

PRELIMINARY IMPACT ASSESSMENT

ENTERPRISE REGISTRATION PROCESS

SUMMARY AND FEEDBACK REQUEST

The attached Preliminary Impact Assessment (PIA) has been prepared by the Department of Enterprise Registration Management (DERM) in the Ministry of Industry and Commerce.

Due to the Government and National Assembly's urgent request to amend the Enterprise Law, it was not possible to undertake all of the required research and analysis or to complete some parts of the PIA.

The PIA is not a Government decision or commitment to undertake any action. It is for consultation purposes only, and seeks feedback on identified issues and options to simplify the enterprise registration process for Government consideration.

Background

The Lao PDR Government is implementing a Regulatory Impact Assessment (RIA) process across Ministries with the assistance of the Asian Development Bank.

The RIA process is focused at helping to improve the quality of regulations and procedures and reduce/prevent 'red tape' burden to Laos businesses and government from unnecessary requirements. This supports improvement in the cost of doing business and the competitiveness of Lao businesses, particularly with membership of WTO and establishment of the ASEAN Economic Community in 2015.

The preparation of a PIA is a key step in this process.

Issues

Feedback from Lao businesses and Government officials, and information in the 2014 'Ease of Doing Business' study by IFC/World Bank, indicated uncertainty and inconsistency with the process and requirements to register a business, and a long and complicated overall registration process because of the involvement of multiple ministries in the review and approval process.

For example, it is estimated that on average it takes 5 days and costs 380,000 kip to receive an enterprise registration certificate, 10 days and 125,000 kip to receive a tax number and 45 days and 120,000 kip to receive a company seal, making the process take 60 days (12 weeks) and cost 625,000 kip in total (IFC/WB 2014).

Business and Government officials also highlighted that there are difficulties and risks in changing the form of enterprise, from unlimited to limited liability, and risks from specific standards/requirements of certain sectors not being met before commencing operations.

Assessment

Based on the initial feedback, DERM officers undertook the following assessment of issues and options to simplify and improve the enterprise registration process in Laos:

- Considered amendments to current Lao regulations and practices as well as other non/semi regulatory solutions.
- Assessed the impact of different options.
- Identified recommendations based on those options that clarify and streamline the enterprise registration process, to reduce compliance and administrative costs.

Recommendations

Recommendations to improve the enterprise registration process are:

1. Clarify that the company seal is issued by the Ministry of Public Security, and require the ministry to issue the company seal within 5 days.
2. DERM requests a tax number from the Ministry of Finance (MOF) once an enterprise registration application is lodged and MOF sends the number to DERM for inclusion in the enterprise registration certificate.
3. Where enterprise registration requires approval from the relevant ministry, those ministries are required to provide information on their requirements to MOIC, for publishing.
4. Clarify the types of businesses that are not required to register their enterprise at MOIC and specify these businesses in separate regulations.
5. Clarify in the Enterprise Law that businesses must meet the minimum standards/ requirements of the relevant sector (as provided under relevant laws) before commencing operation.
6. Allow enterprises with unlimited liability to change form to a limited liability enterprise, but only once the enterprise has cleared all its debt.

Benefits

Based on the estimates, it is expected that the above recommendations will reduce the average time to obtain an enterprise registration certificate, tax number and company seal to 10-15 days, saving investors significant time and money starting a business. The above recommendations will also provide better information to investors and officials and make the Enterprise Law clearer and simpler.

Feedback

From private sector

1. Do you agree with the issues identified with the enterprise registration process? Are there other issues?
2. On average, how long does it take and how much does it cost to prepare and submit an application for an enterprise registration certificate? How many documents are usually required? How long it does it take to receive the certificate after submitting the application?
3. On average, how long does it take and how much does it cost to prepare and submit an application for a taxpayer number? How many documents are usually required? How long does it take to receive the taxpayer number after submitting the application?
4. On average, how long does it take and how much does it cost to prepare and submit an application for a company seal? How many documents are usually required? How long does it take to receive the company seal after submitting the application?
5. Is the company seal a necessary requirement for business? Should it be optional?

6. Do you support the recommendations in clarifying and simplifying the process and reducing your cost for registering an enterprise?
7. Are there other possible options to clarify/simplify the enterprise registration process that should be considered?

From members of government and the community

1. Do you support the issues identified and recommendations made? Please explain why.
2. Are there other issues and possible options to simplify the enterprise registration process that should be considered?

Please provide feedback by no later than **Friday 23 May 2014**. When providing feedback, please provide your name and contact details (including the name of your organisation if applicable).

Feedback can be forwarded to:

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