Acceding Expectations: A programmatic evaluation of USAID's ongoing efforts to assist Lao PDR to meet requirements associated with the US Bilateral Trade Agreement, ASEAN Economic Community, and the WTO

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November 2011

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Executive Summary:

This paper is a mid-term program evaluation of the Lao-U.S. International and ASEAN Integration (LUNA) Project, which is being implemented by a private contractor, Nathan Associates, as part of the joint USAID-State Department led ASEAN Development Vision to Advance National Cooperation and Economic Integration (ADVANCE) program. The LUNA-Lao project started on December 19, 2007 with an initial budget of $375,000. The project has continually expanded and now has a current ceiling price of $5,316,000 with a project end date of September 30, 2013. Overall, the evaluation finds the project, given its limited resources, to be effective at meeting its threefold objectives of (1) Supporting the implementation of the U.S.-Laos Bilateral Trade Agreement (BTA); (2) Supporting the timely accession of Lao PDR to the World Trade Organization (WTO); and (3) Supporting Lao PDR in fulfilling its commitments under the ASEAN Economic Community (AEC). This has been done largely through LUNA's swift procurement of high quality consultants to assist Government of Lao (GoL) Ministries and departments to draft and/or review major pieces of legislation and regulations necessary to meet those program objectives.

LUNA's technical assistance is very well received and appreciated by GoL officials and the project is an important tool for diplomatic reengagement following years of strained relations between the US and Lao PDR. Key aspects of program effectiveness include GoL control of the workplan through the Project Steering Committee (PSC) which has the effect of creating ownership over the project by ensuring that all activities are demand-driven. While the demand-driven approach can result in less than optimal prioritization and cross-ministerial coordination of program activities, this effect was found to be minimal given the relatively straight forward list of requirements necessary to meet program objectives. GoL officials also enjoy LUNA's relatively fast procurement of consultants compared to the more time consuming process presented by the multi-donor Trade Development Fund (TDF), which has broader yet similar objectives as LUNA, but requires the GoL to procure its own consultants along World Bank procurement guidelines and manage them using its own human resources.

While it is therefore no surprise that GoL officials prefer the LUNA "upstream" procurement approach, the purpose of the TDF "downstream" procurement approach is to rely on country systems by integrating assistance with Laos' own planning and budgeting mechanisms, thereby building the GoL's own capacity to do such procurements and manage contracts. The TDF approach is therefore also more consistent with *USAID Forward* guidelines for procurement reform and USAID will need to address this issue in the future. Given that the TDF is a multi-donor partnership between the World Bank, European Union (EU), the Australian bilateral (AusAid), and the German bilateral (GiZ), having a separate USAID project covering much of the same legal development areas creates coordination issues which in some instances were described as "frustrating" by other donors. However, considering the current underdeveloped capacity of most GoL agencies and the occasional need to respond to GoL needs quickly, this evaluation finds that LUNA acts as an important complement to the TDF at this time. Going forward, LUNA will need to create workplans that capture the specific activities of other donors and how LUNA is integrating with and/or complementing these activities to the greatest extent possible.

LUNA is modeled on the Support for Trade Acceleration (STAR) project that started in 2001 in Vietnam, and is still ongoing. There are, however, some fundamental differences between LUNA and the STAR project as well as fundamental differences in the economic context of Lao and Vietnam. When STAR first began, Vietnam was a country of 79 million

people that included a large youth bulge, a relatively skilled and educated workforce, numerous ports, and a growing manufacturing base. The economic and social benefits from entering into a BTA with the U.S. and acceding to the WTO were clearly evident in the Vietnamese context— solidifying commitment to the liberalization process, expanding Vietnam's markets for manufacturing exports, and attracting much needed Foreign Direct Investment (FDI). Consistent with expectations, Vietnam saw a rapid expansion in bilateral trade with the US beginning in 2001 and also experienced a major surge in FDI flows following accession to the WTO in 2007.

Similar benefits are not as visible in Laos in the short run. The manufacturing sector is unlikely to take off in the near future given Laos' current competitive disadvantages which include being land locked with poor infrastructure, few skilled workers, and a disbursed, mostly rural agrarian population. While the agricultural sector and some other niche markets might benefit from increased trade, few other sectors are likely to see much of an immediate impact from conformity with international best practice trade policies and laws. Laos' main growth sectors are extractive industries, hydropower, tourism, textiles, handicrafts, and agriculture. The two main earners of foreign exchange for the country are hydropower and extractive industries (representing 70% of total exports), and these areas have already been developed without legal reform. Lao textiles already receive preferential treatment from its major purchaser, the EU. However, in the medium to long term, compliance with international trade agreements could prove to be an important avenue to promote the growth of the private sector and the economic diversification of Laos.

The primary and more immediate benefit in the Lao context from the BTA and WTO accession lies less in the economic sphere and more in governance. Lao PDR scores relatively low on most international indicators for "rule of law" and "control of corruption", so by assisting the GoL to draft best practice laws and regulations, LUNA is improving transparency and accountability in governance, especially through such activities as the project's assistance in the design and implementation of the "law on laws." Such improvements in the effectiveness of GoL institutions will be necessary in order to improve the performance of the economy over the long run by lowering governance-related barriers/risks to trade and investment.

The main concern that the evaluation team has is that LUNA, TDF, and other related projects may be pushing the legislative framework too far out ahead of the human and physical capital capacity of the GoL to implement such policies and laws, as the evaluation team was consistently told that legal implementation is lagging adoption by a significant number of years. Such a lag in implementation capacity creates the risk of confusion over the purpose/intent of the laws, inconsistency with other laws, inappropriate design, and retrogression to older modes once the carrot of WTO membership has been removed. Slowing down the accession process might allow implementation capacity to catch up with Laos' rapidly expanding slate of newly adopted laws and regulations. However, the case can also be made that getting the legal framework in place first is more important because it has the effect of promoting rapid learning about best practices in governance, locks in commitment for further reform, and generates internal demand for implementation capacity.

When compared to the STAR projects, LUNA has only just begun providing a fraction of the assistance that STAR I provided to the Government of Vietnam. STAR began with a focus on the creation of a sound legal framework but moved towards human capital and institutional capacity building in its second and third iterations. Similarly, the logical progression for the

LUNA project over time will be for it to gradually shift from building a general legal framework toward facilitating implementation of those laws, through assistance for drafting more specific legal reforms to offering more training that will help Laos improve their capacity for enforcement. USAID should consider providing support to the private sector through Small and Medium Enterprise (SME) development activities to help ensure that the benefits of economic growth are broadly shared going forward and that Lao exports diversify away from overreliance on the natural resource sector.

The needed shift toward capacity building and the private sector will only occur if the GOL and the USG decide to continue with the LUNA project and provide it with significantly increased resources. The evaluation recommends an increased commitment of resources to LUNA given the high estimated rate of return from this project in a country where only relatively small amounts of USAID resources have been spent to date and replicating the successes of the STAR program would be greatly beneficial for both Laos and the US.

Introduction

According to standard economic theory, international trade improves individual welfare through several channels; including expanded markets for producers, lower costs/wider variety/higher quality of goods available to consumers, greater efficiency in capital and labor resource allocation, and dynamic effects such as increased competition and learning by doing through participation in global markets. There are numerous studies documenting the positive correlation and even demonstrating a causal link between the openness of a country to trade and its income level (Frankel & Romer (1999)). According to Harvard economics professor N. Gregory Mankiw, "Few propositions command as much consensus among professional economists as that open world trade increases economic growth and raises living standards."[1] Most observers also agree that trade promotes peace through the establishment of economic interests that make conflict more costly (see, for example, Hegre (2010)). However, it is also well understood that the benefits of globalization over the last 30 years have been uneven and that integration into the international marketplace should proceed at a pace that is appropriate only for each individual country given its unique individual circumstances and development constraints (e.g. Rodrik (1997), (2008)).

The other key element identified as a critical component to economic growth is governance and rule of law (see for example, North (1990) and Acemoglu, Johnson, & Robinson (2001)). Rule of law is critical for international trade and investment for several fairly obvious reasons, including 1) Attracting foreign investment is dependent upon lower legal and political risks, especially the risk of expropriation either directly or through demands for irregular payments to officials; 2) The reduction of technical barriers to trade requires sophisticated regulations and associated government implementation capacity; and 3) the facilitation of impersonal trade across borders requires judicial capacity to impartially enforce contracts.

The predominant means for a country to enter into the global marketplace has been and continues to be through the legal formalization of policy and technical commitments under Bilateral Trade Agreements (BTAs) and Multilateral Trade Agreements (MTAs). The World Trade Organization (WTO), based in Geneva Switzerland, is the governing body that oversees what is essentially a global MTA involving 153 member nations, representing more than 97% of the world's population. The organization officially commenced on January 1, 1995 under the Marrakech Agreement, replacing the General Agreement on Tariffs and Trade (GATT),

[1] Mankiw, Gregory (2006-05-07). "Outsourcing Redux"

which commenced in 1948. Most of the issues that the WTO focuses on derive from previous trade negotiations, especially from the Uruguay Round (1986–1994), but the WTO is currently the host to new negotiations, "the "Doha Round", launched in 2001 with a greater focus on enhancing the participation of poorer countries.

While the WTO plays an enormous role in global trade, regional MTAs have arguably become the most dominant and important type of trade agreement. An example of a regional MTA is the Association of Southeast Asian Nations (ASEAN) Economic Community (AEC). The AEC is an aggressive step by the grouping of the ten member states towards deeper regional integration and is representative of a "21st Century Trade Agreement" in that it goes beyond simply lowering tariff rates (as the ASEAN Free Trade Agreement (AFTA) had) and seeks to create a "single market and production base" which will ultimately make doing business across borders quicker and cheaper.[2] ASEAN is pursuing this goal based on the design of the ASEAN Charter and the Roadmap for an ASEAN Community (2009-2015) which will require considerable commitment and implementation capacity building at all levels, especially in the poorer member states of ASEAN.

Lao PDR (Laos) has the lowest level of income per capita in ASEAN next to Burma and is the only non-WTO member. In February 2005, following years of slowly improving diplomatic relations, the United States and Laos finalized a BTA under which the US would extend Normal Trade Relations status (formerly referred to as "most favored nation" or MFN) to products of Laos. Laos in turn agreed to implement a variety of reforms to its trade regime, including MFN treatment for products of the US, increased transparency in rulemaking, establishment of a regime to protect intellectual property rights, and implementation of WTO-compliant customs regulations and procedures. Implementation of the BTA will help Laos prepare to undertake obligations necessary for WTO accession and the US agreed to assist Laos in this regard.

Laos applied for WTO accession in July 1997 and membership negotiations were initiated in October 2004. According to the WTO, "Any state or customs territory…may become a member ("accede to") the WTO, but all WTO members must agree on the terms. This is done through the establishment of a working party of WTO members and through a process of negotiations." As a least-developed country (LDC), Laos' application is covered by the 2002 General Council guidelines for accelerating membership negotiations, meaning that terms and conditions that are imposed are generally less stringent. On June 29, 2011, Laos announced that it reached bilateral market access agreements for goods and services with four more WTO members, bringing its total to six, with three remaining, and the working party of delegations negotiating the membership bid agreed to move to a first draft of its report, which will be central to the final deal. Completed bilateral market access agreements include Australia, Canada, China, Japan, Korea, and Chinese Taipei. As of this writing, Laos had concluded a bilateral market access agreement on goods with the EU and was close to concluding one on services. Laos was also making "significant progress" with such agreements for the remaining two; the US and Ukraine. The GoL wishes to accede to the WTO as soon as possible, but likelihood of achieving this goal in the near future is still uncertain and will require continuing technical assistance.

[2] Plummer & Yue (2009) using a standard model estimate that through achievement of the AEC, "ASEAN economic welfare will rise by 5.3%, or $69 billion relative to the baseline – more than six times the effect estimated for AFTA, even under conservative assumptions."

The Lao-U.S. International and ASEAN Integration (LUNA) project is currently supporting the Government of Lao PDR (GoL) by providing such technical assistance. Specifically, LUNA is analyzing and commenting on key new pieces of legislation and regulation and supporting the adoption and ultimate implementation of an array of these reforms in Lao in order to accomplish the objectives of (1) Supporting the effective implementation of the U.S.-Lao BTA; (2) Supporting the timely accession of Laos to the WTO; and (3) Supporting Lao in fulfilling its commitments to the AEC.

The objective of this paper is to evaluate the LUNA program mid-way through its project lifecycle in order to:

- Determine program performance and effectiveness against stated goals, objectives, and performance targets to date;
- Provide recommendations for possible changes in program methodology and the design and implementation of new activities over the next few years of the project; and
- Improve development assistance policies, programs, and knowledge by identifying themes and lessons learned and using the context of this project to make general recommendations for future development assistance.

The methodology employed by the evaluation was to interview a broad array of stakeholders in order to get a diverse perspective. Interviews included representatives from GoL, LUNA implementers, bilateral and multilateral donors, the private sector, and civil society representatives (see Annex 1). The evaluation also takes the Support for Trade Acceleration (STAR) program in Vietnam, upon which the LUNA model was based, in comparative perspective in order to assess how differences in context could potentially affect project outcomes. In general, the evaluation chose to focus less on the performance of specific LUNA activities and instead to focus more on the methodology of LUNA and to question the key assumptions underlying LUNA model. Project impacts are not discussed as this is a mid-term evaluation and it is too early (and initial resource commitments far too limited) to estimate and attribute project outcomes. However, the evaluation does discuss options for increasing the likelihood of achieving significant impact based on the review of the current project methodology.

Project Background

LUNA began on December 19, 2007 and is being implemented by a private contractor, Nathan Associates, as part of the joint USAID-State Department led ASEAN Development Vision to Advance National Cooperation and Economic Integration (ADVANCE) program.[3] LUNA began with an initial budget of just $375,000 and provided short-term experts as appropriate to increase the capacity of selected GoL Ministries and National Assembly (NA) members and staff to understand the requirements and benefits of the Lao-US BTA and WTO accession, and to act as an advocate for reform within the GoL. This first phase of the project consisted mostly of drafting translations of various laws and decrees and providing training to the Ministry of Industry and Commerce's (MOIC) Foreign Trade Policy Department (FTPD) staff which included the initiation of a website and drafting fact sheets on trade issues.

[3] ADVANCE was launched in October 2007, allowing USAID Missions to support the ASEAN Secretariat and work with and through ASEAN Member State governments, civil society, and the private sector to achieve results consistent with the goals of the ASEAN-US Enhanced Partnership.

The Project Director and Resident Trade Advisor arrived in Vientiane in January 2010 following two years of non-resident technical assistance by the project. LUNA has now established a local office with a local technical and administrative staff and developed operational relationships with LUNA's supervisor in Laos, the Project Steering Committee (PSC). The PSC was created in early 2011 to coordinate all LUNA technical assistance programs under the leadership of the MOIC's FTPD and consists of representatives from NA and other key government line ministries. Under the guidance of the PSC, LUNA is now carrying out an array of technical assistance to meet the needs of eight Ministry counterparts in Laos.[4] The project has continually expanded and now has a current ceiling price of is $5,316,000 with a project end date of September 30, 2013.

The three trade agreements (the US BTA, WTO, and the AEC) form the pillars for establishing priorities for LUNA activities. While these trade agreements have as their primary objective to expand economic and commercial activity, they also support governance and the rule of law. Although the mandate for the project is to support implementation of the trade agreements, the more general goal of the project is to help Laos use the legal requirements of the trade agreements to lay a strong foundation for strengthened rule of law and governance and to support broad based development. This indirect aim at improving governance is critical in the Lao context, as it currently does relatively poorly on a slate of international indicators in this area.

The LUNA project is based on the STAR program in Vietnam, which began as a US-Vietnam BTA compliance project and later developed into a successful WTO accession project. The STAR Project is a much larger project that is now on its third iteration. In its first iteration, 2001-2006 ($13.7 million) STAR I focused primarily on legal reform. STAR II, 2006-2010 ($13.6 million), focused on legal reform, implementation institutional and human capacity building. For STAR Plus, 2010-13 ($11.7 million), the focus is on implementation, institutional and human capacity building. The current Project Director of LUNA was also the Project Director of STAR I. The Vietnam precedent showed that the achievement of BTA compliance requirements facilitates entry into the WTO and demonstrated that relatively small amounts of technical assistance can be highly effective and result in significantly increased levels of bilateral trade and investment.

Most recently, LUNA has been providing assistance to support the following critical BTA and WTO requirements for legal and institutional reform: Intellectual Property Law; Standardization Law; Law on Making Laws (legal transparency); Law on the Resolution of Economic Disputes; Law on Customs; and the Law on Lawyers. Specific technical areas that LUNA has focused on include sanitary and phytosanitary (SPS) measures, WTO and BTA-consistent trading rights, and technical barriers to trade (TBT).[5] LUNA has done this largely through workshops, specific trainings, study tours, public outreach (including establishing websites and information access) and legislative and regulatory drafting assistance (including translation and providing comments on proposed laws and decrees).

<u>Key areas of Program Effectiveness and the limits to the LUNA model</u>

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[4] The Ministry of Industry and Commerce (MOIC), Justice (MOJ), Agriculture and Forestry (MAF), Public Health (MOH) and Finance (MOF), and the National Authority for Science and Technology (NAST)), the National Assembly (NA) and the Lao National Chamber of Commerce and Industry (LNCCI).

[5] SPS measures deal with food safety and animal and plant health. TBT concerns regulations, standards, testing and certification procedures, which could obstruct trade.

The demand-driven approach

Both STAR and LUNA are based on host government ownership over development of the project workplan and agenda setting, with project staff having influence over the negotiation of priorities. This has the effect of making activities under the project "demand driven" and in theory more likely to be effective and sustainable. Under this model, the project works directly with the various GoL Ministries, helping to ensure that the project maximizes its influence in setting legislation and policy. GoL Ministries have even allowed LUNA to get involved with the decree drafting process, whereas in Vietnam the government never allowed that; rather it would only request comments on the decrees and policies that it had already drafted. This increased level of access available to the project is due in part to the more limited human resources present in Laos vis-à-vis Vietnam.

The demand driven approach was necessary in both the Vietnamese and Lao context due to the initial lack of trust that prevailed between these countries and US stemming from the Vietnam War era. In order to build a foreign aid relationship that would also help improve the overall diplomatic relationship, the US had to assure that any assistance it provided would be largely under the control of the government and respond only to its needs. The situation is significantly less tense in the case of Laos than it was initially in Vietnam, but according to Nathan project implementers, there was still a significant degree of skepticism and nervousness on the part of GoL officials when the project began. While there is still work to be done in rebuilding the Laos-US relationship, the project is producing a clear warming of relations, as GoL officials are becoming increasingly trusting and appreciative of US assistance. The diplomatic gains seen through the LUNA project are a major benefit of these activities.

According to the evaluation of the STAR program: "The demand driven methodology was an integral part of the Government of Vietnam (GVN) design and was immensely important to the success of STAR support for reform. The GVN-directed demand for technical assistance was crucial to STAR's work and performance." Yet having the agenda of a USAID program driven by government officials from a country with limited capacity such as Laos risks sub-optimal prioritization of program activities. It seemed less obvious to this program evaluation team that control of the agenda should be necessarily set by the beneficiary government. Indeed, according to several sources, the demand driven approach tends to lead to programs that overlap and are poorly coordinated. Effective coordination among the various GoL Ministries is reportedly lacking, and this can cause them to make demands that do not consider how assistance in specific technical areas overlap with the functions of other ministries (for example, SPS and TBT both involve a number of different ministries yet trainings and technical assistance through different donor projects have not always effectively integrated all of the relevant GoL stakeholders).

In the context of LUNA's program objectives, however, the necessary reforms to be adopted are generally straight forward, mitigating the potential for overlap. In a sense, WTO accession offers a clear "roadmap" for legal modernization involving a series of fairly clear and standardized steps that can be prioritized in any number of ways. The real risk of host government ownership and the demand-driven approach lies on the implementation side, where there is increased likelihood of drift away from key priorities and a special interest driven agenda. What needs to be done in terms of legal *adoption* however is very clear, and the risks to poor GoL prioritization of program activities at this stage of LUNA are low. Even so, LUNA will need to make every effort to ensure that program activities are well integrated across GoL ministries going forward.

Speed and quality of procurement vs. capacity building and donor coordination

The other clear benefit of the demand driven approach is speed of procurement in the LUNA model. USAID awarded LUNA as the fourth task order under the existing ADVANCE Indefinite Quantity Contract (IQC) mechanism in 2007.[6] Given that the IQC had already been competed back in 2005, USAID's procurement for LUNA was relatively quick. LUNA's procurements, in turn, are also rapid since they do not have to be competed. LUNA's Project Director can respond to a request from the GoL simply by drawing on an existing list of consultants available through Nathan Associates' own network and making a few phone calls. Consultants can be on the ground in a matter of weeks in most cases.

The quality of the consultants procured by Nathan received nothing but excellent reviews from GoL officials interviewed by the evaluation team. Most GoL agencies reported that they were accepting a high percentage of the recommendations for improvements to proposed and existing laws that Nathan consultants were offering. Given the LUNA Project Director's considerable experience in doing similar projects, especially through STAR, top quality contacts in almost every relevant sector can be called on to respond to needs in Laos. Nathan Associates also has access to a pool of consultants from which they are free to select and hire at will. Such access to high quality consultants that can be on the ground in a relatively short time is highly appreciated by GoL officials, especially because most of the work of procurement is done for them.

The LUNA model has several unique contrasts with the Trade Development Fund (TDF), which is a multi-donor partnership between the World Bank, European Union (EU), the Australian bilateral (AusAid), and the German bilateral (GiZ). TDF has broader yet similar objectives as LUNA and also pays for the consultant services as requested by GoL officials. However, unlike the LUNA task order under the ADVANCE IQC, the TDF is not pre-competed. Rather, it acts as a supplement to the budget of the MOIC which is managed by the World Bank and therefore requires GoL agencies to procure their own consultants along World Bank procurement guidelines for each and every activity. This type of "downstream" procurement approach is considerably slower and creates additional burdens for GoL officials. One GoL official that the evaluation team spoke with complained that his agency did not have sufficient expertise to choose high quality consultants from a cache of resumes and Curriculum Vitas (CVs). He therefore preferred the LUNA approach, which according to this official can do a much better job at picking quality consultants than his agency.

While it is therefore no surprise that GoL officials prefer the LUNA "upstream" procurement approach, the purpose of the TDF approach is to build GoL capacity to do such procurements. According to *USAID Forward* guidelines on procurement reform, USAID will work to "Strengthen partner country capacity to improve aid effectiveness and sustainability by increasing use of reliable partner country systems and institutions."[7] The LUNA approach does not generate as much "learning by doing" as the TDF approach with respect to the procurement and management of consultants; consultants are simply provided and managed for them.

Another key aspect of the *USAID Forward* reform agenda is to "strengthen collaboration and partnership with bilateral donors, multilateral and international organizations to increase

[6] An IQC is basically a pre-competed contract or acquisition mechanism that provides for an indefinite quantity of supplies or services during a fixed period of time.
[7] http://forward.usaid.gov/reform-agenda/implementation-and-procurement

synergies and avoid duplication." Given the existence of the multi-donor funded TDF, the establishment of a USAID-funded parallel project that covers largely the same legal development and trade objectives risks aid fragmentation. Such fragmentation opens the door to coordination failures and duplication. Indeed, in conversations with other donors, working with LUNA given its parallel operations was in one instance described as "frustrating." Another donor mentioned that LUNA "did not coordinate well" with them in on instance on a technical assistance activity with the National Assembly. Another donor mentioned an instance where both TDF and LUNA were asked to make comments on a law and when LUNA was asked to provide additional assistance, this created a source of tension. Most of the other donors expressed a preference for USAID to join them and contribute its resources to the TDF in order to improve donor coordination.

Yet even given these issues raised by other donors, the evaluation team was unable to get them to provide many concrete examples of coordination failures or instances of duplication. Overall, it seems that these issues were largely of a limited nature. The other donors also freely admitted that the TDF approach had experienced considerable difficulties, resulting in considerably slower than expected procurement processes. This trend was due to the current low capacity of the GoL to do its own procurements given its human capital constraints. As described above, many GoL agencies are simply not effective at selecting consultants and relying on their own underdeveloped country and budgetary systems for effective contract management. This was apparently also in the case in Vietnam, where a similar donor trust fund arrangement with the host country taking the lead in the management of daily operations often faced problems associated with the mobilization of appropriate resources to respond to evolving needs.

Another benefit of having separate projects is that it provides an opportunity for more than one opinion on major pieces of legislation and policy. Having more than one set of consultants commenting on drafts of new pieces of legislation can be beneficial to the government as, for example, the US and EU countries employ different legal systems. Having more than one perspective can offer a great benefit to Laos as they can decide for themselves which type of system is more appropriate for their individual needs.

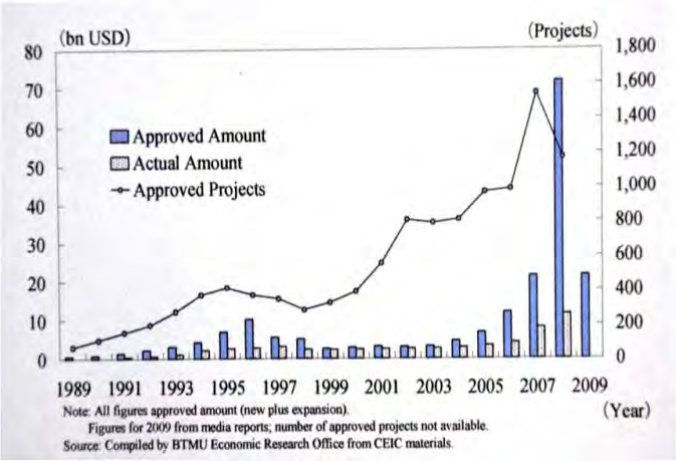
Given these circumstances, LUNA currently acts as an effective complement to the TDF in that it is able to provide efficient procurement where needed at a much lower risk of poor consultant selection and poor contract management. However, the TDF approach is improving, as inefficiencies in the system are resolved and GoL officials become increasingly effective at working through this type of approach, building their own agency's capacity for procurement and management. Ultimately, while the LUNA approach is needed currently, in the future, USAID should look towards using its aid to more effectively build procurement and management capacity in Laos and increase partnerships with other donors. LUNA will need to create future workplans that capture the activities of other donors and how LUNA is integrating with and/or complementing these activities to the greatest extent possible.

The Economic Benefits of WTO Accession -- Laos vs. Vietnam Comparison

When the STAR project began in 2001, Vietnam was still vastly underdeveloped, yet the potential for Vietnam to benefit economically from entering into a BTA with the US, joining the WTO, and continuing the liberalization of its international trade regime was clear: Vietnam was a country of 79 million people that included a large youth bulge, a relatively skilled and educated workforce, numerous ports, and a growing manufacturing base. While membership in the WTO in and of itself doesn't necessarily expand market access in any

significant way, Vietnam wanted to use the "good housekeeping seal of approval" offered by WTO membership in order to signal its commitment to the liberalization process, which in turn could be expected to expand Vietnam's markets for manufacturing exports, offer a greater availability of needed import markets, and attract much needed Foreign Direct Investment (FDI). Results exceeded these expectations; following the BTA in 2001, bilateral trade between the US and Vietnam exploded, as the United States became Vietnam's largest market for exports and one of Vietnam's largest sources of imports. Vietnam also experienced a major surge in FDI flows following accession to the WTO in 2007 (see Figure 1 and Figure 2).

Figure 2: Foreign Direct Investment in Vietnam



Such economic benefits are less visible in Laos. Despite Laos' decade of above 5% annual GDP growth, bilateral trade between the U.S. and Laos was just $69.5 million in 2010. The two main earners of foreign exchange for the country are hydropower and extractive industries, as natural resources now represent 70% of total Lao exports (up from 30% in 2000). Exports in the near future are expected to be dominated by hydropower and minerals and grow strongly as foreign demand continues to recover, coupled with stronger

mineral prices.[8] These increasing revenues from natural resource exports is the leading factor in Laos' 2011 reclassification by the World Bank from a "lower income" to "lower middle income" country. However, the benefits of this natural resource boom are still largely concentrated and efforts will need to be made to ensure that these gains trickle down to the general population.

The growth of the natural resource export sector will not likely be influenced to any significant degree by WTO accession. These sectors are already open and are operating through the concessions awarded by the GoL over the past several years which spell out their own set of standards and rules and operate outside the legal system.[9] Indeed, this has been a problem for the GoL as many observers believe that past concessions have been nontransparently negotiated and that the rate of exploitation is unsustainable. In terms of hydropower, there are currently ten proposed new dams on the Laos portion of the Mekong's major tributaries already, along with three constructed, one under construction, and four planned in China, and two more planned in Cambodia.[10]

One of the reasons that Lao exports are dominated by natural resources and not manufacturing is because Laos currently has a vastly underdeveloped private sector which faces a slate of current competitive disadvantages, making it unlikely that new export sectors will open up in the near future. The most obvious competitive disadvantage is that Laos is a land locked country with poor infrastructure, a constraint that pushes up export costs significantly. According to the World Bank's *Doing Business* database, the estimated cost to export a single container of goods from Laos was $1,860, compared to an East Asian average of just $890, mostly reflecting increased transport costs. On top of this, Laos has relatively few skilled workers, and a disbursed, mostly rural agrarian population with little education and access to health care which makes it difficult to specialize and compete in international markets against the world's most productive workers. Also, WTO membership is not expected to improve market access for Lao textiles, as this sector already receives preferential treatment from its major purchaser, the EU.

Despite these constraints, there is still considerable opportunity for Laos to gain economically from joining the international trading regime. Although tiny compared to regional neighbors, Laos currently has one of the strongest economic growth rates in Southeast Asia; since the onset of the global financial crisis in 2008, gross domestic product growth has exceeded 7% over the past three years. The Asian Development Bank recently predicted 2011 growth would push past 8% — the strongest rate in ASEAN. Similar to the Vietnam case, Lao exports to the US, while still very small, exploded following the BTA in 2005, growing at an average annual rate of 76% (however, imports of US goods remained broadly stagnant over the same period, totaling just $13.3 million in 2010).

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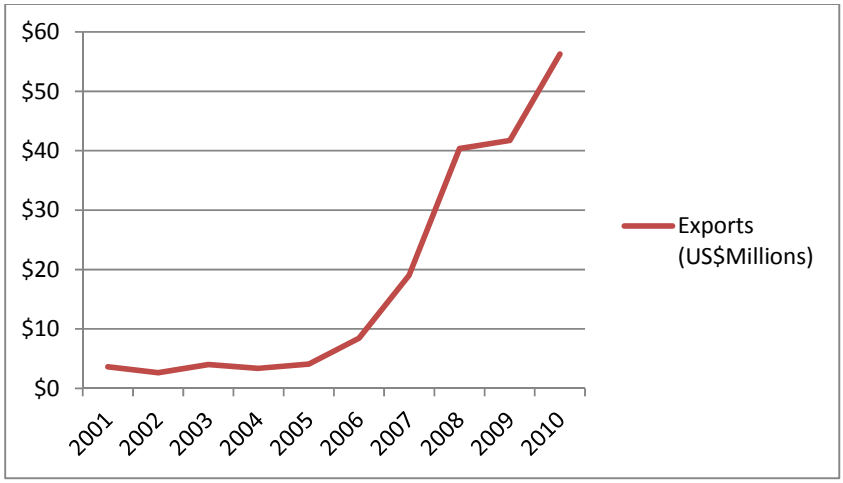
[8] http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/LAOPRDEXTN/0,,contentMDK:22469725~pagePK:141137~piPK:141127~theSitePK:293684,00.html

[9] Dispute settlement is currently outsourced to arbitration systems based in Malaysia and Singapore.

[10] http://www.mrcmekong.org/ish/SEA-Baseline/1-Economics-baseline-assessment.pdf

Figure 3 – Lao Exports to the US



Source: IMF Direction of Trade Statistics (2011).

US businesses are beginning to take notice of the growth potential in Laos. In September 2011, a delegation of US businesses organized by the U.S.-ASEAN Business Council touched town in Laos, its first such mission, featuring some of the biggest names in Corporate America, including Coca-Cola, Chevron, General Electric and Johnson & Johnson. That trip followed a similar trip sponsored in late August by the U.S. Embassy, the American Chamber of Commerce in Thailand, and the U.S. Commercial Service in Thailand that included Citibank and other American businesses.[11]

The agricultural sector in Laos (principally coffee, maize, rice and other crops) could see significant benefits to WTO accession and compliance with international standards such as Sanitary and Phyto-Sanitary (SPS) rules. For example, Laos' persistent inability to export its agricultural surpluses to neighboring China and elsewhere are due to the GoL's inability to implement credible SPS verification and quality certification of its food exports. New laws have been adopted on livestock production, a veterinary law, a plant protection law, and a food safety policy; however much of the subsidiary legislation still needs to be drafted and implementation capacity is lagging behind. Some niche markets, such as handicrafts and local coffee, could also stand to benefit from WTO accession if this means that SPS and other Technical Barriers to Trade (TBT) could be addressed through the legal modernization process. Laos could also potentially benefit from quickly rising wages in China, as the potential for some outsourcing of manufacturing could become a real possibility.

While opportunities for new markets and sectors may be limited in the short term, in the medium to longer term Laos appears to have significant potential to diversify away from its current reliance on hydropower and mineral extraction. Ultimately, Laos aims to become "land linked", rather than landlocked, by becoming a trade facilitator that links China to the rest of SE Asia.[12] Laos will need to make every effort to avoid the "natural resource curse" whereby overreliance on revenue from natural resource "rents" impairs the quality of governance by reducing the need to raise tax revenue from the private sector, thus severing

[11] http://blogs.wsj.com/searealtime/2011/09/26/u-s-firms-reassess-frontiers-meaning-in-southeast-asia/

[12] Indeed, US competitors in China are already a step ahead as China has been pouring money into infrastructure, rubber plantations and other investments in Laos in recent years, and now it's the largest source of foreign direct investment there.

the accountability link between government and citizens. LUNA should therefore look to work with the US Embassy in Laos in order to facilitate US and other private sector investment opportunities and ensure that the benefits of the BTA and WTO accession are realized through increased economic diversification in Laos.

The Larger Benefits of Accession: Creating a Lao society based on Rule of Law

Creating a society based on Rule of Law by 2020

While the economic benefits to meeting the three trade related program objectives of the LUNA project may not be obvious in the near term, the underlying theory behind LUNA is that the adoption of an improved legal framework will be a driving force behind more general improvements in governance and the rule of law in Laos. Such improvements are sorely needed as Laos ranks close to last on a number of key governance indicators and these figures have not budged in the past five years (see Figure 3). Being a former colony, Laos had initially adopted the civil law system from the French, but when the communist government took over in 1975, that entire system was basically abolished as the country attempted to move toward the Soviet legal system.

Figure 4 – Selected governance indicators for Laos

Rule of Law Estimate - Kauffman and Kraay

Country	2005	2006	2007	2008	2009
Laos	-1.011	-0.894	-0.872	-0.792	-0.939

The Rule of Law point estimate indicator is measured in units ranging from about -2.5 to 2.5, with higher values corresponding to better governance outcomes.

Corruption Perceptions Index Score – Transparency International

Country	2005	2006	2007	2008	2009	2010
Laos	3.3	2.6	1.9	2	2	2.1

Ranges between 10 (highly clean) and 0 (highly corrupt).

If Laos can successfully move away from the Napoleonic-Soviet system that currently dominates the legal code though the adoption of international best practices, it could improve these indicators and open the door to, among other economic benefits, increased FDI as investors are reassured and perceived risks are lowered. Currently, rule of law in Laos is largely village based arbitration, and while Laos remains a one-party state, there is significant opportunity for public discussion and legal modernization. Ultimately, trade agreements such as the BTA, WTO, and AEC create pressure for reform and offer governments tangible incentives for opening up politically as well as economically.

The GoL has pledged to establish a society that is firmly based on the rule of law by 2020. An important first step in this process is to establish a “meta-law” which clearly mandates procedures for the adoption of promulgated or proposed laws and decrees. This is done in order to give the private sector and other stakeholders sufficient time to provide comments and objections to government proposals, including the adoption of an official gazette for publishing all legal normative documents. LUNA is currently doing this through its work on encouraging the adoption and implementation of a “law on laws” which recently involved a

study tour visit by GoL officials to Vietnam, in part to learn from their experience with adopting and implementing such a law (STAR was also involved in this a few years back). Such study visits tend to be effective not just because of the information directly learned, but also because of the networks of relationships created that help to reinforce commitments and create a lasting outlet for the sharing of information.

Other areas of legal reform that are likely to address the issue of poor accountability and rule of law in Laos on which LUNA is involved include Intellectual Property Law (we were told that over half of all issues related to BTA compliance and WTO accession relate back to IPR issues); Standardization Law; Law on the Resolution of Economic Disputes; Law on Customs; and the Law on Lawyers. The aim of many of these legal reforms is to make corruption more difficult by introducing procedural reforms and greater transparency that reduce discretion in decision making. If such laws can be enforced, it creates a credible commitment against corruption by introducing multiple layers of institutional checks against abuses. Especially in the face of rising revenues ("rents") from natural resources, these types of procedural checks are all the more critical.

Getting too far ahead of ourselves?

It is clear that LUNA is effectively assisting the GoL to adopt key legislative and policy prerequisites to meet program objectives through assistance based on knowledge sharing and outreach concerning best practices, as well as legislative drafting and commentary. However, due to LUNA's limited program budget, very little assistance is going to direct capacity building and training for GoL agencies responsible for the implementation of newly adopted laws. According to multiple accounts including the GoL itself, implementation of these measures is lagging about five years behind adoption efforts as various GoL Ministries freely admitted to us that they currently lack the capacity to make new laws effective.[13] According to one source, Laos currently faces an "enormous enforcement problem." Currently, the GoL needs to adopt 90 different laws over the next several years in an effort to meet their WTO accession commitments, seemingly regardless of the implementation capacity.[14]

Such a lag in implementation capacity and a rush to adopt WTO/BTA/AEC legal requirements could threaten the sustainability of LUNA efforts for several reasons. First, imposing laws from above risks failure because such laws are not evolved to meet local realities and needs. According to Nobel laureate economist Frederick Hayek, the process by which social order was generated was incremental, evolutionary, and decentralized; only by making use of the localized knowledge of myriads of individuals could sustainable legal systems appear. He notes the idea that "all law is, can be, and ought to be, the product of the free intervention of a legislator…is factually false, and erroneous product of…constructivist rationalism."[15] Adopting laws too quickly and without implementation capacity runs the risk that such laws are inappropriate for the socio-political-cultural context of Laos, which could even make the country worse off. Years later, redesign of this legal system may be necessary in order to fit the specific circumstances of Laos. This is especially true when civil society lacks the ability

[13] For example, the Ministry of Agriculture admitted that they had no human capacity or equipment necessary to analyze SPS and that they therefore had to send agricultural projects to neighboring countries for certification, which is very expensive. We were also told that there were just an estimated 120 lawyers in the entire country, demonstrating this general lack of capacity.
[14] WTO accession concerns only adoption of certain laws and policies, implementation capacity is not a requirement for membership.
[15] (Hayek, 1973)

to effectively participate in the legal and policy development process, which may be the case in Laos.

Second, rushing legal adoption risks creating confusion over the purpose/intent of the laws since stakeholders may not understand why such laws exist because there was not sufficient national debate or discussion about the reason for such laws. All of the key stakeholders interviewed by the evaluation team stressed the importance of public outreach for legal effectiveness. If there is not sufficient time for such efforts, many could come to view certain such laws to be illegitimate and GoL agencies and the judiciary will continue to implement and enforce old laws and policies based on past traditions they understand. Stakeholders confirmed to the evaluation team that this has indeed been happening, as the underdeveloped judiciary of Laos has continued to enforce the old laws with which they are familiar rather than newly adopted measures.

Third is the clear risk of inconsistency with other laws, something the evaluation team was told has been a persistent problem. In Laos, the laws are passed by the NA, but implementing decrees are issued by the Prime Minister's office, which has created a source of conflict over legal intent and interpretation. When existing laws conflict with older ones, and when implementing decrees conflict with the intent of the law, GoL agencies and courts have simply reverted to older practices and laws rather than try and resolve these inconsistencies. Careless adoption of laws that conflict with other laws also creates loopholes that can render the laws ineffective in practice. Laos' lack of a strong legal bar association to advise on these matters contributes to this problem.

The other risk of rushing the process of legal modernization is that once the carrot of WTO membership has been removed, incentives for reform will be significantly diminished. This was apparently the experience of STAR in Vietnam following accession in 2007, according to interview sources. Once countries enter into the WTO, being kicked out is barely a threat, and the risk of formal disputes for non-compliance/enforcement is also minimal and does not constitute much of a "stick" to incentivize implementation. Donors have been effectively using the accession process to leverage critical reforms in Laos. It is therefore curious why donors would wish to lose this leverage before the GoL has made any clear and credible commitments to build its enforcement capacity in key legal areas and improve its overall scores on international governance indicators.

Even considering these risks, however, it is clear that the LUNA and STAR models of wholesale reform over a piecemeal approach have been the preferred models for BTA compliance of the USG and have had a fairly good track record to date. While Hayek's claim that the best type of law is the type that has been evolved slowly may be accurate, history is rife with examples of willing and capable government leaders that were able to transform their societies for the good virtually overnight through the imposition of new legal/social orders. The transformation of Laos' neighbors in Asia, including South Korea, Taiwan, Singapore, Malaysia, and others are all particularly relevant examples of how fast convergence can be achieved in part through top-down imposition of best practice policy and law.

By getting the legislative framework in place quickly, best practice ideas become institutionalized and evolve faster. The existence of best practices on the books generates internal demand for learning about these laws that would not otherwise exist. And while WTO accession might cause a loss of leverage on the part of donors, there are still a host of other existing and potential trade deals that can be used as future motivation. Not the least

of these agreements is AEC compliance, which is actually a more thorough-going trade pact that will require even greater commitments and implementation capacity on the part of the GoL.

LUNA, given its limited resources, has responded to the lack of legal enforcement capacity constraint quite well. For example, LUNA assisted the GoL to make arbitration easier through its work on drafting an amended Law on Resolution of Economic Disputes, which came into effect in December 2010. The new law allows foreign arbitrators to work on a committee to resolve economic disputes in Laos. Parties to economic disputes can choose any arbitration committee to address their dispute or have the head of the Office for Resolution of Economic Disputes choose for them. According to Deputy Minister of Justice Keth Kiettisak, "The amendment is aimed at making the law more internationally enforceable and ensuring an increase of foreign investment in the country. The law is a tool necessary for settling economic disputes for investors." An effective system of international arbitration is a great way to avoid local capacity constraints and LUNA assistance was instrumental in this effort as the Ministry of Justice reported to us that they accepted 80% of LUNA's recommendations and comments on this law.

Going Forward: "What if" there were more resources available?

Overall, there is little doubt that LUNA delivers high quality technical assistance efficiently and effectively as there were very few if any complaints from GoL beneficiaries. There are some donor and GoL ministry coordination problems to address, but overall this did not appear to be a major shortcoming, at this point in time, since we found programs objectives to be relatively straight forward and LUNA to be an effective complement to existing donor activities. However, LUNA will need to take extra pains to ensure that all activities are well integrated across different ministries and that all activities are either independent of, or complement the activities of, other donors. In order to do this, LUNA will need to be very specific about its interventions in its workplans and needs to specifically list other donor partners to a greater extent.

This evaluation sees LUNA as a potentially high rate of return project if the successes seen in Vietnam through the STAR project can be replicated. As shown above, the level of assistance that STAR has and continues to provide to Vietnam dwarfs that of LUNA's assistance to Laos. Even given Vietnam's vastly larger population and economy, a case can be made for a significant scale up in resource commitments to the objectives of LUNA. The benefits of the LUNA program to a small country such as Laos are potentially vast if indeed political will, but not knowhow, is present. The recent evaluation of the STAR program attributes a significant amount of the increased bilateral trade and investment seen between Vietnam and the US to the efforts of STAR, as the average annual growth rate of Vietnamese exports to the United States between 2001 and 2009 was 39 percent, significantly higher than Asian or World annual export growth rates to the United States for the same period.

As noted above, while the volume of this type of increased trade potential is far less available in the Laos context as noted above, the growth of exports to the US have followed a similar path. If LUNA is indeed influencing this trade growth as STAR was found to have done in Vietnam, even a fraction of the gains seen in Vietnam would be worth additional US investments at the margin in trade capacity building and associated legal development. Such an assertion is consistent with Hageboeck (2010) who found "a statistically significant relationship between USAID Trade Capacity Building (TCB) obligations and developing

country exports which, on a predictive basis, indicates that each additional $1 invested by USAID is associated with a $42 increase in the value of developing country exports two years later." It is also consistent with Djankov, Freund, & Pham (2010) which demonstrated that improvements in trade facilitation (including LUNA associated activities such as modernization of customs administration, application of information technology, and improvements in private sector services) have a direct impact on trade performance.

Taking our above findings under consideration, we now recommend some potential areas for future program direction and areas for program expansion provided additional resources were made available. The first is clearly increased support for GoL implementation capacity building and training. Even if the current LUNA model of adopt first, implement later is fundamentally sound, at some point in the near future the project will need to begin to address key capacity building issues. It is likely that LUNA will and should follow a similar path as STAR in Vietnam, naturally evolving from a program focused on the drafting and adoption of laws toward one focused on implementation through more intensive training of staff and direct support to specific ministries.

However, all donors should be aware of the limitations of workshops and trainings to create effective implementation capacity. Ultimately, effective governance requires a wholesale change of institutional incentives to be effective, and this will take time, especially for a low-capacity country such as Laos. LUNA and future efforts should look to make improvements at identified margins were interventions are determined to be most effective, not through large amounts of resources across a broad array of activities.

Second, the project should expand its focus more toward the private sector and not forget the provinces, as outreach and implementation at the provincial level was repeatedly stressed as a key need. Outreach to the private sector on the benefits of these reforms and how to take advantage of them is also critical, since the purpose of all these reforms is to ultimately enable their growth. Therefore, increased levels of resources should look toward subsidizing more public-private sector dialogues, especially in the provinces. Such workshops should focus on expanding trade and investment opportunities by taking advantage of trade agreements, with the ultimate purpose of increasing economic diversification in Laos and reducing the current reliance on hydropower for the generation of foreign exchange. Also, one of largest barriers to outreach cited by almost every stakeholder we spoke with was a lack of English language skills throughout society. If the USG were to consider an education program in Laos, training programs in business English would likely offer large spillover benefits.

Ideally, USG assistance for capacity building would not be limited to the government, so a third area for program expansion would include a private sector, small and medium enterprise (SME) focus. As noted in Stirbat, Record, & Nghardsaysone (2011) the estimated returns to assisting existing exporters to find new markets and expand their scale of production are high. USAID offers a number of different models for such involvement such as value chain projects, cluster development, local business association development, and export promotion that have been successful in the past. Such a private sector focused program would ensure that the benefits of USG resources were not solely accruing to GoL officials and that the economic focus in Laos does continue to concentrate only in the natural resource sector. Reducing the pressure on hydropower and mining by opening up other sectors could also prove to be a significant environmental win for USAID.

According to a joint statement issued after US Secretary of State Hillary Clinton met with Thongloun Sisoulith, the Laotian Foreign Minister, in Washington in July 2010, growing co-operation is "producing mutual benefits and a constructive relationship contributing to peace, stability and cooperation for development in the region and the world."[16] This evaluation confirms this and has aimed to provide further details on how the objectives of increased US-Lao trade, as well as economic growth, improved governance, and ultimately the eradication of poverty in Laos can be achieved.

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ANNEX 1: Scope of Work for the Evaluation

AGENDA FOR USAID MID-TERM EVALUATION TEAM
August 22-26, 2011

I. Background

The General Development Office (GDO) in USAID's Regional Development Mission (RDMA) will conduct a mid-term Program Evaluation of its Lao-U.S. International and ASEAN Integration (LUNA-Lao) Project, implemented by Nathan Associations as part of the joint USAID-State Department ADVANCE program, from August 22-26, 2011, in Vientiane, Laos. The LUNA-Lao project started on December 19, 2007 with an initial budget of $375,000. The project has continually expanded and now has a current ceiling price of is $5,316,000 with a project end date of September 30, 2013. In mid-2010, USAID and U.S. Embassy staff met with the Lao Foreign Trade Policy Department (FTPD). FTPD's Director-General Bounsome Phommavihane and his staff inquired about a project evaluation and stressed the need for such an undertaking.

The objective of the LUNA-Lao project is to support the Government of Laos in drafting, analyzing, promulgating, and implementing the array of legal and economic policy reforms and institutional capacity building needed to accomplish the following three objectives:

- Support the effective implementation of the U.S.-Laos Bilateral Trade Agreement (BTA);
- Support the timely accession of Laos to the World Trade Organization (WTO); and
- Support Laos in fulfilling its commitments to the ASEAN Economic Community (AEC).

The three trade agreements form the pillars for establishing priorities for LUNA activities. These trade agreements have far-reaching impact, not only on commercial activity in Laos, but also on governance and the rule of law. To be most successful, the modernization and deepening of the Lao legal system and the integration of its economy into regional and global markets, which are driven by effectively implementing the trade agreements, should be integral and positive components of Laos' long-term development strategy. Although the mandate for the project is to support implementation of the trade agreements, the more general, and ultimately more important, goal of the project is to help Laos use the trade agreements to lay a strong foundation for sustained, broad-based development, poverty reduction, and strengthened rule of law and governance.

LUNA's demand-driven technical assistance consists of legal and economic policy analysis, comments on draft laws and regulations, training, and support for workshops and seminars, publications, study missions, translation, research, and certain equipment purchases. As much as possible, the project attempts to provide on-the-job and other types of training to counterpart staff, and project technical advisors work in teams with government counterparts to produce outputs. In this way, the project seeks to enhance the capacity of the Lao Government, which aims to contribute significantly to the sustained impact of the project into the future.

Steve Parker, Project Director and Resident Trade Advisor, arrived in Vientiane in January 2010 following two years of non-resident technical assistance by the project. LUNA has established a local office with local technical and administrative staff, has developed operational relationships with LUNA's supervisor in Laos—the Project Steering Committee

under the leadership of the Ministry of Industry and Commerce's (MOIC) Foreign Trade Policy Department (FTPD)—and under their guidance has carried out an array of technical assistance to meet the needs of seven agencies in Laos.

II. Evaluation Objectives

The objectives of the evaluation are:

- To evaluate program performance and effectiveness against stated goals, objectives, and performance targets;
- To identify what program actions worked well, need improvement, should be discontinued, and/or should be replicated and/or scaled up;
- To provide recommendations for the design and implementation of new activities over the next few years of the project; and
- To improve policies, programs, and projects by identifying and disseminating the lessons learned to-date and by taking the evaluation findings and making general recommendations for future development assistance.

III. Scope of Evaluation and Key Questions

The mid-term program evaluation will address six key areas and answer targeted questions in each area:

- The relevance of the project's objectives in relation to the partner country's needs and
  institutional priorities;
- Its efficacy — the extent to which the development objectives of enhanced capacity to conduct international trade and improved legal and governance outcomes have been (or are expected to be) achieved;
- Its efficiency — the extent to which project objectives have been (or are expected to be) achieved without using more resources than necessary;
- The sustainability of the project — the likelihood that its estimated net benefits will be maintained or exceeded after the life of the project;
- The institutional development impact — the extent to which the project has improved
  the ability of Laos to make better use of its own resources; and
- The performance of USAID and our host country partners (government officials from seven different agencies and the private sector) at each stage of the project cycle and in cooperation with other development partners.

In assessing the program's effectiveness and potential areas of improvement, the evaluation team will seek answers to the following illustrative questions:

1. How are priority areas for technical assistance (TA) determined? How involved are Laos officials in the design and implementation of the project's TA? How does the project assess the feasibility of each activity to be impactful and sustainable?
2. In the view of the recipients, which types of TA have been most effective (i.e. resident advisors, short-term trainings, study tours, etc.)?
3. What types of impacts is the project aiming for in terms of both Governing Justly and Democratically and Economic Growth? What were some higher-level outcome/impact indicators (other than number of people trained) that the project was targeting, for example improvements in "trade capacity"? How are those indicators being measured? Has the project met those indicators?

4. Has the project been successful in engaging and increasing the awareness of the private sector to the benefits of WTO accession and understanding how to utilize such benefits?
5. What specific challenges is the project facing and how are they addressing them?

What are the highest priority recommendations for the design and implementation of new activities over the next few years?

IV. Key Personnel and Activities

The evaluation team will be led by a four-person team including:

- William Butterfield, RDMA Program Economist, Team Lead, and responsible for drafting the final document
- Garry Ledbetter, RDMA Senior Rule of Law Advisor
- Brian Wittnebel, USAID/Vietnam Private Sector Officer
- Kail Padgitt, USAID/EGAT Program Economist

The team will meet with and/or send questionnaires to key officials from the following institutions:

1. Embassy/Vientiane
2. Ministry of Industry and Commerce;
3. Ministry of Science and Technology;
4. Ministry of Planning and Investment;
5. Ministry of Justice;
6. Ministry of Agriculture and Forestry;
7. Ministry of Finance;
8. National Assembly;
9. Lao National Chamber of Commerce and Industry
10. Australia/NZ and European Chambers of Commerce
11. At least two private sector law firms; and,
12. Key development donor partners, including the World Bank, GTZ and the MOIC's National Implementation Unit.
13. Phone Interviews with key personnel in the STAR/Vietnam Program

V. Deliverables

The final document with an executive summary will be a 15-20 page evaluation that highlights the team's assessment of the project's effectiveness in the context of Lao PDR development and will make recommendations on future programmatic directions. It will also include lessons learned that may be applicable to other projects in Laos and other developing countries. The document will be submitted to the USAID/RDMA GDO Director and USAID/EGAT, U.S. Embassy in Vientiane, and the MOIC and the Project Steering Committee for their review and comment prior to finalization of the evaluation. The first draft of the document will be completed no later than two weeks following the conclusion of field work. Upon completion of the final evaluation draft, the available team members will give a presentation of findings, conclusions, and recommendations to RDMA. No later than three months after the evaluation team is back in Bangkok, the evaluation report must be provided to the Development Experience Clearinghouse (DEC) dec.usaid.gov, where they will be accessible to USAID and the general public.

ANNEX 2: Evaluation Agenda

USAID Evaluation Agenda for the LUNA Project (Draft as of August 5, 2011) **Vientiane, Laos** **August 22-26, 2011**	
Sunday, August 21, 2011	
	Evaluation team arrives in Vientiane. A telephone briefing for the team by Steve Parker will be conducted at 1:30 on Friday, August 19 to maximize the time available for the team to meet with key counterparts and partners in Laos.
Monday, August 22, 2011	
8:10 AM	**Pick Up at Hotel**
8:30-10:45	**Meeting with the Ministry of Industry and Commerce's Foreign Trade Policy Department (FTPD) Team** • FTPD has been the lead counterpart for LUNA since the beginning of the project. FTPD is responsible for negotiating and managing the implementation of trade agreements and for promoting understanding and policy dialogue on trade policy issues. • FTPD chairs the Project Steering Committee. • LUNA supports the FTPD in terms of legal drafting and institution and capacity building. **Venue:** FTPD Office: **Participants:** - Director General Bounsom Phommavihane - Mr. Buavanh and Mr. Santisouk – Multilateral Trade Policy Department MTPD) Division Head and Deputy Division Head, LUNA's Project Managers; - Ms. Vilayphone – MTPD LUNA Project Liaison. - Other Division representatives if possible
11:00-12:00	**Meeting with National Implementation Unit (NIU)** • The NIU manages the FTPD's work with donors and implements the Trade Development Fund from a Multilateral Donor Trust Fund supported by AUSAID, the EU and GiZ. • The NIU leads the development of the DTIS II (Diagnostic Trade Integration Study), which is an important process for determining priorities and linkages among trade projects and WTO accession. **Venue:** FTPD Office: **Participants:** - Mr. Phouvieng Phongsa, Head of the ODA Division and NIU - Key NIU staff - Mr. Simon Hess – Technical advisor
12:00-1:15	**Lunch**
1:30-2:30	**Meet with the Customs Department (Ministry of Finance)** • To date, LUNA's main counterpart in MOF has been Customs.

	LUNA work with Customs has focused on intellectual border measures, and potentially but not yet on the revision to the Customs Law and customs valuation. **Venue:** Department of Customs: Lane Xang Road **Participants:** - Director General Santiphap if possible - Mr. Somphit, Director of International Relations
2:45-3:45	**Meeting with Ministry of Justice (MOJ)** • LUNA works with MOJ to develop a range of key laws, including the Law on Resolution of Economic Disputes, Law on Lawyers and Law on Making Laws, as well as some capacity building. **Venue:** Department of Justice: **Participants:** - Director General Ketsana Phommachanh - Mr. Inthapanya Khieovongphachanh , DDG for Legislative Development - Other key staff
4:00-5:30	**Meeting with World Bank** • The World Bank leads the management of the Trade Development Fund and projects on trade facilitation and customs modernization • Should the team meet for 45 minutes with Genevieve, and then 45 minutes with Richard and Kon separately?? **Venue:** World Bank Office: **Participants:** - Genevieve Boyreau, Chief Economist - Richard Record, Trade Economist - Konesawang Nghardsaysone , Trade Economist
Tuesday, August 23, 2011	
8:10 AM	**Pick Up at Hotel**
8:30-9:30	**Meeting with Standardization Team in the Department of Intellectual Property, Standards and Metrology (DISM) in the Ministry of Science and Technology (MOST)** • LUNA works with the standardization team in MOST-DISM to develop the TBT Enquiry Point, the implementing decrees for the Law on Standardization and the Law on Metrology **Venue:** MOST-DISM Office: **Participants:** - Mr. Sisomphet Nhoybouakong – Deputy Director General of DISM - Key DISM-Standardization staff
9:45-10:45	**Meeting with the Intellectual Property Team in the Department of Intellectual Property, Standards and Metrology (DISM) in the Ministry of Science and Technology (MOST)** • LUNA works with the intellectual property team in MOST-DISM

	to develop the implementing decree and regulations of the Intellectual Property Law and to support capacity building, including accelerating patent approval procedures **Venue:** MOST-DISM Office: **Participants:** - Mr. Makha Chanthala –Deputy Director General of DISM - Mr. Ratsamy Phanthavong – Head of General Division - Ms. Khamnhong Sichanthavong – Head of Copyright Division
11:00-12:00	**Meeting with Ministry of Agriculture and Forestry (MAF)** • LUNA works with MAF on establishing the SPS Enquiry Point and implementing SPS measures in line with WTO/BTA requirements. **Venue:** MAF Office: **Participants:** - Mr. Somphanh Chanphengxay -- DDG for Planning Department - Other appropriate officials.
12:00-1:15	**Lunch**
2:00-3:00	**Meeting with Lao National Chamber of Commerce and Industry (LNCCI)** • LUNA supports the LNCCI to raise awareness of the business community on WTO and trade policy issues, to facilitate input by businesses into the legal drafting and policy process, and provides capacity building support for developing a LNCCI legal/policy department. **Venue:** LNCCI Office: (travel time from downtown is around 30 minutes) **Participants:** - Mr. Oudet Souvannavong – Vice-President of LNCCI - Mr. Khanthavong Dalavong – Secretary General of LNCCI - Others as appropriate.
3:30-4:30	**German GiZ** • GiZ supports projects to build the capacity of the LNCCI and the private sector, to facilitate policy dialogue with business at the provincial level, and to support ASEAN trade issues. **Venue:** German House: **Participants:** - Mr. Manfred Matzdorf, Director for developing human resources to expand the market economy project - Ms. Franziska Jorosch, Head of ASEAN Support Project
Wednesday, August 24, 2011	
8:30	**Pick up at Hotel**
9:00 – 10:15	**Meeting with National Assembly (NA)** • LUNA supports the National Assembly to build awareness of requirements for trade agreements and international best practice, and to support the approval of a range of laws to meet requirements in trade agreements and to improve the business/legal environment in Laos. This has included support for several high profile seminars with NA leaders, members and staff, and ministry leaders. **Venue:** National Assembly Office**:**

	Participants: - Mrs. Souvanpheng Boupphanouvong – President of the NA Committee on Economics, Planning and Finance - Mr. Davone Vangvichith —President of the NA Committee on Law - Other appropriate staff
11:00 – 12:00	**Meeting with DFDL (local foreign law firm)** • DFDL is the largest foreign law firm operating in Laos. LUNA meets with DFDL staff regularly. **Venue:** DFDL Office: **Participants:** - Mr. William Greenlee --- Managing Director of DFDL - Mr. Walter Heiser and other staff
12:00-1:30	**Lunch**
2:00 – 3:00	**Meeting with Rajah Tann (local joint venture law firm)** • Rajah Tann is the first joint venture with Lao capital and the managing director works closely with LUNA as an advisor on legal development. **Venue:** Rajah and Tann Office: **Participants:** - Mr. Sivath Sengdoaungchanh – Managing Director of RT - Other key staff
3:15 – 5:00	**Meet with LUNA Staff** • Meet with Steve Parker and Franck Boulin to discuss project operations and activities. • Meet with all LUNA staff **Venue:** LUNA Office:
7:00	**Social Dinner for the Team**
Thursday, August 25, 2011	
8:45 AM	**Meet in hotel lobby**
9:00 – 10:00	**Meet with UNDP Trade and Legal Development Projects** • UNDP supports several trade and legal development projects, which often cooperate with LUNA. **Venue:** UN House: **Participants:** - UNDP managers of trade and legal/NA development (including Selna) projects.
10:15- 11:00	**Meet with UNDP Chief Economist** • LUNA works with the UNDP Chief Economist to integrate development programs and implementation of trade agreements. **Venue:** UN House: **Participant:** - Robert Golchefsky – UNDP Chief Economist
12:00-1:15	**Lunch**
1:30-2:30	**Meet with ADB** • The ADB supports a range of projects on trade and SPS.

	Venue: ADB Office **Participant:** Mr. Barend Frielink – Chief Economist, ADB
3:00-4:00	**Meet with EU** • The EU supports a range of projects on trade and legal development, including the multi-lateral donor trust fund for trade, and they are the lead agency for coordinating technical assistance activities for trade **Venue: EU Office** **Participants:** - Mr. Henry Prankard – Head of EU in Laos - Mr. Stephan Locke --
Friday, August 26, 2011	
8:45	Meet in hotel lobby
9:00-10:00	**Meet with Ministry of Planning and Investment** • LUNA to date has not worked with MPI, but MPI is on Luna's Project Steering Committee • MPI plays a key role in developing and implementing the legal framework for domestic and foreign investment and business establishment, as well as managing donor assistance. **Venue: MPI Office** **Participants:** - Director General for Investment Promotion - Other key staff
11:00-12:00	**Meet with U.S. Ambassador and Key Embassy Staff** **Venue:** U.S. Embassy:
12:00-1:00 PM	**Lunch**
1:15 –2:15	**OPEN** **Venue:**
4:30 PM	**Flight leaves Vientiane**