

LAOS

TRADE SUMMARY

The U.S. goods trade balance with Laos went from a trade surplus of \$6 million in 2005 to a trade deficit of \$2 million in 2006. U.S. goods exports in 2006 were \$7 million, down 29.1 percent from the previous year. Corresponding U.S. imports from Laos were \$9 million, up 108.8 percent. Laos is currently the 198th largest export market for U.S. goods.

IMPORT POLICIES

Tariffs

The United States-Laos Bilateral Trade Agreement (BTA) entered into force on February 4, 2005. Under the terms of the BTA, the United States granted normal trade relations (NTR) treatment to products of Laos and Laos committed to implement a variety of market access concessions and trade rules, which are discussed in more detail below. Laos is currently in the early stages of WTO accession negotiations. Implementation of the BTA, which is proceeding slowly, will help Laos prepare to undertake the necessary WTO obligations.

Under the United States-Laos BTA, Laos reduced tariffs on a variety of products of U.S. origin. However most trade in Laos still requires authorization from several national and provincial authorities, creating opportunities for widespread corruption. In Laos, provinces collect customs levies at international border crossings in their respective provinces, only a portion of which is rendered to the central government.

Laos has implemented the ASEAN Harmonized Tariff Nomenclature (AHTN), in which about half of the 10,689 lines are four or six digits. The remaining are eight-digit lines. The average tariff on ASEAN-origin products is 5 percent. As 80 percent of Laos' external trade is with ASEAN countries, its participation in the ASEAN Free Trade Area (AFTA) is a significant liberalizing step. However, Laos retains 88 items of special concern on which tariffs remain high – the highest number of such special status products in ASEAN.

Non-Tariff Barriers

Import Prohibitions: Lao law prohibits the importation of weapons, illegal drugs, toxic chemicals, hazardous materials and pornographic materials. It also prohibits the importation of agricultural products which are grown domestically in quantities sufficient to meet demand. The list of goods subject to import and export prohibitions is set out in Notification of Ministry of Commerce No. 284/MOC.FTD dated March 17, 2004.

Import Licensing: All importers must submit an annual importation plan to the Ministry of Commerce or to relevant provincial authorities and may only import against the plan during the following year. In addition, Laos also requires import licenses for certain other products as listed in Notification of the Ministry of Commerce No. 285/MOC.FTD dated March 17, 2004.

Foreign exchange system: There are no restrictions on foreign exchange within Laos, nor are there any legal limits on remitting foreign exchange abroad. There are practical limitations, however, in that the availability of foreign exchange is sometimes limited, which inconveniences large single-sale and large-

volume businesses, such as those selling heavy equipment or fuel and petroleum products, both areas in which American businesses currently operate.

Customs: Border control is weak throughout the country, and border trade is poorly controlled. Almost every container that enters Laos at a formal border checkpoint is inspected, leading to complaints of corruption. Customs procedures in Laos have improved since the introduction of the ASEAN harmonized tariff system. However, a large number of approvals and informal payments are still required to get those approvals. Laos does not have a system of entry under bond. Laos is obligated under the terms of the BTA to use the transaction value for customs valuation purposes and the United States continues to closely monitor implementation of this obligation.

Taxes: All goods and services are subject to a turnover tax of either 5 percent or 10 percent. Laos appears to apply the turnover tax in a discriminatory manner with lower rates or exemptions applied to many domestic products. The United States has made it clear to the Lao government that the BTA requires national treatment in the application of all internal taxes and it continues to work with Laos to ensure its tax regime complies with its BTA obligations. In addition to the turnover tax, certain goods are subjected to an additional excise tax including: distilled spirits and beer (50 percent to 70 percent); soft drink and beverages (30 percent); cigarettes (55 percent); perfume and other cosmetic products (30 percent); and vehicles (65 percent to 90 percent).

STANDARDS, TESTING, LABELING AND CERTIFICATION

Laos has no specific law on standards for imported or exported goods. Imported goods are allowed to enter based on the certification of the country of export. Laos has no special labeling or marking requirements.

GOVERNMENT PROCUREMENT

Government procurement policy and practices are administered nationally by the Ministry of Finance. The Lao government's published budget and leading prospectus for the following fiscal year serve as a rough guide to procurement expenditure levels, though procurements by ministry are not clearly provided. International aid donors provide nearly all capital goods and equipment and most commodities as outright gifts. For goods purchased with Official Development Assistance (ODA), donors typically require a public bidding process for contractors. The individual line ministries therefore routinely publish tenders on development projects.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

IPR protection in Laos is under the purview of the Science, Technology, and Environment Agency (STEA). The STEA is a ministry-level organization within the Office of the Prime Minister with 30 employees in its IPR department. While the STEA personnel are well-trained, they have little authority, and IPR enforcement is weak. In particular, STEA lacks the power to arrest and does not effectively coordinate with the police. Effective IPR enforcement at the border is lacking due to the porous nature of the border areas.

Laos became a member of the World Intellectual Property Organization (WIPO) in 1995 and a member of the Paris Convention in 1998, and subsequently accepted international assistance in drafting an IPR law. The IPR law has not yet been completed. Laos has not yet acceded to the Berne Convention. In general, implementing regulations are still lacking. Laos issued a trademark decree in 1995. STEA controls the

issuance of trademarks on a first-come, first-registered basis. Applicants do not have to demonstrate prior use. There are currently about 14,000 trademarks registered in Laos.

As a member of ASEAN, Laos has acceded to all of ASEAN's framework agreements, including the ASEAN Framework Agreement on Intellectual Property Cooperation. A decree protecting patents, petty patents, and industrial designs was approved in January 2002. No system yet exists to actually protect copyrights. A draft copyright law was developed in 2005 but it has not yet been enacted.

SERVICES BARRIERS

Banking

The Lao financial sector is dominated by the Central Bank of the Lao PDR (BOL) and two state-owned commercial banks, which to varying degrees all serve as policy implementation banks. Foreign banks, including six which are actively represented in Laos, offer limited services primarily to foreigners. Foreign banks had previously been restricted to the capital, Vientiane, which severely limited their competitiveness in providing financial services to the southern part of the country where business is concentrated. The new Law on Commercial Banking passed in December 2006, provides new procedures for the establishment, management and auditing of commercial banks and removes the geographic restrictions on bank operations.

Legal

Foreign attorneys are not permitted to represent clients in Lao courts.

Insurance

Foreign insurance companies can operate in Laos; at present, only one does.

Education

Foreign entities are technically prohibited from teaching in Laos. The Ministry of Education maintains a close watch over the ideological content of curricula.

Engineering/construction/architectural

Foreign engineering, construction and architectural entities may operate in Laos in support of internationally-funded development (ODA) projects or foreign-invested enterprises deemed to be in the national interest.

Telecommunications

Although it is listed as a sector of strategic and national security interest, in practice, telecommunications is the most open and competitive services sector in Laos.

INVESTMENT BARRIERS

Laos has a challenging investment environment due to the lack of the rule of law, opaque regulations, and inefficient infrastructure and services, particularly in financial services. Laos is one of the most difficult countries in the world in which to set up a business, with licenses routinely taking up to a year to acquire.

FOREIGN TRADE BARRIERS

Foreign direct investment (FDI) in Laos is not accurately reported by the Lao government (the official figures show approved, not actual investments), and real investment levels are therefore difficult to estimate. Thai, French, and Australian companies appear to be the source of most of the FDI in Laos, though, as in trade, the level of Chinese investment is growing. The current stock of U.S. investment is officially (though of questionable reliability) listed at \$15.2 million, consisting chiefly of small family-level business investments, some agricultural activities, and a partial interest in a mining venture. The real level of U.S. investment is probably well below \$10 million.

The Law on the Promotion and Management of Foreign Investment is the basic law governing FDI in Laos and divides FDI into two categories: joint-venture companies and wholly-owned companies. The sole investment advantage that Laos has over its neighbors is that foreign firms may wholly own and operate a business.

Required documentation for foreign businesses remains relatively onerous and effectively separates business activity into foreign and domestic categories. The United States has urged Laos to move from a business licensing to a business registration system, chiefly through repeal of the Industrial Processes Law, which requires manufacturers to apply for permission to make even minor changes to their methods of production, and which has never been augmented with clear implementing regulations. Laos still requires a feasibility study for investment by foreign businesses, a requirement better suited to development projects.

The required annual renewal of a Lao business license is contingent upon certification that all taxes have been paid. Due to the lack of clarity in the tax law, foreign investors complain that taxes are often assessed in an inconsistent and nontransparent manner. Lao officials acknowledge ambiguities in the law. The tax code was streamlined and simplified in January 1999, and again in 2002-03, but some investors still report significant difficulties in obtaining tax certifications and clearances in a timely manner.

ELECTRONIC COMMERCE

The Internet is available in all of the major towns in Laos, though electronic commerce is not yet widely used in the country. There is no body of law governing electronic commerce nor does the Lao government appear to recognize the need for constructing a venue for dispute resolution in Internet/electronic commerce transactions.

OTHER BARRIERS

Corruption: Both giving and accepting bribes are criminal acts in Laos, theoretically punishable by fine and/or imprisonment. The Prime Minister's Office issued an anti-corruption decree in November 1999, and at least one official has been arrested for corruption since that time, but implementation remains uneven. The Counter-Corruption Committee in the Prime Minister's Office is the Lao government agency responsible for combating corruption. Nonetheless, corruption in Laos continues to be a serious concern. Bribes to low-level officials to expedite time-sensitive applications, such as for business licenses or importation of perishable items, are known to occur and some say the problem could be growing due to increased investment in extractive industries. Despite recent cases of suspected corruption, Laos has not prosecuted officials for corruption.