



# Chapter 5

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## Trade Facilitation in Lao PDR: Results from Follow-up ASTFI Survey

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# 1. Overall Trade Facilitation Environment

The coronavirus disease (COVID-19) pandemic severely curtailed the Lao People's Democratic Republic's (Lao PDR) gross domestic product growth rate from over 5.5% in 2019 to 0.5% in 2020. Imports and exports in 2020 were just above \$5 billion, falling from \$5.8 billion in 2018. Some border checkpoints had to be closed, which impacted customs revenue collection. In response to the pandemic, the government instituted various policies to maintain the flow of goods across the border, such as using letters and notices from the COVID-19 taskforce as a mechanism to overwrite or simplify the process. Goods were subject to exemption not only from customs duties and taxes, but also from inspections and formal customs procedures, depending on the letter and notice from the taskforce. However, unlike some other countries, the pandemic did not have much impact on digitalisation of trade processes due to limited infrastructure.

Since 2018, Lao PDR has been making progress on some aspects of trade facilitation by implementing the Trade Facilitation Roadmap for 2017–22, which was adopted in 2017 with the goals of reducing the time taken for completing the regulatory formalities by 50% and the documentation for exports-imports by 30%. The Prime Minister's Order no. 12/PM on facilitating import-export, temporary import, transit, and transfer goods in Lao PDR was issued in 2019. Amongst the main activities that were carried out include developing institutional mechanisms for effective coordination amongst line departments and strengthening governance structures at the sub-national level for improved communication, monitoring, and implementation. However, cross-border cooperation and regional integration has been partially implemented and some priority measures, like the publication of Service Charters, establishment of the National Single Window, enabling regulations for digital signatures, centralisation of payments and one-stop inspections, etc. have been delayed.

Government agencies have streamlined procedures and times for dealing with documents related to the import of vehicle spare parts and the export of minerals.<sup>1</sup> The procedure regarding mineral exports will take only 3 days by reducing the frequency of issuing Customs Letters from every shipment to the checkpoints, as well as shortening document processing of concerned ministries, particularly the Ministry of Energy and Mines.

Secondary indicators of trade cost in Lao PDR did not see any change between 2018 and 2020. The trading across borders in Lao PDR in 2020 was 77.67, which is the same as the previous few years. However, secondary indicators of trade facilitation derived from the United Nations Trade Facilitation survey shows some progress over time. Improvements are seen in cross-border paperless trade, formalities, and transparency.

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<sup>1</sup> See progress in Doing Business reform at <http://db.investlaos.gov.la/en/reform-topics/trading-across-borders/reforms-updates/>.

Lao PDR participated in the follow-up Association of Southeast Asian Nations (ASEAN) Seamless Trade Facilitation Indicators (ASTFI) project. We received responses from the Customs department of the Ministry of Finance (including for e-commerce questionnaires), the Ministry of Agriculture and Forestry (MAFF) (including for quarantine questionnaires), the Ministry of Science and Technology (MoST), the Ministry of Energy and Mining, and the Ministry of Health. The transport questionnaire was responded by the Ministry of Public Works and Transport. We also conducted a meeting with a Customs official to validate the response on the relevant questionnaire.

Overall, Lao PDR made some progress in trade facilitation. On Components A and B, Lao PDR already performed well high in 2018. In 2020, the implementation of an interactive information channel or Customs contact centre, which was found to be lacking in 2018, is still a major issue that needs to be addressed. Major improvements in component C, Release and Clearance Formalities, include added provision of advanced rulings in the Customs Law, introduction of an Authorized Economic Operator (AEO) programme, and introduction of self-certification programme through ASEAN-wide Self-Certification (AWSC). Some of the other elements that were lacking in 2018 are currently under development, especially dwell time publication and provision of simplified or expedited clearance. Component D – import and export formalities – saw an improvement due to implementation of the ASEAN Single Window. Other scores within this component remained unchanged. But no major improvements in cross-border coordination have been observed between 2018 and 2021. Component F (transport facilitation) improved due to the introduction of procedures for issuance of ASEAN Goods Vehicle Cross Border permits, and operationalisation of land transport facilitation protocols. On Component G (E-commerce), there was slight improvement due to piloting of revenue collection framework for cross-border e-commerce trade.

The rest of the report discusses in greater detail the changes in each question across all the components of the ASTFI survey.

## 2. Trade Facilitation Environment – Customs Authority

The Lao Trade Portal provides all trade-related information. The information is available in both English and local language, except for a few pages. The website is managed by the Department of Import/Export, working with focal points from line agencies of the national trade facilitation committee, for any update on trade-related regulations. There is no major plan to upgrade the platform yet. However, the Customs website will be upgraded and improved in some areas to enhance regulations information distribution.

While the Interactive Information Channels/Customs Contact Centre is not fully developed yet, the custom website is currently developing an interface which allows the user to contact with staff for clarification or information inquiry. The initial plan considered establishing a physical help desk but, due to the pandemic, upgrading the website is being prioritised. So far, the contact centre is available only in the Lao language, though English language communication could be done by an email or any message apps. If the first contact cannot communicate well in English, Customs has international corporation divisions that can take care of communication in English. Integrating English language service directly into the contact centre would improve trade facilitation for foreign businesses.

Since 2018, Lao PDR added a new institutional feature for trade facilitation in the form of Provincial Trade Facilitation Secretariats. As noted in the Baseline ASTFI report, the Trade Facilitation Secretariat (TFS), which fulfils the role of NTFC, was already established in 2010 and is headed by the Deputy Prime Minister. The TFS has held regular meetings two times per year, with additional meetings scheduled to address more urgent issues. To further support trade facilitation at the subnational level, the Prime Minister's Decision No. 48/PM in 2018 established Provincial/Capital Trade Facilitation Committees (PTFCs). The Vice Governor is the Head of PTFC and each director of the Provincial Department of Industry and Commerce, the Provincial Department of Public Works and Transport, the Provincial Department of Agriculture and Forestry, the Provincial Department of Health, the Provincial Department of Science and Technology, and the Provincial Department of Customs are deputy heads of PTFC. Membership includes deputy directors of the Provincial Department of Energy and Mines, the Provincial Department of Post, Telecommunications and Communication, the Provincial Tax Department, the Provincial Department of Planning and Investment, the Department of Finance, the Department of Foreign Affairs, the Provincial Department of General Affairs, the Governor's Office, the Department of Natural Resource and Environment, the Provincial Department of Economic Police Department, the Provincial Traffic Police Department, and the Vice President of Chamber of Commerce and Industry (Provincial level). This committee can organise their own meeting to solve an urgent issue locally. This committee is also able to propose such an issue to the National Committee for further resolution. In 2021, there were more than 47 activities/meetings held under Provincial Trade Facilitation Committee.

For stakeholder consultation, generally this can be done through the non-tariff measure working group. However, there is also an alternative channel that the traders can use to interact with Customs. According to the Law on Making Legislation, Customs has to organise the public consultation session while drafting new laws or amending existing laws. Moreover, when the laws come into force, dissemination workshops must be held to make sure concerned bodies, especially the private sector, has a better understand how to amend it. In addition, due to COVID-19, the law allows public consultation through online channels.

In the amendment to the Customs Law in 2020, Lao PDR introduced a provision for advance rulings. Customs has published the procedures for traders to request advance rulings for all three classifications, origins, and valuations. These procedures are indicated in the new Customs law. However, given that it is a new provision, its use by the trading community is limited. In 2020, there were approximately 20–30 applications for advance rulings. For the moment, the custom has not published the advance rulings yet. The dissemination of the advance rulings provision through workshops or seminars to let the traders know and understand its benefits and how they work is needed. The online channel for advance rulings is not available. However, there is a plan to make advance rulings available on the Customs website.

A more efficient risk management system has yet to be developed. Currently, the inspection for the clearance process is 50%. Customs aims to reduce physical inspections as much as possible. In practice, however, decreasing physical inspection still faces many challenges; for example, even if the transaction indicates low risk such as via a green channel or yellow channel, some custom officers at border checkpoints insist on conducting physical inspections because they feel that the risk profile is not up to date and override the risk management categorisation. Currently, there is no single inspection; besides that from Customs, by law an inspection is also able to be done by other parties such as the Department of Agriculture, and Department of Livestock and Fishery (MAFF), and the Department of Food and Drug (Ministry of Health). In order to overcome this, Customs is working with other government agencies to establish a joint risk management system. In 2021, the Trade Facilitation Road Map implemented risk management for authorities from Customs, the Agriculture Department and Livestock and Fishery Department, and the Food and Drug Department. This comprehensive management system is planning to pilot in early 2022. Recently, an MOU on the implementation of risk management and coordination mechanisms between Customs, the Agriculture Department and Livestock and Fishery Department, and the Food and Drug Department was signed.

According to dwell time publications, the Customs or Port Authority does not publish average dwell time information. Customs only publishes the results of the time release study (TRS). According to Prime Minister Order No.12, the Trade Facilitation Committees must conduct the TRS regularly. Therefore, it should be conducted every 2–3 years. The TRS is planned to be conducted again in 2022 and 2024 under the Lao Competitiveness and Trade Project supported by the World Bank.

Another major development since 2018 is the introduction of the AEO programme, embedded in the Customs law. The Ministry of Finance issued instruction No.1159/MF in 2019 detailing AEO criteria, requirements, benefits, and associated procedures. In order to apply for AEO, a business operator must be legally registered and hold an account in the Lao PDR tax payment system. The firm in question should have conducted import-export activities for at least 3 years with a tax payment declaration of at least 250 sets per year. Moreover, the firm must have a record of at least

98% correct tax payment declarations and have never violated Customs and other relevant laws for at least 3 years prior. In addition, the business operator also must have financial liquidity, an accounting system consistent with Lao PDR Customs law, and a security system for product and packaging transportation, building, staff, business partners, and firm information. If the firm is a chain or branch of an AEO firm in a foreign country, it would be under special consideration.

Customs plans to launch the AEO programme if there are at least four applications. However, currently there is only one application. In order to overcome this, Customs plan to find the obstacle for the business operators to join the AEO programme. Customs has not concluded Mutual Recognition Agreements (MRAs) yet; to do that, the national AEO programme must finish its evaluation within a year of launching. After the MRA's launching, Customs plans to look for the mutual recognition, arrangement, or negotiation with key trade partners, such as Viet Nam or China, where they have reactive AEO programmes in the community. In 2021, the Customs Department issued Agreement No. 03682/CD on a pilot authorising border Customs to grant preferences for 11 AEOs under ASEAN Trade in Goods Agreement Form D (ATIGA-Form D) without applying preferences. As of this writing, Lao PDR has one company as AEO.

For ASEAN-wide Self-Certification, Lao PDR has implemented a pilot stage for both certified manufacturers and certified exporters (SCPP 1). Lao PDR recently promulgated Decision 1206/IC.DIMEX on the Self-Certification of Origin under the ATIGA, which details how to become a Certified Exporter in the country, specifying the various requirements, such as being an exporter that conforms to the nation's laws possessing experience in the exportation of goods, and having a clean history concerning certifications of origin.

Regarding Simplified or Expedited Clearance, there are two categories of clearance procedures. For shipments under the de minimis threshold of \$150, there is no need for detailed customs declarations. Goods valued beyond this threshold are subject to full customs procedures. Due to an increase in e-commerce, Customs is planning to develop a low-value shipment programme. This programme will make a second category for shipments that have a value above (but not too far above) the de minimis threshold. Shipments under this category will have a simplified declaration process.

The use of paperless documentation is still limited. The current restriction in using digital documents is more a limitation of technology than due to regulation. In the revised customs law, electronic documents are allowed. For the Automated System for Customs Data (ASYCUDA) system, physical documents are still required even though there is a function that can

accommodate the submission of electronic copies. In order to accept electronic documents, the ASYCUDA system needs to be upgraded. Customs has already informed UNCTAD (the owner of the ASYCUDA system) to upgrade the system, which is expected to be done in 2022. During the COVID-19 pandemic, goods were permitted to be released first and the original documents submitted later if the traders did not have them.

A few trade-related government agencies are currently using the LNSW. The Lao National Single Window system is implemented for vehicle import permit (MOIC), technical import permit (MPWT), and food import permit (MOH). LNSW has been implemented for Vientiane Capital (Vientiane logistic Park dry port and Thanaleng and Sokxay customs office)<sup>2</sup>, Luangnamtha province (Borten checkpoint), Khammouane province (Friendship Bridge 3 checkpoint, Naphao checkpoint and ThaKhek e-economic zone), Savannakhet province (Friendship Bridge 2 checkpoint, Savan Logistic, Dansavan Checkpoint, Champasak province (Vangtao checkpoint and Vangtao dryport customs office) but for Nongnokkhien checkpoint not use because the problem with internet connection. Therefore, LNSW implemented in 9 checkpoints and 2 special economic zones including 2 dry ports, which covers about 40% of total trade transactions across the country. Recently, the LNSW has been renamed as NSWA+(National Single Window ASYCUDA+) after LNSW was integrated with ASYCUDA WORLD. Economic operators and shipping agencies can file declaration through NSWA+ without needing to print supporting documents. NSWA+ plans to introduced to all the borders in Laos in 2023. Furthermore, the system for Department of Agriculture and Department of Livestock and fisheries is being developed for issuance of import permits. The major barrier for other government agencies to join is technological. Based on the survey, most government agencies apart from Customs do not have electronic support.

Regarding linkages to the ASEAN Single Window, Lao PDR has a separate system that exchanges form D because the LNSW was deployed to other government agencies simultaneously with it. Therefore, for avoiding interruptions, the government decided to develop the separate applications to implement ASEAN Single Window. There is a plan to integrate Lao NSW with ASEAN Single Window in the near future.

For Border Agency Coordination (Domestic), there is institutional arrangement for border agency coordination in major ports but only on an ad hoc basis amongst Customs, Immigration, and Quarantine. Working hours of border agencies are aligned; however, this is not applicable for all ports/borders. Regarding Simplified Procedures for Authorized Transit Traders, although there is a regulation for authorising them, Customs has not done so yet.

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<sup>2</sup> Friendship 1 checkpoint has stopped using LNSW because there's no declaration goods anymore.

### 3. Trade Facilitation Environment – Major Agencies

Besides Customs, five trade-related government agencies responded to the ASTFI questionnaire. Because we are unable to validate the responses of these agencies via a workshop, we rely on the submitted responses and internet research for this report.

The transparency of laws and regulations of government agencies is high. All government agencies have their regulations and procedures listed in the Lao Trade Portal, which is regularly updated. The portal contains a search function, which allows the trader to look for updates from different trade-related agencies. Between January 2018 and December 2021, the Lao Trade Portal had notifications for 391 laws and regulations issued by various government agencies, out of which 33 were issued by MAFF, 78 were issued by the Ministry of Industry and Commerce, 13 by the Ministry of Technology and Communications, 2 by the Ministry of Energy and Mines, and six by the Ministry of Health.

Related to risk management, MAFF and MoST reported conducting inspections at the border. While MAFF conducts 100% inspection, the MoST inspection rate is 50%. Overall, according to the Lao Trade Portal, eight agencies have issued inspection requirements to cover various products. MAFF requires inspection by veterinary officers of live animals (including those in transit to third countries), animal feeds, veterinary medicines, etc. and by a plant protection officer for plants, plant seeds, fertilisers, pesticides etc. Likewise, MoST requires sample inspection of information and communications technology devices. Authorities from health department are also working at the border in order to conduct the inspection.

The use of digital technology is still limited amongst trade-related government agencies, which has not changed since 2018. Electronic payment was not accepted by MAFF, MoST, and the Ministry of Health. None of the responding agencies allowed digital copies of documents, citing regulations, nor do any of the respondents use computerised system for processing permits and applications.

The plant quarantine division of the MAF noted that there is no cross-border institutional coordination with neighbouring countries, but at the operational level, there is an annual meeting.

## 4. Trade Facilitation Environment – Transit, Transport, and E-Commerce

One of the key developments related to border-crossing operational coordination with neighbouring countries is that Customs launched a pilot project called Single Inspection Project Mekong GMS partner with Viet Nam establishing common control areas. The results of the project are impressive, and Customs would like to deploy to other checkpoints with Thailand and China. However, in some countries such as Thailand, the law does not allow their officers to work outside the custom territory. Thailand amended their laws to allow the Thai Custom Authority to work outside the customs territory, but there is no concrete arrangement with Thailand. Lao PDR's Customs Authority has also started to talk with China's Custom Authority in order to arrange joint custom control, but it is still in an early stage.

With the full operationalisation of the ASEAN Customs Transit System (ACTS) since October 2020, which introduced computerised systems to facilitate transit from five other implementing member states. ACTS allows single electronic Customs transit declarations and free movement for trucks and drivers, with no trans-shipment and loading/unloading requirements at the border. While Lao PDR has also joined other transit schemes with neighbouring countries, these do not have any computerised elements. Nonetheless, transit of goods was affected by the COVID-19 pandemic.

Regarding the implementation of the ASEAN Framework Agreement on the Facilitation of Goods in Transit, Protocols 2 and 4 have been ratified and implemented. Likewise, national laws and regulations are now in place for ASEAN Framework Agreement on Multimodal Transport.

Regarding e-commerce, the Lao PDR government issued the Decree on E-Commerce No. 296/GOV dated 12 April 2021, which went into effect on 4 June 2021. This law mostly deals with domestic e-commerce activities, including operation of the e-commerce marketplace. It does not contain any particular reference to cross-border e-commerce transactions.