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ECCIL WHITE PAPER 2018

IMPROVING LAO PDR'S POSITION IN THE EASE OF DOING BUSINESS INDEX

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Executive Summary

It is a stated priority of the Government of the Lao PDR to improve the country's position in the World Bank's Ease of Doing Business Index (from now on, this paper will refer to it as the "Index") from its current position (141) to below 100 by 2020.

The European Chamber of Commerce and Industry in Laos (ECCIL) would like to add its support to the Government's intention and respectfully proposes detailed suggestions as to how this can be achieved.

Due to the timing of the 2020 Index and when the research is done by the World Bank, ECCIL estimates there is about one year from now to have the changes made so that they are embedded and implemented in time to be captured by the 2020 Index.

The Ease of Doing Business Index is an ongoing activity – without ongoing attention to the issues raised by the Index, there is the danger that the country's position will fall back to above 100 very soon.

The Index is never meant to be comprehensive – there is a trade-off between how much the Index includes and its ability to normalize indicators globally across 190 economies.

The Index makes use of standardized case scenarios so as to allow categories to be globally comparable. The Index is built up based on information acquired from specially designed questionnaires to a wide variety of appropriate experts in individual economies or sectors in economies (including freight forwarders, professionals, officials, lawyers and locally-based World Bank staff), information from relevant laws and regulations and other sources.

The Index is made up of 10 categories as follows:

1. ***Starting a Business***
2. ***Dealing with Construction Permits***
3. ***Getting Electricity***
4. ***Registering Property***
5. ***Getting Credit***
6. ***Protecting Minority Investors***
7. ***Paying Taxes***
8. ***Trading Across Borders***
9. ***Enforcing Contracts***
10. ***Resolving Insolvency***

Each category contains several indicators which are normalized under conditions specific to each category, sometimes according to what the World Bank calls "standardized case scenarios" – these are tightly defined scenarios so that they can be fairly and transparently compared across all 190 economies of the Index.

Letting the data do the talking, a "low hanging fruit" strategy was adopted to reduce the ranking of Lao PDR by taking the worst performing categories that rank above 100 as they are easier to change and target indicators within those target categories that do not require seismic changes in order to have maximal effect. ECCIL has refrained from commenting on how to go *about legally putting those changes into effect and leaves that task the Government of Lao PDR.*

There are six categories that rank worse than 100 and this paper will focus on those as well as an additional category, ***Enforcing Contracts****, as it ranks dangerously close to the cut-off point of 100.*

In the table below, the seven categories and their respective indicators selected are listed with their original 2018 (current) score and their proposed (target) score. To understand what these indicators mean will require reading through the relevant sections on each category.

List of Targeted Categories and Proposed Changes to Indicators						
Categories	**Indicator**	**Current Score**	**Target Score**	**Indicator**	**Current Score**	**Target Score**
1) Resolving Insolvency	Recovery Rate	0.0	15	Strength of Insolvency	0.0	4.5
2) Protect-ing Minority Investors	Directors Liability/ Corporate Transparency	1	5	Ease of Shareholder Suits	3	5
3) Starting a Business	Time	67	45	Procedures	8	4
4) Getting Electricity	Time Procedures	134 6	74 5	Reliability of supply etc.	2	5
5) Paying Taxes	Time Payments	362 35	190 10	Time VAT refund Comply Time VAT refund Obtain	0 0	20 40
6) Trading Across Bor-ders	Time to Import (documentary compliance)	216	100	Time to Export (documentary compliance)	216	100
7) Enforcing Contracts	Quality of Judicial Process	5.5	7.5			

First, the paper will work through each of the first six target categories, selecting indicators based on our "low hanging fruit" strategy and suggest realistic changes. The changes involve the reduction in the time and number of steps required for a particular process, use of electronic means and automation for filing or registration and changing some procedural rules. Most importantly, for these changes to be captured in subsequent rounds of World Bank research, they have to be embedded and implemented fully. The new scores in the table above reflect those suggested realistic changes.

*Using the Calculator Excel File supplied online by the World Bank, it is possible to calculate the new overall rating for Lao PDR based on those new scores – **had the Lao PDR instituted those changes in time for the 2018 Index, the country would have achieved an overall ranking of 90. If improvements to the category Enforcing Contracts are included, the country ranking improves to 88.***

The 2018 ranking for each category and the proposed 2020 rankings are set out in the table below:

Comparison of 2018 Category Rankings and Proposed 2020 Rankings		
Categories	**Ranking 2018**	**Ranking 2020 (Proposed)**
1) Resolving Insolvency	168	163
2) Protecting Minority Investors	172	119
3) Starting a Business	164	111
4) Getting Electricity	149	84
5) Paying Taxes	156	66
6) Trading Across Borders	124	82
7) Enforcing Contracts	97	70
Country Aggregate	141	88

The European Chamber of Commerce and Industry in Laos is happy to share its knowledge and expertise in relation to the Ease of Doing Business Index with the Government of the Lao PDR, its officials and other stakeholders. Given the urgency of the task, ECCIL recommends the setting up of a task force at the highest level to drive the required changes so as to achieve the ranking below 100 in the 2020 Index.

Introduction

The European Chamber of Commerce and Industry in Lao PDR (ECCIL) would like to add its support to the Government of Laos' intention of improving the country's rating in the World Bank's Ease of Doing Business Index to below 100 by 2020. In this White Paper, ECCIL respectfully proposes some suggestions as to how this can be achieved.

As an aid for the discussion among officials and stakeholders, in this White Paper ECCIL will present a strategy for achieving the below 100 rating.

This white paper begins with an outline of the rationale behind the index and some of its salient features; what follows will be a very accessible overview of the Ease of Doing Business Index (henceforth referred to as the "Index"), its methodology and how some of the variables and the final rankings are arrived at.

Instead of examining each and every category and every variable within each category, ECCIL will focus only on those categories that fit the "Low Hanging Fruit" strategy – the low hanging fruit are those low scoring categories that are easier to improve without too much disruption. The strategy will be to pick variables and tactics within those categories that will require the least amount of disruption in the legislative and administrative landscape. ECCIL leaves alone those several categories where Lao PDR scores well and concentrates only on those areas where changes are necessary and will reap benefits in improving the rating in the country's favour.

We conclude by providing advice about various categories and indicators that make up the Index and about the shifting nature of the Ease of Doing Business exercise and the danger of merely doing the same as before – as the Lao PDR has recently experienced in the past three years, despite changes in legal and administrative rules, in this time the country's ranking has fallen from 135 to 139 to 141. ECCIL also suggests that if the economy is going to absorb the changes in time for the 2020 Index report, the changes have to be done within the next year. Therefore, the matter is of great urgency and ideally requires a task force at the highest level so that all changes proposed can be implemented and embedded in time for the 2020 report.

The Ease of Doing Business Index – Some Salient Features

The Prime Minister of the Lao PDR has stated the intention of reducing the ranking of the country in the Ease of Doing Business Index to below 100 by 2020. This is possible and this paper sets out below how this can be done.

This is an urgent task. Invariably, the Ease of Doing Business report is published in the closing months of the year before the year on its title – for instance, the 2018 report was published in November 2017. In turn, the 2020 Ease of Doing Business Report will be issued in late 2019 and the investigative work for that report will probably be completed by the World Bank researchers around June 2019.

Because the researchers examine actual practices rather than just what is stated in the various laws or administrative rules, those practices would have to be seen to have been implemented and be embedded in institutions and practices ahead of the research period. Given that it takes some months in any country for changes in practices, administrative rules, decrees and laws to be promulgated and fully implemented, these changes would have to take place at the latest by the end of 2018 to qualify for relevance in the research period in 2019 on which the 2020 report will be based. At the time of writing (November 2017), this gives the Government of Laos just over one year in which to agree, formulate, legislate, complete, promulgate and implement all changes.

It should also be understood that the Ease of Doing Business Index is an ongoing competition and not a once-off activity. The danger is that if Lao PDR were to achieve a ranking better than 100 in 2020 but were to do nothing more in the following years, that ranking below 100 would soon be eroded and the country would fall beyond the 100 position very soon.

For the rest of this paper, the term "Index" will be used to refer to the World Bank's Ease of Doing Business Index. The Index is made up of ten permanent categories – there is sometimes a *guest* category but its findings are not included in the actual final index for that year.

Each category is made up of indicators. Some categories, such as **Resolving Insolvency,** have only two indicators while some, such as **Trading Across Borders**, have as many as eight indicators.

Indicators are sometimes the measurement of some process, such as the amount of time it takes to process documentation when importing goods. Sometimes Indicators are based on sub-indicators – this is especially true of the qualitative indicators where marks are awarded based on certain facts, such as an economy having in place a particular legal practice or facility.

It will be shown later how the value of indicators goes to make up the value of categories and how that is expressed in the ranking of categories and the overall ranking for each economy. For the sake of clarity, this paper will put the names of categories in **Bold** but will underline the names of <u>indicators</u>.

Important Features of the World Bank's Ease of Doing Business Index

In discussions about the Index it is sometimes not made clear that the Index is an ongoing competitive exercise. The reason a country gets a specific rating depends on how well it has performed with respect to other countries – so it is not about how well, objectively speaking, a country has done (although the Index does contain information on that in *Distance to Frontier* statistics – see explanation below).

Another misunderstanding about the Index is that it measures **all** businesses or that it measures the experiences of foreign businesses. Both beliefs are false. The Index does not examine all types of business. In fact, although foreign investors will often include the Index in their research into a potential new host economy, *the Index does not include foreign businesses or foreign investors* in their analysis or data although foreign companies are used for data collection and research for the purposes of compiling the Index.

The Index also leaves out many factors that are crucial to the operating of a business – for instance, the Index is silent on corruption, security, how developed the financial sector is, the size of the market or other features of an economy. Instead, the Index focuses on a set of 10 categories specifically chosen because they can be normalised in such as way that they can be expressed in numbers and compared globally across 190 economies.

To see why this is important, imagine trying to compare the experience of a small enterprise in a remote village with that of a large modern bank in the centre of the capital city. Clearly, setting up a small enterprise that is not a limited liability company is going to be rather different to what a bank must do to set up in the capital.

Therefore, to create a level playing field whereby practices can be compared across every economy, World Bank employs a feature they call "standardized case scenarios." For example, it is not feasible to collect data on businesses in every part of every country participating in the Index. Instead, the Index focuses on scenarios usually in the largest business city in the country and compares those scenarios globally. For instance, in the **Getting Electricity** category, the standardized case scenario involves a warehouse of a certain size in the largest city whereas in the **Resolving Insolvency** category it resorts to a standardized case scenario involving a hotel.

In the same way, the Index cannot cover every kind of the many forms that businesses take, from informal sector participants to fully registered partnerships, joint ventures, privately owned limited liability companies and stock market quoted public corporations. Indeed, the rules and regulations may differ quite markedly in different economies. So, in the category of **Starting a Business**, the World Bank picked as its standardized case scenario the private limited liability company or its legal equivalent for two main reasons; it is the most prevalent form of company worldwide especially for firms with more than one owner and given that potential losses are limited to the capital invested, it is the most likely choice of the new entrepreneur.

The Index does not rely on surveying private companies for a number of reasons – the data they are trying to capture is often not the regular everyday experience of a private company.

A company is set up only once and only when there is a serious problem will it consider litigation; it is highly likely that any experience the directors of a company have of setting up or of litigation is out of date. But specialist practitioners, such as lawyers, set up companies on a regular basis; accountants deal with the tax authorities regularly and architects and construction specialists will know exactly how the building codes operate.

For these reasons, the World Bank relies on sending specially designed questionnaires to appropriate local experts, including freight forwarders, government officials and business consultants – last year 13,000 professionals worldwide were involved in researching and providing the data. All the relevant laws and regulations are collected and read and the data is verified. Sometimes visits are paid to the country (last year 30 countries were visited) and locally based World Bank staff will also provide input as required.

Yes, there are limits to this approach, which the World Bank openly acknowledges. Although it allows for greater comparison around the globe of various indicators, use of standardized case scenarios limits the scope of the Index; picking a private limited liability company will not provide any information on the challenges that sole proprietors in the informal sector face and this might be an issue where sole proprietors are the most prevalent form of business organization. But such limitations are inevitable if the methodology is to be transparent, the data comparable across all economies in the index and the compiling of the index can be done on a budget that is compatible with an annual review.

Methodology – the Hard Part

What is provided here is be an overview of the methodology and some more information on how the Index is put together. To gain a good understanding of the rest of this White Paper, it is not essential to read this section. But this section is designed to be readable and does not require specialist knowledge and will provide the non-specialized reader with more insight into the index and its purpose.

Although most who read the Index focus on one number or one set of numbers, namely the ranking of an economy or economies in the Index for a particular year, the Index also contains other information, such as the “Distance to the Frontier” (from here on the Distance to Frontier is referred to as DTF). The DTF score for a category or an economy indicates how much the category or the economy has objectively closed the regulatory gap and improved its performance in a particular year and is very useful as an absolute comparison of an economy’s or a category’s performance year on year. So if you see an economy has disimproved in one of its category rankings by 5, you can check its DTF score for that category to see whether the disimprovement is as a result of competition or an objective disimprovement in the economy. You can also check the overall DTF score for an economy – these are provided alongside the *Country Rankings* on the Index Calculator Excel file (more about this feature below). In the case of the Lao PDR, while between 2017 and 2018 its overall ranking fell from 139 to 141, its DTF score was almost the same at 53.01 as compared to 53.29.

Each year the Index contains ten categories. They are as follows:

1. **Starting a Business**
2. **Dealing with Construction Permits**
3. **Getting Electricity**
4. **Registering Property**
5. **Getting Credit**
6. **Protecting Minority Investors**
7. **Paying Taxes**
8. **Trading Across Borders**
9. **Enforcing Contracts**
10. **Resolving Insolvency**

As mentioned earlier, each of these categories is analysed according to a number of indicators. Each of these indicators is normalized for easy international comparison; for instance, the category of **Starting a Business** contains several indicators, such as Number of Procedures (required to set up a business), Time (days required to set up a business), Cost (of setting up a business stated as a percentage of income per capita for the relevant economy) and Minimum Capital Requirements (also stated as a percentage of income per capita). In each case, the indicators are normalised under specific conditions, sometimes according to *standardized case scenarios*, so that they can be fairly and transparently compared across each of the 190 economies in the Index.

There are a number of other rules embedded in specific indicators which will be shown later. But for now, lets just say that the normalized indicators for each category are placed on a scale using a mathematical method called linear transformation that incorporates the best and worst outcomes according to the following formula:

(worst – y)/(worst – frontier) where y = the normalised indicator

With some indicators, the *frontier* is defined as the best performance for that indicator in all the economies in the Index for the past five years since 2005 and the worst is the worst performance in the past five years since 2005. Some other indicators are evaluated according to a frontier that is the best possible performance for that indicator, even though no single economy has ever achieved that score. And there are other indicators where, due to certain features of the indicator, the frontier definition is a little different.

For any economy, each indicator in each category can be shown as a DTF score on a scale of 0 to 100 where the frontier = 100. Clearly, the closer the indicator of an economy is to 100 on the DTF scale, the better the performance.

Using simple averaging of the indicators, the DTF score for the category in an economy can be arrived at. In the same way, the aggregate DTF score for the whole economy can be derived based on the simple averaging of the DTF scores for the ten categories.

The ranking of all 190 economies is determined by sorting the aggregate distance from the frontier scores for all the economies, from 1 (New Zealand) to 190 (Somalia).

Methodology – the Easy Part

As mentioned before, to understand the Index and how it works, it is not necessary to completely understand how the methodology works. All that is required is an understanding that the DTF is a number that measures the absolute changes in a category or economy year-on-year and that the ranking measures how a category or an entire economy has performed with respect to the others in the Index.

The use of the Index is made even easier by the following:

- each year the World Bank provides a *Calculator Excel file* in the form of a spreadsheet containing all the indicators for each economy[1]. After downloading the spreadsheet file, it is possible to alter indicators in the spreadsheet to see exactly how changes in a single indicator would have affected the overall ranking for that year or the relevant category ranking. For instance, it is possible to see exactly how a reduction in the Procedures indicator from 8 to 6 in the **Starting a Business** category might affect the category outcome and the overall ranking (it would have changed the category ranking from 164 to 159 and the overall ranking from 141 to 140).
  •
- it is also possible to further examine each indicator for each country in detail to see how it was calculated by referring to the World Bank's *Doing Business website*. One can read about the methodology for each indicator in general but one can also read about how each indicator for each economy is evaluated to see how its numerical value was calculated. Checking through these indicators in the methodology for the country and then running potential improvements through the Excel spreadsheet helps policy makers, advisors and commentators to work out feasible strategies for reducing the overall ranking for a country.

Although it is not absolutely necessary to get the maximum benefit, especially from the later sections of this paper, it makes sense to have access to the Lao PDR data pages in the Doing Business website[2] as well as the *Calculator Excel Spreadsheet*[3] This file is known as the "DB18 DTF Calculator" on the World Bank's Ease of Doing Business website and it calculates all the rankings (both categories and country rankings) for all 190 economies.

The Ranking of Lao PDR in the Ease of Doing Business Index

In order to generate an appropriate strategy to improve the ranking of Lao PDR in the Index, this paper will need to examine more closely how the country performed in the Index in this

1 All World Bank Ease of Doing Business information, data, Excel files and other information can be found and downloaded from www.doingbusiness.org and following the links.

2 http://www.doingbusiness.org/data/exploreeconomies/lao-pdr

3 The spreadsheet file is known as "DB18 DTF Calculator" and can be downloaded from the following web page http://www.doingbusiness.org/data/distance-to-frontier by clicking on the link "Download Doing Business 2018 distance to frontier calculator."

year (2018) and last year (2017). As mentioned earlier, the World Bank publishes the Index in the closing months of the year in which it was done but labels it as that of the following year. The current Index (2018) was worked on during 2017 and published in early November 2017 but it is labelled by convention as the Ease of Doing Business Index for 2018.

The following table contains a list of ranks and DTF scores for Laos for of all categories listed according to rank (worst to best) in 2017.

Comparison of Ranks and DTF Scores 2017-18				
Categories	**Rank 2017**	**Rank 2018**	**DTF 2017**	**DTF 2018**
1) Resolving Insolvency	169	168	0	0
2) Protecting Minority Investors	165	172	35	31.67
3) Starting a Business	160	164	72.42	72.56
4) Getting Electricity	155	149	48.67	52.65
5) Paying Taxes	146	156	56.98	54.18
6) Trading Across Borders	120	124	62.98	62.98
7) Enforcing Contracts	88	97	58.07	55.22
8) Getting Credit	75	77	55	55
9) Registering Property	65	65	68.70	69.55
10) Dealing with Construction Permits	47	40	75.11	75.25
Country Aggregate	139	141	53.29	53.01

From this figure several patterns can be seen:

1. Between 2017 and 2018, the absolute change in performance within each category, measured by the DTF score, is not high and the overall change, the country aggregate, is almost the same.
2. Even though the country aggregate DTF scores are almost identical, the country ranking disimproved. This is mainly because even though not much had changed within Lao PDR with respect to the categories examined by the Index, competition from other countries continued to erode the Lao ranking.
3. There were two apparent anomalies – **Resolving Insolvency** appeared to improve in ranking but actually because Laos received the lowest DTF of zero for the category, it along with a number of other countries tied for the worst category ranking 168 in 2018 and 169 in 2017. Also, although the Lao DTF score for **Dealing with Construction Permits** went up fractionally (from 75.11 to 75.25), the Lao ranking for this category improved by 7. Despite little change within Lao PDR with respect to this category, there was some weakening in the international competition such that Laos went ahead by 7 places.

4. There were only two categories where Lao PDR improved its ranking, namely **Getting Electricity** and **Dealing with Construction Permits**. Without these category improvements, the estimated overall 2018 ranking for Lao PDR would have disimproved to 143 or 144.
5. By setting out the ranking as a table from worst to best, it is clear which categories fall below 100 and which are the worst at above 100. This will inform our strategy as it is always easier to improve where there is greatest room for improvement and least competition.

Strategy for Improving Lao PDR Ranking to below 100

In coming up with a strategy, it was decided to let the data do the talking. Clearly, to improve its rating to below 100, the changes in the indicators brought about by actual changes in policies, laws, administrative rules or practices that would bring the rating for 2020 to at least several ranking points below 100 would have to be demonstrated. Leaving a margin is very important because with each passing year the competition gets a little tougher – such is the competition within the Index, it is anticipated that a country with a ranking of 98 now would probably be worse than 100 in 2020 if the DTF scores of all the categories remained the same for that country's economy. This highlights the Index as an ongoing competition rather than a once-off activity.

Returning to our review of the data so far and our approach of letting the data doing the talking, the best way forward is to seek out indicators where it is easier to make changes, in other words indicators whose improvements do not require seismic changes. Indicators and categories would also be sought where changes in indicators are more likely to have a larger effect than a smaller effect in the ranking. In this latter case, clearly those categories that perform the worst are going to have more room for improvement; besides, at the worse rankings, the competition is always less. If you want to bring the average of all categories to a ranking of 100 or better, it would make sense to tackle those categories that are above 100 rather than try to improve those that are already well below your target figure of 100 where the competition is much higher.

This is the strategy that this paper refers to as "the low hanging fruit" – namely target categories that rank worse than 100 and that are easier to change; target indicators within those categories that do not require major seismic changes in order to have an effect. Ideally, changes would be sought that cause less disruption; in other words, a change in practice is preferable to a change in an administrative rule, a change in administrative rule to a change or introduction of a new decree, a change in or new decree to a change in a law, and so on. However, ECCIL does not set out proposals as to how changes are to be made by the Government; instead, ECCIL merely recommends the changes to be made that are anticipated to be easier and leave it up to the Government of Laos how to put such changes into effect using the appropriate legal means.

There are six areas where Lao PDR ranks well above 100, as set out in the table below.

Targeted Categories	Current Category Ranking (2018)
1) **Resolving Insolvency**	168
2) **Protecting Minority Investors**	172
3) **Starting a Business**	164
4) **Getting Electricity**	149
5) **Paying Taxes**	156
6) **Trading Across Borders**	124

In the next section, each of these six categories will be examined for indicators that cohere with our low hanging fruit approach. The category, **Enforcing Contracts**, will also be briefly examined; although this category is not included in our list of 6, it has disimproved from category rank 88 to category rank 97 and some certainly is required to be sure that it does not fall further. It also has fallen back slightly in its DTF score in the past year.

In certain categories, there are indicators that are segregated along gender lines – for instance, in the category **Starting a Business**, there are two indicators, Procedures (men) and Procedures (women). In Lao PDR, there has been no difference in how men and women are treated in relation to such indicators and therefore the readings for such indicators have been exactly the same. So as to simplify matters in the discussion, all such indicators that have been split into two for purposes of gender testing are treated as one indicator.

Proposed Category Ranking Improvements

In this section each of the target six categories will be examined to see how they might be improved. To avoid complication, each category is treated as a stand-alone and no cross-cutting issues are examined or developed. In each category, low-hanging fruit indicators that can be modified relatively easily are sought and the changes are put through a simulation using the *Calculator Excel File* supplied by the World Bank. Based on the simulation, the effect of the changes on the ranking of the category and the overall ranking can be demonstrated.

After examining all six categories, this paper will go on to look at the category, **Enforcing Contracts**. The reason is that the ranking of this category (97) in 2018 was so close to 100 that it would be likely to fall to worse than 100 in the next year's Index. This paper will propose some changes in this category and will show how this will affect the cumulative overall ranking for Lao PDR. At the end, the overall ranking will be below 100 but a sufficient margin must be left to take into account increased competition in the next two Ease of Doing Business Index Exercises (2019 and 2020).

Resolving Insolvency: This is the most perfect fit for the low-hanging-fruit approach; the ranking for Lao PDR in this category is 168. It is clear that this is the lowest ranking because the DTF score for Laos was zero; 22 other economies also received a DTF score of zero for this category and therefore share the same ranking of 168. Because Laos' DTF is zero, almost any positive changes to the indicators will reap benefits and result in an improvement in the ranking for this category and ultimately for the country ranking.

The methodology for calculating the **Resolving Insolvency** category DTF and by extension the rating is based on two Indicators, the overall Recovery Rate and the calculation of the Strength of Insolvency Framework. This makes it one of the easiest categories to improve.

The overall Recovery Rate indicator is based on several sub-indicators, namely *time* (the amount of time it takes for an insolvency case to be resolved), *cost*, *outcome* (whether piecemeal outcome or possible 'going concern' outcome), and *proceeding* (whether there are any possible proceedings for insolvency cases).

The methodology for this indicator carries a unique condition, which is that whenever a country has not had a legal bankruptcy proceeding in the previous 12 months, the methodology records "*no practice*;" because *no practice* means that creditors are not going to recover assets or money through any judicial process, the methodology stipulates that the recovery rate must to be recorded as zero.

In the case of the other indicator, Strength of Insolvency Framework, Lao PDR scores some points because some legal remedies are available, such as reorganization or access to liquidation proceedings. However, the methodology stipulates that:

"Even if the economy's legal framework includes provisions related to insolvency proceedings (liquidation or reorganization), the economy receives 0 points for the strength of insolvency framework index, if time, cost and outcome indicators are recorded as "*no practice*"."[4]

With both indicators in the category recording zero, Lao PDR is awarded zero points for the category, therefore zero for the DTF score and falls to the lowest possible rating. But drilling down into the sub-indicators shows that Lao PDR would have earned 4.5 points in the Strength of Insolvency Framework indicator under current circumstances if the methodology did not record zero for the Recovery Rate indicator and therefore stipulate zero for both. But the problem is that these points could not be recorded because there was no record of any insolvency cases in the previous 12 months.

It may be possible that there were in fact some insolvency cases during the previous 12 months in Laos that were not found by World Bank researchers because of the lack of a recording mechanism.[5] Therefore, to score any points in this category and achieve any increase in rating will require the introduction of a permanent registry of insolvency cases, including a listing or filing for corporations that have been made bankrupt, struck off, liquidated or placed in insolvency whether by way of court case, through mediation or through the Center for Economic Dispute Resolution. The inclusion of such cases in a newly created permanent accessible registry of insolvency cases would have an immediate effect on the ratings.

By creating a central registry of cases and thereby being able to show that cases have been processed in the previous year and assuming a recovery rate of 15% (a very low rate), Laos would have improved its ranking in the category, **Resolving Insolvency**, from 168 to 163,

4 See the following link: http://www.doingbusiness.org/data/exploreeconomies/lao-pdr#resolving-insolvency

5 This is not a criticism of the World Bank researchers or their contributors. With no evidence of any proceedings, the researchers would have no choice but to record "*no practice*."

thereby improved its overall Ease of Doing Business Index rating from 141 to 132.

Starting a Business: The rating for this category for Laos is 164. This is also a very straightforward category where the rating and DTF is based on two variables; Time (the number of days it takes to complete all procedures - currently 67 days) and Procedures (currently 8 in number). Therefore the only way to impact this rating is to reduce either the number of procedures or the number of days it takes to complete the procedures or both.

The following is a list of the procedures involved in Lao PDR (based on the standardized case scenario employed by the World Bank):

1. Application for name reservation and enterprise reservation certificates[6] (there are 6 subcategories of documentation required for this step)
2. Register the articles of association
3. Apply for tax registration certificate (this step requires 12 sets of documents)
4. Company Signage Approval from the Ministry of Information, Culture and Tourism
5. Carve a company seal
6. Register Company Seal at Ministry of Public Security
7. Register Workers for Social Security
8. Register for VAT

How other countries get much higher rankings in this category is to simply reduce the number of procedures and the amount of time required for the whole process through a mixture of streamlining the process and incorporating information technology.

Take for example, Singapore. They use 3 steps, as follows:

1. Online registration for business name, company incorporation and tax number. Name reservation is easy because it is automated – it is impossible to reserve a name that is highly similar to that of another business on the IT system. There is no need to register with the tax authority as the system automatically does that. The process usually takes up to an hour.
2. Company seal is not mandatory but many corporations prefer one. It takes several days although an express service is available to complete it in one day.
3. Sign up for employee compensation insurance according the laws of Singapore. The process takes less than one day.

Because the whole process takes less than several days and only requires 3 steps, Singapore has achieved 6 in the ranking for this category in 2018.

In addition to using electronic means, Singapore also integrates its several different government functions or systems when it interacts with business. For instance, registering a business name and incorporating will automatically trigger a tax number for that business. This can be done even when the system is not automated or run on an integrated IT system. So in the case of Lao PDR, there is no reason why Step 1 (Name registration etc.) and Step 2 (articles of association registration) should not be combined. This combined registration

6 According to a Ministry of Industry and Commerce **Notification** dated May 19, 2017, the requirement for separate name reservation certificate and enterprise reservation certificate has been removed in favor of the new "Enterprise Registration Application Form." However, the World Bank researchers reported that the separate name reservation and enterprise reservation certificates were still required. It could be that the office the researchers approached was still applying the old system.

should give rise to automatic tax and VAT registration within a few days simply through the automatic forwarding by the registration office of the relevant information to the tax office. Since the standardized case scenario for this category is concerned with limited liability companies with a turnover of at least 100 times the country's income per head only, this is far beyond the level of LAK400 million ($47,000) below which VAT registration is not mandatory.

Company Seal carving and registration should also be integrated. This would then reduce the number of steps to register a business in Lao PDR to the following:

1. One stop registration of company name, articles of association and tax/VAT
2. Company Signage Approval
3. Obtain a company seal (carving and registration)
4. Register workers for social security.

It is already possible to check the website of the Enterprise Registration Department to search for an existing business name online and therefore there is no reason that officials at that office cannot check instantaneously whether a particular company name is in use already or not.

If the number of procedures in **Starting a Business** in Laos are reduced to 4, this would have the immediate effect of reducing the category rating to 143 and the overall rating for Laos from 141 to 140.

In turn, if in addition the number of days it takes to register a business are reduced from 67 to 45, this will further improve the category rating to 111 and the overall rating for Laos to 137.

Combining all the changes in these two categories (**Starting a Business** and **Resolving Insolvency**) would move Laos to the new position in the Ease of Doing Business Index of 126.

Protecting Minority Investors: This third category examines what would be the legal situation for minority shareholders of a company if that company were to buy significant assets from another company where one individual is both a majority shareholder and CEO in the purchasing company as well as being the majority shareholder in the selling company.

The category looks at a number of indicators, including Disclosure (whether and to what extent the majority shareholder/CEO has to disclose the conflict of interest under the law), Director's Liability (whether and to what extent shareholders can take action against the CEO), Shareholder Suit Index (ease of taking a legal case against the CEO including access to documentation and repayment of legal expenses if successful), Shareholder Governance, Shareholder's Rights and Corporate Transparency.

Looking at the indicators, the worst performing for Laos are Director Liability (scoring 1 out of a possible 10), Corporate Transparency Index (1 out of 10) followed by Shareholder Suit Index (3 out of 10).

Taking the worst performing indicators first, the reason that Director's Liability does not score higher is that there is very little recourse for a minority shareholder to gain redress when the company has been damaged due to actions by a CEO/majority shareholder in a conflict of interest situation. Although shareholders of 10% or more can sue directly or derivatively for damages, neither the director in conflict nor the other directors can be held liable for the damages, the majority shareholder cannot be made to pay restitution to the company nor pay over profits he made on the other side of the transaction. In addition, only in cases of fraud or bad faith can the transaction be voided by the courts. Nor can the courts imprison, fine or disqualify the conflicted CEO/director in question for his or her actions.

Clearly, the way to score more points in such indicators as Director's Liability is to remedy such legal deficits. This indicator only scores 1 point for allowing shareholders of 10% or more to sue for damages and the Lao PDR currently scores no further points under this Indicator. For instance, if the minority shareholder could hold the director in conflict liable for damages, that would add 2 points to the indicator. If other directors could be held liable for damages, that would add a further 2 points. Another 2 points could be earned if a court could void such a transaction upon successful claim by shareholders and so on.

It is clear what is needed here to improve the Lao PDR's position in the Index, namely changes in the rules and laws regarding conflict of interest by majority shareholders. Simply making all directors in a company liable for supporting transactions that damage the company when there is a conflict of interest would generate 4 points alone.

The Corporate Transparency indicator scores only one point for the rule that members of the company must meet at least once a year. Because there are no requirements in Lao PDR for companies to disclose to shareholders stakes in other companies, details about directors (such as their main employment or other directorships) or compensation of individual managers, the country loses one point for each of these under this indicator. In addition, because there is no requirement for annual audited accounts by an external auditor, nor the distribution of such audited accounts, further potential points are not earned. The same is the case with the lack of requirement for 21 days detailed notice of general meetings of shareholders and the ability of 5% shareholders to put items on the agenda of such meetings.

It would not be difficult to gain 4 additional points under this indicator – simply by requiring companies to let shareholders know about additional stakes, other directorships/ employment by directors and compensation of senior managers along with insisting on the provision of 21 days of general meetings with details would be sufficient for 4 additional points, thereby generating 5 points in total under this Indicator.

Although Lao PDR performs slightly better under the Ease of Shareholder Suits indicator (scoring 3 out of 10), this category contains several opportunities for picking up extra points. One of the subcategories where Lao PDR scores zero is: "Can the Plaintiff (shareholder) obtain any documents from the defendant and witnesses at trial?" – because the answer is no, three points are lost. A similar question about categories of documents without specifying the documents also received a negative answer and a zero score. Because direct questioning of witnesses and defendant is not allowed, another point is lost (Laos scores only one point for allowing preapproved questions). Clearly some small changes in court procedures would allow Lao PDR to score addition points under this Indicator – it should be possible to obtain two points simply by changing the subcategory regarding obtaining documents at trial to a more positive if even conditional one. For the moment lets will assume that this Indicator score can be raised from 3 to a score of 5.

As set out in the previous paragraphs, if the Indicators Director Liability and Corporate Transparency move from scores of 1 to 5 and raise the Ease of Shareholder Suits from 3 to 5, the outcome will be an improvement of the ranking of the **Protecting Minority Investors** category from 172 to 119. On its own, this would substantially improve the overall ranking for Lao PDR from 141 to 133.

Taken in conjunction with the other changes in the categories already discussed (**Resolving Insolvency** and **Starting a Business**), the changes to all three categories (including **Protecting Minority Investors)** would result in an improvement of the overall ranking of the country to 118.

Getting Electricity: the DTF and rating for this category is derived from 4 indicators, Number of Procedures, Time (amount of time it takes from beginning of the first procedure to when electricity is installed and up and running at the business facility), Cost (stated as a percentage of economy's income per capita), and Reliability of Supply and Transparency of Tariff. This latter Indicator is one where Lao PDR can make some additional points without undergoing onerous changes, as shown below.

The Reliability of Supply and Transparency of Tariff Indicator is made up of the following subindicators:

Duration and Frequency of Outages (0-3) – Laos earns one point out of a max of 3. This would require the utility provider to become more efficient in making sure that there were fewer outages.
Mechanisms for Monitoring Outages (0-1): Laos earns zero points because there are no automated tools for monitoring outages
Mechanisms for Restoring Service (0-1): Laos again earns zero points because there are no automated tools for restoring service in the event of an outage.
Regulatory Monitoring (0-1): Because there is no regulator that is independent of the utility to monitor performance and reliability of supply, Laos earns zero points.
Financial Deterrents Aimed at Limiting Outages (0-1): Because the utility does not pay compensation to customers or face a fine by a regulator when outages reach a certain cap, Laos earns zero points for this subindicator.
Communication of Tariffs/Changes (0-1): Here Laos earns the available point because it makes the current tariff available online and makes the changes in tariff available ahead of time.

Out of a maximum of 8 points, Laos manages to earn only two points in the Reliability of Supply and Transparency of Tariff Indicator. But without much disruption, points could be easily picked up through ensuring a) the introduction of automated tools for monitoring outages b) instituting an independent regulator to monitor the utility's performance and reliability of supply and c) instituting a system of fines when outages reach a certain cap. In this way, Laos could easily add another three points to its existing two points, making a total of 5 points, bringing it closer to neighbours like Vietnam and China who both earn 6 points under this indicator.

The next indicator for scrutiny in this category is Time. Clearly, at 134 days, this process takes far too long – putting it in context by comparing with neighbouring countries, Myanmar which has many challenges is already down to 77, Vietnam is at 46 and Thailand at 32 days respectively.

The World Bank provides us with further analysis into the Time Indicator by providing the number of days it takes to run through each procedure in Laos, as follows:

1. Submit application to utility company and await estimate and technical specifications – 37 days
2. Receive site inspection by utility company for preparing technical specifications – 1 day
3. Await preparation and approval of detailed technical design and installation plan – 30 days
4. Await completion of external works by electrical contractor - 60 days
5. Await registration of meter at utility company – 1 day
6. Receive external inspection by utility company and then electricity flow – 7 days

Comparing with neighbouring countries, it is clear that the length of time for some procedures is excessive. In Vietnam the equivalent of procedure 1 takes only 4 days whereas in Myanmar it takes 28 days – in Laos this step takes 37 days. The equivalent of Procedure 4 in Vietnam takes 20 days, in Myanmar 21 days but in Laos 60 days.

The total number of days could easily be halved as follows:

Procedure 1 reduced from 37 to 20 days (possibly by removing the technical specification part and putting that into *Procedure 2*).
Procedure 3 could be reduced from 30 days to 15. The kind of installation called for under this Indicator is straightforward according to the_standardized case scenario employed by the World Bank (standard size industrial building in either the largest or the capital city requiring 3 phase electricity). Besides, since the customer is paying for connection (LAK 3.6 million for this procedure alone), there should be no question that the technical staff should be available to do this work.

Procedure 4 takes 60 days in Laos as compared to 21 days in Myanmar and 20 days in Vietnam. There is no reason why this procedure could not be completed within 30 days.

Adding all the changes in the amount of time proposed in the procedures together, the number of days could be reduced from 134 to 74.

Moving on to the Procedures Indicator, clearly there are too many procedural steps in this category; some it would appear to involve duplication of processes - for instance, technical specifications/detailed technical design appear in all of the first three procedures above. By separating registration of the meter by the utility company, an extra procedure is created – instead, installation of meter could be incorporated in the final procedure, namely external inspection and electricity flow. There is no reason why the customer should have to await registration of the meter when the application for electicity has already been approved and external works completed and paid for. So let us take it that the number of procedures could be reduced easily to 5.[7]

Taken together, the reduction in the number of Procedures (6 to 5), Time (137 to 74) and raising the Reliability of Supply and Transparency of Tariff Indicator score to 5, this will result in an improvement in the category Getting Electricity to 84; on its own, this category improvement in an improvement in the overall Ease of Doing Business ranking for Laos from 141 to 133.

7 At the time of editing, according to a report in the media, the Minister of Energy and Mines, at a workshop organized by the Department of Energy management and EDL, set the goal of reducing the number of procedures from 6 to 5 and the time from 134 days to 50 days.

One indicator that has not been examined is the Cost of getting electricity as there is no open access to any of the respective costs in the Lao context. However, it is clear that from the following that costs in Laos are high but also that there is huge variation in this Indicator between economies – for instance, Singapore's charges are only $13,000, Myanmar's are $14,000, Thailand's are $3,800, Vietnam's are about $24,000 while Laos, which aspires to be the "Battery of South East Asia," has charges of $24,380 (all figures are rounded up). Part of the issue is that countries like Laos and Vietnam presumably have to install equipment such as a transformer or substation for 3 phase supply to a building of the size stipulated in the *standarized case scenario* for the category, **Getting Electricity**.

An additional problem for low income countries such as Laos is that the comparison of Costs used in the Index is not made based on actual costs in a single currency, such as US Dollars, but as a percentage of income per capita. Clearly, those countries with a higher income per capita benefit from this in the Index.

Paying Taxes: There are eight indicators in the **Paying Taxes** category; here they are with their respective values for Lao PDR:

Payments : 35 (number)
Time : 362 (hours)
Total Tax/Contribution Rate (as % of profit) : 26.2%
Time to comply with VAT refund : *No Refund*
Time to obtain VAT refund : *No Refund*
Time to comply with corporate income tax audit : 16 (hours)
Time to complete a corporate income tax audit : 31.7 (weeks)
Post-filing Index : 18.57

The indicator, Payments, simply refers to the number of individual payments of various taxes paid by a business each year. This is high for Laos because VAT and social security contributions are paid monthly – together that generates 24 instances of payments for the average company. Many countries have monthly payments for VAT and other taxes but score better on this indicator – this is because of how the Index measures frequency of payments when electronic payments and filing are used, as the following quotation from the Methodology notes for this category shows:

> "Where full electronic filing and payment is allowed and it is used by the majority of medium-size businesses, the tax is counted as paid once a year even if filings and payments are more frequent."[8]

If Lao PDR were to allow electronic filing and payment for medium-sized businesses, the Payments indicator would be reduced to 10 (Lao companies pay 10 types of tax and, with electronic filing, each would count as being paid once per annum).

The next indicator, Time, refers to the number of hours spend on preparing, filing and paying three major types of tax, VAT (182 hours), Corporate Tax (138 hours) and Labour Taxes (including payroll and social contributions = 42 hours). Time also includes the amount of time spent waiting in line to file documents and pay these taxes.

8 http://www.doingbusiness.org/methodology/paying-taxes

Clearly, an online system would greatly reduce the amount of time spent on paying taxes. All the filing could be done online while the payment could be made via a bank – a code system could ensure that the tax authorities would know that the tax had indeed been paid on the documents filed online.

With an online system, taxes could be deposited at the bank or paid electronically from the company's bank account into the tax authority's account. Assuming that the taxes are physically deposited at the bank, depositing VAT should take two hours each month. Assuming that it takes about five hours to prepare the documentation per month and an hour each month to electronically file the total hours on VAT per month would then be eight hours and per year would be 96 hours.

According to the type of company selected according to the standardized case scenario used for this category by the World Bank, corporate tax is paid four times per annum. Let's assume that it takes ten hours to calculate corporate tax on each occasion and the same amount of time to deposit the amount in the bank as with VAT plus the same amount of time to file. Altogether, that would amount to 13 hours at four times per annum which would equal 52 hours.

As regards Labour Taxes, the hours are not too high at 42 if it is assumed to take 2 hours to deposit the taxes at the bank and another hour every month to file the taxes, accumulating to 36 hours with a few extra hours to deal with changes in personnel from time to time.

Adding the new hours that electronic filing would allow gives us a new total for the Time indicator of 190 hours.

On their own, these changes will generate a large improvement in the ranking of Lao PDR – in the **Paying Taxes** category, the ranking will improve from 156 to 95. On their own, with no other changes, they would reduce the overall ranking in the Index from 141 to 133.

The Total Tax/Contribution Rate will not be addressed because 26.2% is a very good number - it is on par with many developed countries.

Both indicators, Time to comply with VAT refund and Time to obtain VAT refund, are listed as *No Refund.* According to the World Bank's Ease of Doing Business Methodology:

> "If an economy has a VAT but the ability to claim a refund is restricted to specific categories of taxpayers that do not include the case study company, the economy is assigned a score of 0 on the distance to frontier score for time to comply with VAT refund and time to obtain VAT refund."[9]

The case scenario used by the World Bank in the **Paying Taxes** category involves a company that does not participate in foreign trade. According to the "measure of quality" in the relevant web page covering the **Paying Taxes** category for Lao PDR,[10] a VAT refund process for the type of company cited is said not to exist – VAT refunds can only be obtained by "international traders and others," as reported by the World Bank reviewers.

9 http://www.doingbusiness.org/methodology/paying-taxes
10 http://www.doingbusiness.org/data/exploreeconomies/lao-pdr#paying-taxes

VAT refunds are specifically available in Lao PDR, according to the *Instruction of the Minister of Finance on the Implementation of the Law on VAT of 11 Jan. 2017*. It was probably the case that this instruction was not fully implemented when the World Bank researchers were undertaking their research.

It is very difficult to say now how Lao PDR would perform with respect to the two VAT refund indicators but let us base our estimates on the Thai experience in this area. Under the indicator Time to Comply with VAT Refund, Thailand scores 16 (hours); under the indicator Time to Obtain VAT Refund, Thailand scores 33.2 (weeks). Given that Lao PDR will have little experience with VAT refunds, let us assume that these take a little longer at least in the initial years and estimate Laos to score 20 (hours) under the indicator Time to Comply with VAT Refund and 40 (weeks) under the indicator Time to Obtain VAT Refund.

No further improvements will be sought in this category. The indicators, Time to comply with corporate income tax audit at 16 (hours) and the Time to complete a corporate income tax audit at 31.7 (weeks) are not extraordinarily high although they could do with some improvement. It may well be that electronic filing could be used to improve these indicators – in any case, a well-designed online filing system could screen out at least some of the kinds of mistakes that give rise to such audits.

The Post-Filing Index indicator is based on four of the other indicators in the **Paying Taxes** category, Time to comply with VAT refund, Time to obtain VAT refund, Time to comply with corporate income tax audit and Time to complete a corporate income tax audit. In effect, the Post Filing Index is the simple average of the distance-to-frontier scores for each of the four indicators. Thankfully, this rather complex calculation is done for us automatically in the *Calculator Excel File*; the Post Filing Index moves from 18.57 to 40.81 as a result of the improvements made in the Payments, Time and VAT indicators outlined above.

All the changes suggest in this section for the **Paying Taxes** category would reduce the Category index from 156 to 66 and the overall Index for Lao PDR from 141 to 132.

Trading Across Borders: In 2018 Lao PDR has achieved the same DTF in this category as in 2017, which tells us that the situation has not changed. However, because of improvements in other countries, the ranking for this category has disimproved from 120 to 124.

The **Trading Across Borders** category is made up of a number of indicators – here they are with their respective values:

Time to Export (Border Compliance) - 12 hours
Time to Export (Documentary Compliance) – 216 hours
Cost to Export (Border Compliance) - $73
Cost to Export (Documentary Compliance) - $235
Time to Import (Border Compliance) – 14 hours
Time to Import (Documentary Compliance) – 216 hours
Cost to Import (Border Compliance) – $153
Cost to Import (Documentary Compliance) - $115

The standardized case scenario adopted by the World Bank in the category **Trading Across Borders** involves the importation of containerized motor vehicle parts (HS 8708) and the export of copper (HS 74).[11] The experience with trading across borders in Lao PDR may be rather different with other kinds of products but the World Bank, in order to make clear comparissons between economies, must select just one type of import and export for use as standard measures for the Index.

What is striking about the Lao situation is that it is the opposite of what can be seen in other economies in the region. Taking export indicators, both Thailand and Vietnam have much higher Time to Export Border Compliance indicators (55 and 51 as compared to 12 hours for Laos) whereas their Time to Export (Documentary Compliance) indicators (50 and 11, as compared to 216 hours for Laos) are far lower (the higher Time to Export Border Compliance indicators for Vietnam and Thailand may be due to port congestion in those countries). There is a similar divergence between Laos and Thailand/Vietnam in the Time to Import indicators.

What is also noticable is that the Lao PDR indicators Costs To Import and Costs to Export score very well and the compliance indicators for import and export are also not bad. What is clearly noticable here is that the Lao DTF score and ranking for the category is being brought down severely by the very poor performance in the documentation compliance indicators – as mentioned earlier, neighbouring countries are able to process documentation in a fraction of the time.

The current Time to Import (Documentary Compliance) and Time to Export (Documentary Compliance) indicator scores are both 216. Using the 2018 DTF and Rating Calculator, let us look at the effect on Lao performance by improving this performance in various stages in this table:

Score for both Time to Import/Export (Documentary Compliance)	DTF	Trading Across Borders Ranking	Overall Ranking
216 hours	62.98	124	141
150	67.91	105	140
100	74.23	82	137
50	80.54	69	133

Because Lao PDR performs reasonably well under the other indicators, it is these two documentary indicators that should be targeted.

Let us take it that that the score for both Time to Import (Documentary Compliance) and Time to Export (Documentary Compliance) will be reduced to 100 each (even though without using electronic means it could be reduced to 50) and calculate the improvement in category ranking as 88 which, on its own, would lead to an improvement in the overall ranking from 141 to 137.

11 HS 8708 and HS 74 are the harmonized system codes created and maintained by the World Customs Organization (WCO) for "containerized motor vehicle parts" and "copper and articles thereof."

Calculating the Revised Overall Rating for Lao PDR based on Proposed Changes

If all the proposed changes are inserted into the *Calculator Excel File*, it can see that the final overall ranking for the economy of Lao PDR has been reduced to 90, which is well within the parameters this paper sets out to achieve.

Although this concludes our discussion of our strategy, earlier this White Paper suggested to include a short discussion about the category **Enforcing Contracts**. The rationale behind that was, with a ranking at 97 and no planned improvements, this category would stand a high risk of going over the 100 ranking boundary in the next year or two. It would be yet another case of the category earning the same DTF score and falling further down in the rankings due to competition from other countries.

Enforcing Contracts is based on only three indicators: Time (the amount of time it takes to go through the entire legal process to enforce a contract), Cost (total costs including lawyer fees to run the case expressed as a percentage of the total claim value) and Quality of Judicial Process (an indicator that takes in various aspects of the efficiency and effectiveness of the court and legal processes).

Taking the Cost indicator first, in Laos it can be seen that this is made up of lawyer fees (27.9%), court fees (1.4%) and enforcement fees (2.3%). Clearly, on the state component in such costs, which amounts in total to 3.7%, there is not much room for reduction and any reduction would not be productive in helping to improve the ranking or DTF for the economy. The Time indicator for Laos may seem high at 443 days but actually this indicator compares very well with those of other countries in the region and even with high income OECD economies (China scores 496, Malaysia 425, Thailand 420, Vietnam 400 and OECD High Income 577).

The area where Lao PDR can make huge improvements is in the Quality of Judicial Process indicator – the Lao score is 5.5 out of a possible 18. Although this score compares well with Myanmar (3) and Cambodia (5), it falls behind Vietnam (6.5) and Thailand (8.5). This year, China scored 15 under this indicator.

Without going into too much detail on the subindicators, it is enough to say that Laos loses all four possible points in the Quality of Judicial Process indicator by having no *court automation* – by this is meant the possibility of filing initial complaints electronically, making court payments electronically and the publishing of judgements.

Laos loses a further four points under the heading *Court Structure and Proceedings* – this is because Lao PDR has no commercial court (a court dedicated to commercial cases), no smalls-claims court or fast-track court for small claims and no random assignment of cases to judges.

Laos loses a further four points under the heading of *Case Management* simply by not having electronic case management tools for use by lawyers and judges and not having certain rules on adjournments. This latter area must be the easiest for Laos to pick up at least a few points.

If Laos were to pick up just two points under the Quality of Judicial Process Indicator (making the score 7.5 instead of 5.5), this would move the category ranking from 97 to 70. Taken in conjunction with all the other improvements in the other six categories, this would lead to an improvement in the overall ranking of Lao PDR to 88.

The Proposed Changes – What Next?

This White Paper has identified what are believed to be the changes that are less likely to be disruptive or seismic in nature but will be productive in the sense of improving Lao PDR's ranking in the Index. As set out in the previous sections, the proposed changes involve the reduction in the time and number of steps required for a particular process, use of electronic means and automation for filing or registration and changing some procedural rules.

But this paper does not identify each and every law, decree, administrative order or change of practice that would have to take place in order to put the various proposed changes into effect. This was specifically done for several reasons:

1. By identifying a change, ECCIL believes that it ought to be left open to the Government of Lao PDR as to how to put that change into effect. These are political considerations that are the business of the Government of Lao PDR.
2. It is also beyond ECCIL's competence to advise in each instance how a change should be put into effect because it would require expertise in Lao law, Civil Service Protocol and other areas.
3. It would have required much more resources in terms of time, input from many more people and would have resulted in a much longer and less accessible paper.

That said, ECCIL is more than happy to share knowledge and expertise with the Government of Laos, its officials and other stakeholders.

Having looked into this matter, ECCIL has become aware of the size of the task and the urgency; setting up a single task force to operate at the highest level to drive these changes would make sense if they are to be put into effect in time for the 2020 publication of the Index. However this should be accomplished and whether our proposals are met with agreement or not, the required changes for improving the ranking of Lao PDR to below 100 will have to be discussed, agreed, incorporated into regulation and implemented within the next calendar year if there is to be a chance of success in reducing the ranking to below 100 in the 2020 Index.

Conclusion

The rationale behind the World Bank's Ease of Doing Business Index is to provide a method of global comparison across countries of some salient features of doing business. Because such widespread comparison requires the normalization of indicators through the use of devices such as standardized case scenarios, there is much that is not captured in such a study. However, a measure of its success is that many countries make significant efforts to improve their standing in the Index and its contents are much sought after by foreign investors even though foreign businesses are never included within the scope of the Index.

The Index is effectively an ongoing competitive activity but it is always possible for economies to check their overall DTF scores or that of specific categories to see whether they are objectively improving. In this White Paper, various tools for the researcher were referred to, including the *Calculator Excel File* and the *Doing Business website*. These were used in the simulation of the effects of the proposed changes in conjunction with the methodology published by the World Bank. Key terms such as Categories, Indicators, Distance to Frontier and other terms were examined and explained.

Strategically, it was decided that ECCIL should avoid targeting those categories where Laos was already scoring below 100. A strategy, called the “low hanging fruit,” was utilized, whereby categories were identified that had performed worse (less than 100) and were easier to change. Within the target categories, indicators were sought that could be changed without too much disruption but whose change would contribute most to reducing the category ranking and subsequently the overall ranking for the economy.

Using this strategy, a list of six categories were identified which were thoroughly analysed. Within each category, the relevant indicators were examined and realistic changes were suggested based on how effective the change would be on the overall ranking of the economy. In each category, the search was for indicators and subindicators that could be easily changed in the Lao context.

Each change was then simulated using the World Bank’s *Calculator Excel Spreadsheet* and the final ranking was shown to be 90. It was pointed out that competition would worsen that ranking over time if improvements were not continuous because the Index represents an ongoing competition between countries. Therefore, if there are no changes and no subsequent changes in the DTF scores for all categories, this will most likely result in a worsening of the position on the Index.

An additional category was examined, namely **Enforcing Contracts**. This was done because in the last Index the ranking for the category had fallen to 97. It was shown that Laos could pick up two points in the Quality of Judicial Process indicator and that would drive the category ranking to 68 and **the overall ranking of Lao PDR (including all other changes) to 88.**

The proposed changes in this paper included the reduction in the time and number of steps required for a particular process, use of electronic means and automation for filing or registration and changing some procedural rules. In making our proposals, the legal changes were not set out by which these changes ought to be put into effect (whether by changes in laws, administrative rules or decrees etc) as this was beyond the competency and the scope of this White Paper. It would have also made this paper much longer than it is. However, the paper has pointed out that if the changes are to be made in time for the 2020 publication of the Index, there is only one year in which to accomplish everything. ECCIL therefore proposes a single task force to operate at the highest level as a matter of urgency so as to be able set about putting these changes into effect in time for 2020.

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