ECCIL
EUROCHAM LAOS

ECCIL WHITE PAPER 2018

TOURISM

ECCIL WHITE PAPER 2018

TOURISM

FUNDED BY THE
EUROPEAN UNION

This publication was produced with the financial support of the European Union. Its contents are sole responsibility of the European Chamber of Commerce and Industry in Lao PDR and do not necessarily reflect the views of the European Union.

This paper is provided for information only and not for publication or general circulation.

© 2018 European Chamber of Commerce and Industry in Lao PDR

All rights reserved. No part of this publication may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher, except in the case of brief quotations embodied in critical reviews and certain other noncommercial uses permitted by copyright law. For permission requests, write to the publisher, at the address below.

Address : Villa Inpeng, Located No 74, Inpeng street,
Watchan Village Vientiane capital,
P.O. Box11781 Chanthabouly District, 1000
Phone : +856 21 264330
Email: contact@eccil.org

TABLE OF CONTENT

Introduction 06

Description of Issue 07

Conclusion 10

Introduction

The In the Lao PDR, as in many other lower economically developed countries, the tourism sector offers a significant opportunity for Lao PDR to develop, provide jobs for its population and improve lives.

This white paper will focus upon ways in which the government can develop the ecotourism market. Ecotourism involves "responsible travel to natural areas that conserves the environment, sustains the well-being of the local people, and involves interpretation and education.[1]" As over 80% of visitors entered Laos for leisure with primary interest in nature and culture, ecotourism appears to be an appropriate market for focus[2].

1 The International Ecotourism Society (2015). Accessed at: http://www.ecotourism.org/what-is-ecotourism
2 Studies taken from tourists.
3 WTO
4 up to USD 10,000 - REFERNCE

Description of Issue

As the tourism sector (and the economy more generally) has begun to develop, particular issues, such as funding and ease of access, have become possible limitations to further development. Whilst public funding may pose a more complex issue, there do exist certain policy changes that could significantly improve the ability of firms to access the market. If a greater number of private firms were able to enter the market, they would be able to take the financial strain off of the government, supplying a greater range of ecotouristic activities without the burden on the government.

Due to the fact that ecotouristic activities must often occur within government owned land, access to the ecotourism market invariably requires the granting of a concession. Often included as an example of a public-private partnership, a concession occurs when the government allows private business access to its natural resources[3]. Concessions are granted to private partners to allow them to gain access to the market. The following strategies will aim to ease and speed up the process by which concessions are granted, as well as improving the contents of the concessions themselves, thus leading to greater uptake.

Firstly, the cost of gaining a concession agreement is too high for the private investor. In addition to the process being financially over-demanding[4], attaining each piece of paperwork required to gain a concession takes too long for the process to be feasible to a number of possible investors. Those who wish to be granted a concession must pass through a lengthy process of applications and negotiations which makes receiving a concession untenable for many. Before being granted a concession, an investor, much like any business starter, must apply for an 'enterprise registration certificate' (ERC) which alone takes at least 65 days. After an ERC is acquired, an investor must then begin to negotiate a concession deal with either the national or provincial government which controls the land. This process is stated to take up to six months but often takes far longer; depending on the complexity of the deal, government officials involved in negotiations told ECCIL that negotiations could take longer than 12 months.

Notwithstanding the financial burden, of which the government also fails to assist with, the time-cost involved could create too large a barrier for smaller investors to enter the industry. The opportunity cost of applying for a concession is too great; instead of entering the bureaucratic process of being granted a land concession, they could be investing elsewhere.

Further, during negotiations, it is common for provincial governments to apply pressure on investors to take on a larger amount of land than is necessary. As concessions fees are directly related to the amount of land conceded, negotiators frequently attempt to have a greater amount of land conceded as to increase their concession fee revenues. Pressuring investors into accepting a greater financial burden could create a disincentive, decreasing the number of investors willing to engage in negotiations. Consequently, ECCIL recommends the government advise that this pressure to increase fees is removed.

To speed up the process, ECCIL recommends that the government release predefined templates so that investors may engage with paper work more easily. The government may also wish to consider streamlining negotiations so that smaller firms would not lose so much time when attempting to invest in tourism.

The regulatory framework surrounding the granting of concessions is unclear. Investors stated that regulatory clarity was a greater incentive to investment than other financial based incentives, such as tax breaks. As a result, ECCIL recommends that the government attempt to make adjustments to their current situation as to clear up confusion.

Currently, there are discrepancies that exist between the current 2016 Investment Promotion (IP) Law and those that precede it, namely the 2009 IP law. ECCIL welcomes the improvements made in the 2016 IP law, such as the aforementioned 65-day limit placed on the OSO to grant an ERC which was previously left open ended; however, the government has not yet released implementation guidelines which accompany the 2016 update, leading to practical difficulties.

This lack of guidance and infrastructural clarity means that the 2016 LP laws are only implemented on a case-by-case basis. Each case is open to independent interpretation which acts as a troubling barrier for business. For example, Art. 46 of the 2016 IP law states that the feasibility study and the ESIA are necessary pieces of documentation which must be completed prior to the an investor making an investment application. The process map for concessions provided on the website of the Investment Promotion Department of MPI indicates, however, that the feasibility study and ESIA are to be undertaken once the initial investment application is approved. MPI officials, all of whom stated that the documentation was required as a prerequisite to the investment application, could not support this official guidance provided by the MPI.

Similar issues can be found in the 2013 Law for Tourism. Whilst ECCIL supports the government's efforts to replace ineffective policies, the government must also concurrently release guidelines so that the new laws can effectively replace the old. The 2013 Law on Tourism updated the previous 2005 version, making reference to new standard of business and principles of policy implementation. These new articles did not, however, make direct reference as to what those standard are or how business should comply.

Whilst the older, more detailed 2005 implementation regulations are being amended to avoid conflict with newer laws, the government has failed to meet the proposed completion date of 2015. ECCIL suggest that the MICT officials work more closely with the MOIC in order to streamline regulation and procedures.

A lack of clear legal infrastructure, as shown by the previous two examples -namely the discrepancies between the 2016 and 2009 IP laws, and between the 2013 and 2005 Law on Tourism – act as a disincentive to business. The inextricable connection between business and government in the industry necessitates that the government aims to provide greater clarity and ease to businesses.

Finally, the government should aim to reconcile its aims and objectives with its concession policies. Investment in sustainable and ecotourism are primary objectives to reduce poverty in Laos; the Lao government has been supported significantly by external sources to further these efforts. It appears, however, that greater efforts could be made to coordinate concession policy and environmental objectives.

One element of the ecotourism objective is sustainable development of the environment. Combatting over logging, mining, and other extractive industries which promoting conservation spearheads the movement towards sustainability. This requires, however, that

greater amounts of land be conceded to those investors that aim primary to preserve the natural beauty of Laos. Whilst conceding a greater area of land inevitably leads to increased costs for an investor, it does not always lead to increased revenues. Those investors who take on larger areas, protecting the land from damage receive the burden of higher costs without increased revenue. This creates a key conflict between policy and environmental objectives.

To elucidate this point, consider the Elephant Conservation Centre. In the past, as the Centre looked to expand the size of its protected herd, it was faced with this conflict. Whilst a larger herd required an increased amount of conceded land and, therefore, concession fees, but the greater number of elephants did not lead to a higher level of attendance and revenues. To increase their size, and, hence, their positive effect on the Lao environment, they were forced to incur higher costs.

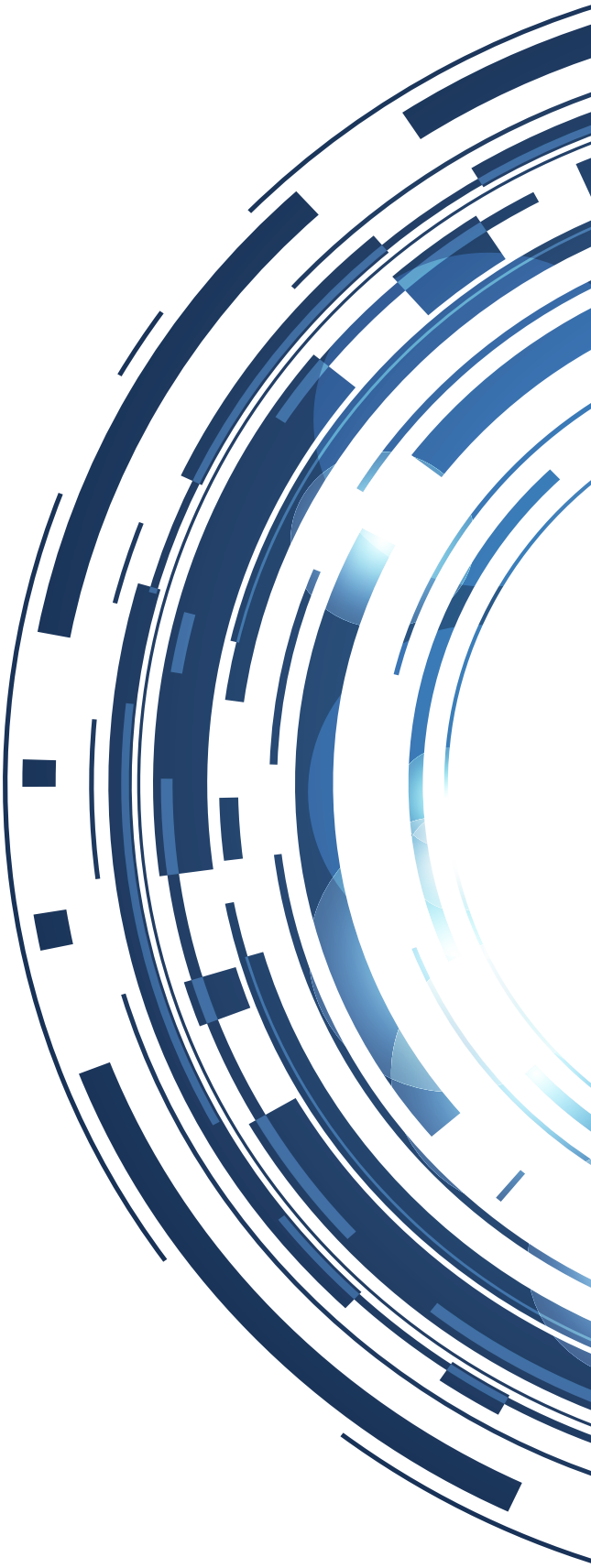
ECCIL suggests that the government recognise this issue and take the appropriate steps to address it. One strategy the government may wish to employ would be to create a distinction between those land expansions that are revenue increasing and those that are not. Whilst concession fees to charged to those expansions which increase a particular organisation's revenues could remain at their current rate, fees to expansions with the sole purpose of improving the Lao environment could be highly reduced or non-existent.

A similar distinction has been made to the fees charged to extractive industries as compared to projects which intend to explore. Mining concessions fees for exploration (no income generation from the land) are significantly lower than exploitation fees. A similar distinction could be made for ecotourism concessions where a large proportion of the land is not income generating.

Conclusion

The tourism industry offers the Lao PDR a significant avenue to reduce poverty and improve lives across the country. Despite a number of current strategies having success in the current system, ECCIL respectfully suggests that the Lao government takes into account the aforementioned issues and effects change.

As an industry with such large potential, continuing to ease the access of private investment will fuel further growth. Reducing the time and effort required to gain a concession as well as clarifying legal framework will all help to increase new investment. Allowing current investors to expand their projects without fear losing profit will further help to achieve the government's environmental goals.



Villa Inpeng, Located No 74, Inpeng street,
Watchan Village, Vientiane capital,
P.O. Box11781 Chanthabouly District, 1000
+856 21 264330
contact@eccil.org
www.eccil.org
Facebook: @EurochamLaos