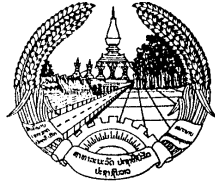


**Implications of Liberalizing Professional Services:  
Legal, Accountancy, and Engineering Services in Lao PDR**



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## **Abbreviations**

ACPE	ASEAN Chartered Professional Engineer
AEC	ASEAN Economic Community
AFAS	ASEAN Framework Agreement on Services
ALACE	Association of Lao Architects and Civil Engineers
ASEAN	Association of South East Asian Nations
CEPT	Common Effective Preferential Tariff
CPA	Certified Public Accountants
CPC	Central Product Classification
EQC	Equivalence Qualification Commission
GATS	General Agreement on Trade in Services
IFAC	International Federation of Accountants
IFRS	International Financial Reporting Standard
ISA	International Standard on Auditing
LAAIA	Lao Association of Accountants and Independent Auditors
LAA	Lao Association of Architects
LAS	Lao Accounting System
LBA	Lao Bar Association
LCA	Lao Council of Engineers
LICPA	Lao Institute of Certified Public Accountants
LUSEA	Lao Union of Science and Engineering Associations
MC	Monitoring Committee
MDGs	Millennium Development Goals
MOIC	Ministry of Industry and Commerce
MOJ	Ministry of Justice
MPI	Ministry of Planning and Investment
MPWT	Ministry of Public Work and Transport
MRAs	Mutual Recognition Arrangements
NAB	National Accounting Body
NUOL	National University of Laos
PFM	Public Financial Management
PRA	Professional Regulatory Authority
ROSC	Reports on the Observance of Standards and Codes
SMEs	Small and Medium-sized Enterprises
WTO	World Trade Organization

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## **Executive Summary**

Lao PDR continues with its reform program towards full integration with ASEAN and accession to WTO. This study focuses on the implications of yet another part of that reform agenda - the liberalisation of three professional services - legal, accountancy and engineering. The main objective of the study is to provide Lao authorities with broad parameters of a strategy for that liberalisation. The study reviews the characteristics of the three professional services in Lao PDR, their policy, institutional, and regulatory framework, how they have progressed under ASEAN Mutual Recognition Arrangements (MRAs), and offers recommendations for addressing identified supply-side constraints, and liberalisation under ASEAN and WTO obligations.

## **Findings**

Professional services are crucial to human capital formation. They generate external economies, and play an important role in improving the productivity and competitiveness of the economy. Legal services are essential for proper legal documentation, interpretation, and representation in order to ensure fairness and transparency in judicial decision making, commercial transactions, and investment activities; quality accounting services ensure prudential, transparent, credible, and law abiding financial transactions; while engineering services are essential for efficient and technical sustainability of several economic activities such as construction, manufacturing, and mineral and other resources development.

Of the three services, legal services have received least commitments under both AFAS and GATS. Five ASEAN countries, including Laos, under AFAS, six under GATS have made no commitments at all in legal services. However, countries newly acceded to WTO have made more liberal commitments in all three services than others. Laos has been somewhat restrictive in its commitments under AFAS.

The Lao economy suffers from a considerable shortage of qualified professionals in all the three services – more in legal and accounting. Domestic supply-side weaknesses are largely due to shortcomings in academic facilities particularly in accounting, and institutional arrangements for professional training and development especially in accountancy and engineering subsectors.

For the three services supply-side consists of the academic institutions, professional development bodies, and service providers from overseas. In the case of legal services, the academia includes the Law Faculty at NUOL, law schools of Champasak University and the Justice Ministry, while the Lao Bar Association (LBA) and the Justice Ministry are responsible for professional development and accreditation of lawyers. About 1000 graduates pass out from the academia each year, but there are only 148 accredited lawyers (i.e. those with LBA membership) in the country. LBA's lack of expertise and resources said to be one of the reasons for the small number of lawyers with the Bar membership.

Academia for accounting consists of the Accountancy Department of NUOL and a couple of private colleges. To-date the former has not produced any graduates in accountancy, and the

latter turns out some low level accountants with Diplomas in accountancy. Responsibility for professional development in the subsector rests with the Ministry of Finance and the Lao Association of Accountants and Independent Auditors (LAAIA) (which is same as the Lao Institute of Certified Public Accountants (LICPA)). However, currently there are only 132 professionally accredited accountants (i.e. those with CPA and membership of LAAIA). Major problems in this subsector are the lack of adequate facilities at NUOL Department of Accounting to run a modern degree program in accounting, and the weaknesses at LAAIA (LICPA) to function as a modern professional training and regulatory body.

In engineering, academic facilities are fairly well developed and over 1000 engineers and 100 architects graduate each year from the Faculties of Engineering and Architecture at NUOL, and the three provincial universities and the private college of technology. However, the institutional framework for professional development is not well organised. Except for the Association of Lao Architects and Civil Engineers (ALACE) which is an association only for architects and civil engineers, there is no professional body responsible for career development of engineers in other fields. The Lao Union of Science and Engineering Associations (LUSEA), which is designated to function as the Professional Development Authority (PRA) for engineering services in Laos, does not perform that function. Also there is no government Ministry or Department which is clearly responsible for professional development of engineering in general. Hence, there is a need for comprehensive restructuring of institutional arrangements for professional development of engineers.

These inadequacies also have prevented Lao PDR from implementing, and benefiting from the ASEAN MRAs. In order to overcome the supply shortages, further liberalisation both under AFAS and GATS is needed, and the identified domestic shortcomings need to be addressed with well-coordinated policy, institutional, and regulatory reforms. The recommendations below aim to provide a strategy for liberalisation of professional services under both AFAS and GATS, and proposals for reforms to improve the domestic supply situation and complement the liberalisation.

## **Recommendations**

### **(i) Liberalising Strategy:**

#### **(a) be guided by:**

- strategic direction of the government reflected in the national goals for socio-economic development given in the 7th National Socio-Economic Development Plan, particularly those relating to human resources development;
- obligation to substantially remove restrictions on trade in services by 2015 as per AEC guidelines;
- commitment to achieve accession to WTO by the end of 2012;
- obligations under GATS and AFAS, PTAs and FTAs; and
- the need for economic development, and improving institutional capacity.

(b) Provide a high degree of liberalisation of all the three services under both AFAS and GATS with -

- full commitment for accounting and engineering services;
- commitment for legal services subject to the provisions of the *Law on Lawyers*;
- commercial presence as joint ventures with foreign equity up to 75 per cent; and
- commitment in Mode 4, with the limitation on foreign experts in a firm extended to 30 per cent of its total professionals.

**(ii) Policy, institutional and regulatory reforms**

**Policy Reforms**

- i. Introduce, as soon as possible, English language proficiency courses as part of degree programs in law, accountancy, and engineering at universities, and the professional training courses conducted by the respective professional bodies. The lack of English language proficiency at tertiary education and professional training programs constrains the professional development of national expertise due to their not being able to access advanced texts and reference material, to participate in overseas training programs, and to communicate effectively with fellow foreign professionals.
- ii. Qualification requirements for professionals (both foreign and local) seeking licensing and recognition need to be brought in line with those applied at least regionally in the medium term, and internationally in the long term. In formulating these requirements for each profession, the relevant authorities in Laos would need to study the systems applied in one or two countries in the region, preferably Malaysia and/or Thailand, with a view to appropriately modifying and adopting them locally.
- iii. Address the inconsistency in the Lao PDRs' new AFAS Package of Commitments with the Investment Promotion Law relating to approval of foreign services enterprises. Under the new Commitments, foreign professional services suppliers require licensing by the Foreign Investment Management Committee, which is contrary to the provisions of the Investment Promotion Law.
- iv. Centralise and improve facilities for dissemination of laws and public law awareness. Ready availability of legal documents is important for improving public law awareness and the access to legal services. Currently laws in English and Lao languages are available at the National Assembly website ([www.na.gov.la](http://www.na.gov.la)). However, what lacks is access to sub-law legislation. As part of WTO accession, Laos is strengthening the capacity of the Official Gazette (currently housed at the MOJ but under discussions whether to be maintained at the Ministry or Government Office) to allow for all laws and regulations to be published in a single centralized location before their effectiveness.
- v. Monitor and ensure standardisation of courses conducted and qualifications awarded in subjects related to professional services by private educational institutions. The academic standards of courses conducted and the qualifications awarded by private colleges seem to



differ among them, and may even fall short of required levels. The relevant agencies in the Ministry of Education need to be strengthened to carry out effective monitoring.

- vi. Address the shortcomings in the regulatory and policy framework of accountancy services:
- raise the minimum qualifications and training standards for professional accountants and auditors in Laos. Specialised degree in accountancy from a recognised university or equivalent plus successful completion of appropriate training at LICPA may be specified as minimum requirement for professional accountants and auditors;
  - build capacity of professional accountants, auditors, and regulators through improved training programmes to be conducted by the LICPA;
  - maintain international accounting and auditing standards equivalent to IFRS and ISA respectively; and
  - ensure financial transparency in the corporate sector by providing for public availability of companies' financial statements.

### **Institutional Reforms**

- i. Strengthen the capacity of Accounting Council, MOF Accounting Department, LICPA, and NUOL Accountancy Department to enable them to enhance their respective roles in the development of accountancy profession.
- ii. Strengthen the Justice Management Department of the Ministry of Justice, and the Lao Bar Association (LBA) with more resources and expertise, and make the latter more independent.
- iii. Streamline institutional arrangements for professional development, accreditation and registration in the engineering profession. There should be one professional body for engineers and one for architects. LUSEA and ALACE should be restructured as follows:
  - create a new engineering professional body designated as the Lao Council of Engineers (LCE) to function as association and licensing authority for all professional engineers, and transfer to it LUSEA's responsibilities relating to engineering;
  - restructure ALACE to form a professional body for architects only and name it as Lao Association of Architects (LAA), and transfer ALACE's responsibilities relating to civil engineering to the newly formed LCE; and
  - require all local and foreign engineers and architects to register with the newly established LCE and LAA respectively.
- iv. Streamline institutional arrangements for implementing the ASEAN MRAs:
  - designate (newly established) LCE as PRA for Engineering services in Lao PDR;
  - strengthen the agencies designated as PRA and MC/NAB for accountancy, engineering, and architectural services to enable them to perform the required functions effectively, and to implement the respective sectoral MRAs.

### **Regulatory Reforms**

- i. Review and develop a modern and internationally comparable statutory framework of accounting and auditing. As pointed out in the ROSC Report, this is necessary in order to modernise the accounting and auditing system in the country.
- ii. Introduce legislations to give effect to the restructuring of LUSEA and ALACE and creation of new LCE and LAA.
- iii. Introduce regulations to enforce and monitor professional and ethical conduct of professionals in each service. At present, there are no clear regulations in place in some services. Each professional regulatory authority would need to issue such regulations and monitor their compliance.
- iv. Introduce regulations to require at least 25 per cent of lawyers, accountants, and engineers in a respective firm to be members of a recognised professional body, with a grace period of three years. Currently, most of these firms operate with insufficient qualified professional staff and therefore the quality of services provided could be compromised.

In view of the skills and resource shortages, successful implementation of some of the above recommendations may take a few years, and would require external assistance.

### **Impact**

Overall, the impact of the liberalisation strategy on the economy is expected to be positive over the medium to longer term. The supply of both local and foreign professionals will tend to improve which in turn will improve business confidence and contribute to faster economic growth.

## **Implications of Liberalizing Professional Services: Legal, Accountancy, and Engineering Services in Lao PDR**

### **1. Introduction**

Lao PDR has made steady progress towards gaining admission to the World Trade Organization (WTO). Similar progress has been made in joining the ASEAN Economic Community (AEC). Services liberalisation has been an integral part of this progress as required under the ASEAN Framework Agreement on Services (AFAS), and WTO's General Agreement on Trade in Services (GATS). In this regard, Lao PDR has completed reform agendas for liberalising a number of services sectors. Professional Services is a key services sector that remains requiring appropriate policy measures to facilitate liberalisation and compliance with the requirements under AFAS and GATS. The purpose of the present study is to make a comprehensive examination of Lao PDR's<sup>1</sup> Professional Services Sector, in particular its three components – legal, accountancy and engineering services - and to propose an appropriate strategy for their liberalization within the WTO and ASEAN context.

The study is divided into 6 Sections. Section 2 briefly reviews the objectives of WTO, compliance requirements under AFAS and GATS, and the special considerations available to Laos as a LDC under GATS rules. Next Section reviews the characteristics of the professional services sector as classified by WTO; examines in detail the characteristics of its sub-sectors in the Lao PDR; and makes a comparative examination of specific commitments on professional services by ASEAN countries under AFAS and GATS, and also the GATS commitments made by a few landlocked LDCs, and selected recently WTO-acceded countries. Section 4 reviews the regulatory and policy framework governing the professional services in Laos, as well as the ASEAN Mutual Recognition Arrangements (MRAs). Recommendations and their expected impact on the economy are given in Section 5. Summary of the study findings and summary of recommendations are given in Section 6. The recommendations cover proposals for policy, institutional, and regulatory reforms. For consultation as well as for collecting information, officials in relevant stakeholder agencies, and a few representative private sector firms were interviewed, and their list is given in Annex 1.

#### **1.1 Government's strategic direction for economic integration**

Strategic direction of the government for socio-economic development until 2015 is set in its 7th National Socio-Economic Development Plan 2011-2015<sup>2</sup>. The Plan does not specifically provide direction for the professional services sector as such. However, for the Services Sector, the Plan aims to achieve an annual growth rate of 6.5%, and for it to increase its share of GDP to 38%. The Plan also reiterates government's commitment to joining the WTO. Other key areas of focus in the Plan relevant to trade and development are:

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<sup>1</sup> In this report the official name, **Lao PDR** and the commonly used name, **Laos** are used interchangeably.

<sup>2</sup> Ministry of Planning & Investment (2011).

- achieving at least an annual growth rate of 8% of GDP;
- creating favourable conditions for graduating the country from LDC status by 2020;
- ensuring continuous increase of quantity and quality of education;
- developing human resources in a variety of fields, including engineers, managers, executives and others;
- reaching economic targets set by the AEC by 2015; and
- promoting SMEs, and the use of new technologies in order to raise productivity and efficiency;

As a small land-locked country, economic integration regionally as well as internationally can be vitally important for Laos PDR's economic development and graduation from its least-developed country status. Mindful of this importance, the Lao government, beginning with the adoption of New Economic Mechanism in 1986, has placed high priority to economic integration and trade development as principal means to socio-economic development and poverty reduction. Acceleration of the WTO accession process; progressive implementation of AFTA-CEPT Scheme; and the initiatives under the Integrated Framework to mainstream trade into national development strategies are key steps taken in this regard.

## **1.2 Professional Services liberalization under WTO accession and ASEAN integration**

With regard to WTO accession, Lao PDR is on the verge of becoming a member. It has completed nine Working Party meetings, and concluded bilateral agreements with all interested WTO members. The final (the 10th) Working Party meeting is planned to be held at the end of September 2012, at which the accession package is expected to be formally approved. Conclusion of the 9<sup>th</sup> Working Party meeting held in July, 2012, saw the possibility of Laos joining the world trade body by the end of 2012.<sup>3</sup> As a part of accession requirements, Laos would be obliged to undertake commitments for the liberalisation of the professional services sector. In that regard it would have to consider the current status of the professional services sector in the country, and act in accordance with the GATS obligations which are outlined in the next section.

Services liberalisation under ASEAN Framework Agreement on Services (AFAS) has progressed through five rounds of negotiations resulting in seven packages of commitments – each package progressively identifying the services sectors to be liberalised. Commitments under the 8<sup>th</sup> package have just been completed in 2012. In 2007, ASEAN leaders pledged, as per AEC Blueprint of 2007<sup>4</sup>, to transform ASEAN into an economic community by 2020, and towards that end to substantially remove all restrictions on trade in services for agreed sub-sectors by 2015, and the remaining sub-sectors by 2020. Under this accord, and in the context of AFAS, Lao PDR has undertaken some progressive liberalisation of services.

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<sup>3</sup> [https://www.wto.org/english/news\\_e/news12\\_e/acc\\_lao\\_13jul12\\_e.htm](https://www.wto.org/english/news_e/news12_e/acc_lao_13jul12_e.htm)

<sup>4</sup> ASEAN Secretariat, *Economic Community Blueprint*, Jakarta, 2008.

An important development in ASEAN cooperation that is of particular relevance to professional services is the Framework Agreement on Mutual Recognition Arrangements (MRAs)<sup>5</sup>. This agreement provides for member countries to adopt procedures for mutual recognition of qualifications, technical standards, and licencing requirements among member states facilitating the flow of professional services providers in the region. It is essential for member states to adopt such procedures for sectorial MRAs in order to facilitate the realization of the ASEAN Free Trade Area. These procedures are also important for WTO member states for compliance with GATS requirements, and in particular for Laos for conclusion of its accession negotiations.

## **2. GATS<sup>6</sup> and AFAS Compliance Obligations**

The purpose of GATS is to facilitate liberalization of trade in services among WTO member countries. Two types of obligations exist under GATS: (i) general obligations that apply to all members and all service sectors covered under GATS regardless of whether or not specific commitments have been made; and (ii) sector-specific commitments regarding *market access* and *national treatment* for sectors and activities that members agree to open to international trade.

Under the general obligations, there are two main principles: (i) WTO member countries must afford each other most favoured nation (MFN) treatment (*i.e.*, prohibition on discrimination that requires countries to afford “treatment no less favourable than that accorded to like services and service suppliers of any other country”); and (ii) countries must ensure transparency of local regulations (*e.g.*, countries should publish measures of general application, and allow a period of public comment prior to their issuance)<sup>7</sup>.

Sector-specific commitments are made regarding *market access*, *national treatment* and *additional commitments*. Members make commitments on *market access* and *national treatment* with respect to four modes of supply: (i) cross border supply; (ii) consumption abroad; (iii) commercial presence; and (iv) the presence of natural persons. These commitments are made in a schedule, referred to as the Schedule of Specific Commitments<sup>8</sup>, and “...where such commitments are undertaken, each Schedule shall specify:

(a) *Terms and/or limitations on market access;*

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<sup>5</sup> ASEAN Secretariat, *ASEAN Framework Agreement on Mutual Recognition Arrangements*, Dec., 1998.

<sup>6</sup> Some parts of this Section are reproduced from *ITC Regulation Toolkit*: available at: <http://www.ictregulationtoolkit.org/en/Section.1651.html>.

<sup>7</sup> In compliance with this requirement, Laos has already established the GATS Enquiry Point at FTPD of MOIC in pursuance of the Decree on the Notification and Enquiry of Trade Related Information No.373/PM of 2010; and the Decision on GATS Enquiry Point, No 0349 MOIC, FTPD of Feb 2011.

<sup>8</sup> The format of this schedule consists of 4 columns, the first one designated as *sector or subsector*, next as *limitation on market access*, third as *limitation on national treatment*, and the last as *additional commitments*. In the first column, member would list the sectors or subsectors in which it wishes to make commitments, in the next three columns indicate the commitments in each of the 4 *modes* under *national treatment*, and *market access*, and any *additional commitments* respectively with respect to the indicated sector or subsector. These commitments are indicated either as *none* (meaning no limitation), or *unbound* (meaning no commitment), or *unbound\** (meaning technically not feasible to liberalise), and or with an explanation if otherwise.

- (b) *conditions and qualifications on national treatment;*
- (c) *undertakings relating to additional commitments;*
- (d) *where appropriate, the timeframe for implementation of such commitments; and*
- (e) *the date of entry into force of such commitments.*<sup>9</sup>

Any measures inconsistent with *market access* and/or *national treatment* shall also be stated under *market access* column. These schedules form part of the WTO legal documents. As an accession negotiating country, Lao PDR would be called upon to offer liberalisation commitments in services including the professional services.

GATS allows Members to deviate from the MFN requirement and set up bilateral or plurilateral Mutual Recognition Agreements (MRAs) (Article VII). At the same time, GATS rules provide for the Council for Trade in Services to put in place appropriate disciplines to ensure that measures adopted relating to recognition of qualifications, standards etc. “do not constitute unnecessary barriers to trade in services” (Article VI (4) and the Decision on Professional Services). These provisions reflect the assumption that mutual recognition arrangements hold great potential for facilitating trade in services by mutual recognition of professional qualifications. Their goal is to facilitate the flow of foreign professionals taking into account relevant domestic regulations and market demand conditions. Most MRAs have been adopted by regional economic groupings such as the EU, NAFTA, and ASEAN, to enable greater flow of professional services within their regions.

AFAS provides the legal framework for setting out the broad parameters that enables Member States to progressively improve *market access* and *national treatment* to services suppliers of ASEAN Member States. All AFAS rules are consistent with rules for trade in services as provided for under the GATS. Under AFAS, the format for making specific commitments is similar to that under GATS. However, AFAS obliges member states to expand “the depth and scope of liberalisation beyond those undertaken by Member States under the GATS with the aim to realising a free trade area in services”<sup>10</sup>. Successive Packages of Commitments specify the sectors to be liberalised. So far eight Packages have been concluded from five rounds negotiations, each successive package identifying more sub-sectors to be liberalised and the modalities for liberalisation.

For instance, the 4<sup>th</sup> Round, which resulted in the 5<sup>th</sup> and 6<sup>th</sup> Packages, requires members to schedule a number of subsectors from an agreed list of subsectors based on certain threshold levels, and also, in respect of the sub-sectors to be liberalised, not to make limitations on Modes 1 and 2 for both *market access* and *national treatment*, and to allow foreign (ASEAN) equity participation of not less than 49 per cent for priority sub-sectors, 51 per cent for the construction sub-sector, and 30 per cent for the other services. For the 5<sup>th</sup> and the subsequent Rounds up to 2015, member states are required to schedule liberalisation commitments based on the targets and timelines set in the AEC Blueprint, to raise foreign equity participation to not less than 51 per cent for priority and construction sub-sectors. The AEC Blueprint

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<sup>9</sup> WTO, *General Agreement on Trade in Services*, Article XX.

<sup>10</sup> AFAS Article 1 (c).

requires member states to remove substantially all restrictions on trade in services for the priority sub-sectors<sup>11</sup> by 2013, and all restrictions on trade in services for all other services sectors by 2015. **This means, the member states are obliged to commit to substantially deeper liberalisation of professional services, and remove all restrictions on trade in professional services by 2015.** Commitments made under the recently adopted 8<sup>th</sup> package, however, do not on the whole illustrate substantially further liberalisation. The only significant improvements made by some countries are those to relax equity limitations to be consistent with the required limits. As a member of ASEAN, Laos is obliged also to adopt appropriate mechanisms in line with ASEAN MRAs in order to comply with the objectives of AEC Blueprint.

## **2.1 Special treatment available to Laos as a Least Developed Country (LDC)**

As a LDC, Laos is eligible to receive special treatment under GATS, but not under AFAS, in negotiating for specific commitments. GATS provides obligations and guidelines<sup>12</sup> for member countries to take into account the serious difficulties of least-developed countries like Laos in undertaking negotiated “commitments in view of their special economic situation and its development, trade, and financial needs”.

Laos, on its part, in making liberalisation commitments:

- can be flexible;
- need not offer full national treatment to foreign service providers, which means, if necessary, nationals can be treated differently; and
- can offer to open up fewer sectors or part of a sector, and on a suitable timeframe (e.g. can offer to open up at a future date).

Nevertheless, in the negotiations for liberalization of professional services, the current needs of the growing economy in the face of domestic shortages in the supply of these services would need to be taken into consideration.

## **3 Characteristics of the Professional Services Sector**

### **3.1 General Characteristics**

Professional services are an essential part of what is known as the “knowledge economy” and are at the core of human capital formation. They are often at the cutting edge of innovation, and they play an important role as an infrastructural service in improving the productivity and competitiveness of the economy. At the same time, they generate substantial external economies that make many economic activities more cost-effective. As such, economists have found close positive links between human capital and economic growth. These

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<sup>11</sup> Four4 priority sub-sectors are air transport, e-ASEAN, healthcare and tourism, and the fifth priority sub-sector logistics services.

<sup>12</sup> GATS Articles VI (3) and XIX, and the WTO General Council Decision on Accession of LDCs.

services, notably in developing and least developed countries, have a direct bearing on achieving the Millennium Declaration's socio-economic development goals (MDGs) (UNCTAD 2005). This study focuses on three professional services: legal (cpc 861), accountancy (cpc 862), and engineering (cpc 867).

### **3.1.1 Legal services<sup>13</sup>**

For GATS purposes legal services include advisory and representation services. Activities relating to the administration of justice (judges, public prosecutors, state advocates, etc.) are excluded from the scope of the GATS as they are considered a "service supplied in the exercise of governmental authority" as per Article I:3(c) of the Agreement.

Legal services are available in a variety of forms: (a) advisory services where legal advice is provided to clients on matters of legal interpretation, commercial negotiations, documentation, dispute settlements etc.; (b) representation services such as appearances on behalf of clients in courts, tribunals etc.; (c) arbitration services which could include document preparation for and appearance before arbitrators mediating on behalf of clients in the interpretation of law. The global market for legal services is evolving rapidly with the growth of manufacturing and services among multinational firms and the correspondingly changing client needs. As of 2008, global market for legal services seems to be dominated by Europe with 54 per cent while Americas account for 36.5 per cent, and Asia Pacific only 9.0 per cent<sup>14</sup>. Over the years, international legal service suppliers have grown substantially, with top 30 legal firms employing more 1000 lawyers each.

High quality legal services are essential for proper legal documentation, interpretation, and representation in order to ensure fairness and transparency in judicial decision making and commercial transactions. The availability of quality legal services is becoming increasingly important for facilitating and securing commercial transactions and investment activities. This could be particularly so for fast growing economies in south-east Asia. The advent of the Internet has made it possible for clients to purchase several forms of legal services across borders. However, not all legal activities are equally tradable that way. Some branches of law like penal law are domestic in nature and would require permanent presence in the home country, while others such as commercial, taxation, and dispute settlement law are more easily possible for cross border supply. For instance, practitioners from more than 60 countries participate in an international lawyers' network (<http://www.iln.com>) to engage clients electronically on matters of commercial law, litigation, and contracting.<sup>15</sup>

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<sup>13</sup> For a detailed account on legal services including views on CPC classification, see WTO (2010).

<sup>14</sup> Datamonitor, Dec 2009 as reported in WTO (2010). These figures do not take into account Africa and the Middle East.

<sup>15</sup> Olivier Cattaneo and Peter Walkenhorst, "Legal Services: Does More Trade Rhymes with Better Justice?", in Olivier Cattaneo, Michael Engman, Sebastian Saez, and Robert Etern (eds), *International Trade in Services: New Trends and Opportunities for Developing Countries*, World Bank, 2010, p77.



By 2010, a total of 78 member countries have made commitments in legal services. Of them, 69 members made at least partial commitments for cross-border supply, and 68 for commercial presence. Some members, while making commitments, do apply entry barriers in some form or other. These include domestic regulatory measures (e.g. qualification and licensing requirements), residency requirements, and type of legal entity (such sole proprietorship or partnerships).<sup>16</sup> Among the ASEAN countries, only Malaysia, Thailand and the recently acceded Cambodia and Vietnam have made commitments. Malaysia limits legal services only to off-shore corporations established locally, and modes 1 and 2 for services in home country and international law; Thailand's only limitation is equity limit of 49-51 per cent; Cambodia restricts client representation in courts, and requires commercial association with local law firms; and Vietnam restricts client representation in courts, and legal documentation and certification relating to domestic laws.

### **3.1.2 Accountancy Services**

Accountancy services (CPC 862) consist of:

- auditing services (CPC 86211) i.e. the examination of accounting records and their supporting evidence of an organization to ensure their accuracy and conformity with generally accepted accounting principles;
- accounting review services (CPC 86212) meaning the review of annual and interim financial statements and other accounting information of an organisation;
- compilation of financial statements (CPC 86213);
- other accounting services (CPC 86219) which could include services such as attestations, valuations, preparation of *pro forma* statements, etc.; and
- book-keeping services, except tax returns (CPC 86220), i.e. keeping proper financial records of business transactions.

Accounting is an important element in the production and trading of goods and services. High quality accounting services are essential for ensuring prudential, transparent, credible, and law abiding financial transactions. They are also important for ensuring financial integrity and preventing and/or exposing financial malpractices such as bribery and corruption.

With increased globalization, the demand for and supply of financial services across borders has increased substantially over the years – revenue of international accountancy firms has risen by over 5 % during 2002-06. The demand for accountancy services results from both mandatory and legal requirements, such as financial reporting, and clients seeking advice on various financial issues, for example taxation. Although individuals are also consumers of accountancy services, the majority of work involves services to enterprises. Four large multinational accountancy firms” (PricewaterhouseCoopers, KPMG, Ernst & Young, Deloitte Touche Tohmatsu,) dominate the global supply of accountancy services, employ around 550,000 employees, and account for more than 75 per cent of revenue generated

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<sup>16</sup> WTO (2010).

worldwide.<sup>17</sup> Three of them have already established commercial presence in Laos. These multinationals sometimes operate through networks of subsidiaries and sometimes through partnerships formed with domestic firms depending on requirements of domestic regulations. Substantial amount of trade in accountancy services seem to occur through Mode-1 type outsourcing. Book-keeping, account management, billing services, and payrolls, and the preparation of financial statements are accounting services that are typically outsourced.

Arrangements for international recognition of accounting standards ensure quality and credibility of international suppliers of accountancy services. WTO has prescribed disciplines<sup>18</sup> that member states should follow when regulating for licensing and qualification requirements and procedures, and technical standards for accountancy professionals in order to ensure transparency and fairness. Internationally, quality assurance for accounting services is provided by International Financial Reporting Standards (IFRS) developed by the International Accounting Standards Board, and for auditing services by the International Auditing and Assurance Standards Board of the International Federation of Accountants.<sup>19</sup> Accountancy profession has also developed an international code of ethics for practicing accountants (first professional service to do so). This code is maintained by the International Ethics Standards Board for Accountants.<sup>20</sup>

IFRSs are said to be widely used in both developed and developing countries. However, several countries, particularly developing countries require them from foreign suppliers, while for domestic professionals IFRSs are applied in a limited manner in order that they do not constrain the potential growth of domestic expertise. The use of internationally recognized standards could promote trade integration and foreign investment, and be particularly beneficial to developing countries. It could also help adjust local training programs in these countries to meet international standards and thus for local professionals to be more internationally competitive. On the other hand, strict requirements of international standards could limit the capacity of local accountancy SMEs which may lack adequately qualified accountants. It could also limit the flexibility of accountants to provide affordable services to many smaller domestic firms. Differential standard settings for international and domestic accountants, at least for the short to medium term, could allow room for local accountants to improve their expertise through exposure to foreign counterparts. For this reason, simplified IFRSs for small and medium-size enterprises have been developed by the International Federation of Accountants. Adoption of these simplified IFRSs and recognition of corresponding qualifications by countries could benefit smaller firms in developing countries that provide outsourced services such as book-keeping etc. which require lower qualifications.

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<sup>17</sup> Oliver Gattaneo and Walkenhorst, “Accounting Services: Ensuring Good Governance, Financial Stability, and Economic Growth through Trade”, in World Bank (2010), p. 264.

<sup>18</sup> WTO (1998)

<sup>19</sup> For the international public sector accounting, standards are developed by the International Public Sector Accounting Standards Board of the International Federation of Accountants, and for the international public sector auditing, standards are set by the Professional Standards Committee of the International Organization of Supreme Audit Institutions.

<sup>20</sup> World Bank (2010), p. 279.

Many forms of regulatory restrictions on trade in accountancy services do exist in many countries. These include both the service provider and the service itself, extending from educational requirements for accountancy professionals to licensing requirements for firms and to the setting of mandatory standards for performing the service (e.g. auditing procedures). In most countries, regulatory powers are shared between public and private authorities (typically professional associations). Professional accountancy associations range from government bodies to completely private organizations<sup>21</sup>. Their activities may include examinations and authorizations, education and training, professional standards, disciplinary measures, quality control, and providing various membership services. Legal forms of incorporation are an often used restriction: instead of sole incorporation, partnership with local firms; majority capital and voting rights and directorships to be in the hands of locally qualified accountants. Too stringent domestic restrictions, however, could be counterproductive and prevent reputed foreign firms seeking license to practice.<sup>22</sup>

### **3.1.3 Engineering Services**

Engineering services are a technical knowledge intensive industry essential for efficient sustainability of several economic activities such as construction, manufacturing, and mineral resources development. They contribute immensely to technological innovation, and consist largely of mechanical, design, consultancy and project management services. In terms of CPC they are classified into four main categories:

- (a) architectural services (CPC 8671) consisting of consulting, planning or design services;
- (b) engineering services (CPC 8672) consisting of advisory and design services for mechanical, electrical, construction activities etc.;
- (c) integrated engineering services (CPC 8673) covering engineering services related to turnkey projects; and
- (d) urban planning and architectural services (CPC 8674)

However, in terms of expertise and academic training, the main engineering fields are civil, architectural, mechanical, electrical, electronic, industrial, and petroleum.

Engineering firms provide planning, design, construction and management services for building structures, installations, civil engineering works and industrial processes etc. while architectural firms provide blueprints and designs for buildings and other structures. Consulting engineers are involved in all stages of a project, and thus their services overlap substantially with those of other professionals. Thus, architectural and engineering services are strongly integrated or inter-related with physical construction activity and/or other business services. (WTO 1998).

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<sup>21</sup> In Vietnam and Laos, they are less independent, while in Thailand and Malaysia they are independent.

<sup>22</sup> WTO (1998A).

World trade in engineering services is said to be growing by about 2.4 per cent annually, and in 2006 some 200 international engineering design firms are said to have generated US\$33 billion in revenue from projects outside their respective home countries (Cattaneo, 2010). Main channels of supply of services by international engineering firms include established branch offices in client countries (mode 3), and visits to provide services to clients in their home country (mode 4). In particular, cross border supply (mode 1) seems to be becoming increasingly important, with advanced electronic data transmission systems, where many forms of engineering services such as architectural blueprints, designs, and engineering advisory notes are supplied on line.

Global demand for engineering services is driven both by rapid economic growth of emerging economies and the continued maintenance and upgrading of infrastructure in developed countries. Particularly for developing countries, the availability of quality engineering services is crucial for their infrastructure development. For these countries, the supply would depend on the domestic availability of advanced academic training facilities in engineering, and their trade policy openness for market access to engineering services from abroad. In order to enhance the quality of their engineering services these countries would need improvements in areas such as the quality of education and training in engineering, regulatory environment, quality standards, and qualification recognition arrangements.

As in other professional services, maintaining high standards in engineering is important for a developing country. Its standards set at the national level may need to be consistent with international standards, not only to ensure quality of services used in various projects, but also for domestic firms to be competitive with overseas firms. If not, overseas firms using international standards will continue to be dominant. For this reason, domestic engineering professional bodies usually collaborate with their regional counterparts and participate in the International Organization for Standardization (IOS) which is a forum for national standards institutes from 157 countries. Furthermore, in order to facilitate mutual recognition of qualifications, engineering services rely on various multilateral Accords (such as the Dublin, Sydney, and Washington Accords) which encourage licensing authorities in the host country to recognize graduates in the recognized programs in other countries (Cattaneo, 2010). Compared to other accredited professional services, such as accountancy and legal services, however, architectural services appear to be subject to fewer restrictive regulations (WTO 2009).

### **3.2 Sector Commitments under GATS & AFAS by selected countries**

Summaries of specific commitments in professional services are given in Tables 1 and 2, and in more details in Annex 3. Of the three services, legal service is the one with least commitments under both AFAS and GATS. Five ASEAN countries, including Laos, under AFAS, six under GATS have made no commitments at all in legal services. Under GATS, five ASEAN countries have not made any commitments, while two have made commitments in one professional service only. ASEAN countries have made more commitments under AFAS than under GATS. It is noteworthy that all selected recently acceded WTO countries

have made commitments in all three professional sub-sectors. Of the LLDCs considered, only Zambia has not made commitments in all sectors. Four ASEAN countries have made commitments in all sub-sectors under both AFAS and GATS, two of them, Cambodia and Vietnam, the recently acceded to WTO.

**Table 1:** Summary of commitments by ASEAN countries under AFAS & GATS

Member (ASEAN)	AFAS				GATS			
	1.a	1.b	1.d	1.e	1.a	1.b	1.d	1.e
Brunei		x	x	x				
Cambodia	x	x	x	x	x	x	x	x
Indonesia	x	x	x	x				x
Laos		x	x	x				
Malaysia	x	x	x	x	x	x	x	x
Myanmar		x	x	x				
Philippines		x	x	x				
Singapore		x	x	x		x		
Thailand	x	x	x	x	x	x	x	x
Vietnam	x	x	x	x	x	x	x	x

**Note:** 1.a. Legal Services; 1.b. Accounting and Auditing Services; 1.d. Architectural Services; 1.e. Engineering Services. Under AFAS, commitments are those made for the 8<sup>th</sup> Package.

Brunei: Commitments under 1.b only for *auditing*

Indonesia: *legal* services only in Modes 1 and 2

Philippines: in *accounting*, commitments only for *auditing* and *bookkeeping*

**Table 2:** Summary of commitments by other selected countries under GATS

Member (recently acceded)	GATS			
	1.a	1.b	1.d	1.e
Armenia	x	x	x	x
China	x	x	x	x
Nepal	x	x	x	x
Member (selected LLDC)				
Lesotho	x	x	x	x
Zambia		x		

**Note:** 1.a. Legal Services; 1.b. Accounting and Auditing Services; 1.d. Architectural Services; and 1.e. Engineering Services. Lesotho opened *Legal services* only in mode 3 advisory and domestic law; and in *Accounting*, only *auditing*; Zambia opened only *auditing* services.

Of the countries that opened legal services, Cambodia and Malaysia restrict foreign lawyers from client representation in local courts. Malaysia further restricts foreign lawyers to supply legal services only to foreign firms established in the country. Most countries require local accreditation of qualifications and local partnership, particularly in accounting and engineering services. Philippines disallow foreign book-keeping services to engage in tax return work, Thailand requires Mode 1 auditing work to be authenticated by a local licensed auditor, while China requires accounting professionals to have Certified Public Accountants (CPAs) qualification licensed by the Chinese authorities. Generally engineering received commitments from more countries than legal or accounting, perhaps because of its

importance for infrastructural and heavy industrial projects. However, of the countries that made any commitments, Zambia is the only one that did not open up for engineering services.

**Table 3:** Foreign equity limits for joint ventures under AFAS & GATS commitments

Country	Sector	Foreign equity limit for joint ventures under AFAS (8 <sup>th</sup> Package)	Foreign equity limit for joint ventures under GATS
ASEAN			
Brunei	architectural integr. engineering others	50% 55% none	No commitments
Cambodia	all sectors	none	none
Indonesia	accounting engineering	51% 51%	As per foreign capital investment law for all sectors
Laos	Integrated engineering all other sectors	maximum 66% minimum of 30%	
Malaysia	accountancy engineering	51% 30%	30%
Myanmar	engineering	35-100%	No commitments
Philippines	accountancy	30%	No commitments
Singapore	all sectors	none	none
Thailand	all sectors	49-70%	49%
Vietnam	all sectors	none	none
<b>Non-ASEAN/Recently acceded/Land-locked Least Developed countries</b>			
China	all sectors	not applicable	none
Armenia	all sectors	not applicable	none
Nepal	accountancy engineering	not applicable	51% 66%
Lesotho	all sectors	not applicable	none
Zambia	all sectors	not applicable	none

**Note:**

“No commitments” means, this country has not made any commitments;

“none” means this country has not specified any limitations in its schedule of commitments

**Source:** Respective schedules of specific commitments

Foreign equity limitations specified in commitments are shown in Table 3. Five ASEAN countries allow foreign equity up to 100 per cent under AFAS, and the same under GATS except for Brunei. All the non-ASEAN countries examined, except Nepal, specify no foreign equity limits. Equity limitations by ASEAN countries under AFAS are more relaxed than under GATS. This is largely due to improvements made (under the AEC Blueprint referred to earlier) in the recent 8<sup>th</sup> Package of commitments over the previous 7<sup>th</sup> Package – perhaps the only marked improvement made over the 7<sup>th</sup> package.

To give more details of Laos’ AFAS commitments: as mentioned already, Laos makes no commitments in legal services; in accounting, auditing and book-keeping (cpc 862) Mode 1 is unbound (a restriction on outsourcing), Mode 2 open, Mode 3 unbound under *national*

*treatment*, but open under *market access* subject to accreditation and local counterpart participation conditions; in engineering, architectural services (cpc 8671), engineering services (cpc 8672), urban planning and landscape architectural services (cpc 8674) open in Modes 1 and 2, and in Mode 3 open subject to provisions in Horizontal Commitments (given below), and integrated engineering services open as for other engineering services except that under *market access* upper limit for joint venture foreign equity is 66 per cent.

**Note:** Lao HC specifications: For all services, except for integrated engineering, joint venture foreign equity should not be less than 30 percent; joint ventures as well as wholly foreign owned businesses are permitted subject to approval by concerned authorities and licensing by the Foreign Investment Management Committee (which comes under the Ministry of Planning and Investment); and under *national treatment* all foreign investments in professional services are subject to taxation and land use laws and regulations applicable to them. Mode 4 is subject to the “law on Promotion and Management of Foreign Investment”, labour and taxation laws applicable to foreign workers.

### **3.3 Characteristics of the Lao Professional Services Sector**

Laos is now experiencing fast economic development, where foreign investment flows into local companies, engaged in construction, mining, hydro-irrigation, agricultural, and commercial activities, grow continuously, requiring high-quality professional services. Legal, accounting, and engineering services are vital to Lao economic growth. They contribute directly and indirectly to economic growth by being key inputs and creating external economies to other sectors. As mentioned earlier, accountancy is critical for accountability, sound financial management, and good corporate governance; effective law and justice systems and access to legal services ensure fairness in legal interpretation, improve predictability of business environment, facilitate engagement in contracts and mitigate investment risks; and engineering services is a knowledge-intensive sector essential to the productivity and sustainability of other economic activities.

However, the environment for the development of the three professional services in Laos is still weak and grossly inadequate. Educational and training courses at universities, technical colleges and private colleges being conducted almost entirely in the Lao language, and the lack of English language skills to access advanced literature restrict opportunities for local professionals to advance their expertise to be comparable with international standards. Most of the courses conducted by private colleges and qualifications awarded by them, particularly those relating to professional services, are said to be of low standard. This is said to be partly due to the lack of effective regulation and supervision by educational authorities. Given the level of educational development in the country, this is understandable. However, the authorities may need to ensure both government and private educational institutions gradually step up the standards. Qualification Equivalence Commission of the Department of Higher Education and the Quality Assurance Centre of the same department have the responsibility in this regard, but appear to be short of adequately qualified staff and resources to perform their functions well.

Guidance and arrangements for progress and advancement of professional skills by the concerned government agencies is somewhat inadequate. As indicated in the following

sections, the respective professional bodies or associations also generally lack the expertise, and facilities required to provide advanced training, certification, standards setting, and gain membership of, or affiliation with, international professional bodies.

**Table 4: Number of professionals per 100,000 inhabitants in selected countries**

Country	Accountants & Auditors	Lawyers	Engineers		
			architects	civil	other
South Africa	48.0	39.2	n.a.	n.a.	n.a.
Malawi	3.4	2.0	n.a.	n.a.	n.a.
Zambia	1.2	6.0	n.a.	n.a.	n.a.
Vietnam	3.1	9.1	5.3	n.a.	n.a.
Laos	2.1	2.3	4.7	12.1	n.a.

Source: For African countries, World Bank Regulatory Surveys in Eastern and Southern Africa, 2009 reported in World Bank, *Reform and Regional Integration of Professional Services in East Africa: Time for Action*, Oct. 2010; For Vietnam: Vietnam Association of Certified Public Accountants; Vietnam Lawyers’ Association; and Vietnam Association of Architects. For Laos, based on information provided at interviews with respective professional bodies.

At present, in the entire country, there are among the professionally qualified nationals, approximately 148 lawyers, 132 accountants, 759 civil engineers, and 293 architects; and the numbers of engineers in other fields such as mechanical, electrical, IT etc. are not available. Comparable data for Laos, Vietnam, and some African countries are given in Table 4<sup>23</sup>. The regulatory framework governing these services in Laos is given in Section 4. Main characteristics of each subsector are presented below. There could be some unavoidable overlap between what is presented in this Section and the next Section on Regulatory Framework.

### **3.3.1 Legal Services**

The key players in the legal services are the Law Faculty of the National University of Laos (NUOL), Justice Management Department of the Ministry of Justice, and the Lao Bar Association (LBA). The Law Faculty has five Departments: Civil, Criminal, Business, International Relations, and Political Science and offers 5-year (expected to be reduced to 4 years in the near future) specialised degree courses and a Master’s Degree program in Law. Currently, about 750 graduates pass out from the Faculty each year. Teaching staff consist of 31 with Masters, none with a Ph.D., and five are currently pursuing doctorate studies overseas. Law degree studies are also offered at four other colleges: Champasak University in Pakse, and three law schools run by the Ministry of Justice – in Vientiane Province, Luang Prabhang, and Savanakheth, which produce about 250 law graduates annually. NUOL Law Faculty has established cooperation with ASEAN country universities. It also benefits from an externally funded project: “Strengthening the Rule of Law through legal university

<sup>23</sup> Similar data for Asian countries could not be found.



education”<sup>24</sup>. These links aim to ensure continued development of legal education and gradually adjust to international standards. It also provides evening English classes aimed at improving students’ proficiency in the language. As far as educational facilities are concerned there does not appear to have much supply-side constraints, as in the case of accountancy education. However, in terms of the quality of local lawyers in comparison with international standards, constraints seem to exist as local lawyers have little exposure to international training and career development.

Professional development in the practice of law rests with the Lao Bar Association (LBA) which functions under the Ministry of Justice. Any lawyer, local or foreign, to practice Lao law requires membership of the LBA and approval from the Minister of Justice. LBA membership requires a law degree from a Lao law college, successful completion of a 45-day law training course, and an exam conducted by the LBA, as well as completion of an internship - (for more details see section 4). According to LBA, the procedures for accreditation and registration of foreign lawyers need to be made clearer. As in most other countries, LBA would need to be more independent as a professional body. This is mainly because the practising lawyers, who constitute a large part of the membership, need to be seen to be independent of the law enforcement agencies. Both the Justice Management Department of the Ministry of Justice, and the Lao Bar Association (LBA) lack resources and expertise to promote legal professional development, and to attend to formalities relating to mutual recognition arrangements with other countries.

Although about 1000 lawyers graduate annually from the law colleges, as yet there are only 148 professional lawyers in the country, which indicates that only a small fraction of those graduates seek to be professional lawyers, and the rest find employment in law compliant and related work in government and private sector where Bar membership is not required. Current supply of professional lawyers in the country amount to about 2.3 lawyers per 100,000 inhabitants or less than 2 lawyers per 1000 businesses enterprises, which apparently indicates a marked shortage in the supply of professional lawyers compared with other countries. There are in all 22 law firms in the country of which 20 are SMEs, and 4 are either fully foreign owned or joint ventures with foreign partnership<sup>25</sup>. Some law firms also confirm experiencing difficulties in finding professional lawyers. This is said to be due to the effort and time needed for the Bar examination and the internship.

### **3.3.2 Accountancy Services**

Five agencies are involved in the education, administration, regulation, and professional development of accountancy services – academia (NUOL and private colleges), Accounting Council, Department of Accounting of the Ministry of Finance, and the Lao Association of Accountants and Independent Auditors (LAAIA), which is also known as the Lao Institute of

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<sup>24</sup> Funded by the Grand Duchy of Luxembourg for improving the quality of legal education provided by the Faculty.

<sup>25</sup> One foreign law firm interviewed, DFDL Mekong, has 5 foreign lawyers and 4 Lao lawyers with admission to Lao Bar Association

Certified Public Accountants (LICPA). Academia provides academic courses (degree, diploma etc.), while the other agencies deal with the management and developmental aspects of the profession.

Out of the three professional services under study, accountancy seems to have received the least attention in terms of higher education. At NUOL, accountancy education is conducted by the Department of Accounting, which operates under the Faculty of Economics and Business Management. So far this department has not produced a single graduate with Bachelor's degree in accounting. For the first time a batch of 55 Bachelor's students is expected to graduate by the end of 2012. However, a Master's degree program is offered for candidates with diplomas and degrees from local private colleges and foreign universities; and to-date 9 candidates have graduated from this course. The department is short of well qualified staff; it has not ventured out to seek any external assistance for upgrading its academic services; and nor has it maintained any links with foreign universities or professional bodies until recently the World Bank (Lao Office) initiated a Public Financial Management (PFM) Project in Laos with technical cooperation from New Zealand<sup>26</sup> to support upgrading of the Accounting Department of MOF and LICPA, and to improve academic standards of the Accountancy Department of NUOL. In addition to NUOL, Papisak Vocational College in Vientiane and a few private colleges (e.g. Lao American College, and Ratana College) offer diploma courses in accounting. Some of them also offer basic accounting as a subject in their general degree programs.

The Accounting Council, operating under the supervision of the Ministry of Finance (MOF), acts as technical advisor to the Finance Minister on accounting activities, standards and regulations. MOF Accounting Department is responsible for setting accounting standards, but lacks professionally qualified staff to carry out this function effectively. A key responsibility of LICPA, as implied in the Accounting and Audit laws (see Section 4.3.2), is to conduct training courses in order to maintain standards of accounting professionals. Presently, it conducts the mandatory 6-month training course for those who wish to register as professional accountants and auditors. It too, however, lacks resources and expertise to carry out this function effectively. LICPA is a member of the ASEAN Federation of Accountants but is not a member of the IFAC. Though it is supposed to be an independent body, it still operates under MOF. Government intends to strengthen it so that eventually it will gain membership of IFAC and also be more independent.

For purposes of ASEAN MRA on accountancy, MOF has the responsibility to be the PRA, LAAIA the Professional Accounting Body (PAB). LAAIA is responsible for maintaining standards of accounting and auditing services in the country comparable with international standards, registration of professional accountants and auditors who meet the prescribed requirements, and for conducting training courses in order to upgrade accounting and auditing skills. So far approximately 600 have completed CPA, but only 132 have gained membership of LAAIA with CPA certification.

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<sup>26</sup> World Bank, Lao Office, "Concept Note - Lao PDR Accounting and Auditing and the PFM Reforms" (undated).

This means there is an acute shortage of professional accountants in the country. The market size for accountancy services is considerably large and is growing as the economy and investments grow. According to the Ministry of Industry and Commerce, there are around 85,000 registered enterprises in the country. Their accountancy and auditing services demand is met by some 73 registered accountancy firms; of them, 3 are branches of international firms e.g. KPMG, and 2 are joint ventures with Thai and Vietnamese firms; and all accountancy firms have only about 150 professionally qualified accountants including the expatriates. The degree of competitiveness is limited not so much by the number of local firms but by the lack of well qualified expertise. Most of the firms do not have well-qualified local accountants and auditors, but manage mostly with staff inadequately trained by private colleges. Large corporate entities including the commercial banks and insurance companies are audited by local branches of foreign firms<sup>27</sup>. Local accountancy and audit firms mostly provide tax and book-keeping services with only occasional audit work for medium-size and small companies (World Bank 2009<sup>28</sup>). Supply-side constraints are many: inadequate and poor educational facilities at local universities, absence of specialised accountancy degree courses, low quality accountancy courses at private colleges, weaknesses and inadequacies at the LICPA.

The World Bank study referred to above (also referred to as the ROSC Report) provides an assessment of accounting and auditing practices within the corporate sector in Lao PDR with reference to the international financial reporting and auditing standards, reveals glaring shortcomings in the country's accountancy services standards and corporate financial reporting structure, and makes a series of remedial policy recommendations. Among the shortcomings identified are:

- The Lao Accounting System (LAS) is not compatible with the current requirements of International Financial Reporting Standards (IFRS), and hence statements prepared according to LAS do not comply with some of the most basic requirements of modern accounting and financial reporting;
- There is a lack of local accountants with the capacity to produce IFRS-compliant financial statements, and a lack of a recognized system of auditor certification and licensing;
- Auditing standards are not up to date, not well enforced, and auditing services are not entirely independent and ethical. Audit firms lack capacity to carryout International Standard on Auditing (ISA) compliant audit work;
- There is no system in place to ensure that practicing accountants and auditors actually comply with IFAC 2005 Code of Ethics for Professional Accountants;
- A simplified system of accounting standards need to be applied for SMEs;
- With only 3 administrative staff, LICPA lacks capacity and requirements of a modern professional accountancy body and resources to operate effectively. Its professional

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<sup>27</sup> E.g. KPMG has 4 professional accountants, and 34 local accountants of whom only 8 possess CPA.

<sup>28</sup> World Bank (2009)

education program lacks the necessary depth of coverage for compliance with IFAC International Education Standard;

- The MOF Accounting Department and the Accounting Council lack resources to set accounting standards as required; and
- Absence of actuarial services in the country impairs proper financial reporting.

The recommendations made in the ROSC Report need to be given serious consideration and will be referred to later in the Section on Recommendations.

### **3.3.3 Engineering Services**

Out of the three professional services, engineering seems to be the best developed in terms of facilities for tertiary education. Engineering degree courses are available at three provincial universities and one private college of technology. The most prominent of them, the Faculty of engineering at NUOL has eight departments - civil (including mining), mechanical, electrical, electronic and telecommunication, road-bridge and transportation, IT & computer, water resource, and vocational teacher training. It also offers Master's degree programs in infrastructure, environmental, electrical, and IT engineering with cooperation with overseas universities and agencies in Thailand, Germany, and Japan. Its teaching staff consists of 19 PhDs, 125 Masters; and 99 Bachelors. About 800 engineering graduates pass out from this faculty each year. The faculty also benefits from assistance from JICA and Asia Foundation for overseas post-graduate scholarships, and the World Bank for mining and hydro engineering. Two provincial universities and the College of Technology also produce about a total of 300 engineering graduates a year. Plans are said to be under way to establish an Institute of Technology which is expected to absorb the Faculties of Engineering and Architecture. The Faculty of Architecture at NUOL has three departments - architecture, urban planning and environment, and small and medium size architecture. The Faculty will have two more new departments added to it later this year – product design and interior decoration. In the last three years, about 110 graduates have passed out each year, and this number is expected increase in the coming years.

Agencies responsible for professional development in engineering include the Lao Union of Science and Engineering Associations (LUSEA), the Association of Lao Architects and Civil Engineers (ALACE), the Department of Housing & Urban Planning (DHUP). LUSEA is an umbrella organisation supposedly for all science and engineering associations in the country. It has about 23 member associations, but currently none of them is an engineering association, and all others are scientific, educational, and cultural associations. Until recently ALACE – the only engineering association in the country – was one of its members, but now is overseen not by LUSEA but by the Ministry of Public Works and Transport. Furthermore, under ASEAN MRA on Engineering Services, LUSEA has the responsibility to function as the Professional Regulatory Authority (PRA) in Laos, in other words to effectively implement that MRA. However, LUSEA does not perform this function at all. It has no resources, office, or staff to carry out the functions expected of it as the country's PRA. It functions only as the Board of Directors with occasional meetings.

ALACE is an association for both civil engineers and architects. As for other engineering services such as mechanical, electrical, telecommunication etc. no professional associations exist, and no government Ministry or Department seems to be responsible for regulation or supervision of their professional services and development. For architectural services, the designated PRA is the Ministry of Public Works and Transport.

ALACE operates under the Ministry of Interior, but for technical purposes comes under the Ministry of Public Works and Transport. All local architects and civil engineers are required to be its members. Currently, it has a membership of about 759 civil engineers and 293 architects, as well as some 102 business firms engaged in architectural and civil engineering work. It is said to have signed MOUs with professional organisations in Vietnam, Thailand, Malaysia, Singapore, Indonesia, Japan, and S. Korea for purposes of mutual recognition and professional development. However, at present there is no requirement for foreign engineers to register; nor does ALACE have the capacity to assess the suitability of foreign engineers who may need to register. Department of Housing & Urban Planning or the Department of Public Works and Transport does not have a supervisory role on ALACE. Their main responsibilities are policy formulation, and approval of large construction projects. Designs of smaller construction projects are approved, their constructions supervised and certified by the Public Works offices in the provinces.

Engineering services are more spread out in the country, and larger in size, than accountancy and legal services. There are 91 engineering firms, 14 of them in the provinces, 54 large size, and 37 SMEs (Table 5) providing a fair degree of competitiveness in the market. Out of the 91 firms, 7 are fully foreign owned, and 3 are joint ventures. There are in all 19 Lao engineers (in different fields) in Laos who have acquired the title of ASEAN Chartered Professional Engineer (ACPE). They can work in any ASEAN country, and similarly such engineers from other ASEAN countries can work in Laos (subject to approval from LUSEA, a function currently is not performed). However, the lack of facilities for professional registration and development in Laos for a number of engineering fields may be acting as a supply-side constraint. Most engineering firms operate with engineering graduates who do not possess any professional registration which could be an issue concerning standard of work performed by most of these firms.<sup>29</sup>

Constraints to modernisation of the profession include the weaknesses of LUSEA to function effectively as a PRA, the lack of capacity at ALACE to test and register foreign architects and civil engineers, and the lack of facilities and government policy direction for the establishment of professional associations in other engineering fields. Although educational facilities for engineering seem to be reasonably well advanced, and around 1100 engineering graduates pass out annually, professional development in engineering remains inadequate, and engineering services are said to be in short supply to cater particularly to the fast growing

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<sup>29</sup> One fully foreign owned engineering firm interviewed revealed that it employs 2 foreign professional engineers, and 9 local engineers none of whom having any professional membership.

construction, mining and manufacturing sectors.<sup>30</sup> In view of the most unsatisfactory current institutional set-up for professional development in the country, both LUSEA and ALACE need to be completely restructured. Proposed restructuring is given in section 5.

### **3.4 Contribution of the sector to the Lao economy**

Due to the lack of required data, particularly an input-output matrix for Laos, an accurate assessment of professional services sector's contribution to the Lao economy cannot be made. However, we may be able make some judgements by implication of certain findings.

The number of professional services enterprises in the country is shown in Table 5. Most of the legal and accountancy firms are SMEs, while majority of engineering firms are large sized. Inquiries revealed that most of these firms are short of professionally qualified expertise, and manage with inadequately qualified staff.

**Table 5:** No. of legal, accountancy, and engineering firms in Laos

Service	Location	SMEs (<1,200mn Kip capital invested)	Large enterprises
Legal	Vientiane capital	24	2
	Other provinces	0	0
Accountancy	Vientiane capital	62	1
	Other provinces	9	1
Engineering	Vientiane capital	29	48
	Other provinces	13	6

Source: Ministry of Industry and Commerce

Lao economy has performed well in the recent past, with an annual average growth rate of 7.7 per cent in the last 5 years. A vigorously growing economy would require a steady supply of high quality professional services. As we have seen earlier, professional services are crucial for human capital formation, and human capital is positively linked to economic growth. Quality legal and accountancy services are essential for facilitating and securing commercial transactions and investment activities. Similarly quality engineering services are necessary for sustainability of key economic activities such as construction, manufacturing, and mineral resources development.

We have seen that there exist many domestic supply-side constraints in Laos for these services, particularly legal and accountancy services. These are related mainly to shortcomings in the academic and institutional facilities in the country for professional development. Supply through foreign sources is also constrained to some extent by some limitations. Although foreign professionals are allowed under the country's Enterprise, Investment and Labour Laws<sup>31</sup>, a few barriers still do exist. For instance, even though the

<sup>30</sup> A view expressed by the Head of Engineering Faculty of NUOL.

<sup>31</sup> See Section 4 below for details on these laws.

new Law on Lawyers<sup>32</sup> provides for foreign lawyers to be able to engage in a range of legal services, Lao authorities have not opened up legal services, under the ASEAN 8<sup>th</sup> Package Specific Commitments; furthermore, in the same Commitments, the fast-track registration facility afforded to general investments (which include professional services) under the new investment promotion law has not been included.<sup>33</sup> Institutional weaknesses in professional bodies (identified in sub-sections under Section 3.3 and Section 4) also constrain the potential supply of foreign professionals through MRAs.

Shortages in the availability of professional services would be having some negative impact on the economy. Hence it is important for Laos to overcome the supply-side constraints and ensure an adequate supply of professional services in order to maximise economic growth, as well as to take the country forward towards the post-WTO accession era. In this respect, the government would be required to deal with a number of challenges. These include: adopting a liberal policy regime relating to supply of professional services from overseas; addressing the academic issues as to how to improve both the quality and quantity of professionals graduating from the academic institutions in the country; addressing the issues of professional development such as the weaknesses in agencies responsible; legislative reforms for modernising accountancy and engineering; and implementation of MRAs.

Policy outlooks in Section 4.6 and the Recommendations in Section 5 are aimed at dealing with these challenges.

## **4. Regulatory and Policy framework**

In preparation for WTO accession, Laos has undertaken many legislative reforms including those to improve the legislative framework applicable to the services sector. This section reviews the legislative instruments, policies and institutions governing the professional services. The list of regulatory documents currently applied and the agencies responsible for their implementation is given in Annex 2.

### **4.1 General**

*The Enterprise Law of 2005*<sup>34</sup> is one of the legislative instruments that generally apply to all enterprises and to professional services enterprises as well. It provides procedures and measures for the “incorporation, operation and management of enterprises”. It streamlines requirements for business registration; provides for non-discriminatory treatment between domestic and foreign businesses; and simplifies business entry by eliminating minimum capital requirement for starting a business, and providing for a ‘negative list’ of sensitive businesses, thus making it clearer for the prospective investors than was the case previously.

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<sup>32</sup> See Section 4 below for details on this law.

<sup>33</sup> Under the Investment Promotion Law of 2009, only investments that qualify for concessions need approval from the Ministry of Planning and Investment, while other investments are afforded a fast-track approval and registration process under a one-stop-shop facility under the purview of MOIC.

<sup>34</sup> Government of the Lao PDR, Enterprise Law No. 205/PM (2005).

***The Labour Law of 2006***<sup>35</sup> permits employment of foreign workers up to 10 per cent of ordinary labour, and 20 per cent of skilled labour of an enterprise, subject to approval by relevant authorities (Ministry of Labour and Social Welfare).

***The Investment Promotion Law of 2009***<sup>36</sup>, a major statutory reform, together with its implementing Decree of 2011 abolishes lengthy and cumbersome licensing approval procedures for general investment activities, and creates a level-playing field for both domestic and foreign investors. Under this law, foreign investors in general business (including professional services) only need registration under the Enterprise Law, and they come under the purview of MOIC, while the Ministry of Planning and Investment (MPI) retains responsibility only for the administration of investments that qualify for special concessions (such as tax holidays).

## **4.2 Legal Services**

Regulatory framework governing the legal services consists of three main documents: the *Law on Lawyers (2011)*<sup>37</sup>, Regulation on the establishment of the Lao Bar Association (2010)<sup>38</sup>, and the Justice Minister's Decision (2007)<sup>39</sup> on the establishment of legal firms. The provisions of the Justice Minister's Decision have been revised and incorporated in more detail in the more recent *Law on Lawyers* which determines the principles, regulations and measures relating to administration and activities of lawyers in providing legal services. Ministry of Justice (MOJ) administers this law in coordination with other agencies, particularly the Lao Bar Association.

The *Law on Lawyers* is intended to ensure independence of lawyers, so that they provide their services according to rules and regulations in a just and professional manner, and that these services contribute to creation of facilities that enable the society to have access to laws and justice processes, and attract both domestic and foreign investment. Its promulgation improved government policy on legal services towards their further liberalisation. This law provides for foreign lawyers with membership of a recognised foreign law association to practice foreign law (such as providing legal advice on international law) in Laos with permission from the Minister of Justice. The law applies equally to both foreign and local lawyers in that both require permission from the Minister of Justice and registration with the Lao Bar Association (LBA) upon completion of a 45 day training course. However, the latter requirement is not currently enforced for foreign lawyers, because the required 45-day training course is conducted only in the Lao language.

According to Art.47, foreign lawyers are eligible only to “provide legal advice on foreign and international laws, but are not allowed to provide legal advice on Lao laws and to represent

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<sup>35</sup> Labour Law (Amended) No. 06/NA (2006), Article 25.

<sup>36</sup> Government of the Lao PDR, Law on Investment Promotion No. 02/NA (2009).

<sup>37</sup> Government of the Lao PDR, Law on Lawyers No. 010/NA (2011).

<sup>38</sup> Ministry of Justice, Internal Regulation of Lao Bar Association of Lao PDR No. 186/MOJ (2010).

<sup>39</sup> Decision of Minister of Justice on the establishment of legal firms No. 178/MOJ (2007).



their clients in courts of the Lao PDR”. Nevertheless, according to Art. 9, a foreigner who is a permanent resident, proficient in Lao language, and has a Lao degree in law can practice Lao law and represent clients in court. However, so far no foreigner or foreign lawyer has gained membership of LBA. This may be because the new law came into effect recently and the time needed for a foreigner to gain the required local qualifications. Provisions of the Law on Lawyers relating to foreign lawyers are similar to those applied in Vietnam. Most countries which have liberalised legal services do restrict foreign lawyers from practising local law.

The Lao Bar Association (LBA) was established by lawyers under the approval of the Ministry of Justice, and is recognised in the Law on Lawyers (Art 28) as the professional body to promote the legal profession. It operates under MOJ, and administers and implements rules and regulations for professional development of lawyers, and their admission for membership. It is also charged with the responsibility for ensuring the provision of legal services to the “entire society with effectiveness” and for contributing to building of rule of law in the country. As mentioned earlier, it is mandatory for all practising lawyers to be members of LBA. However, this requirement is not enforced for foreign lawyers permitted to practise. In the event a foreign lawyer obtains membership of LBA, he has the same rights and duties as other members of LBA except that he has no voting rights in the Association or the right to become a member of its Executive Board.

Ministerial Decision on the Establishment and Movement of Legal Consultancy Offices<sup>40</sup> sets out principles and rules on the establishment of legal firms (consultancy business) to facilitate public access to legal services. Legal consultancy business is supervised by the Department of Justice System Management of MOJ. To establish a legal firm the applicant must be a lawyer and have at least three years of related experience, has no criminal record, and provide a minimum registered capital of 10,000,000 million kip<sup>41</sup>. Law on Lawyers (Art 48 and 49), permits a foreign law enterprise registered in the Lao PDR to provide legal services on foreign and international laws. It can provide legal advice on Lao laws and represent clients in courts only through a Lao lawyer employed by it. Foreign law enterprises are also allowed to establish their branch offices in Lao PDR. However, it may be noted that the recently adopted Laos’ ASEAN 8<sup>th</sup> Schedule of Commitments has failed to open for foreign legal services in any form.

### **4.3 Accountancy and Audit Services**

Two statutes prescribe the requirements for accounting, financial reporting, and auditing in Laos: the *Accountancy Law*<sup>42</sup>, and the *Audit Law*<sup>43</sup>. *Accounting Law* provides the principles, rules and measures of accounting activities and serves as a basis for collecting taxes, promoting good financial reporting and financial management of both public and private sector entities. It attempts to adopt international standards compatible with IFRS. It also

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<sup>40</sup> Ministry of Justice, Ministerial Decision on the Establishment and Movement of Legal Consultancy Offices No. 178/MOJ, dated 18 Sept 2007.

<sup>41</sup> This minimum capital requirement is contrary to the Enterprise Law which does not specify any minimum capital requirement for registration of a business.

<sup>42</sup> Government of the Lao PDR, Accounting Law No. 01/NA (2007).

<sup>43</sup> Government of the Lao PDR, Audit Law No. 05/NA (2007).

prescribes the qualifications and a code of conduct for accountants, and sets out standards, rights and duties of accounting professionals, and lays down penalties for accountants who violate the law. Heavy penalties including imprisonment can be imposed, subject to legal proceedings, for falsification of accounts, bribery, and corrupt practices.

*Audit Law* prescribes the principles, rules and measures governing auditing activities in order to ensure financial reporting is compliant with laws, regulations, and sound financial management practices, to enhance transparency, and to encourage domestic and foreign investment. It covers provisions relating to audit of both the public and private sector entities. Public sector audit is conducted by a government audit body (State Audit Office) established by the National Assembly, while private sector audit is mandated to be conducted by independent auditors<sup>44</sup> applying independent audit standards and principles.

Institutional framework relevant to accounting services was described earlier in Section 3.3.2. *Accounting Law* also defines the roles of the Ministry of Finance and its Accounting Department, and the Accounting Council. The Ministry of Finance (MOF) oversees the implementation of laws and regulations relating to accounting services through its Accounting Department, and the finance offices at provincial and district level. Furthermore, MOF is responsible for the formulation and application of policies and regulations concerning accounting activities.

*Prime Minister's Decree of 1996*<sup>45</sup> established the Lao Institute of Certified Public Accountants (LICPA). *Accounting Law* together with the *Audit Law* defines the role of the Lao Association of Accountants and Independent Auditors (LAAIA). LICPA is expected to be renamed as LAAIA in the near future. Membership of LAAIA is mandatory for all professional accountants and auditors. An internal Regulation of 2001<sup>46</sup> issued by the President of LAAIA determines LICPA's functions and responsibilities, among which a key one is the conduct of training courses for maintaining high standards of the accounting profession. *Accounting Law* (Art. 49) and *Audit Law* (Art 59) specify the minimum qualifications for accountants and auditors. An accounting expert must have a professional diploma or equivalent recognized by the Ministry of Finance and approved by the Ministry of Education, while an independent auditor need to be only a registered member of LAAIA. As for foreign accounting professionals, the qualifications and other requirements are laid down in the LAAIA regulation of 2001. They need to be Associate Members of LICPA and should meet the following requirements:

- be a member of a professional body that has membership of IFAQ;

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<sup>44</sup> *Independent auditor* is defined as an accounting consultant or accounting expert who is registered as an independent auditor with the Association of Accountants and Independent Auditors.

<sup>45</sup> Government of the Lao PDR, Decree on the establishment of Accounting Council and the Accounting Profession Organizations No. 161/PM (1996).

<sup>46</sup> Regulation on LICPA by President of the Lao Association of Accountants and Independent Auditors, 13 August (2001)

- have a diploma in accounting or equivalent recognised by the Qualification Equivalence Commission of Lao PDR;
- in the case of an enterprise, at least 70 per cent of its staff must be Lao nationals of which at least one person is a member of LICPA, and it must provide training to local staff at least 30 hours per year overseas, and 120 hours per year locally;
- observe LICPA code of ethics; and
- all certification documents should be signed by a Lao national staff.

Qualifications specified for both national and foreign accountants are inadequate compared with the practices of most countries where in addition to a degree or advanced diploma in accounting, at least a few years of relevant work experience plus completion of a study course (which in some cases run for a number of years) conducted by a profession body (such as an Institute of Chartered Accountants or an Institute of Certified Public Accountants) are required. In order to maintain the standards of the profession, at least regionally comparable qualification requirements framework would need to be worked out and applied in the near future. MOF and LICPA would need to study the practices applied in one or two countries in the region such as Malaysia or Thailand and use them as a basis for developing a suitable system in Laos.

#### **4.4 Engineering services**

Regulatory and institutional framework relating to the engineering services sector is weak and inadequate. Except for the academia – the Faculties of Engineering and Architecture – which functions fairly well, the rest of the institutions are disorganised and lack proper direction.

PM's Decree (2005)<sup>47</sup> established the Lao Union of Science and Engineering Associations (LUSEA). As mentioned earlier in section 3.3.3 this is an umbrella organisation for associations in engineering as well as those in other fields. It used to function under the National Science Council whose main responsibility is to promote scientific research in the country, but recently it has been placed under the supervision of the Ministry of the Interior. LUSEA is supposed to oversee, among others, the professional advancement of engineering services, and also function as Professional Regulatory Authority (PRA) for engineering services under ASEAN MRA on Engineering. However, it has not performed these functions relating to engineering so far. For more details of its functions, and its inadequacies see Section 3.3.3.

Ministry of Public Works and Transport (MPWT) Regulation (2004)<sup>48</sup> established the Association of Lao Architects and Civil Engineers (ALACE) the only professional body which truly has some relevance to engineering. MPWT also has issued regulations for its

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<sup>47</sup> PM's Decree on the Establishment of the Lao Union of Science and Engineering Associations (LUSEA) No. 59 (2005).

<sup>48</sup> Regulation on the Association of Architects and Civil Engineers by President of National Science Council, No. 340/04/NSC (2004)

operations<sup>49</sup>. According to these regulations ALACE's functions are to admit professionally qualified local architects and civil engineers for membership, establish relations with similar regional and international bodies, and promote professional development of its members. There is no specific requirement, in the regulations, for foreign professional architects and civil engineers to register with it.

Two other pieces of legislation are relevant to engineering and architectural services: the *Law on Construction*<sup>50</sup> and the *Law on Urban Plans*<sup>51</sup> which come under the purview of PMWT: the *Law on Construction* governs the architectural and construction engineering services. It provides for the rules and regulations for the construction services to ensure quality, safety, and efficiency of construction activities and their compliance with urban plans; and its objectives are to promote construction development through the use of best techniques and advanced technology equivalent to international standards with a mixture of local and international input, and consistent with national architecture.

The *Law on Urban Plans* determines rules and regulations concerning the land use, construction of structures at the national and local level, in order to ensure consistency of designs and plans with the level of socio-economic development of the area, and aesthetics and ethnic cultural heritage requirements. MPWT, in collaboration with concerned sectors and local administrations, is responsible for research, and design of urban plans at national level, before submitting them to the National Assembly for consideration and adoption.

With regard to employment of foreign professionals or the establishment of enterprises in the fields of engineering and architectural services, currently there are no specific regulatory provisions. Trade in these services can take place under the provisions of the Investment Promotion Law. However, in order to ensure that the foreign engineering and architectural professionals working in the country are suitably qualified and licensed, legislation or regulation would be needed to require that the foreign professionals, as well as their local counterparts, register with the respective professional bodies. Minimum qualifications for local and foreign engineers and architects seeking licensing should be a degree in the respective field from a recognised university plus relevant work experience as applied in countries such as Thailand or Malaysia.

Under an Order by the Minister of Education<sup>52</sup>, the Functions of the Equivalence Qualification Commission (EQC) are performed by the Department of Higher Education of the Ministry of Education. All foreign professionals working in Laos are required to have their qualifications approved by the EQC. The Department of Higher Education acting in the capacity of EQC coordinate with concerned agencies in evaluating the qualification. For instance, in the case of accountants, it would coordinate with LAAIA and also with the foreign institutions that granted the qualifications.

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<sup>49</sup> Ministry of Public Works and Transport, Regulation of Association of Lao Architects and Civil Engineers (2005)

<sup>50</sup> Government of Lao PDR, Law on Construction No. 05/NA (2009).

<sup>51</sup> Government of Lao PDR, Law on Urban Plans No. 0399/NA (1999).

<sup>52</sup> Education Minister's Order No. 913 of 28/3/2012.

#### **4.5 Brief review of ASEAN Mutual Recognition Arrangements (MRAs)**

Article V of AFAS recommends each member state to recognize qualifications, experience, licences and certifications obtained in another state, based upon agreement. ASEAN Framework Agreement on Mutual Recognition Arrangements<sup>53</sup>, established pursuant to this provision, aims to facilitate deeper and broader liberalisation of trade in services among member states through alignment and harmonisation of national standards with those recognised. It also aims to substantially eliminate restrictions on trade in services among member states and to go beyond the scope of liberalisation undertaken by them under GATS; and provides the general principles for developing sectoral MRAs among member countries, and guidelines for the establishment of appropriate conformity assessment bodies and their conduct under each sectorial MRA.

Generally, MRAs facilitate mutual recognition of authorisation, licensing, or certification of professional services suppliers by participating countries, and thus promote the flow of foreign professionals contributing to trade in services. Within ASEAN, the development and implementation of sectoral MRAs are expected to contribute to the realisation of ASEAN Free Trade Area. They enable the professional services certified or registered by the relevant authorities in their home country to be mutually recognised by other signatory member states. They are currently in various stages of implementation, with appropriate mechanisms for administration of implementation being established. The 9<sup>th</sup> ASEAN Summit of 2003 called for the completion of MRAs in major professional services by 2008 to facilitate free movement of professionals among member states. However, among the professional services focussed on in this study, so far sectoral MRAs have been concluded only for *accountancy*, *engineering* and *architectural* services, and no MRA for *legal* services is available yet. These sectoral MRAs provide general principles and framework for member countries to form bilateral and multilateral MRAs on the respective professional service. They also provide guidelines and procedures for mutual recognition of qualifications and licences of professionals.

Each member state will have a professional body, called the Professional Regulatory Authority (PRA) for each sectoral MRA, as well as a Monitoring Committee (MC)<sup>54</sup>. The PRA of respective profession in each member country is responsible, among others, for licensing and registration of professionals who apply to work in the host country, setting standards of professional and ethical practice, monitoring the professional practice of licensed professionals, and exchanging information with other member states with a view to harmonising standards. It is also responsible for negotiating and concluding multilateral MRAs with other countries, and issuing rules and regulations for the implementation of

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<sup>53</sup> ASEAN (1998)

<sup>54</sup> MRA for Accountancy Service does not provide for a MC. Instead, it provides for what is called the National Accountancy Body (NAB). It also does not clearly distinguish responsibilities between the PRA and NAB, and apparently it is left to each member state to allocate the responsibilities between the two bodies designated as PRA and NAB with respect to implementation of the MRA – see Art IV (4.2) of MRA.

respective MRAs. The objective is to facilitate mutual admission of qualified members of each other. Each member state, through the involvement of its PRA, is also encouraged to take into account the standards and guidelines set by the international and regional bodies in each profession, e.g. International Federation of Accountants (IFAC) for accountants. MC is responsible for preparing criteria and procedures for assessing compliance with the qualifications set out for recognition.

**Table 6: Lao Agencies responsible under MRAs**

<b>Professional Service</b>	<b>Professional Regulatory Authority (PRA)</b>	<b>Monitoring Committee (MC)/National Accountancy Body (NAB)</b>
Accountancy services	Ministry of Finance	(NAB) Lao Assn. of Accountants and Independent Auditors
Engineering Services	Lao Union of Science and Engineering Association	none
Architectural Services	Ministry of Public Works and Transportation	Department of Housing and Urban Planning of the Ministry of Public Works and Transportation

**Source:** ASEAN MRAs on Accountancy, Engineering, and Architectural Services

ASEAN MRAs on Accountancy, Engineering and Architectural services recognise each member state’s right to regulate the supply of respective services within its territory, and to give consideration to the fact that the level of development of these services differ among member states. Recognition arrangements differ slightly between accountancy and engineering services. In the case of accountancy, PRA for accountancy services in each country is responsible for assessing and recognising qualifications of those wanting to practice as professional accountants or independent auditors, and confer the title of Practising Professional Accountant. It makes no mention of a Monitoring Committee but in its place refers to a National Accounting Body (NAB) which has more or less the same responsibilities as the PRA. However, for engineering services, the ASEAN Chartered Professional Engineer Coordinating Committee (ACPECC) has the authority to confer the title of ASEAN Chartered Professional Engineer (ACRE), and for architectural services, the ASEAN Architect Council (AAC) is authorised to confer the title of ASEAN Architect (AA). The ACPECC and the AAC, however, may delegate this function to the respective MC of a member country.

As a signatory to the ASEAN Framework Agreement on MRAs and the sectoral MRAs on the three services focussed in this study - accountancy, engineering and architectural services – Laos is required to ensure that the PRAs and MCs/NAB specified in the Sectoral MRAs have the competence in their respective fields to carry out the responsibilities assigned to them, in particular the ability to assess qualifications and experience of persons seeking recognition/accreditation, and to determine whether they conform to the standards set by

designated international professional bodies. Key challenge for Laos is to streamline and upgrade the agencies required to act as PRAs and MCs (NAB in the case of accountancy). Some of the agencies currently designated as PRAs and MCs (see Table 6) are inappropriate, and some lack the staff with required level of competence. As mentioned earlier, PRA is the competent authority for licensing and registration of professionals, while MC (except for accountancy), and is responsible for assessing qualifications and granting recognition. In the case of accountancy services, PRA is responsible for the functions assigned to MC as well. Thus of the two, the agencies designated as PRA bear greater responsibility in the implementation of sectoral MRAs, and therefore should have qualified staff with competence to perform their assigned functions.

In the case of engineering services, the Lao Union of Science and Engineering Associations (LUSEA) is the designated PRA<sup>55</sup>, and no agency is designated as MC, which means LUSEA is expected to undertake the functions of both PRA and MC. As explained earlier (see section 3.3.3), LUSEA is an umbrella body mandated to oversee a range of scientific, cultural and educational associations, including engineering. However, it has no permanent office or resources to carry out the required functions of a PRA and MC. It does not perform any functions relating to implementation of ASEAN MRA on engineering. As such, this function remains practically unimplemented in Laos.

As for MRA on Architectural services, the designated PRA is the Ministry of Public Works and Transport, and MC is the Department of Housing and Urban Planning of the same Ministry. Currently both these agencies are not well organised to perform the assigned functions as PRA and MC due to inadequate resources and specialised expertise. Association of Lao Architects and Civil Engineers (ALACE) is not the designated PRA or MC for either civil engineering or architectural services, even though it is said to have signed MOUs with professional organisations in Vietnam, Thailand, Malaysia, Singapore, Indonesia, Japan, and S. Korea for purposes of mutual recognition and professional development. Therefore, in order to facilitate proper implementation of MRAs on engineering and architectural services, the government will need to rationalise and restructure both LUSEA and ALACE. The proposed restructuring is outlined in section on recommendations.

In accountancy, LAO PDR's PRA is the Ministry of Finance (MOF), and its NAB is the Lao Association of Accountants and Independent Auditors. So far there has been no any significant progress in concluding MRAs on accountancy with ASEAN countries although some discussions have been held on bilateral cooperation with some of them, possibly due to inadequate human resources. As identified in the ROSC Report, serious shortcomings in

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<sup>55</sup> As PRA, LUSEA is required to undertake several important functions among which: consider applications from and authorise the ASEAN Chartered Professional Engineers to work as Registered Foreign Professional Engineers; monitor and assess the professional practice of the Registered Foreign Professional Engineers and to ensure compliance with this arrangement; maintain high standards of professional and ethical practice in engineering; prepare rules and regulations to enable the implementation of this Arrangement etc. (ASEAN MRA on Engineering Services, Article 4).

terms of resources and expertise exist in both these agencies, which the government needs to address.

Successful implementation of MRAs will require upgrading of human resources in the agencies designated to implement them.

Suggested required skills for upgrading:

- i. each agency should have at least one or two of the staff members with a minimum educational qualification at tertiary level (such as a university degree) and professional registration in the relevant field of service.
- ii. staff should be familiar with -
  - IFAC guidelines and IFRS standards (for accountancy agencies);
  - WTO guidelines for MRAs;
  - standards set by PRAs of other member states ;
  - formalities and procedures for forming MRAs with other countries<sup>56</sup>;
  - requirements, standards and guidelines for ASEAN Chartered Engineer title (for engineering agencies);
  - requirements, standards and guidelines for ASEAN Architect title (for architectural agencies); and
  - the qualification requirements for membership admission in the respective profession.

Required minimum Lao educational qualification for professional training required for seeking recognition overseas:

- university degree or equivalent in the relevant field;

Requirements for licensing and registration as a professional accountant, auditor, engineer, architect, or lawyer:

- successful completion of a professional training program by an accredited relevant professional body independent of the education provider.

In addition to skills upgrading, successful implementation of MRAs would require following regulatory changes, some of which were referred to earlier:

- legislation for restructuring of LUSEA and transferring its responsibility as PRA for engineering to a newly established professional body for engineers;
- legislation for restructuring of ALACE and transferring its civil engineering responsibilities to a newly established professional body for all engineers; and
- regulations to enforce and monitor professional and ethical conduct of professionals in each service.

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<sup>56</sup> For instance, Lao PRA for accounting can learn from the practice of Malaysian Institute of Accountants (MIA), the PRA for Malaysia, which has formed mutual recognition agreements with several countries including Australia. Under the MRA agreement with Australia, Australian accountants holding Australian CPA are eligible to MIA membership without further requirements.



Due to administrative, staffing, and resource limitations, it may take several years to accomplish some of the requirements listed. However, an early start must be made towards that end.

#### **4.6 Policy Outlooks for reaping the benefits of Integration**

Progressive integration into ASEAN and the forthcoming accession to WTO provide opportunities for Laos to further liberalise professional services in order to overcome the existing shortages of high quality professional expertise in the country. However, while opening up for foreign expertise, in order to maximise the benefits of it, the country would need to gradually overcome the constraints in the supply of its own local expertise and improve their quality and standards, as well as provide for a more liberal regime for foreign professionals to work in Laos. In that regard, the government will need to focus on a range of policy reforms as well as institutional and regulatory reforms. In formulating these reforms the authorities will need to give considerations to the following:

***Giving due regards to the strategic direction of the government.*** Reforms for liberalisation of the professional services sector would need to be guided by the national goals for socio-economic development given in the 7th National Socio-Economic Development Plan 2011-2015, particularly those relating to human resources development; reaching economic targets set by the ASEAN community, and promoting SMEs; obligation to substantially remove restrictions on trade in services by 2015 as per AEC guidelines; obligations under GATS and AFAS, PTAs and FTAs; and the need for economic development, and improving institutional capacity.

***Prioritising English language proficiency.*** The lack of English language proficiency at tertiary education and professional training programs is a noteworthy deficiency in all three professional services. This inhibits the professional development of national expertise due to their not being able to access advanced reference material, to participate in overseas training programs, and to communicate effectively with fellow foreign professionals. Policy direction needs to focus on introducing English language proficiency courses to run parallel with degree courses in law, accountancy and engineering (including architecture) at universities. The same should apply to pre-requisite professional training courses conducted by the professional bodies. For example, at present the foreign lawyers cannot gain admission to Lao Bar Association as the pre-requisite training course is conducted entirely in the Lao language. The same is true of the CPA course at LICPA.<sup>57</sup>

***Improving institutional capacity.*** Institutional weaknesses identified in the three subsectors need to be addressed in order to bring the professional services in line with international standards. Comprehensive improvements as well as restructuring of some institutions would be required to modernize the arrangements and procedures for professional services development. Relevant Lao authorities would need to study and follow the more advanced

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<sup>57</sup> Ideally English language proficiency courses may be introduced to all scientific and technical education at secondary and tertiary level.

practices in some neighboring countries in order to properly manage and administer an extensively liberalized professional services sector. Laos could benefit from advanced practices of professional institutions in some countries in the region.<sup>58</sup> For example, Laos could follow the example of Vietnam which in the recent years has, with appropriate reforms, brought some of its professional services to international standards<sup>59</sup>, and more importantly learn from advanced practices in other neighboring countries such as Thailand and Malaysia. However, in prescribing international standards, care need to be taken not to unduly restrain the growth of local expertise. Some form of differential standard settings for international and domestic professionals, for the short to medium term, could allow room for local professionals to improve their expertise through exposure to foreign counterparts. Furthermore, in view of the obvious skills and resource shortages, institutional reforms may take a few years, and external assistance may be required to make a marked progress.

***Promoting joint ventures.*** This business model provides opportunities for local professionals to open up businesses in partnership with a foreign expertise. The local partner benefits from the capital contribution as well as from transfers of advanced knowledge and technology. Exposure to foreign participation could also contribute to efficient growth of SMEs. Under its investment promotion law, Laos provides for foreign equity participation between 10-100%<sup>60</sup>. However, Laos is free to specify, in its specific commitments, any foreign equity requirement different to what is provided for in the foreign investment promotion laws. In order to encourage foreign firms to form local partnerships so that local professionals have more opportunities for gaining experience and developing professional expertise, consideration may be given to limiting foreign equity to a maximum of 75 per cent.

***Ensuring an adequate number of qualified staff in a firm.*** Regulations would be needed to require legal, accountancy, and engineering firms to have a minimum proportion of professional staff with membership of a recognised professional body. Currently, most of these firms operate with insufficient qualified professional staff and therefore the quality of services provided could be compromised. Such a measure, though may not advisable to be applied immediately due to shortages of accredited professionals, but in a few years' time could serve to enhance the sector's contribution to the economy.

***Presence of foreign professionals.*** Foreign professionals entering the country will have more advanced expertise and know-how and thus, through employment of local counterparts in their firms, will be useful for skills and capacity development of local professionals. The

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<sup>58</sup> e.g. Vietnam Association of Certified Public Accountants, Malaysian Institute of Accountants, Institute of Certified Accountants and Auditors of Thailand, Malaysian Institute of Public Accountants, Board of Engineers Malaysia (<http://www.bem.org.my/v3/index.html>), Thailand Council of Engineers ([www.coe.or.th](http://www.coe.or.th)), Vietnam Association of Architects, Lawyers' Council of Thailand etc.

<sup>59</sup> e.g. The Vietnam Association of Certified Public Accountants (VACPA) has achieved full membership of Confederation of Asian and Pacific Accountants (CAPA) and established links with several reputable international professional organizations such as Association of Chartered Certified Accountants (ACCA), CPA Australia etc. The Ministry of Finance of Vietnam, through its Accounting and Auditing Policy Department, has developed the Vietnamese Accounting Standards based on IFRS.

<sup>60</sup> Government of Lao PDR, *Law on Investment Promotion*, Article 10, No.02/NA (2009).

Labor Law permits enterprises to employ foreign workers up to 10 per cent of ordinary labor, and 20 per cent of skilled labor of an enterprise, subject to approval by relevant authorities. However, in view of the acute shortage of professionals in the country and the need for skills development of local professionals, the proportion of foreign professionals would need to be raised to about 30 per cent.

The above policy outlooks are built into the main recommendations.

## **5 Recommendations**

### **5.1 Making Specific Commitments**

Recent legislative reforms provide a liberal level of openness in general for market access to foreign services suppliers. However, some barriers to foreign entry still exist to some extent. In view of the study findings relating to shortages of accredited professionals, particularly in legal and accountancy services, the importance of these services for the growth of the economy, and following the examples of recently WTO-acceded neighboring countries, it is recommended that Laos provides for a fairly high degree of liberalization of all the three services, subject to some limitations on legal services (such as restriction on court appearances as a transitional safeguard), both under AFAS and GATS, and as detailed below:

- (a) full commitment for accounting and engineering services (including architectural services), in Modes 1, 2 and 3, under *market access* and *national treatment*; however, auditing and architectural services in Mode 1 may be subject to authentication by a locally licensed auditor and architect respectively.
- (b) commitment for legal services in Modes 1, 2 and 3 as in (a) above, but subject to the provisions of the *Law on Lawyers*;
- (c) commercial presence as joint ventures with foreign equity up to 75 per cent, which may be relaxed further 5 years after accession to WTO;
- (d) commitment in Mode 4, with the limitation on foreign experts in a firm extended to 30 per cent of its total professionals; and
- (e) all commitments, except those under Mode 1 and those relating to (c) and (d) above, subject to laws and regulations of Lao PDR especially those relating to foreign investment, land use, and immigration.

### **5.2 Policy, Institutional, and Regulatory Reforms**

The following recommendations are interrelated and in some cases may overlap:

#### **Policy Reforms**

- i. Introduce English language proficiency courses as part of degree programs in law, accountancy, and engineering at universities, and the professional training courses conducted by the respective professional bodies.

- ii. Qualification requirements for professionals (both foreign and local) seeking licensing and recognition need to be brought in line with those applied at least regionally in the medium term, and internationally in the long term. This is also important for ensuring quality of services as well as for harmonising standards among states in implementing MRAs.

In legal and engineering professions, at least a specialised degree in the relevant field from a recognised university or similar institution plus a period of professional experience should be required. In accountancy, an advanced Diploma or a degree in accounting plus an appropriate period of related work experience and successful completion of a professional course (such as CPA) at a recognised Institute may be required. In addition, professional licence or membership should be required to be renewed annually to ensure professionals continuously update their knowledge. Also, different types of professional memberships may be provided for: such as ‘associate membership’ for new graduates would encourage them to work towards full membership; and ‘honorary membership’ for senior academics and retired professionals whose experience and knowledge would be beneficial to the association.

In formulating these requirements for each profession, the relevant authorities in Laos would need to study the systems applied in one or two countries in the region, preferably Malaysia and/or Thailand, with a view to appropriately modifying and adopting them locally. Given the current inadequacies in expertise and resources, it would take some years before internationally comparable practices could be formulated and applied locally. However, a start in that direction need to be made as early as possible, and the relevant local institutions and agencies would need to be strengthened and upgraded, perhaps with external assistance.

- iii. Address the inconsistency in the Laos’ ASEAN 8<sup>th</sup> Package of Commitments with the Investment Promotion Law relating to the approval of foreign services enterprises. Under the Investment Promotion Law of 2009, only investments that qualify for concessions need approval from the Ministry of Planning and Investment. All other investments only require registration under the Enterprise Law which comes under the purview of the Ministry of Industry and Commerce. Under the new AFAS Commitments, commercial presence of all foreign professional services suppliers require to have licensing by the Foreign Investment Management committee of the Lao PDR, which is contrary to the provisions of the Investment Promotion Law.
- iv. Centralise and improve facilities for dissemination of laws and public law awareness. Currently laws in English and Lao languages are available at the National Assembly website ([www.na.gov.la](http://www.na.gov.la)). However, what lacks is access to sub-law legislation. As part of WTO accession, Laos is strengthening the capacity of the Official Gazette (currently housed at the MOJ but under discussions whether to be maintained at the Ministry or Government Office) to allow for all laws and regulations to be published in a single

centralized location before their effectiveness. Ready availability of these documents is important for improving public law awareness and public access to legal services.

- v. Ensure that the courses conducted and qualifications awarded in subjects related to professional services by private educational institutions are uniform and that they conform to required standards<sup>61</sup>. The academic standards of courses conducted and the qualifications awarded by private colleges seem to differ between them, and may even fall short of required levels. Qualification Equivalence Commission of the Department of Higher Education and the Quality Assurance Centre of the same department which have the responsibility to ensure quality and standards of private colleges need to be strengthened to enable them to carry out these functions more effectively.
- vi. Address the shortcomings in the regulatory and policy framework of accountancy services. Consideration should be given to implementation of the recommendations made in the World Bank Report (2009) (ROSC Report) aimed at adopting IFRS-based accounting standards and improving accountancy services and the financial reporting system in the country, over the short to medium term:
- build capacity of professional accountants, auditors, and regulators through improved training programmes to be conducted by the LICPA;
  - establish and maintain, through enforced regulatory measures, international accounting and auditing standards equivalent to IFRS, with simplified IFRS (IFRS-SME) for smaller enterprises, and ISA respectively; and
  - ensure financial transparency in the corporate sector by providing for public availability of companies' financial statements.

### **Institutional Reforms**

- vii. Strengthen the capacity of financial institutions. Strengthen (a) LICPA to function as an internationally comparable accountancy training institution, (b) Accounting Council to play an enhanced monitoring and enforcement role relating to compliance with accounting and auditing standards, (c) MOF Accounting Department to be able to play a more technically sound policy formulation and advisory role, and NUOL Accountancy Department to establish a specialised degree course in accountancy.
- viii. Strengthen the Justice Management Department of the Ministry of Justice, and the Lao Bar Association (LBA) with more resources and expertise. Also, LBA needs to be made more independent as a professional body mainly because the practising lawyers, who constitute a large proportion of the membership, need to be more independent of the law enforcement agencies.

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<sup>61</sup> e.g. the recently opened Soochow University of Laos, a private university whose courses offered would need to be monitored.

- ix. Streamline institutional arrangements for professional development, accreditation and registration in the engineering profession. There should be one professional body for engineers and one for architects. As a small economy, Laos could manage with one professional body for engineers in different fields of engineering as in Malaysia<sup>62</sup> or Thailand<sup>63</sup>. The existing two bodies responsible for these two services will need to be restructured. LUSEA could be made responsible for its current functions other than engineering. ALACE could be restructured to separate its responsibilities for civil engineering and architectural services. One government agency, preferably the Ministry of Science and Technology (MST) could be the government agency, in coordination with government departments concerned with various engineering fields, to restructure and oversee the new professional body for engineering; and the Ministry of Public Works and Transport to restructure ALACE and oversee the new professional body for architectural services. Accordingly:
- create a new engineering professional body which may be designated as the Lao Council of Engineers (LCE) (such as the Council of Engineers of Thailand) and empower it to require all professional engineers (in all engineering fields) in the country to seek licensing from it and obtain its membership;
  - transfer LUSEA's responsibilities relating to engineering to LCE; restructured LUSEA may be renamed suitably;
  - restructure ALACE to form a professional body for architects (such as the Board of Architects Malaysia) and name it as Lao Association of Architects (LAA), and transfer ALACE's responsibilities relating to civil engineering to the newly formed LCE;
  - place the newly formed LCE under the supervision of the Ministry of Science and Technology, and LAA under the Ministry of Public Works and Transport; and
  - require all locally employed foreign engineers and architects to register with the newly established LCE and LAA respectively.
- x. Review and streamline institutional arrangements for implementing the ASEAN Mutual Recognition Arrangements, particularly for accounting and engineering professions (for which MRA agreements have been signed) as well as MRAs with non-ASEAN countries, viz:
- designate (newly established) LCE as Professional Regulatory Authority (PRA) for Engineering services in Lao PDR, and provide it with resources and expertise to enable it to function effectively in that capacity;

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<sup>62</sup> e.g. Board of Engineers Malaysia is a statutory body under the responsibility of Works Minister of Malaysia. Its primary responsibility is to facilitate registration of engineers in all fields and regulate the professional conduct and practice of engineers in order to safeguard the safety and interest of the public, and to ensure that engineering services are provided in compliance with appropriate legislation and policies.

<sup>63</sup> Council of Engineers of Thailand has the membership of engineers in five major fields – civil, mechanical, electrical, mining, and industrial. It is the authority for licensing and accreditation of all engineers in Thailand.

- provide resources and expertise to the Ministry of Finance and the Lao Association of Accountants and Independent Auditors, the designated PRA and NAB respectively for accountancy services, to enable them to function effectively in those capacities;
- strengthen the agencies designated as PRA and MC for architectural services to enable them to perform the required functions effectively; and
- direct all agencies designated as PRAs and NAB/MCs for accountancy, engineering and architectural services to take concerted action to implement the respective sectoral MRAs, following the guidelines and procedures given in each such MRA.

### **Regulatory Reforms**

- xi.** Review and develop a modern and internationally comparable statutory framework of accounting and auditing. As pointed out in the ROSC Report, this is necessary in order to modernise the accounting and auditing system in the country.
- xii.** Introduce legislations, through the involvement of MST and MPWT, to give effect to the restructuring of LUSEA and ALACE proposed earlier in these recommendations.
- xiii.** Introduce regulations to enforce and monitor professional and ethical conduct of professionals in each service.
- xiv.** Introduce regulations to require at least 25 per cent of lawyers, accountants, and engineers in a respective firm to be members of a recognised professional body, with a grace period of three years. Currently, most of these firms operate with insufficient qualified professional staff and therefore the quality of services provided could be compromised.

For background information relating to these recommendations, see section 3.3 and section 4. In view of the limited capacity of Lao PDR institutions, the implementation of most of these recommendations is bound to take time, and therefore would need to be a gradual and a continuing process; and would require the support of international partners.

### **5.3 Possible Impact**

In the Lao economy, we have seen a considerable shortage of well qualified professional expertise in all the three services, which by implication would be a constraint on faster economic growth. The proposed strategy is not only to further liberalise these services, but also to make substantial improvements in their domestic supply through policy, institutional, and regulatory reforms. These reforms will take time to take effect, but are essential to maximise the benefits of proposed liberalisation. Presence of foreign professionals will be more productive if they have adequately qualified local counterparts to work with, who will over time gain more experience and expertise. That way the impact on the professional services in the country will be positive: supply of foreign professionals can be expected to

increase in the short to medium term, while the supply of locally qualified professionals can be expected to rise over the medium to long term. Furthermore, the reforms will result in a more effective implementation of ASEAN MRAs which will complement the liberalised regime for the supply of foreign expertise. Overall, the impact of the liberalisation strategy on the economy can be expected to be positive with a time lag of about 3 to 5 years – the time needed for supply situations to improve.

## **6. Summary**

### **6.1 Findings**

Professional services are crucial to human capital formation. They generate external economies, and play an important role in improving the productivity and competitiveness of the economy. This study focuses on three of them – legal, accountancy and engineering services. Legal services are essential for proper legal documentation, interpretation, and representation in order to ensure fairness and transparency in judicial decision making, commercial transactions, and investment activities; quality accounting services ensure prudential, transparent, credible, and law abiding financial transactions; while engineering services are essential for efficient and technical sustainability of several economic activities such as construction, manufacturing, and mineral and other resources development.

Of the three services, legal services have received least commitments under both AFAS and GATS. Five ASEAN countries, including Laos, under AFAS, six under GATS have made no commitments at all in legal services. However, countries newly acceded to WTO have made more liberal commitment in all three services than others. Laos has been somewhat restrictive in its commitments under AFAS.

The Lao economy suffers from a considerable shortage of qualified professionals in all the three services – more in legal and accounting. This is largely due to domestic supply-side weaknesses - inadequate academic training particularly in accountancy, and poor institutional arrangements and facilities for professional training and development especially in accountancy and engineering. These inadequacies also have prevented Lao PDR from implementing, and benefiting from, the ASEAN MRAs. In order to overcome the supply shortages, further liberalisation both under AFAS and GATS is needed, and the identified domestic shortcomings need to be addressed with well-coordinated policy, institutional, and regulatory reforms. The recommendations aim to provide a strategy for liberalisation of professional services under both AFAS and GATS, and proposals for reforms to improve the domestic supply situation and complement the liberalisation.



## 6.2 Recommendations

### (i) Liberalising Strategy:

(c) be guided by:

- **strategic direction of the government** reflected in the national goals for socio-economic development given in the 7th National Socio-Economic Development Plan, particularly those relating to human resources development;
- obligation to substantially remove restrictions on trade in services by 2015 as per AEC guidelines;
- commitment to complete accession to WTO by the end of 2012;
- obligations under GATS and AFAS, Preferential Trade Agreements (PTAs) and Free Trade Agreements (FTAs); and
- the need for economic development, and improving institutional capacity.

(b) provide a high degree of liberalisation of all the three services both under AFAS and GATS with -

- full commitment for accounting and engineering services;
- commitment for legal services subject to the provisions of the *Law on Lawyers*;
- commercial presence as joint ventures with foreign equity up to 75 per cent; and
- commitment in Mode 4, with the limitation on foreign experts in a firm extended to 30 per cent of its total professionals.

### (ii) Policy, institutional and regulatory reforms

#### Policy

- introduce English language proficiency courses into academic and advanced training courses relating to professional services;
- qualification requirements for professionals seeking licensing and recognition need to be brought in line with those applied at least regionally in the medium term, and internationally in the long term;
- address the inconsistency in the ASEAN 8<sup>th</sup> Package of Commitments with the Investment Promotion Law relating to approval of foreign services enterprises;
- improve facilities for dissemination of laws;
- rationalise and raise the minimum academic qualifications and training standards for Lao professional accountants and auditors;
- ensure that the courses conducted and qualifications awarded by private educational institutions are uniform and that they conform to required standards;
- establish and maintain international accounting standards, with some differential between local and foreign expertise in the short term; and

- implement the recommendations of ROSC Report relating to improvement of accounting and auditing standards.

### **Institutional**

- strengthen the capacity of Accountancy Department of NUOL, Accounting Council, Accountancy Department of MOF, and LICPA;
- strengthen the capacity of the Justice Management Department and the Lao Bar Association and provide greater independence to the latter;
- streamline, restructure, and strengthen institutional arrangements for regulation and professional development of engineering professions; and
- streamline and strengthen the agencies responsible to act as PRAs and NAB/MCs with respect to implementation of ASEAN MRAs.

### **Regulatory**

- introduce regulations requiring international accounting and auditing standards equivalent to IFRS, with simplified IFRS (IFRS-SME) for smaller enterprises, and ISA respectively;
- introduce legislations to give effect to the restructuring of LUSEA and ALACE;
- introduce regulations to enforce and monitor professional and ethical conduct of professionals in each service; and
- introduce regulations to require at least 25 per cent of lawyers, accountants, and engineers in a respective firm to be members of a recognised professional body, with a grace period of three years.

## **6.3 Impact**

Overall, the impact of the liberalisation strategy on the economy can be expected to be positive over the medium to longer term. The supply of both local and foreign professionals will tend to improve which in turn will improve business confidence and contribute to faster economic growth.

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**Annex 1: Persons Interviewed**

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## **Annex 2: Regulatory Documents Relating to Professional Services**

	Agency responsible	Regulatory instrument/s	status
General	Ministry of Planning & Investment	Enterprise Law No. 205/PM (2005)	Being implemented
	Ministry of Industry & Commerce	Law on Investment Promotion No. 02/NA (2009)	-do-
	Dept. of Higher Education, Qualification Equivalence Commission	Education Minister's Order No. 913 (2012)	-do-
Legal services	Ministry of Justice	Law on Lawyers No.10/NA (2011)	-do-
	Lao Bar Association	Ministry of Justice, Internal Regulation No. 186/MOJ (2010) Justice on establishment of Lao Bar Association	-do-
	Ministry of Justice	Decision of Minister of Justice on establishment of legal firms No. 178/MOJ (2007)	-do-
Accountancy services	Lao Institute of Certified Public Accountants (LICPA)	Regulation on LICPA by President of the Lao Association of Accountants and Independent Auditors, (2001)	-do-
	Lao Association of Accountants and Independent Auditors	Decree on the Establishment of Accounting Council and the Association of Professional Accountants, No.161/PM (1996)	-do-
	Ministry of Finance	Accounting Law No.146/PO (2007)	-do-
	Ministry of Finance	Audit Law No.150/PO (2007)	-do-
Engineering services: Architectural and civil	Association of Architects and Civil Engineers	Regulation on Association of Architects and Civil Engineers by President of National Science Council No. 340/04/NSC (2004)	-do-
	Ministry of Public Work and Transport	Rules of Association of Lao Architects and Civil Engineers (2005)	-do-
	Dept. of Housing & Urban Development	Law on Urban Plans No. 0399/NA (1999)	-do-
Engineering services: Other		Decree on the Establishment of LUSEA No. 59 (2005).	-do-

### Annex 3: Summary of Commitments in Professional Services

#### Summary of Commitments by ASEAN countries under GATS & AFAS ( 8<sup>th</sup> Package of Commitments)

##### Brunei

**GATS:** No commitments

**AFAS:**

<i>Legal</i>	No commitment
<i>Accountancy</i>	Open for only <i>auditing services</i> in Modes 1, and 2 subject to authorization qualification requirements, and in Mode 3 subject to registration and accreditation
<i>Engineering</i>	Open for <i>engineering services</i> in Modes 1,2, & 3; open for <i>architectural services</i> in Modes 1, 2 and subject to authorization qualification requirements, and in Mode 3 subject to equity limit of 50%.
<i>Integrated engineering</i>	Open in Modes 1, 2 and, and Mode 3 subject to foreign equity limit of 55%. For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

##### Cambodia

**GATS:** Same as under AFAS

**AFAS:**

<i>Legal</i>	Open in Modes 1, 2 and 3; in Mode 3 commercial association with Cambodian law firms required, and no direct representation in court.
<i>Accountancy</i>	Open in Modes 1, 2, and 3; for <i>auditing</i> in Mode 3 commercial presence in Cambodia required.
<i>Engineering</i>	Open in Modes 1, 2 and 3.

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

##### Indonesia

**GATS:**

<i>Legal</i>	No commitment
<i>Accountancy</i>	No commitment
<i>Engineering</i>	<i>Design services:</i> Under <i>market access</i> Modes 1 and 2 unbound for govt. funded projects; under <i>national treatment</i> , Modes 1 and 2 unbound; in Mode 3 open subject to joint partnership with local partner.

*Architectural and engineering:* Mode 1 unbound; Mode 2 under *market access* open; Mode 3 open subject to joint venture and foreign equity requirements under HC.

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

**AFAS:**

<i>Legal</i>	Open in Modes 1, and 2; Mode 3 unbound; in Mode 4 foreign lawyer allowed in partnership with local law firms but no court appearance.
<i>Accountancy</i>	Open in Modes 1, and 2; and in Mode 3 subject to foreign equity limit of 51%.
<i>Engineering</i>	Open in Modes 1, and 2; and in Mode 3 subject to local partnership and foreign equity limit of 51%.

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

### **Laos**

#### **AFAS:**

- Legal* No commitment
- Accountancy* Mode 1 unbound; Mode 3 unbound for *national treatment*; open in Mode 2; Mode 3 open for *market access* subject to accreditation and local counterpart participation conditions.
- Engineering* Open in Modes 1, and 2; Mode 3 open as specified for under Horizontal Commitments; *integrated engineering* open for turn-key projects; require joint-venture arrangements with foreign equity up to 2/3<sup>rd</sup>; *architectural services* and *civil engineering* open in Modes 1, and 2; Mode 3 open as specified under Horizontal Commitments.

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

### **Malaysia**

#### **GATS:**

- Legal* Same as under AFAS
- Accountancy* Open in Modes 1; no commitment in Mode 2; and Mode 3 open subject to local partnership and foreign equity up to 30%.
- Engineering* Open in Modes 1; no commitment in Mode 2; and Mode 3 open, but with preference for natural persons under *market access*. Foreign expertise subject to qualifying examination to determine competency.

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

#### **AFAS:**

- Legal* Open in 1 and 2; and in Mode 3 open subject to local incorporation, and legal services supplied only to foreign enterprises established in Malaysia; Mode 4 unbound except as provided for under Horizontal Commitments.
- Accountancy* Open in Modes 1, and 2; and Mode 3 open subject to local partnership and foreign equity up to 51%; in Mode 4, 8 specialists for each institution, subject to registration and residency requirements.
- Engineering* *Architectural services*: Open in Modes 1 and 2; and Mode 3 open subject to local partnership and foreign equity up to 30%; and in Mode 4, 2 specialists per country under *market access*.  
*Engineering services* incl. *integrated engineering*: Modes 1,2, 1nd 3 open subject to conditions. Mode 4, same as under *engineering*.

### **Myanmar**

**GATS:** no commitments

#### **AFAS:**

- Legal* No commitment
- Accountancy* Open in Modes 1, and 2; and Mode 3 open subject to local partnership and Foreign Investment Law etc; Mode 4 unbound.

*Engineering* Mode 1 unbound in *market access* only, and open in Mode 2; in Mode 3 open subject to local partnership and foreign equity 35-100%, and no land ownership; and in Mode 4 professionals allowed subject to foreign investment and migration laws.

### **Philippines**

**GATS:** no commitments

**AFAS:**

*Legal* No commitment

*Accountancy* *Book-keeping* (except tax returns) and *auditing* open in Modes 1 and 2; and in Mode 3, open for joint ventures with up to 30% equity for *bookkeeping*; and *auditing* subject to accreditation and registration requirements.

*Engineering* Modes 1, 2 and 3 open subject to conditions such as licencing, Pilipino participation requirements.

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

### **Singapore**

**GATS:**

*Legal* No commitment

*Accountancy* Open in Modes 1; no commitment in Mode 2; and Mode 3 open subject to local partnership and foreign equity up to 30%.

*Engineering* Open in Modes 1; no commitment in Mode 2; and Mode 3 open, but with preference for natural persons under *market access*. Foreign expertise subject to qualifying examination to determine competency.

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

**AFAS:**

*Legal* No commitment

*Accountancy* Open in Modes 1, 2 and 3, except for *accounting* and *auditing* Modes 1 and 3 require foreign professionals to have some local residency; and in *book-keeping* in Mode 3, one of the partners need would need Singaporean registration and residency requirements.

*Engineering* Open in Modes 1, and 2, and in Mode 3 open subject to accreditation and registration requirements for partners depending on the type of incorporation.

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

### **Thailand**

**GATS:**

*Legal* Mode 1 unbound, and Modes 2 and 3 open. Foreign equity limited to 49%.

*Accountancy* Same as for Legal services

*Engineering* Same as for Legal services

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

**AFAS:**

*Legal* Mode 1 unbound, and Modes 2 open; Mode 3 open under *national treatment*; under *market access* Mode 3 open as indicated in Horizontal commitments.



*Accountancy* Open in Modes 1, and 2 except under *national treatment*, *Auditing* in Mode 1 must be authenticated by licensed auditor in Thailand; ; and under *market access* Mode 3 open as indicated in Horizontal commitments.

*Engineering* Open in Modes 1, 2 and 3, except under *national treatment*, in Mode 1 services must be authenticated by licensed architect/engineer in Thailand, and under *market access*, Mode 3 open subject to incorporation conditions.

For all sub-sectors Mode 4 is unbound.

### **Vietnam**

#### **GATS:**

*Legal* Open in Modes 1, 2, and 3. Mode 3 under *market access* are subject to conditions.

*Accountancy* Open in Modes 1, 2, and 3.

*Engineering* Open in Modes 1, 2, and 3; in Mode 3 some restrictions apply to supply of services by 100% foreign owned firms up to 2 years after accession.

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

#### **AFAS:**

*Legal* Except client representation in courts, Open in Modes 1, 2, and 3; in Mode 3 under *market access* subject to incorporation conditions.

*Accountancy* Open in Modes 1, 2, and 3; in Mode 4 open for foreign auditors under *market access* subject to certain accreditation and registration requirements.

*Engineering* Open in Modes 1, 2, and 3; in Mode 3 under *national treatment* some conditions are applied. In Mode 4, firms can bring in foreign engineers only if local engineers are not available.

In other respects, and for all sub-sectors, Mode 4 is unbound, except as provided for under Horizontal Commitments.

### **Summary of GATS Commitments by other Selected Countries**

#### **Armenia**

*Legal* Open in Modes 1, 2, and 3.

*Accountancy* Open in Modes 1, 2, and 3: for *auditing* firms must be sole proprietorship or partnership

*Engineering* Open in Modes 1, 2, and 3.

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

#### **China**

*Legal* Open in Modes 1 and 2; Mode 3 open subject to conditions.

*Accountancy* Open in Modes 1 and 2; Mode 3 open but firms are limited to Certified Public Accountants (CPAs) licensed by the Chinese authorities.

*Engineering* Open in Modes 1 and 2; Mode 3 open in the form of joint ventures, but within five years after accession, wholly foreign-owned enterprises to be permitted

#### **Nepal**

*Legal* Open in Modes 1, 2 and 3, but limited to specified services.

*Accountancy* Open in Modes 1, 2 and 3, but in Mode 3 subject to local incorporation with 51% foreign equity; tax return services not allowed.

*Engineering* Open in Modes 1, 2 and 3, but in Mode 3 subject to local incorporation with 66% foreign equity;

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

**Note:** Unless otherwise stated, commitments under *engineering services* include those for *architectural services* as well.

### **Lesotho**

*Legal* advisory services: Modes 1 & 2 unbound; Mode 3 open;  
domestic law: Modes 1 & 2 unbound; Mode 3 unbound except as provided for in Horizontal Commitments.

*Auditing* Modes 1 & 2 unbound; Mode 3 open

*Architectural* 1 & 2 open with some limitation; Mode 3 open

Other *engineering services*: Modes 1,2, & 3 open

For all sub-sectors Mode 4 is unbound, except as provided for under Horizontal Commitments.

### **Zambia**

*Legal* no commitment

*Accountancy* Modes 1, 2, & 3 open; Mode 4 is unbound, except as provided for under Horizontal Commitments.

*Engineering* no commitment