

Lao Trade Magazine

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Asia Pacific Trade Agreement

ASEAN ECONOMIC COMMUNITY

SINGLE MARKET AND PRODUCTION

BASE; free flow of goods, services, investment, and capital



Importance of Plant quarantine in international trade



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Welcome to this third edition of the Lao Trade Magazine, published through the Ministry of Industry and Commerce.

Trade is becoming increasingly important as a driver of economic growth for Lao PDR. We trust that this publication will enhance your knowledge of Laos' trade developments, and the many cross-linkages we have throughout the economy. For instance, the magazine highlights how trade agreements impact public health, and also what role the Department of Agriculture plays in controlling the spread of plant disease related to trade. The magazine also outlines developments in Laos regional integration in the Asia Pacific Trade Agreement and the ASEAN Economic Community, public-private sector training for the Lao Garment industry, and new funding arrangements for promoting Laos' trade integration through the WTO's Enhanced Integrated Framework.

Working together to promote trade in each of our own ways will make Laos a more prosperous nation. Please contact the organisations mentioned, or the ODA Division of the Ministry of Industry and Commerce should you wish to obtain any further information on topics covered in this publication.

Lao PDR's state of play in the Asia Pacific Trade Agreement



Signing ceremony of the Framework Agreement on trade facilitation and the Framework Agreement on the promotion, protection and Liberation of Investment.

The 3rd Ministerial Council of the Asia Pacific Trade Agreement, 15 December 2009, Seoul, Republic of Korea.

The Bangkok Agreement was first signed by Lao PDR in 1975 and then amended and renamed to the Asia-Pacific Trade Agreement (APTA) in 2001. It is the oldest preferential trade agreement among developing countries of the Asia - Pacific region. The founding members were Bangladesh, India, Lao PDR, Republic of Korea, and Sri Lanka, with The People's Republic of China becoming the sixth member in 2001.

Since the first Ministerial Council Meeting, with the renaming of the Bangkok Agreement into the Asia Pacific Trade Agreement in 2001, Lao PDR has participated actively in the APTA Standing Committee Meetings. These meetings take place four times a year (two meetings held at UNECAP in Bangkok, Thailand, and another two alternately organized in APTA State Members).

To date four rounds of negotiations on tariff reductions have taken place. The first round ended in 1975. The second round started in 1985 and concluded in 1990, in which national concession lists of most State Members were exchanged. The third round of negotiations took place in 2001 and ended in 2003. The fourth round of negotiations is currently in progress. Significantly, in this round Lao PDR has been granted the following offer lists (the lists of

products enjoying special lower tariff rates) from China, 328 items (HS 8-digit code); from India, 1439 items (HS 6-digit code); and from the Republic of Korea, 4257 items (HS 10-digit code). In addition, Lao PDR has also producing its first offer list, which includes a total of 1803 items (at the HS 8-digit code). Lao PDR exchanged its offer list with other APTA State Members in the 33rd APTA Standing Committee Meeting. The list is now undergoing a ratifying process by the National Assembly of Lao PDR. All offer lists concluded in the fourth round will enter into force and be implemented from July 2010 onward.

Apart from tariff negotiations, the Member States also take the issues of trade facilitation, trade in services, and investment into account. As a result of dynamic negotiations, the Framework Agreement on Trade Facilitation and the Framework Agreement on the Promotion, Protection, and Liberation of Investment was adopted and signed by the Member States in March 2010 and implementation has promptly begun. Additionally, in May 2010, the Framework Agreement on Trade in Services was signed in Bangkok, Thailand.

The up-coming 36th APTA Standing Committee Meeting will be organized in Bangkok in June 2010. Important issues placed on the agenda include a conclusion of the Framework Agreement on the

...the APTA agreement is a momentous pillar in economic integration in the Asia Pacific region.



➤ Promotion and Protection of Trade in Services, and a negotiation on Rules of Origin for the implementation of fourth-round tariff negotiations. As for the APTA Ministerial Level Meeting, the Ministerial Council meets at least once every two years to represent the highest decision-making authority and to provide overall policy direction for each round of negotiations. The Third Ministerial Council Meeting was convened in 2010 in the Republic of Korea. The fact that all developing countries of UNESCAP are eligible to accede to the Asia Pacific Trade Agreement potentially makes this Agreement a momentous pillar in economic integration in the Asia Pacific region, especially in areas of trade and investment. Currently, Mongolia and Papua New Guinea have shown their interest in joining this Agreement, and mechanisms for the accession of Mongolia are currently in place •



Progress in key areas of the ASEAN Economic Community

A Single Market and Production Base

Free flow of goods

Tariffs significantly reduced and focus is now on trade facilitation. ASEAN has made great strides in reducing tariff barriers. By 1 January 2010, all tariffs for products in the Common Effective Preferential Tariff (CEPT) Inclusion Lists of ASEAN-6 (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand), representing 99.65% of total tariff lines, would have been scheduled for the elimination on intra-ASEAN trade. The average tariff is down to 0.95% in 2009 from 4.43% in 2000. Lao PDR is required to eliminate tariffs from 2015 with some products only facing tariff elimination from 2018.

With tariff barriers significantly reduced, the focus now shifts to trade facilitation measures.

ASEAN has the goal of setting up an ASEAN Single Window (ASW). The idea behind the ASW is to speed up the clearance of shipments and release of goods by customs authorities in the region. To set up the ASW, all ASEAN countries must operationalise their National Single Window (NSW).



So far, five (5) out of the ASEAN-6 countries (Indonesia, Malaysia, Philippines, Singapore and Thailand) have already operated their respective NSW at various stages. Cambodia, Lao PDR, Myanmar and Viet Nam (CLMV countries) have until 2012 to set up their respective NSW. Apart from this, ASEAN also provide trade facilitation via a Self-certification scheme, this means that registered exporter/manufacturers are able to issue Rule of origin by themselves. This scheme will be implemented from 2012 onwards.

Key trade agreement enhanced. ASEAN has inked many agreements, with some being concluded more than a decade ago. To keep pace with the changing business environment, enhancements have been made to the 1993 Common Effective Preferential Tariff Scheme for the ASEAN Free Trade Area (CEPT-AFTA). This agreement will be superseded by the ASEAN Trade in Goods Agreement (ATIGA) which became effective on 17th May 2010.

Free flow of services

Greater liberalisation in services trade. ASEAN countries have so far negotiated and agreed on seven (7) packages of commitments under the ASEAN Framework Agreement on Services (AFAS) covering the liberalisation of business services, professional services, construction, distribution, education, environmental services, healthcare, maritime transport, telecommunication, and tourism. The recently concluded 7th package is the most ambitious to date as ASEAN countries committed to higher foreign equity participation levels. So far, nine (9) countries have completed the 7th package except Viet Nam which in the process of liberalizing other 9 sub-sectors to achieve the

liberalization of 65 sub-sectors under the 7th package of commitment. ASEAN is currently negotiating for the possibility of liberalising new 15 sub-sectors under the 8th package of service commitment.

Free flow of investment

Greater benefits for investors through a more comprehensive investment agreement. The existing investment agreement including the investment guarantee agreements have been consolidated to promote the



TRIPS and Public Health



➤ inflow of foreign investment and accelerate the intra-ASEAN trade. The ASEAN Comprehensive Agreement on Investment (ACIA) which supersedes the ASEAN Investment Agreement (AIA) is more liberalised in order to facilitate investment within and outside ASEAN region.

Freer flow of capital

Financial integration gathering momentum. An enlarged US\$120 billion swap arrangement under the Chiang Mai Initiative Multilateralisation (CMIM) was finalised in December 2009 and is expected to be activated in March 2010. The CMIM signifies the most significant collective response of ASEAN, China, Japan and Korea to the global financial crisis. In line with the newly endorsed roadmap of Asian Bond Markets Initiative (ABMI), efforts continue to focus on promoting key issuance of local-currency denominated bonds, facilitating demand of local-currency denominated bonds, improving the regulatory framework, and improving the infrastructure for bond markets. One of the key initiatives under the ABMI framework is the establishment of the Credit Guarantee and Investment Mechanism (CGIM) aimed to support the issuance of local-currency denominated bonds in the region. Another key initiative that is being pursued is the establishment of an ASEAN Infrastructure Financing Mechanism (AIFM) which is expected to create a facilitative environment for infrastructure financing in ASEAN.



The ASEAN Economic Community Council Meeting
23 October 2009, Thailand

ASEAN has finalised Free Trade Agreements with the Republic of China, Republic of Korea, India, Japan, Australia and New Zealand. ASEAN also has economic cooperation agreements with the European Union, Canada, the United State of America. ASEAN seeks to form an Economic Community in 2015 ●

Developed through the World Intellectual Property Organization (WIPO), the Trade Related Aspects of Intellectual Property rights (TRIPS) agreement is a key agreement within the WTO. The main objective of TRIPS is to promote and reward innovation through the legal protection of intellectual property for a certain period of time. TRIPS requires WTO members to apply patent protection in order to protect technology, including production processes or production of medicine under patent with the exception of plants and animals.

TRIPS requires a minimum patent protection period of 20 years. However, it does not require domestic laws of WTO members to have the same patent period. Therefore, members can set the protection period at 20 years or more. While this provision gives protection rights to inventors or the owners of a patent, it limits competition. Hence, it is anticipated that the high price of inventions such as medicines, equipment and other new technology protected under patents will be recouped during period of patent protection. In developing and least developed countries, price is one of the the main factors that had direct impact on access to medicine since 50-95% of medical drugs are restricted through patents. In addition, because of patent protection many researchers face high prices of equipment based on recent technology. As a result, the Intellectual Property (IP) Law of a country requires a balance between the encouragement for invention through patent protection and the generation of a competitive environment to maximize public benefits.

TRIPS flexibilities

The Doha Declaration of 2001 within the system provision in Paragraph 6 extends TRIPS safeguards to reduce the negative impacts of high prices in pharmaceutical products in order to increase access to medicines. Furthermore, TRIPS has other flexibilities as follows:

1. Compulsory Licensing: CL

TRIPS has flexibility for WTO members to receive benefits from provisions to protect public health and encourage access to drugs especially in the case of emergencies. CL under TRIPS allows a government, or a third party that is



➤ granted a license by government to produce and supply drugs without the patent holder's consent in case of an emergency, such as where there is a spread of epidemic diseases. However, patent holders will receive remuneration for their patent. Importantly, the Doha Declaration 2001 extends flexibilities for developing and least develop countries that have no ability to produce medicines themselves for serious diseases such as HIV/AIDS, tuberculosis, dengue fever and so on to access to medicines at a lower price by importing generic drugs that are under patent protection. Here an export country can produce and supply drugs to concerned country and in compensation pays some degree of remuneration to the patent holder. However, Lao PDR has to put regulations in place for the registration of patents to benefit from the flexibility mentioned above. As Lao PDR has no patent protection registration on medicines, but only requires the registration of drugs at the Food and Medicine Department, Ministry of Health (MOH), Lao PDR cannot apply CL for pharmaceutical products although the IP Law allows it.

2. Parallel Imports: PI

PI refers to importation of a patented product that is marketed in another country without the consent of the patent holder. In other words, PI allows a country to shop around for lower prices of pharmaceutical products. The purpose of PI is to facilitate competition of the same products to sell at a reasonable price through comparing prices with the importation of such products from other countries. Lao PDR allows the use of PI under the Intellectual Property Law 2007.

3. Bolar provision

Bolar provision permits importers to request the registration of a generic drug before its patent expires. As the registration process is time-consuming in terms of the consideration of public health security, quality, standard and effectiveness of drugs, the Bolar provision allows producers to get ready, so they can start the production and sale of a generic drug as soon as a patent expires. In other words, the producers cannot produce or stockpile, market and sell medicines before the patent expires, but can prepare for when the patent has expired. Hence, producers of a generic drug that are not the patent holder can research and develop the bioequivalent drug in order to register the drug formula during the period of patent protection and prepare for the immediate manufacture and sale of drugs after a patent expires.

Implementation of TRIPS in Lao PDR

Lao PDR being a least developed country (LDC) is eligible for a transitional period with regard to the protection and enforcement of patents and rights in undisclosed information in the area of pharmaceutical products until 1 January 2016 under the Doha Declaration 2001. However, in order to benefit from the flexibilities mentioned above, it is necessary for Lao PDR to build the patent protection mechanism for pharmaceutical products that need coordi-

nation between stakeholders of the National Authority on Science and Technology and the MOH to protect the formula of drugs when there is a registration and to strictly comply with TRIPS Agreement ●

From “IF Window II” to “Enhanced Integrated Framework Tier 1”



The Final Review meeting of the Integrated Framework Window II Project, June 2010

The first achievement by the MOIC in 2007 after the validation of the Diagnostic Trade and Integration Study (DTIS) was accessing the IF Window II funding of USD 1 million. IF Window II funds were designed to kick-start the implementation of projects identified under the Action Matrix, which included support to the strengthening of the National Integrated Framework Governance Structures (NIFGS), support to WTO Accession negotiations and supporting the Department of Import and Export particularly with regards to Rules of Origin. The Window II support to the NIFGS was initially due to be completed by the end of December 2009, but has been extended until the end of June 2010 to complete all necessary activities. Realising the need to continue to support for the strengthening the NIFGS to oversee and manage Aid for Trade activities, the Enhanced Integrated Framework (EIF) Tier 1 has been in place to fill in the need. The EIF Tier 1 is an integral and ongoing part of the MOIC's efforts to establish a fully functioning and sustainable National Integrated Framework Governance Structure.

The EIF was formally launched in July 2007 and in April 2008, the IF Board selected the United Nations Office for Project Services (UNOPS) to serve as the EIF Trust Fund Manager (TFM). The Executive Secretariat (ES) was also established 2008 and the EIF Executive Director, Ms Dorothy Tembo was nominated to the post in August 2008.

➤ Under the EIF the TFM will bear the fiduciary responsibility over the projects, while the recipient country through their respective IF Focal Point and the National Implementation Units will bear the programmatic/substantive responsibility, with assistance from the EIF Executive Secretariat.

The MOIC submitted the project proposal to the Executive Secretariat in December 2009 and the proposal was approved in January 2010 with a budget amount of USD 899.999 for three years (2010-2012). The Memorandum of Understanding between the MOIC and UNOPS was signed in February 2010. The first installment was transferred to the project account and the NIU has started to procure goods and services in accordance with the first year work plan.

Apart from providing support to the NIFGS, especially continuing strengthening to the NIU, the EIF Tier 1 funding



will be used to formulate proposals for the EIF Tier 2 along with updating the Diagnostic Trade and Integration Study (DTIS) and its Action Matrix. The MOIC aims to bring in the EIF Tier 2 to support priority activities identified in the DTIS update and its Action Matrix ●

Department for Trade Promotion and Product Development and support to the garment industry

The Department for Trade Promotion and Product Development (TPPD) was initially known the Lao Trade Promotion Centre in 2002. It was later renamed as a Department of Production and Trade Promotion in 2006. Recently in March 2010, it has been renamed to be the Department for Trade Promotion and Product Development (TPPD) to reflect the actual roles of the department.

The objectives of TPPD are to promote private sector businesses in terms of facilitating and promoting the purchase and selling of raw materials to supply secondary processing agricultural, forestry and handicraft industries. TPPD is also in charge of organizing product exhibitions, developing domestic marketing and exports, providing services regarding trade information and E-Commerce. The key mandates of TPPD are to:

- act as a key agency to organize, manage, guide and participate in national and overseas trade fairs and product exhibitions; organize meetings for national and

- international businessmen; organize the 'best exported products' competition; and organize seminars for exporters and potential exporters in terms of awareness of procedures, regulations and knowledge on exporting products.

- organize workshops to improve technical knowledge, business operation assistance to business units; assist business in terms of production, marketing and access to finance; act as a key party in implementing the "One District One Product (ODOP)" policy, support contract farming, inspection of outstanding products and search for new potential products.

- provide information and a reference point for national and international business units, provide a library service, manage the department's official website (www.laotrade.org.la) and promote the advertisement of private sector handicraft products on the website www.buylaos.com.la.

In addition, TPPD also implements a numbers of activities related to ongoing development assistance projects. In particular, the TPPD is a key implementing agency for the Trade Development Facility (TDF). Within the TDF, and with co-financing from Centre for International Migration and Development (CIM), a joint operation of GTZ and the German Federal Employment Agency, one of the most interesting sub-projects under TPPD's responsibility is the Garment Training Centre project (or the Garment Service

Lao Products for Export



➤ Centre). The Government of Lao PDR has emphasized the importance of the garment sector as a key generator of employment and income in Lao PDR. The Garment Service Centre (GSC) will provide not only training related courses but also other garment related services.



TPPD is working in collaboration with the Association of Lao Garment Industry (ALGI) in implementing the project. To kick-start this project, CIM has provided a highly qualified CIM International Expert to assist in managing this project and on the TDF side, a very capable national expert was recruited as the Deputy Director of GSC. These consultants

are planning to visit 58 Lao Garment Factories in order to collect information on their needs for training their factories' line supervisors. Following this, information will be assessed and a business plan will be outlined in order to prepare the training curriculums and courses to be provided at the GSC. The project implementation will be supported from TDF and CIM for the first 2 years, following which it

is envisaged that the GSC will become self-sustaining and will be entirely managed by ALGI. Thus, this project aims to assist ALGI in strengthening the export competitiveness of Lao Garment Products ●

The Important of Plant Quarantine in International Trade

By: The department of Agriculture, Ministry of Agriculture and Forestry

The National Plant Protection Organization (NPPO) of Lao PDR represented by the Department of Agriculture, Ministry of Agriculture and Forestry plays an important role in protecting the Lao People's Democratic Republic's plant health, biodiversity, and conservation. The NPPO also facilitates safe trade in plants and plant products in compliance with international agreements and standards within the Sanitary and Phytosanitary Agreements of the World Trade Organization (SPS-WTO Agreement). Since 2006, Lao PDR have also been members of the International Plant Protection Convention (IPPC), an organization with 166 members who abide by the International Standard for Phytosanitary Measures (ISPMs).

The NPPO is responsible for fulfilling their mandate with regards to the Prime Minister Decree on Plant Quarantine promulgated on 1993, as well as being in compliance with

the WTO- SPS Agreement and the Plant Quarantine Law No. 06 issued on 9 December 2008 and approved by the National Assembly. The Plant Quarantine Law is significant and important for controlling the spreading of pests.

At present, there are 82 plant quarantine entry/exit points (24 international and 58 local) covering 16 provinces and the Vientiane Capital. These entry/exit points play a major role in connecting Lao to neighboring countries and assist in facilitating the trade of agricultural products around the Greater Mekong Sub- region (GMS) countries and the and important for controlling the spreading of pests.

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Overall, the Plant Quarantine activities including inspection of import and export plants and plant products, pest surveillance, pest risk analysis for quarantine pests play a vital role in protecting Lao PDR's agriculture from pests whilst facilitating trade development. All these aspects are critical for food security and promotion of marketable agricultural produce in Lao PDR ●

