



## IMPACT ASSESSMENT OF DRAFT LEGISLATION IN LAO PDR

ADB

### IMPORTANCE OF REGULATORY IMPACT ASSESSMENT IN LAO PDR

Impact assessment is critical to improving the legislative environment of Lao PDR.

Legislation can have a wide range of impacts on business (private sector and Small and Medium Enterprises), community and government including economic, environmental and social impacts. Assessing these impacts helps determine whether draft legislation is likely to achieve its objectives and avoid unintended consequences. Impact assessment also provides better information to decision makers and improves the effectiveness and consistency of legislation.

The Government of Lao PDR seeks to strengthen the business climate and improve the competitiveness of the Lao economy by putting in place a business-enabling legislative environment to support development of:

1. Lao businesses and the private sector – which will drive economic growth; and
2. A competitive Lao business environment – which will encourage local and international investment.

This improved legislative environment will support the economic and social development of Laos, which benefits the welfare of the Lao people.

### CENTRE FOR REGULATORY IMPACT ASSESSMENT FOR DRAFT LEGISLATION

#### RIGHTS AND DUTIES

Recognising the importance and benefits of impact assessment, the Ministry of Justice has assigned the Legislation Department to perform the functions of the Centre for Regulatory Impact Assessment for Draft Legislation (RIA Centre). The RIA Centre will cooperate with concerned committees responsible for making and amending legislation to ensure the implementation of impact assessment on draft legislation is effective.

The RIA Centre supports the implementation of impact assessment of draft legislation at the central, provincial and capital levels, through developing and publishing guidelines and providing training to authorities in impact assessment of draft legislation.

Specifically, the RIA Centre has the following rights and duties:

- Provide technical advice to the authority responsible for making and amending legislation on impact assessment of the draft legislation;
- Review and draft an opinion on the Impact Assessment Note for the draft legislation for approval by the Minister of Justice;
- Coordinate with the Ministry of Finance for an opinion on budgetary impacts;
- Provide training to legal units of ministries, organisations and local authorities in impact assessment of draft legislation;
- Develop, and publish guidelines for impact assessment of draft legislation;
- Enhance the knowledge, and ability to undertake impact assessment of draft legislation, of staff that are responsible for impact assessment of draft legislation;
- Cooperate with concerned authorities in impact assessment of draft legislation;
- Raise public awareness of the importance of impact assessment on draft legislation;
- Summarise and report on their work regularly;
- Perform other rights and duties as required by legislation and assigned duties.

### CENTRE FOR REGULATORY IMPACT ASSESSMENT FOR DRAFT LEGISLATION

#### Contact Us:

Centre for Regulatory Impact Assessment for Draft Legislation  
Department of Legislation, Ministry of Justice

Lanexang Avenue  
P.O. Box 08  
Vientiane Capital, Lao PDR

Tel / Fax: +856-21 415521

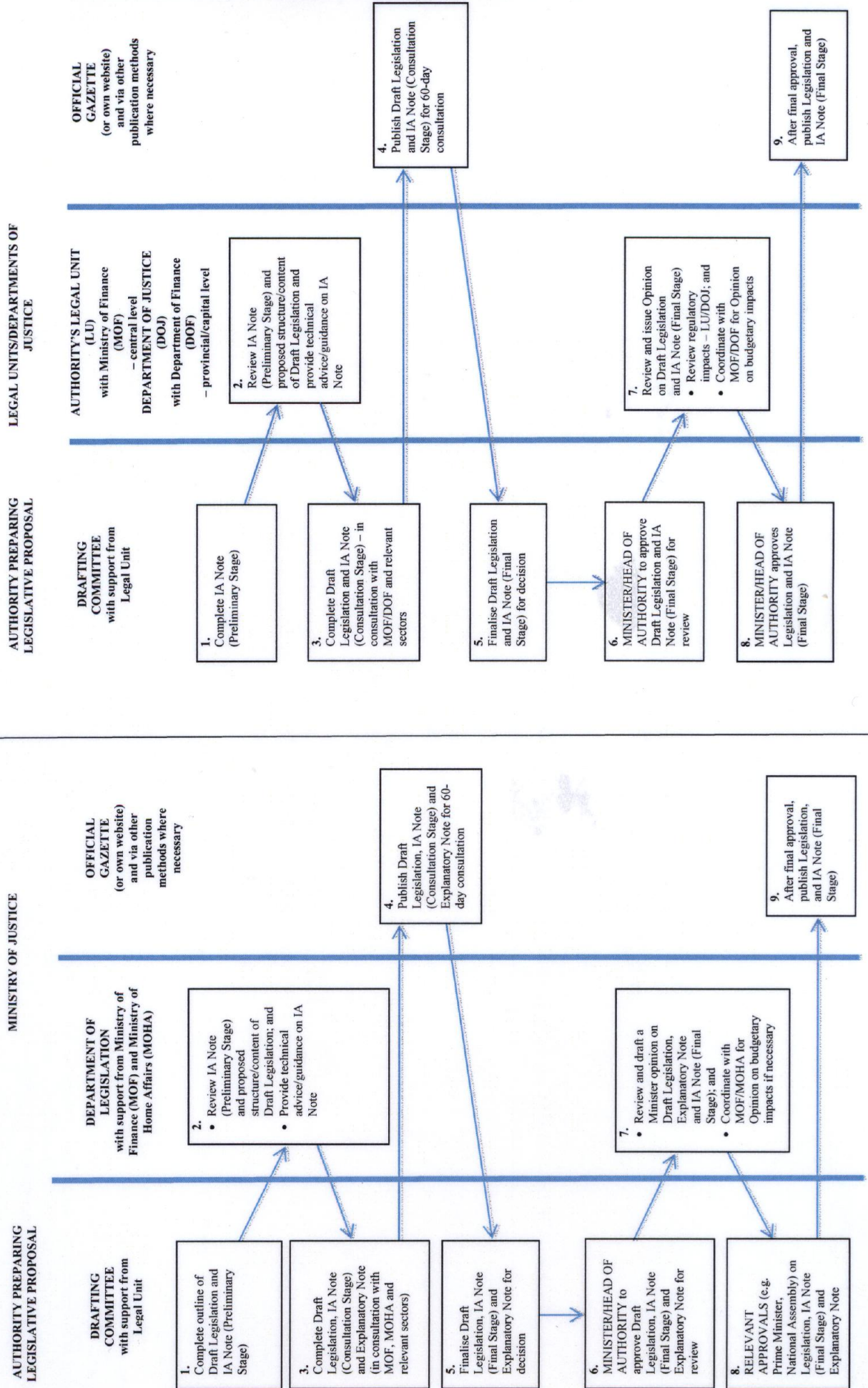
Email: [webmaster@laoofficialgazette.gov.la](mailto:webmaster@laoofficialgazette.gov.la)



# STEPS IN COMPLETING AN IMPACTASSESSMENT (IA) NOTE FOR DRAFT LEGISLATION

LAWS, PRESIDENTIAL ORDINANCES, DECREES AND PRIME MINISTER'S DECISIONS

MINISTER, HEAD OF GOVERNMENT AUTHORITY, AND GOVERNOR DECISIONS







# IMPROVING THE LEGISLATIVE ENVIRONMENT IN LAO PDR FOR PRIVATE SECTOR DEVELOPMENT

A well-functioning regulatory system is an essential component of a modern society. It complements sound fiscal and macro-economic policies.

The Government of Lao PDR seeks to strengthen the business climate and improve the legislative environment to support development of:

1. Lao businesses and the private sector, particularly Small and Medium Enterprises (SMEs) – which will drive economic growth
2. A competitive Laos business environment – which will encourage local and international investment.

Improvement in Laos' business climate and competitiveness is critical, given the Government's economic growth targets and Laos' growing participation in the global economy, including international trade agreements and the ASEAN Economic Community.

Research by the Asian Development Bank (ADB) shows that the burden of business regulatory costs falls heaviest on micro- and small enterprises. An important aspect of private sector and SME development is to reduce the 'red tape' burden from unnecessary and excessive regulation as it adds to the cost of compliance by individuals and business, and of enforcement by government – these additional costs make Lao businesses less competitive and the Laos business environment less attractive to investors. This requires better consideration of the purpose, economic impacts and compliance costs of regulations.

## SUPPORT

Under the Support for Private Sector and Small and Medium-Sized Enterprises Development Program with the Government of Lao PDR, the ADB is assisting the implementation of a regulatory impact assessment (RIA) system suitable to Lao PDR. A series of technical assistances have been provided by ADB since 2009 and continues to 2017.

## PROGRESS

### Task Force

In 2011, the Inter-Ministry RIA Task Force was established to guide the introduction of RIA into pilot ministries and design the RIA system to support requirements under the Law on Making Legislation. The Task Force is chaired by H.E. Siasavath Savengsuksa, Vice Minister of Industry and Commerce, and is comprised of senior representatives from the Ministry of Industry and Commerce (MOIC), Ministry of Finance (MOF), Ministry of Justice (MOJ), Ministry of Planning and Investment (MPI), Government Office, National Assembly (NA) and the Lao National Chamber of Commerce and Industry (LNCCI).

### RIA Pilots

RIA Pilots have been established in MOIC, MPI, MOF, NA and MOJ. Since 2013, these pilot ministries have been undertaking impact assessments as part of their reviews of existing legislation and in drafting new legislation:

1. MOIC – Export Licensing Requirements for rice and plantation timber, Enterprise Registration Process, Competition Law
2. MPI – One-Stop-Service Arrangements, Investment Promotion Law
3. MOF – Lump-Sum Tax, Income Tax Law
4. MOJ/NA – review of impact assessments completed by other ministries.

### Guidelines

RIA Guidelines, including templates for completing RIA, were developed with MOIC and pilot ministries to suit Lao circumstances and endorsed by the Chair of the Task Force in 2012.

After successfully trialling the RIA Guidelines and templates across pilot ministries, these have recently been revised to meet the requirements under the Law on Making Legislation and more closely align with the legal drafting process in ministries.

### Training and Awareness Raising

Multiple RIA training programs and awareness sessions have been conducted across key ministries and with the private sector including seminars, retreats and briefings. Since April 2011, over 26 RIA workshops and training and awareness sessions have been conducted, with more than 500 attendees.

### Study Visit

In August 2013, 14 senior representatives from the Government of Lao PDR, including 5 Vice-Ministers, participated in a RIA Study Visit to Australia. The objective of the RIA Study Visit was to discuss and learn from various Australian organisations in government and business about the value and requirements for effective implementation of a RIA system across a government.

Key observations and learnings included:

- RIA is an effective tool in preventing and reducing unnecessary costs on business and government – and helps with productivity and competitiveness of businesses and the economy.
- Strong leadership and advocacy is required to implement, enforce and drive the benefits of a RIA system across ministries.
- The RIA process (guidelines and templates) needs to reflect skills and knowledge levels across government and business, particularly in economic analysis and impact assessment.
- Central RIA offices are usually involved in developing RIA guidelines and templates, training and reviewing of RIAs prepared by ministries.
- Early and effective engagement by government with business is critical to RIA outcomes.



## Challenges

Based on experience with RIA in pilot ministries to date, a number of key challenges have been identified. These challenges include: the level of skills and knowledge in legislation making across ministries; understanding of impact analysis of draft legislation in government and business; coordination across ministries in the development and assessment of legislation; and interface between government and business in legislative development and implementation.

The RIA Project is targeting these challenges through the adaption of regulatory best practice principles and practices suitable to Lao circumstances. This adaption recognises that increasing sophistication in RIA across ministries, and in partnership with Lao business, will be achieved over a number of years as principles and practices become increasingly institutionalised. The Centre for Regulatory Impact Assessment for Draft Legislation will help government overcome these challenges through advice and support to ministries on undertaking impact assessment.

## Law on Making Legislation

In 2012, the National Assembly passed the Law on Making Legislation that sets out requirements for the making and amending of legislation in Lao PDR.

For most legislation developed at central and provincial levels, this Law requires an assessment of the regulatory and budgetary impacts of the draft legislation on Lao PDR, which is to be reported in an Impact Assessment Note.

## IMPLEMENTATION

### Decision on the Impact Assessment of Draft Legislation

The Ministry of Justice has issued a Minister Decision on the impact assessment of draft legislation on 7 July 2014. The ADB supported MOJ in drafting the decision through its technical assistance program.

This Decision defines the requirements for undertaking impact assessment as required by the Law on Making Legislation, and also sets out how to prepare and use an Impact Assessment Note to enable consistency in making and amending legislation.

### Centre for Regulatory Impact Assessment for Draft Legislation (RIA Centre)

Recognising the importance and benefits of impact assessment, the Ministry of Justice has assigned the Legislation Department to perform the functions of the RIA Centre.

The RIA Centre has the following rights and duties:

- Provide technical advice to the authority responsible for making and amending legislation on impact assessment of the draft legislation;
- Review and draft an opinion on the Impact Assessment Note for the draft legislation for approval by the Minister of Justice;
- Coordinate with the Ministry of Finance for an opinion on budgetary impacts;
- Provide training to legal units of ministries, organisations and local authorities in impact assessment of draft legislation;
- Develop, and publish guidelines for impact assessment of draft legislation;
- Enhance the knowledge, and ability to undertake impact assessment of draft legislation, of staff that are responsible for impact assessment of draft legislation;
- Cooperate with concerned authorities in impact assessment of draft legislation;
- Raise public awareness of the importance of impact assessment on draft legislation;
- Summarise and report on their work regularly;
- Perform other rights and duties as required by legislation and assigned duties.

In the case of making Ministry or Government authority Decisions, the concerned authority making and amending legislation shall give the responsibility to the Legal Unit of its authority to review and provide comment on matters relating to the impact assessment of the draft legislation.

For the Governor Decisions, the concerned local authority shall coordinate with Department of Justice at the provincial or capital level on matters relating to the impact assessment of the draft legislation.

## Next Steps

To implement the RIA system across the Laos Government, the RIA Centre will:

- Develop its skills, knowledge and systems in RIA
- Provide advice and support to all ministries on undertaking impact assessment of draft legislation
- Build further demand and understanding of RIA in government and the private sector through:
  - more training across authorities making and amending legislation on how to complete Impact Assessment Notes
  - awareness activities across the private sector on the value of RIA and how the private sector can be involved in the impact assessment process.

The RIA Centre will also provide training and support for authorities at the provincial and capital levels on impact assessment of draft legislation.

ADB is supporting the RIA Centre in the implementation of RIA across the Laos Government, through an agreed project loan on SME development up to 2017.