabling legal framework. Finally, particularly for SMEs, the current lump-sum (negotiated) tax system encourages enterprises to remain informal and provides disincentives for the proper maintenance of financial records.

- (ii) **Limited access to finance.** As only about 4% of private enterprises have access to bank financing, their access to finance needs to be enhanced. Because of the small size of private enterprises, commercial banks view them as potentially risky borrowers, accounting for their limited access to finance. The lack of fully functioning systems for secured transactions and other means to secure collateral,¹⁰ along with the limited enforcement of security rights by the newly developing court system, heighten the risky lending environment for financial institutions.
- (iii) **Continued barriers to foreign investment and trade.** While the FIE sector is significant, the inflow of foreign investment has recently decreased. Although many factors have contributed to this, one of the main concerns is the complicated procedures pertaining to both foreign investment and trade. The Government still restricts the inflow of investment in certain industries, and imports (as key inputs for industrial development¹¹) still face a number of restrictions, including non-tariff trade barriers.
- (iv) **Limited public-private partnerships for BDSs.** Even though the Lao National Chamber of Commerce and Industry has been active in representing the private sector's interests, there is a continued need for formulating mechanisms for promoting public-private partnership to (a) provide enterprises with information on market access and regulations; (b) develop private policy advocacy; and (c) foster the development of a BDS industry, which is currently extremely limited.

8. In sum, while the Lao PDR has made considerable progress recently, sustainable PSD requires a number of actions that, in turn, should contribute significantly to poverty reduction and economic growth. Overall, developing an appropriate legal and institutional framework is considered as the most important priority for the Government in relation to facilitating PSD.

III. THE TECHNICAL ASSISTANCE

A. Purpose and Output

9. The purpose of the TA is to prepare the PSDP by formulating a focused and sequenced policy reform framework to establish the foundation for PSD. The framework will be consistent with and supplementary to the Government's overall development strategies, and will include the following components:

- (i) **Enhancing the regulatory environment for PSD.** The TA will analyze the major regulations and legal framework affecting the private sector and formulate a specific reform agenda. The major areas to be targeted include (a) business registration and licensing; (b) major legal documents affecting the private sector, including the business law and the SME decree; and (c) specific mechanisms for

¹⁰ Accordingly, the TA will also analyze key issues related to property rights, addressing usufruct rights and common property resources. Furthermore, the TA will also review key regulatory frameworks pertaining to land administration, resettlement, and indigenous peoples' rights.

¹¹ A survey by ADB in 2002 reported that almost 90% of manufacturing firms import at least some of their materials from overseas and that almost 70% of firms import more than half of their inputs. This implies that restricting imports has negative consequences on the country's manufactured outputs and exports.

providing pertinent information to the public. The overall aim is to enhance the current regulatory and legal environment through improved transparency and good governance.

- (ii) **Enhancing private enterprises' access to finance.** The TA will undertake an in-depth analysis to develop a series of measures for reducing the risks associated with lending. This includes complementing ongoing efforts (particularly the Banking Sector Reform Program) aimed at secured transactions and secured rights of property and collateral. As requested by the Government, the TA will also examine new funding mechanisms for SMEs through the proposed SME Access Fund. In addition, in close coordination with the Government and other stakeholders, including external funding agencies, the TA will continue to analyze the impact of the current tax regime on small businesses.
- (iii) **Facilitating foreign investment and trade.** In assisting the Lao PDR with its accession into the World Trade Organization, the TA will identify specific measures for facilitating more active foreign investment and trade. It will build on ongoing efforts to enhance investment procedures and facilitate reforms in relation to the importation of foreign goods as a way to boost the export-oriented manufacturing sector.
- (iv) **Promoting public-Private partnerships and BDSs.** The TA will continue the efforts of recent ADB operations¹² to foster the capacity-building efforts of such private business associations as the Lao National Chamber of Commerce and Industry and develop specific measures that would help them play a larger role in policy advocacy. Furthermore, the TA will also identify ways in which the BDS industry can become more active and more accessible to private enterprises.

10. Detailed analysis of the issues identified will support formulation of the PSDP. The PSDP will aim to develop an enabling environment in the Lao PDR and will provide, to the extent possible, on the reform agenda of the PSDP to the Government. Accordingly, the TA will include measures for Government capacity building, which will be formulated and undertaken throughout TA implementation.

B. Methodology and Key Activities

11. The TA will proceed in two phases. During the first phase (3 months), the PSDP framework will be formulated, and during the second phase (4 months), consensus will be built. During the second phase, the TA will also engage in capacity-building activities pertinent to the identified reform agenda. To achieve the goals of the first phase, the TA will undertake the following: (i) an in-depth diagnostic analysis of the key issues facing the private sector, (ii) a detailed draft of the framework for PSD, and (iii) the identification of an overall framework for the PSDP.

12. Based on the achievements of the first phase, the frameworks for PSD and the PSDP will be refined throughout the second phase in consultation with the Government and other stakeholders. As each step of the TA will require close consultation with stakeholders, several

¹² The major related projects include ADB. 2003. *Advisory Assistance on Small and Medium-Sized Enterprise and Private Sector Development to the Lao People's Democratic Republic*. Manila. The major activities of this TA included (i) training judges in commercial adjudication and dispute resolution procedures, (ii) reviewing incentives for foreign investment, and (iii) continuing to build capacity to harmonize registration processes for enterprises across the Government.

participatory workshops will be organized and other opportunities will be offered to build consensus on the outputs.¹³

C. Cost and Financing

13. The TA will be financed on a grant basis from the Japan Special Fund, funded by the Government of Japan. The TA is estimated to cost \$850,000 equivalent, comprising a foreign exchange cost of \$645,000 and a local currency cost of \$205,000 equivalent. The Government has asked ADB to finance \$700,000 equivalent to cover the entire foreign exchange cost and \$55,000 equivalent of the local currency costs. The Government will finance the remaining \$150,000 equivalent of the local currency costs, including by providing counterpart staff, office space, administrative services, and physical facilities. The cost estimate and financing plan is shown in Appendix 3. The Government has also been advised that approval of the TA does not commit ADB to financing any ensuing program.

D. Implementation Arrangements

14. The Ministry of Industry and Handicraft will be the executing agency. ADB has also requested that a high-level task force be established headed by the Ministry to oversee implementation of the TA. Implementing agencies include Ministry of Finance, Ministry of Commerce, Department for Domestic and Foreign Investment of the Committee for Planning and Investment, and other relevant Government agencies. Inputs from private sector representatives, including business associations, as well as from other stakeholders, will be sought throughout TA implementation.

15. The TA will be implemented over 8 months, from April to December 2005, and will require four international and four domestic (19 person-months each) consultants. For the international consultants, an SME and regulatory specialist, a finance specialist, an investment and trade specialist, and a BDS and market access development specialist will be recruited. The requirements for domestic consultants will be the same as those for international consultants. The consultant team will produce an inception report, two interim reports, and a draft final report, and each will be discussed during tripartite meetings. The consultant team will be selected according to ADB's *Guidelines on the Use of Consultants* and other arrangements satisfactory to ADB for the engagement of consultants. A firm will be recruited and the contract with the consulting firm will be based on quality- and cost-based selection. The simplified technical proposal will be used. All procurement under the TA will be in accordance with ADB's *Guidelines for Procurement*. The terms of reference for the consultants are in Appendix 4.

IV. THE PRESIDENT'S DECISION

16. The President, acting under the authority delegated by the Board, has approved the provision of technical assistance not exceeding the equivalent of \$700,000 on a grant basis to the Government of the Lao People's Democratic Republic for Preparing the Private Sector Development Program, and hereby reports this action to the Board.

¹³ In formulating the PSDP, the TA will also use inputs from ADB's private sector assessment of the Lao PDR and the investment climate survey of the Lao PDR, to be undertaken jointly by the World Bank and ADB.

PRELIMINARY PROGRAM FRAMEWORK

Design Summary	Performance Indicators and Targets	Monitoring Mechanisms	Assumptions and Risks
<p>Goal Economic growth based on PSD</p>	<ul style="list-style-type: none"> • Increased gross domestic product • Reduced unemployment • Reduced incidence of poverty 	<ul style="list-style-type: none"> • Economic reports and official statistics of the Government, private sector organizations, and international development agencies • ADB staff assessments 	
<p>Purpose Improve the business environment for both domestic and foreign private enterprises</p>	<ul style="list-style-type: none"> • Increased share of GDP accounted for by private enterprises • Increased contribution by private enterprises to total employment • Increased trade (import and export) activities • Increased foreign and domestic investment 	<ul style="list-style-type: none"> • Economic reports and official statistics of the Government, private sector organizations, and international development agencies • Official legal documents issued by the Government • ADB review missions 	<p>Assumptions</p> <ul style="list-style-type: none"> • Overall macroeconomic stability • Political commitment to undertake reforms at both the central and local government levels <p>Risks</p> <ul style="list-style-type: none"> • Commitment for capacity building and financial allocations to Government institutions to undertake the reforms • The Government's continued partnership with the private sector in relation to the reforms
<p>Outputs (of the PPTA) Specific and focused assistance modality for the Private Sector Development Program</p>	<ul style="list-style-type: none"> • Enhanced regulatory environment for PSD as measured by costs and number of major regulations • Enhanced access by private enterprises to finance as measured by their share of total bank loans and by terms • Improved measures for facilitating foreign investment and trade as measured by the level of foreign investment inflows and of exports and imports • Enhanced promotion of public-private partnerships and business development services as measured by specific mechanisms for partnerships and by the supply of and demand for business development services 	<ul style="list-style-type: none"> • Economic reports and official statistics of the Government, private sector organizations, and international development agencies • TA progress report (including training and capacity-building modules) • Official legal documents issued by the Government • ADB review missions and consultations with the Government and other stakeholders 	<p>Assumptions</p> <ul style="list-style-type: none"> • Government agencies are supportive of the TA activities • Counterpart staff are available <p>Risks</p> <ul style="list-style-type: none"> • ADB is able to closely communicate with relevant Government officials and other stakeholders, including private sector representatives and major donor agencies • Consultants have the necessary technical expertise to undertake the required tasks

Continued on next page

Design Summary	Performance Indicators and Targets	Monitoring Mechanisms	Assumptions and Risks
<p>Activities (of the PPTA) Workshops and other consultation and dissemination activities with the Government and other stakeholders for in-depth analysis and consensus building</p>	<ul style="list-style-type: none"> • A series of meetings and workshops to build consensus for the Private Sector Development Program framework • Close consultation by ADB missions and TA consultants with the Government and other stakeholders 	<ul style="list-style-type: none"> • TA progress report, (including training and capacity-building modules) • ADB review missions and consultations with the Government and other stakeholders 	<p>Assumptions</p> <ul style="list-style-type: none"> • Government agencies are supportive of the TA activities • Counterpart staff are available • Donor agencies and other stakeholders are supportive of the program formulation <p>Risks</p> <ul style="list-style-type: none"> • ADB is able to closely communicate with relevant Government officials and other stakeholders • Consultants have the necessary technical expertise to undertake the required tasks
<p>Inputs (of the PPTA) A total of 38 person-months of international and domestic consultants and funding of various TA activities as outlined (\$700,000)</p> <p>The proposed loan for the Private Sector Development Program is in the pipeline for 2006</p>	<ul style="list-style-type: none"> • In-depth and pragmatic analysis of the private sector • Effective consensus building and dissemination activities 	<ul style="list-style-type: none"> • Signed TA letter • Time inception/fielding of the consultants • Consultants' reports • Workshops and seminars attended by Government representatives, consultants, and other stakeholders • ADB review missions and consultations with the Government and other stakeholders • Effective implementation of the proposed Program Loan 	<p>Assumptions</p> <ul style="list-style-type: none"> • Government agencies are supportive of the TA activities • Counterpart staff are available <p>Risks</p> <ul style="list-style-type: none"> • ADB is able to communicate closely with relevant Government officials and other stakeholders • Consultants have the necessary technical expertise to undertake the required tasks

ADB = Asian Development Bank, GDP = gross domestic product, PSD = private sector development, PPTA = project preparatory technical assistance.

INITIAL POVERTY AND SOCIAL ANALYSIS

A. Linkages to the Country Poverty Analysis

Is the sector identified as a national priority in country poverty analysis?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Is the sector identified as a national priority in country poverty partnership agreement?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>Contribution of the sector or subsector to reduce poverty in the Lao People's Democratic Republic: Private enterprises dominate the economy and are a major source of employment for the poor. The technical assistance (TA) is expected to formulate a program that will help increase private enterprises' contribution to economic growth, employment generation, and poverty reduction. This will be achieved through the creation of a more conducive business environment by (i) improving the commercial legal framework, (ii) minimizing regulatory requirements, (iii) enhancing access to finance, and (iv) liberalizing trade and investment regimes. In the medium to long term, the TA and the ensuing program are expected to significantly increase opportunities for employment and reduce the incidence of poverty. To the extent possible, the TA will ensure that the processes of policy formulation and implementation follow the Government's goal of fostering participation and will promote social inclusion and gender responsiveness in its pursuit of its poverty reduction efforts.</p>			

B. Poverty Analysis

Targeting Classification: General intervention

<p>What type of poverty analysis is needed? As a complete poverty reduction strategy paper, the Government's national growth and poverty eradication strategy aims to reduce poverty through strong economic growth. The Asian Development Bank has played an active role in the strategy formulation process through various initiatives, and the strategy emphasizes regional economic integration, market-based development initiatives, human resource development, and sustainable social and environmental management. In line with the priorities set forth in the strategy, the TA aims to address some of the structural policy and legal and regulatory impediments to private sector development. Identified priorities include the following: (i) enhancing the legal and regulatory environment for private sector development, (ii) enhancing private enterprises' access to finance, (iii) facilitating foreign investment and trade, and (iv) promoting public-private partnerships.</p> <p>The establishment of transparent, market-friendly, socially inclusive, and, to the extent possible, gender-responsive business practices is also likely to promote private sector confidence and contribute to the establishment of pro-poor governance structures. The TA's impacts on economic growth and employment generation are assessed to be significantly positive. No adverse impact requiring mitigating measures was identified.</p>
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C. Participation Process

Is there a stakeholder analysis?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
No formal stakeholder analysis is required; however, the formulation of the TA is based on extensive formal and informal stakeholder consultations.		
Is there a participation strategy?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Throughout the implementation of the TA, a plan for enhancing participation will be formulated and implemented. As the TA formulates the proposed program, it will also address the importance of participation and accordingly draft a plan for improving it.		

D. Gender Development

<p>Strategy to maximize impacts on women: The proposed design of the TA will not have any negative impact on women. The TA plans to design an information system for private enterprises that will be gender responsive to identify needs for policy changes.</p>		
Has an output been prepared?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

E. Social Safeguards and Other Social Risks

Item	Significant/ Not Significant/ None	Strategy to Address Issues	Plan Required
Resettlement	<input type="checkbox"/> Significant <input type="checkbox"/> Not significant <input checked="" type="checkbox"/> None	The current design of the TA suggests that no formal strategy to address resettlement issues will be required. However, based on close monitoring, should any issues pertaining to resettlement arise, the TA will address them as required based on consultations with the Government and other stakeholders.	<input type="checkbox"/> Full <input type="checkbox"/> Short <input checked="" type="checkbox"/> None
Affordability	<input type="checkbox"/> Significant <input type="checkbox"/> Not significant <input checked="" type="checkbox"/> None		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Labor	<input type="checkbox"/> Significant <input type="checkbox"/> Not significant <input checked="" type="checkbox"/> None		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Indigenous Peoples	<input type="checkbox"/> Significant <input type="checkbox"/> Not significant <input checked="" type="checkbox"/> None	The current design of the TA suggests that no formal strategy to address issues related to indigenous people will be required. However, based on close monitoring, should any issues pertaining to indigenous peoples arise, the TA will address them as required based on consultations with the Government and other stakeholders.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Other Risks and/or Vulnerabilities	<input type="checkbox"/> Significant <input type="checkbox"/> Not significant <input checked="" type="checkbox"/> None	The TA will closely monitor relevant outcomes and economic and social impacts throughout its implementation to ensure that it does not have any adverse impacts on the poor and the vulnerable.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

COST ESTIMATES AND FINANCING PLAN
(\$'000)

Item	Foreign Exchange	Local Currency	Total Cost
A. Asian Development Bank Financing^a			
1. Consultants			
a. Remuneration and Per Diem			
i. International Consultants	492.1	0.0	492.1
ii. Domestic Consultants	0.0	41.8	41.8
b. International and Local Travel	21.0	0.0	21.0
c. Report Preparation	1.0	0.0	1.0
2. Equipment and Materials ^b	10.0	0.0	10.0
3. Workshops ^c	16.0	7.6	23.6
4. Representative for Contract Negotiations	2.5	0.0	2.5
5. Communication and Administration	2.4	3.6	6.0
6. Translation	0.0	2.0	2.0
7. Contingencies	100.0	0.0	100.0
Subtotal (A)	645.0	55.0	700.0
B. Government Financing			
1. Office, Secretarial, and Related Services	0.0	48.0	48.0
2. Remuneration and Per Diem	0.0	35.5	35.5
3. Facility for Workshops	0.0	21.7	21.7
4. Miscellaneous Administration	0.0	24.2	24.2
5. Other	0.0	20.6	20.6
Subtotal (B)	0.0	150.0	150.0
Total	645.0	205.0	850.0

^a Financed by the Japan Special Fund, funded by the Government of Japan.

^b Includes computers, printers, and other office equipment.

^c Pending budget availability, the technical assistance may fund overseas training or a workshop for Government officials from the workshop budget. The specific details of the overseas training will be determined by the time of inception of the technical assistance and will be designed within the allocated budget.

Source: Asian Development Bank staff estimates.

OUTLINE TERMS OF REFERENCE FOR CONSULTANTS

1. The work plan and consultant selection for phase 2 are subject to refinement by the Asian Development Bank (ADB). The work plan of the consultants may be refined based on the progress of the technical assistance (TA).

A. International Consultants

1. Private Sector Development and Regulatory Specialist/Team Leader (7 person-months)

2. The team leader will have extensive working knowledge of various aspects of business regulations affecting the private enterprises, including small and medium enterprises (SMEs), as well as experience with policy and legal frameworks and pertinent international experience. The team leader will demonstrate a good understanding of the history and development of the business environment in the Lao People's Democratic Republic (PDR) and the development of the country's legal and regulatory system. The team leader will be responsible for all outputs of the TA and will guide all consultants. The tasks for the two phases are as follows:

(i) Phase 1 (3 person-months):

- (a) Draft an initial assessment of pertinent current and planned activities of the Government and other major stakeholders, including external funding agencies, which will be reflected in the work program for the TA team.
- (b) Conduct a detailed diagnostic review of private sector development (PSD) in the Lao PDR, including a sectoral analysis of the SME and foreign-invested sectors, and identify major challenges and opportunities related to the current regulatory framework. The analysis should include (a) a profile of SMEs, (b) a detailed analysis of binding constraints, and (c) a profile of activities by external funding agencies.
- (c) Draft a policy and legal and regulatory framework that delineates a comprehensive and sequenced set of reform measures, particularly in relation to major business regulations (business registration and licensing) and the commercial legal framework based on the diagnostic review and in coordination with other consultants.
- (d) Design a series of modules to enhance capacity building and public-private partnerships to be implemented during phase 2.
- (e) Assist ADB missions with related activities and conduct discussions and workshops with stakeholders to build consensus on the framework for the Private Sector Development Program (PSDP).

(ii) Phase 2 (4 person-months):

- (a) Refine and finalize the PSDP framework based on consultations with key stakeholders.
- (b) Conduct impact assessments on poverty, environmental, and social issues according to ADB guidelines; assessment to include review of the Land Law and the Decree on Compensation and Resettlement approved by Cabinet December 2003, as well as key regulatory frameworks addressing land administration, resettlement, indigenous peoples rights.
- (c) Depending on the availability of funds, design and arrange an overseas training program for key policymakers to provide them with practical

knowledge and experience based on interactions with foreign government officials.

- (d) Implement the series of modules designed during phase 1 to enhance capacity building and public-private partnerships.
- (e) Assist ADB missions with other related activities and conduct discussions and workshops with stakeholders to build consensus and finalize the design of the PSDP framework.

2. Financial Specialist (5 person-months)

3. The international financial specialist will have extensive working knowledge of financial systems and their operations and experience with formulating a policy reform agenda based on international experience. The specialist will demonstrate a good understanding of the development of the financial sector and of the financial system in the Lao PDR. The specialist will work closely with the team leader and share responsibilities as needed. The tasks for the two phases are as follows:

(i) Phase 1 (2 person-months):

- (a) Conduct a detailed diagnostic review of the major issues and challenges private sector enterprises face in relation to their access to financial resources.
- (b) Draft a detailed framework that delineates a comprehensive and sequenced set of reform measures aimed at enhancing private enterprises' access to finance, focusing on secured transactions and secured rights of property and collateral and taxation, based on the diagnostic review and in coordination with other consultants. The analysis should also include an analysis of the benefits of the SME Access Fund.
- (c) Help the team leader design a series of modules to enhance capacity building and public-private partnerships to be implemented during phase 2.
- (d) Assist ADB missions with related activities and conduct discussions and workshops with stakeholders to build consensus on the PSDP framework.

(ii) Phase 2 (3 person-months):

- (a) Refine and finalize the finance components of the PSDP framework based on consultations with key stakeholders.
- (b) Implement the series of modules designed during phase 1 to enhance capacity building and public-private partnerships.
- (c) Assist ADB missions with other related activities and conduct discussions and workshops with stakeholders to build consensus and finalize the design of the PSDP framework.

3. Investment and Trade Specialist (5 person-months)

4. The international investment and trade specialist will have extensive working knowledge of foreign investment and trade operations and experience in formulating a policy reform agenda based on international experience. The specialist will demonstrate a good understanding of the development of the trade and investment regimes in the Lao PDR. The tasks for the two phases are as follow:

(i) Phase 1 (2 person-months):

- (a) Conduct a detailed diagnostic review of the major issues and challenges in relation to foreign investment and trade.
 - (b) Draft a detailed framework that delineates a comprehensive and sequenced set of reform measures aimed at enhancing current institutions, the legal framework, and regulations in a way that will liberalize and streamline the foreign investment and trade regimes based on the diagnostic review and in coordination with other consultants.
 - (c) Help the team leader design a series of modules to enhance capacity building and public-private partnerships to be implemented during phase 2.
 - (d) Assist ADB missions with related activities and conduct discussions and workshops with stakeholders to build consensus on the PSDP framework.
- (ii) Phase 2 (3 person-months):**
- (a) Refine and finalize the investment and trade components of the PSDP framework based on consultations with key stakeholders.
 - (b) Implement the series of modules designed during phase 1 to enhance capacity building and public-private partnerships.
 - (c) Assist ADB missions with other related activities and conduct discussions and workshops with stakeholders to build consensus and finalize the design of the PSDP framework.

4. Business Development Service and Market Access Development Specialist (phase 2, 2 person-months)

5. The international business development service (BDS) and market access development specialist will have extensive working knowledge of BDS and market access development and experience with formulating a policy reform agenda based on international experience. The specialist will demonstrate a good understanding of issues related to PSD in the Lao PDR. The tasks are as follows:

- (i) Conduct a detailed diagnostic review of the major issues and challenges in terms of market access and BDS development.
- (ii) Draft a detailed framework that delineates a comprehensive and sequenced set of measures aimed at enhancing the BDS industry, increasing enterprises' access to BDS and markets, and fostering more active public-private partnerships based on the diagnostic review and in coordination with other consultants.
- (iii) Design a specific set of measures aimed at enhancing private enterprises' access to information on regulations, BDS, etc.
- (iv) Help the team leader design and implement a series of modules to enhance capacity building and public-private partnerships.
- (v) Assist ADB missions with related activities and conduct discussions and workshops with stakeholders to build consensus on the PSDP framework.

B. Domestic Consultants

1. Private Sector Development Specialist (7 person-months)

6. The domestic PSD specialist will have a background in economics and/or finance or related fields, understand major issues facing the private sector in the Lao PDR, and be

proficient in English. The specialist will provide inputs related to the PSDP framework, especially in relation to issues pertaining to the formulation of the reformed legal and regulatory framework. Preferably, the specialist will have experience working with international consultants and governments. The tasks are as follows:

- (i) Help the team leader with all aspects of the tasks outlined in the terms of reference.
- (ii) Collect and analyze information and data and make them available in English in an organized, readable form under the guidance of the team leader.
- (iii) Conduct research on specific topics as assigned by the team leader.
- (iv) Undertake the capacity-building modules as assigned by the team leader.
- (v) Arrange and organize discussions and workshops and help the team leader prepare relevant materials, including the translating documents and interpreting discussions.

2. Financial Specialist (5 person-months)

7. The domestic financial specialist will have a background in economics and/or finance or related fields, understand major finance-related issues facing the private sector in the Lao PDR, and be proficient in English. The specialist will provide inputs related to the PSDP framework, especially in relation to the measures aimed at enhancing private enterprises' access to finance. Preferably, the specialist will have experience working with international consultants and governments. The tasks are as follows:

- (i) Help the team leader and international financial specialist with all aspects of their tasks as outlined in the terms of reference.
- (ii) Collect and analyze information and data and make them available in English in an organized, readable form under the guidance of the team leader and international financial specialist.
- (iii) Conduct research on specific topics as assigned by the team leader and international financial specialist.
- (iv) Undertake the capacity-building modules as assigned by the team leader.
- (v) Arrange and organize discussions and workshops and help the team leader and international financial specialist by preparing relevant materials, including translating documents and interpreting discussions.

3. Investment and Trade Specialist (5 person-months)

8. The domestic investment and trade specialist will have a background in economics and/or finance or related fields, understand major finance-related issues facing the private sector in the Lao PDR, and be proficient in English. The specialist will provide inputs related to the PSDP framework, especially in relation to issues pertaining to measures aimed at enhancing the flow of investment and trade. Preferably, the specialist will have experience working with international consultants and governments. The tasks are as follows:

- (i) Help the team leader and international investment and trade specialist with all aspects of their tasks as outlined in the terms of reference;
- (ii) Collect and analyze information and data and make them available in English and in an organized, readable form under the guidance of the team leader and international investment and trade specialist.

- (iii) Conduct research on specific topics as assigned by the team leader and international investment and trade specialist.
- (iv) Undertake the capacity-building modules as assigned by the team leader.
- (v) Arrange and organize discussions and workshops and help the team leader and international investment and trade specialist by preparing relevant materials, including translating documents and interpreting discussions.

4. Business Development Service and Market Access Development Specialist
(2 person-months)

9. The domestic BDS and market access development specialist will have a background in economics and/or finance or related fields, understand major finance-related issues facing the private sector in the Lao PDR, and be proficient in English. The specialist will provide inputs related to the PSDP framework, especially in relation to issues pertaining to measures to increase the flow of investments and trade. Preferably, the specialist will have experience working with international consultants and governments. The tasks are as follows:

- (i) Help the team leader and international BDS and market access development specialist with all aspects of their tasks as outlined in the terms of reference.
- (ii) Collect and analyze information and data and make them available in English and in an organized, readable form under the guidance of the team leader and international BDS and market access development specialist.
- (iii) Conduct research on specific topics as assigned by the team leader and international BDS and market access development specialist.
- (iv) Undertake the capacity-building modules as assigned by the team leader.
- (v) Arrange and organize discussions and workshops and help the team leader and international BDS and market access development specialist by preparing relevant materials, including translating documents and interpreting discussions.

C. Implementation Schedule

10. This TA is scheduled to start in April 2005. The team leader will start work on 1 April 2005 along with the domestic PSD specialist. All other consultants will begin their work on 1 May 2005, except the international and domestic BDS and market access development specialists, who will begin on 1 August 2005. The work will produce the following four sets of draft reports, all conforming to ADB format.

- (i) The first report is due by 1 May 2005. This comprehensive outline of the TA will be based on the terms of reference and initial discussions with the Government and ADB.
- (ii) The second report is due by 30 June 2005. This preliminary framework for the PSDP will be based on comments on the first report received by the Government and ADB.
- (iii) The third report is due by 1 September 2005. It will include a refined design for the PSDP framework to build consensus among stakeholders.
- (iv) The final report is due by 30 November 2005. The report may be revised based on comments by ADB and the Government.

11. Extensive consultations and workshops with stakeholders, including local and central Government officials and external agencies, are envisioned in the process of finalizing the TA.

The consultants will hold a number of workshops, including one workshop at TA inception to clarify the consultants' work plan and build consensus, before delivering the final report.