

IMPLEMENTING THE ASEAN TRADE IN GOODS AGREEMENT (ATIGA) IN LAO PDR

GAP ASSESSMENT AND ROADMAP (OCTOBER 2021)

DEVELOPED UNDER THE 'ASEAN REGIONAL INTEGRATION SUPPORT – LAO PEOPLE'S DEMOCRATIC REPUBLIC TRADE-RELATED ASSISTANCE (ARISE PLUS - LAO PDR)'



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LIST OF ABBREVIATIONS

ACCSQ	ASEAN Consultative Committee for Standards and Quality
AC-SPS	ASEAN Committee on Sanitary and Phytosanitary Measures
AEC	ASEAN Economic Community
AECB 2025	ASEAN Economic Community Blueprint 2025
AEO	Authorised Economic Operators
AFTA	ASEAN Free Trade Area
AHTN	ASEAN Harmonised Tariff Nomenclature
AMS	ASEAN Member State
ARISE Plus	ASEAN Regional Integration Support from the EU
ASEAN	Association of South East Asian Nations
ASEAN-BAC or ABAC	ASEAN Business Advisory Council
ASSIST	ASEAN Solutions for Investments, Services and Trade
ASW	ASEAN Single Window
ATFF	ASEAN Trade Facilitation Framework
ATF-JCC	ASEAN Trade Facilitation Joint Consultative Committee
ATIGA	ASEAN Trade in Goods Agreement
ATR	ASEAN Trade Repository
AWPTF	ASEAN Work Programme on Trade Facilitation
AWSC	ASEAN-Wide System of Self-Certification
CCA	Coordinating Committee on the Implementation of the ATIGA
CCC	Coordinating Committee on Custom
CLMV countries	Cambodia, Lao PDR, Myanmar and Viet Nam
DFTP	Department of Foreign Trade Policy
DIMEX	Department for Import and Export
DoA	Department of Agriculture
DoIH	Department of Industry and Handicraft
DFD	Department of Food and Drug
DOSM	Department of Standardization and Metrology
DTP	Department for Trade Promotion
EBA	Everything but Arms
E-CO	Electronic Certificate of Origin
EU	European Union
FTAs	Free Trade Agreements
GIZ	Deutsche Gesellschaft für International Zusammenarbeit
GoL	Government of Lao PDR
GRPs	Good Regulatory Practices
ITC	International Trade Centre
JSCEEE	Joint Sectoral Committee Electrical and Electronic Equipment
Lao PDR	Lao People's Democratic Republic
LDC	Least Developed Country
LNCCI	Lao National Chamber of Commerce
LTP	Lao PDR's Trade Portal
MoIC	Ministry of Industry and Commerce
MRA	Mutual Recognition Arrangement
MSMEs	Micro, Small and Medium Enterprises
NTBs	Non-Tariff Barriers
NTFCs	National Trade Facilitation Coordinating Committees
NTMs	Non-Tariff Measures
NTRs	National Trade Repositories
PSRs	Product Specific Rules

PTAs	Preferential Trade Agreements
RBPWG	Rubber-Based Products Working Group
RCEP	Regional Comprehensive Economic Partnership
ROO	Rules of Origin
SCROO	Sub-Committee on Rules on Origin
SME	Small and Medium-sized Enterprise
SEOM	Senior Economic Officials Meeting
SPS	Sanitary and Phytosanitary
TBT	Technical Barriers to Trade
TFA	Trade Facilitation Agreement
TMHS	Traditional Medicines and Health Supplements
TRQs	Tariff Rate Quotas
TRTA	Trade-Related Technical Assistance
TTCB	Transit Transport Coordinating Board
UN	United Nations
UNECE	United Nations Economic Commission for Europe
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
WBPWG	Wood-Based Products Working Group
WCO	World Customs Organization
WTO	World Trade Organization

EXECUTIVE SUMMARY

The ASEAN Trade in Goods Agreement (ATIGA) seeks to achieve the free flow of goods in the ASEAN region. The Agreement entered into force twelve years ago, on 17 May 2010, consolidating all regional commitments related to trade in goods. The objective of this initiative was to bring greater legal certainty, transparency and integration to trade liberalisation and facilitation efforts, within the ASEAN region.

It is imperative that the Government of Lao PDR meets its obligations under the ATIGA in a timely and holistic manner, which will benefit Lao PDR and its businesses, as well as facilitate trade within the bloc, as well as with ASEAN dialogue partners.

In order to assist the Government of Lao PDR in ensuring the timely and full implementation of the ATIGA, an assessment of the status of ATIGA implementation by Lao PDR and to identify implementation gaps (*i.e.*, areas in which Lao PDR has not yet been able to fully meet its ATIGA obligations) was undertaken between in 2020/2021. The implementation of the ATIGA is still incomplete not only in Lao PDR, but also across the ASEAN region, leaving a large degree of trade facilitation and economic integration unattained, as the ASEAN Member States work towards further implementation.

One of the objectives of the ARISE Plus Lao PDR project is to achieve regional economic integration by addressing specific constraints in selected sectors implementing measures contained in the ASEAN Trade in Goods Agreement (ATIGA) and the ASEAN Economic Community (AEC) Blueprint 2025. The ATIGA gap assessment is the key tool developed from which to understand the challenges and constraints faced in implementing the commitments under the ATIGA and related commitments and to assess the support that can be provided to Lao PDR to better leverage the benefits of the ATIGA and regional integration. For this purpose, a questionnaire was prepared and submitted to public and private stakeholders in Lao PDR in 2020. Given the travel restrictions linked to the Covid-19 pandemic, consultations were then largely held virtually or in person by the National Consultant.

This report provides an assessment of the implementation of each of the commitments undertaken by Lao PDR as a signatory to the ATIGA in a user-friendly 'commitments matrix' and synthesises the findings of this assessment to clearly demarcate the way forward for Lao PDR's implementation of the ATIGA. The report identifies key areas in which challenges and constraints faced by Lao PDR to meet ATIGA commitments and thereby, better facilitate Lao PDR's trade within the region, should be addressed.

Overall, the assessment revealed that Lao PDR has made significant progress towards the full implementation of the ATIGA and with respect to trade facilitation. However, in some key areas and for various reasons, including those related to lack of capacity and budgetary constraints, Lao PDR's implementation has been held back. This means that Lao PDR and its businesses have yet to take full advantage of the benefits that would have otherwise been made available to them under the ATIGA.

To assist the Government of Lao PDR in fully reaping the benefits of the ATIGA, specific recommendations are made, and a Strategic Executable Roadmap has been developed to function as a guide for setting priorities and objectives toward the progressive implementation of the ATIGA.

ACKNOWLEDGEMENTS

The International Trade Centre (ITC) wishes to express its gratitude to the authorities in Lao PDR, notably Director-General Saysana Sayakone and Deputy Director-General Santisouk Phounesavath within Lao PDR's Ministry of Industry and Commerce, as well as to all Government agencies and private sector entities that contributed to the success of this ATIGA Gap Assessment.

The ITC also appreciates the invaluable support and cooperation from officials from the Ministry of Industry and Commerce and from other Departments and Divisions that were extended as part of the ITC project of conducting the Gap Assessment between July and November 2020 and which, due to the Covid-19 pandemic, had to take place largely virtually. The ATIGA gap assessment was developed by ITC's experts Paolo Vergano and Tobias Dolle, with the valuable support of the National Consultant, Mr. Piya Wongpit, as well as the ITC's local staff, namely Anne-Katrin Pfister, Kinnaphone Sounthongdeng, and Phonesanook Mahavong.

ABOUT ARISE PLUS LAO PDR

The European Union (EU) launched the ASEAN Regional Integration Support for Lao PDR (ARISE Plus Lao PDR), with the aim of promoting "*inclusive economic growth, climate change resilience, mitigating vulnerability and job creation in the Lao People's Democratic Republic*". More specifically, through this project, the EU seeks to support the country's regional economic integration under the EU 2014 – 2020 Multiannual Indicative Programme for Asia.

The International Trade Centre (ITC) is supporting the Government of Lao PDR to implement the ARISE Plus Lao PDR project, in collaboration with the focal point, the Ministry of Industry and Commerce.¹ One of the expected results of the project is to achieve regional economic integration by addressing specific constraints in selected sectors implementing measures contained in the ASEAN Trade in Goods Agreement (ATIGA) and the ASEAN Economic Community (AEC) Blueprint 2025".² In this context, ITC undertook this study to assess the level of implementation of the ATIGA and related commitments in the AEC Blueprint 2025, and identify the reforms/measures needed to effectively benefit from the regional trading partnership.

¹ Further information about the ARISE Plus Lao PDR project is available at <https://www.intracen.org/arise-plus-laos/> (accessed 21 September 2020).

² Further information about the ARISE Plus Lao PDR project is available at <https://www.intracen.org/arise-plus-laos/> (accessed 21 September 2020).

I. INTRODUCTION

The ASEAN Trade in Goods Agreement (hereinafter, ATIGA) entered into force on 17 May 2010, with the objective of establishing an integrated market and production base with a free flow of goods.³ The ATIGA consolidated all regional commitments related to trade in goods and seeks to bring about greater legal certainty and transparency to, and enhanced integration of, trade liberalisation and intra-ASEAN cross-border trade facilitation efforts within the ASEAN region.

The main body of the ATIGA is comprised of eleven chapters that include, *inter alia*: tariff liberalisation; non-tariff measures (NTMs); rules of origin; trade facilitation; customs; standards and conformance; and sanitary and phytosanitary measures. The ATIGA consolidated and streamlined the provisions of the former ASEAN Free Trade Area (AFTA) Agreement and the AFTA-Common Effective Preferential Tariff, and formalises several Ministerial decisions, whilst adding new measures designed to achieve the free flow of goods within ASEAN.

Annex 2 to the ATIGA provides a complete tariff reduction schedule for each ASEAN Member State (hereinafter, AMS), with the tariff rates applicable to each product for each year up to 2015, with additional flexibility until 2018 for Cambodia, Lao PDR, Myanmar and Viet Nam (collectively known as the CLMV countries) by virtue of their less-developed status and more recent membership of ASEAN.

Ten years after the entry into force of the ATIGA, the implementation is still incomplete across the ASEAN region, leaving a large degree of trade facilitation unattained, as the ASEAN Member States work towards further implementation.

Meeting obligations under the ATIGA is essential to support Lao PDR and its businesses to benefit from the regional trading partnership and generate more trade within the region. Accordingly, it is important for the Government of Lao PDR to take measures necessary to meet its obligations under the ATIGA in a timely manner. In fact, there is no better opportunity for ASEAN and its individual Member States to grow the rate of intra-ASEAN trade, which currently stands at a meagre 23% and has been decreasing in recent years, than by implementing in full the ATIGA and taking advantage of its trade facilitation potential and the transparency, legal certainty, due process and commercial predictability that it brings to ASEAN trade in goods, both for ASEAN Member States and economic operators.

This implementation commitment is repeatedly stated by ASEAN in multiple key legal instruments, including the ATIGA itself, the ASEAN Economic Community (AEC) Blueprint 2025, the ASEAN Trade Facilitation Framework, the ASEAN NTMs Guidelines, etc., which also contain key obligations and principles whose implementation is critical for Lao PDR's increased participation in regional trade. While it is true that, at first sight, it may seem counter-intuitive how the implementation of the ATIGA would enhance Lao PDR's ability to participate more effectively in ASEAN trade and contribute to its socio-economic development, the ATIGA Gap Assessment shall evidence the areas where implementation looks poised to enable Lao PDR to better take advantage of market access opportunities in other ASEAN Member States, export its competitive products, protect its market when necessary, and strengthen integration within the region while embracing its value chains.

In this context, under the scope of the ASEAN Regional Integration Support for Lao PDR (ARISE Plus Lao PDR), the International Trade Centre (ITC), is undertaking a diagnostic analysis to assess the level of implementation of the ATIGA and related AEC Blueprint 2025 commitments with the aim of understanding gaps in implementation (i.e., areas in which Lao PDR has not yet been able to fully meet its ATIGA obligations), and developing an executable roadmap to facilitate a structured and coordinated implementation of reforms to address the identified gaps.

By understanding the progress made, challenges faced, and further steps that need to be taken to achieve full implementation, the ultimate objective is to better position Lao PDR to leverage the regional

³ The full text of the ATIGA is available on the ASEAN website at <http://investasean.asean.org/index.php/page/view/asean-free-trade-area-agreements/view/757/newsid/872/asean-trade-in-goods-agreement.html> (accessed 21 September 2020).

economic integration process, improve the business environment, and more effectively participate in international value chains. More specifically, this assessment:

- Identifies the key areas in which measures need to be taken to meet existing commitments and synthesises the key challenges/constraints that need to be addressed to facilitate such implementation; and
- Sets out a strategic executable roadmap, as mentioned above, which can form the basis for designing and implementing further technical assistance under the ARISE Plus Lao PDR project or other initiatives.

In addition, the outcome of the ATIGA gap assessment should provide the Government of Lao PDR with a number of relevant suggestions that may be reflected and factored-in the General Review of the ATIGA that is currently unfolding at regional level. (Refer Section 2.1.2 (b) for further details of the General Review of the ATIGA).

This report is structured as follows:

- **Section II** provides an overview of the methodology and context of the study – The context specifically discusses the other key ASEAN instruments relevant in the context of the implementation of the ATIGA, of intra-ASEAN trade in goods, as well as of other relevant drivers for regional integration.
- **Section III** presents the commitments matrix, which is structured based on the chapters, sections, and articles of the ATIGA. It provides a detailed assessment of the degree of implementation against each of these provisions.
- **Section IV** presents the overall conclusions drawn from the assessment and the specific recommendations.
- **Section V** presents the strategic executable roadmap and proposed monitoring framework.

II. METHODOLOGY AND CONTEXT

2.1. Overall Methodology

The methodology adopted for the development of the gap assessment comprised of the following steps:

a) Introductory Workshop on the ATIGA and the Gap Assessment

At the outset, ITC, in collaboration with the Department of Foreign Trade Policy (DFTP), organized an introductory workshop on 15 July 2020 for stakeholders from Lao PDR's Government and its private sector/civil society. The introductory workshop was organized in the form of a 'hybrid' meeting where the International Experts and the Geneva-based ITC officers participated online, while the stakeholders, ITC's National Consultant and Lao-based ITC officers, physically gathered in Vientiane at the premises of the MoIC. The workshop was organized to provide an introduction to the ATIGA and related commitments, present experiences of other regions in implementation, and discuss the next steps in this exercise. This event was an opportunity to introduce the study and present the methodology to the Government of Lao PDR, particularly its line agencies, and coordinate the necessary activities and interactions.

b) Initial outreach – Dissemination of questionnaires

ITC's team on ATIGA implementation, consisting of both international and national experts, undertook consultations with relevant officials in the Government agencies in Lao PDR responsible for each ATIGA obligation.⁴

Prior to the meetings, a set of questionnaires were drafted by the experts, based on a 'Commitments Matrix' purposely built to conduct the ATIGA Gap Assessment (Refer Annex 1 for a copy of the questionnaire circulated to the respective stakeholders, as agreed with the ITC and the MoIC of Lao PDR).

This initial matrix included sections for the relevant provisions of the ATIGA, the responsible agencies for each obligation, and questions to be provided to the relevant officials. The questionnaires were sent to all relevant stakeholders ahead of follow up calls and meetings with most relevant stakeholders within the Government of Lao PDR and the private sector.

In particular, the questionnaires contained a detailed list of questions for agencies holding competences with respect to trade policy formulation, trade compliance and/or ATIGA implementation. As indicated, the questions were based on the provisions of the ATIGA and on other legal instruments referred to in the ATIGA as binding. The questionnaires were designed to:

- Inform responsible officials about Lao PDR's ATIGA obligations and commitments, by having them look at the obligations from the perspective of their own agency's compliance;
- Assess what actions, if any, the respective agency had taken to comply with treaty obligations;
- Assess each agency's trade regulation processes in order to determine where the agency needs further support to honour Lao PDR's ATIGA commitments; and
- Assess what further technical assistance or capacity building the agency may need in order to fulfil its role via-à-vis Lao PDR's ATIGA implementation.

ITC's experts reached out to relevant stakeholders (Refer Annex 2 for the list of contacted entities in Annex 2) in order to circulate the questionnaires, progressively engage with the various counterparts and designated focal points and ensure that the feedback of as many ATIGA-related Government officials be gathered as possible.

This undertaking proved relatively slow, complex, and impaired by the *Covid-19* pandemic and related restrictions. While certain counterparts provided comprehensive and good quality information in a timely

⁴ It should be noted that, as a consequence of the Covid-19 pandemic and the related travel restrictions and strict social distancing rules imposed globally and in Lao PDR, few physical meetings could take place and they were all conducted by the national expert, in close coordination with the international experts and the ITC. Wherever relevant, the international experts participated via video conference.

manner, there were some challenges faced in acquiring relevant details and clarifications to some of the responses received.

The individual questionnaires received from the various stakeholders and the full list of the agencies contacted and of the ones that did contribute inputs and information to the consultation, are available upon request.

c) Follow-up consultations based on questionnaire responses

Based on an initial analysis from the responses received, follow-up consultations were held in early November 2020 with various government agencies to build upon the findings, understand constraints faced, and also to identify technical assistance and support needs to better facilitate compliance. (Refer Annex 5 and 6 for details of the follow-up meetings held). The information gathered is reflected in the commitments matrix.

d) Analysis and Drafting

The information received from various stakeholders through their replies to the questionnaires, the information collected during the follow up meetings, and the information gathered and analysed during the desk-work conducted by the team of experts was analysed and consolidated into a report.

The inability of ITC's experts to engage in direct consultations on the ground, due to the travel restrictions, did constrain their ability to effectively gather information. Electronic consultations instead, which only partially mitigated the '*handicap*'. However, a sufficient amount of information was collected and progressively refined through '*back-and-forth*' correspondence between ITC's experts and the respective agencies. This information is displayed, analysed and assessed in the following '*Commitments Matrix and Gap Assessment*', thereby enabling a set of conclusions and recommendations.

The draft report was presented to the DFTP for feedback and confirmation of the findings of the gap assessment, as demonstrated in the '*ATIGA Commitments Matrix*' provided in Section VI below, which contains conclusions on the gaps that appear to exist in terms of Lao PDR's implementation of the ATIGA. These initial determinations were critically reviewed by the Government of Lao PDR, and the other stakeholders involved in the exercise, so as to confirm their correctness, relevance and prioritization. A follow-up consultation was held with DFTP in this regard, at which stage it was confirmed by DFTP that the general feedback from the line agencies was that the assessment was an accurate reflection of the situation in Lao PDR, and provide certain clarifications on certain aspects.

The methodological approach required that the draft Report, with the initial ATIGA Gap Assessment, be circulated among the key stakeholders in order to seek their comments, feedback and additional elements. That process was meant to enable the team of experts to finalise the ATIGA Gap Assessment and provide the Government of Lao PDR with an accurate and comprehensive matrix of ATIGA implementation and an actionable set of recommendations to accelerate towards full ATIGA implementation, regional economic integration and socio-economic development, benefitting businesses in Lao PDR and the country more in general.

The draft report was also circulated to the relevant agencies engaged in the analysis stage for confirmation of the findings of the gap assessment and reflection of their comments; and follow-up questions/information was sought as needed.

e) Status of Current Draft and Next Steps

The final step for the ATIGA Gap Assessment concerns confirmation from DFTP and the other relevant agencies that the draft ATIGA Gap Assessment has been finalised, in order for it to become a guiding driver for purposes of policymaking, future technical assistance, and ATIGA implementation.

Accordingly, specific recommendations have been developed to facilitate the implementation and to address challenges and constraints faced in this regard and a strategic executable roadmap is set out to facilitate a structured and coordination implementation of recommendations to implement the ATIGA (Section IX).

The key findings and strategic executable roadmap will be presented to stakeholders in a validation event, following which the report will be finalised. Shortly after the ATIGA Gap Assessment report is

finalised, ITC will submit a proposal for possible technical assistance in a separate document, as identified during subsequent discussions with the officials in Lao PDR and as evident in light of the analysis conducted.

2.2. ASEAN Perspective on ATIGA Implementation

Within the ASEAN framework, there are certain other ASEAN legal instruments and initiatives for enhanced regional economic integration, which are strongly linked to the ATIGA and intra-ASEAN trade in goods. Accordingly, Lao PDR's implementation of the ATIGA must be in line with these legal instruments and initiatives, as described in this section.

2.1.1 Key ASEAN Legal Instruments

With respect to the implementation of the ATIGA and intra-ASEAN trade in goods, the three ASEAN legal instruments that deserve a closer review and analysis are the:

- ASEAN Economic Community (AEC) Blueprint 2025,
- ASEAN Trade Facilitation Framework, and
- Guidelines for the Implementation of ASEAN Commitments on Non-Tariff Measures on Goods.

The following sub-sections are largely based on the actual instruments, so the language must be intended as mainly quoted *verbatim* from the respective legal texts, as relevant.

a) ASEAN Economic Community (AEC) Blueprint 2025

The *ASEAN Economic Community Blueprint 2025* stemmed from ASEAN's recognition, having achieved the landmark objective of the ASEAN Economic Community in 2015, that regional economic integration is a dynamic, ongoing process, given that the ASEAN Member States' economies, as well as domestic and external environments, are constantly evolving. The AEC Blueprint 2025 intends to build on the AEC Blueprint 2015 and on five interrelated and mutually reinforcing characteristics for ASEAN regional economic integration: 1) a highly integrated and cohesive economy; 2) a competitive, innovative, and dynamic ASEAN; 3) enhanced connectivity and sectoral cooperation; 4) a resilient, inclusive, people-oriented, and people-centred ASEAN; and 5) a global ASEAN.

The AECB 2025 provides new emphasis towards the development and promotion of micro, small and medium enterprises (MSMEs) in relation to ASEAN's economic integration efforts and aims at embracing the evolving digital technology in order to enhance trade and investment, provide an e-based business platform, promote good governance, and facilitate the use of green technology within the region. The vision of the AEC Blueprint 2025 is further elaborated in Box 1.⁵

With particular regard to **intra-ASEAN trade in goods, and therefore to the ATIGA**, the AEC Blueprint 2025 encourages AMSs to further implement measures relating to tariff elimination, in accordance with the ATIGA and trade facilitation, so as to contribute to a greater free flow of goods within the region. In the AEC Blueprint 2025, ASEAN aims at continuing to reduce or eliminate border and behind-the-border regulatory barriers that impede trade, so as to achieve competitive, efficient, and seamless movement of goods within the region. The AEC Blueprint 2025 lists a number of strategic measures to achieve these broad objectives, which are further elaborated in Box 2.⁶

All these drivers and objectives, as laid out by the AEC Blueprint 2025, have a direct or indirect bearing on the implementation of the ATIGA and on the priorities, focus and efforts required from AMSs, including Lao PDR, when advancing the ASEAN Economic Community and, in particular, the freer flow of intra-ASEAN trade in goods.

The ATIGA Gap Assessment and the recommendations made for purposes of fully implementing the ATIGA must be conducted, assessed and formulated so as to enable Lao PDR not only to comply with its ATIGA obligations and commitments, to be able to take full advantage of the ASEAN Economic Community, but must also aim at achieving these wider ASEAN objectives.

⁵ ASEAN Economic Community Blueprint 2025, Section I.6 thereof, available on the ASEAN website at https://www.asean.org/storage/2016/03/AECBP_2025r_FINAL.pdf (accessed 21 September 2020).

⁶ ASEAN Economic Community Blueprint 2025, Section II.A.1 thereof, available on the ASEAN website at https://www.asean.org/storage/2016/03/AECBP_2025r_FINAL.pdf (accessed 21 September 2020).

Box 1: Vision set out in the AEC Blueprint 2025

- 1) Create a **deeply integrated and highly cohesive ASEAN economy** that would support sustained high economic growth and resilience even in the face of global economic shocks and volatilities;
- 2) Engender a more **equitable and inclusive economic growth in ASEAN that narrows the development gap**, eliminates if not reduces poverty significantly, sustains high growth rates of *per capita* income, and maintains a rising middle class;
- 3) Foster robust productivity growth through **innovation, technology and human resource development, and intensified regional research and development** that is designed for commercial application to increase ASEAN's competitive edge in moving the region up the global value chains (GVCs) into higher technology and knowledge-intensive manufacturing and services industries;
- 4) Promote the **principles of good governance, transparency, and responsive regulatory regimes** through active engagement with the private sector, community-based organisations, and other stakeholders of ASEAN;
- 5) Widen ASEAN people-to-people, **institutional, and infrastructure connectivity through ASEAN and sub-regional cooperation projects** that facilitate the movement of capital as well as skilled labour and talents;
- 6) Create a more **dynamic and resilient ASEAN, capable of responding and adjusting to emerging challenges** through robust national and regional mechanisms that address food and energy security issues, natural disasters, economic shocks, and other emerging trade-related issues as well as global megatrends;
- 7) Incorporate a **sustainable growth agenda** that promotes a science-based use of, and support for, **green technology and energy**;
- 8) Promote the use of the **ASEAN Protocol on Enhanced Dispute Settlement Mechanism (EDSM)** and develop other approaches to speed up economic dispute resolution;
- 9) Reinforce ASEAN centrality in the emerging regional economic architecture by maintaining **ASEAN's role as the centre and facilitator of economic integration in the East Asian region**; and
- 10) Work towards a common position and **enhance ASEAN's role and voice in global economic fora**.

Box 2: Strategic Measures to achieve the broad objectives of the AECB 2025

- 1) Strengthen ATIGA further. In view of the ongoing review of the ASEAN+1 Free Trade Agreements (FTAs) and the Regional Comprehensive Economic Partnership (RCEP) negotiations, commitments in the ATIGA are to be reviewed and refined in order to, *inter alia*, enhance provisions to entrench ASEAN centrality, strengthen the ATIGA's notification process, and bring down further the remaining tariff barriers in ASEAN towards the free flow of goods in the region.
- 2) Simplify and Strengthen the Implementation of the Rules of Origin (ROO). ROO implemented by the ASEAN Member States should be simplified, business-friendly and trade-facilitative, to benefit the region's trade, in particular, the participation of MSMEs to encourage them to expand, upgrade, and deepen their linkages within the region. Towards this end, priority sectors for Product Specific Rules (PSRs) can be negotiated, and processes for the determination of origin criteria streamlined.
- 3) Accelerate and Deepen the Implementation of Trade Facilitation Measures. ASEAN played a leading role in the conclusion of the World Trade Organization (WTO) Trade Facilitation Agreement (TFA) in 2013. Beyond ensuring the smooth implementation of the TFA in the ASEAN Member States, ASEAN aims towards convergence in trade facilitation regimes among the ASEAN Member States and to move closer to the global best practice. The ASEAN Trade Facilitation-Joint Consultative Committee (ATF-JCC), comprising of representatives from the public and private sectors, has been established to accelerate work on trade facilitation and to ensure expeditious movement of goods within the region. Among the key measures are the following (*Refer Section 1:6 AEC Blueprint 2025*):
 - a. Complete measures initiated under the AEC Blueprint 2015;
 - b. Fully roll-out the National Single Windows in all AMSs, and widen the scope of the ASEAN Single Window project to include more documents and stakeholders in all AMSs;
 - c. Cooperate on the effective operationalisation of the National and ASEAN Trade Repositories (*i.e.*, NTRs and ATR) for enhanced regulatory transparency and certainty for the private sector in the region;
 - d. Streamline and simplify administrative regulatory regimes, documentary requirements, as well as import and export procedures, including customs procedures;
 - e. Deepen regional implementation of trade-facilitative ASEAN initiatives such as Authorised Economic Operators (AEO) programme and Self-Certification programme;
 - f. Strengthen public-private sector cooperation, collaboration, and partnership in improving the process, institutional and infrastructural foundations of efficient and effective trade facilitation within the region;
 - g. Minimise trade protection and compliance costs in dealing with Non-Tariff Measures (NTMs). Most NTMs address regulatory objectives such as environmental, health and safety, security or cultural considerations, but they can also significantly impede trade inadvertently or by design. Addressing NTMs involves the following: i) accelerating work towards full elimination of Non-Tariff Barriers (NTBs); ii) standards and conformance measures, *e.g.*, equivalence in technical regulations, standards harmonisation, alignment with international standards and mutual recognition arrangements (MRAs); and iii) streamlining procedures and reducing requirements for certificates, permits and licenses to import or export. In the words of the AECB 2025, the measures that give rise to a trade facilitative regime within the ASEAN region include the following: i) explore imposing stringent criteria and the sunset clause on trade-protective NTMs such as quotas and other quantity restrictions in imports and exports; ii) embed good regulatory practice (GRP) in implementing domestic regulations and practices and thereby minimise compliance cost of meeting NTM requirements; iii) strengthen coordination with the private sector

in determining, prioritising and minimising the unnecessary regulatory burden of NTMs on the private sector; and iv) explore alternative ways to addressing NTMs such as sectoral or value chain approaches to deal with NTMs;

- h. Work towards facilitative standards and conformance. This involves the accelerated implementation of harmonisation of standards and technical regulations, improvement of quality and capability of conformity assessment, enhanced information exchange on laws, rules, and regulatory regimes on standards and conformity assessment procedures. This also involves regional cooperation and agreement on measures to facilitate MSMEs upgrading towards regionally and/or internationally agreed on standards to facilitate exports. Relevant measures include the following: i) complete and deepen initiatives begun under the AEC Blueprint 2015; ii) undertake concerted regional and national programmes to upgrade the technical capacity and physical infrastructure for effective and efficient conformity assessment regime in the region; iii) establish effective measures for transparency and communication on country-specific requirements; iv) expand coverage of sectors under standards and conformance beyond the priority integration sectors; v) embed GRP in the preparation, adoption, and implementation of standards and conformance rules, regulations, and procedures; vi) strengthen public-private partnership and enhance contribution of the private sector in designing, monitoring, reviewing, and updating of standards and conformance regime in the region; and vii) strengthen cooperation with Dialogue Partners in the implementation of technical barriers to trade (TBT) Chapters of ASEAN+1 FTAs, and future economic partnership and free trade agreements.

b) ASEAN Trade Facilitation Framework

The *ASEAN Trade Facilitation Framework* (ATFF) was drafted to inject further momentum in the need for ASEAN to fully embrace trade facilitation and grow intra-ASEAN trade, particularly in goods, from the minute 23% of total trade among AMSs to a figure closer to what other regional preferential trade areas enjoy (e.g., intra-EU trade accounts for around 60% of total aggregated trade by the EU Member States), thereby strengthening ASEAN as the primary and natural market for AMSs.

In fact, the ATFF acknowledges that trade facilitation is a recognized driver of economic development and regional integration. It plays a key role with respect to the realization of the goal of establishing ASEAN as a single market and production base, which is stable, prosperous, highly competitive, and economically integrated, with effective facilitation for trade and investment, in which there is a free flow of goods, services and investment. Important drivers of trade facilitation, as well as several trade facilitation obligations and commitments, already inform AMSs' trade and economic relations within ASEAN. These are evident in the *ASEAN Charter*, the *ASEAN Vision 2025: Forging Ahead Together*, the *AECB 2025*; and the *ATIGA*. Noting that trade facilitation disciplines are also evident in the *WTO Trade Facilitation Agreement* and within the framework of the *Revised International Convention on the Simplification and Harmonization of Customs Procedures* (the revised Kyoto Convention), which was adopted by the World Customs Organization (WCO), the ATFF provides further multilateral context to the trade facilitation drive required within ASEAN.

The ATFF aims at consolidating these elements and provides the conceptual basis upon which AMSs and therefore Lao PDR, can further engage and foster greater trade facilitation regionally and within the relevant ASEAN Sectoral Bodies (*i.e.*, *inter alia*, the *ASEAN Trade Facilitation Joint Consultative Committee* or ATF-JCC, the *Coordinating Committee on the Implementation of the ATIGA* or CCA, the *ASEAN Consultative Committee for Standards and Quality* or ACCSQ, the *ASEAN Committee on Sanitary and Phytosanitary Measures* or AC-SPS, as well as the *ASEAN Directors-General of Customs* (for customs) and the *ASEAN Senior Transport Officers* (for transit), supported by the ASEAN Transit Transport Coordinating Board or TTCB). The ATFF focuses on the effective implementation of the existing ASEAN obligations, commitments and instruments relating to trade facilitation, particularly those in the ATIGA and in other relevant ASEAN legal instruments (e.g., the *Guidelines for the Implementation of ASEAN Commitments on Non-Tariff Measures on Goods*, or 'NTMs Guidelines'). **The added value of the ATFF rests in the desire of AMSs to provide a coordinated and renewed impetus towards trade facilitation within the ASEAN region.**

The overall scope⁷ and objectives⁸ of the ATFF are elaborated upon in Box 3 and 4 below.

Box 3: Scope of the ATFF

In line with the ASEAN commitments to trade facilitation under the ATIGA and the AECB 2025, the scope of the ATFF covers the following areas: a) customs and transport facilitation; b) transparency of trade regulation and procedures; c) standards and conformance; and d) private sector engagement and business facilitation.

Other specific areas of ATFF coverage, such as the *ASEAN Single Window (ASW)*, the *ASEAN Customs and Transit System (ACTS)*, the *ASEAN Trade Repository (ATR)* with the inter-operative network of *National Trade Repositories (NTRs)*; the *ASEAN-wide system of Self-Certification*, the system of *ASEAN Solutions for Investments, Services and Trade (ASSIST)*, and/or the various initiatives to streamline Non-Tariff Measures (NTMs) and eliminate Non-Tariff Barriers (NTBs), are to be coordinated and advanced by the specific subsidiary bodies active in each of these focus areas under the coordination of the ASEAN Trade Facilitation Joint Consultative Committee (ATF-JCC).

Box 4: Objectives of the ATFF

The objectives of the ATFF are identified as the following:

a) to achieve the competitive, efficient and seamless movement of goods within the region in order to enhance ASEAN's trade and production networks, better participate into global value chains, as well as to establish a highly integrated and cohesive economy,

b) to minimise the impact of non-tariff measures (NTMs) and achieve the elimination of non-tariff barriers (NTBs), fostering an effective and responsive regional approach to efficiently address NTMs, with a view to pursuing legitimate policy objectives while reducing cost and time of doing business in ASEAN;

c) to further promote the active engagement of the private sector, with particular emphasis on the development and promotion of micro, small and medium enterprises (MSMEs) in the process of regional economic integration, through greater participation of the various ASEAN business associations in the appropriate *fora*;

d) to address the development gaps between and within AMSs and the need to facilitate the increasing participation of all AMSs, especially least developed AMSs, in the process of implementation of ASEAN trade facilitation programmes;

e) to enhance the institutional coordination among the relevant sectoral bodies of ASEAN, in order to effectively implement the trade facilitation measures under their respective purview, consistently with their sectoral work-plans for 2016- 2025 and the ASEAN Blueprint 2025;

f) to improve the monitoring mechanism for the implementation of trade facilitation measures, with a view to increasing their effectiveness and responsiveness in improving the competitiveness of ASEAN industries and businesses, particularly MSMEs; and

g) to encourage the implementation of trade facilitation measures, which have been accepted by international institutions such as the WTO and/or the WCO, and in light of other relevant best practices.

⁷ ASEAN Trade Facilitation Framework, Section II thereof, available on the ASEAN website at <https://asean.org/wp-content/uploads/2016/08/ASEAN-Trade-Facilitation-Framework.pdf> (accessed 21 September 2020).

⁸ ASEAN Trade Facilitation Framework, Section III thereof, available on the ASEAN website at <https://asean.org/wp-content/uploads/2016/08/ASEAN-Trade-Facilitation-Framework.pdf> (accessed 21 September 2020).

Finally, it is worth noting that the ATFF indicates that, in order to assist the functioning of the ATF-JCC:

- **AMSs must strengthen their respective *National Trade Facilitation Coordinating Committees (NTFCs)* or their relevant focal points at their respective national levels, in line with Article 50 of the ATIGA;** and
- AMSs, individually and collectively, must undertake assessments, once every two years, on the implementation of the trade facilitation measures set out in the ASEAN Work Programme on Trade Facilitation (AWPTF), in line with Article 48 of the ATIGA.

There are areas where technical assistance could be regularly provided to the Government of Lao PDR, both in terms of supporting the convening and functioning of its NTFC and in terms of cyclically assessing Lao PDR's implementation of the trade facilitation measures set out in AWPTF.

The framework of enhanced trade facilitation laid out by the ATFF, and described in relevant part above, must be taken into account and adhered to by Lao PDR as it further implements the ATIGA and adopts policies and measures that are aimed at facilitating intra-ASEAN trade in goods, to the benefit of both regional economic integration and its own exporters' ability to access other AMSs' markets.

c) Guidelines for the Implementation of ASEAN Commitments on Non-Tariff Measures on Goods (NTMs Guidelines)

The *Guidelines for the Implementation of ASEAN Commitments on Non-Tariff Measures on Goods*⁹ (hereinafter, NTMs Guidelines) were endorsed by the ASEAN Economic Ministers at the 32nd AFTA Council meeting in July 2018. The NTMs Guidelines, in accordance with the ATIGA and the WTO rights and obligations of all AMSs (which are all WTO Members), provide a general framework to: a) improve the transparency and management of NTMs in ASEAN; and b) minimise the trade-distortive effects of NTMs, while allowing AMSs to pursue legitimate policy objectives.

With particular regard to their scope of application, the NTMs Guidelines are intended to operationalise the following provisions and objectives under the ATIGA:

- Article 11 (Notification Procedures);
- Article 12 (Publication and Administration of Trade Regulations);
- Article 13 (ASEAN Trade Repository);
- Article 40 (Application of Non-Tariff Measures);
- Article 42 (Elimination of Other Non-Tariff Barriers); and
- Article 44 (Import Licensing Procedures) – for which the *Guidelines for the Implementation of Import Licensing Procedures in ASEAN* (ILP Guidelines), adopted on 3 August 2011, are deemed as incorporated into the NTMs Guidelines, *mutatis mutandis*.

For the NTMs Guidelines, the category of NTMs comprises trade rules, regulations or specific measures attributable to the relevant levels of legal instruments maintained by an AMS. Such legal instruments may include: governmental regulations, executive directives, ministerial and sub-ministerial regulations/directives/circulars, and any other implementing regulations, including administrative, technical, and operational procedures, and their manner of implementation.

As specified in Article 40 of the ATIGA, AMSs **must not adopt or maintain any NTM** on the importation of any good of any other AMS or on the exportation of any good destined for the territory of any other AMS, except in accordance with its WTO rights and obligations or the ATIGA.

The NTMs that may be adopted or maintained are provided for under the ATIGA and GATT 1994 provisions, including, but not limited to:

- a) Article 8 (General Exceptions), Article 9 (Security Exceptions), Article 10 (Measures to Safeguard the Balance-of-Payments), Article 24 (Special Treatment on Rice and Sugar), Paragraph 7 of

⁹ Guidelines for the Implementation of ASEAN Commitments on Non-Tariff Measures on Goods, available on the ASEAN website at https://asean.org/storage/2018/12/Guidelines_for_the_Implementation_of_ASEAN_Commitments_on_NTMs-July_2018-AEM-AFTAC_32.pdf (accessed 21 September 2020).

Article 42 (Elimination of Other Non-Tariff Barriers), Article 44 (Import Licensing Procedures), and the relevant articles in Chapter 6 (Customs), Chapter 7 (Standards, Technical Regulations and Conformity Assessment Procedures), and Chapter 8 (Sanitary and Phytosanitary Measures), of the ATIGA; and

- b) Paragraph 2 of Article XI (General Elimination of Quantitative Restrictions), Article XII (Restrictions to Safeguard the Balance of Payments), Article XX (General Exceptions), and Article XXI (Security Exceptions), of the GATT 1994, and the relevant provisions in Annex 1A to the WTO Agreement.

AMSs must ensure that NTMs conform to the following main principles: a) necessity and proportionality; b) consultations and engagement; c) transparency; d) non-discrimination and impartiality; and e) periodic review. All these principles are set out in greater detail in the NTMs Guidelines and provide guidance as to how AMSs are to advance the identification, notification, management, consultation on, assessment, streamlining and review of NTMs. In this regard, the NTMs Guidelines indicate that AMSs must also take into consideration the need to adhere to the ASEAN Good Regulatory Practice Core Principles, which comprise: (i) clarity in policy rationale, objectives, and institutional frameworks; (ii) produce benefits that justify costs and be least distortive to the markets; (iii) be consistent, transparent, and practical; (iv) support regional regulatory cooperation; (v) promote stakeholder engagement and participation; and (vi) be subject to regular review for continued relevance, efficiency, and effectiveness.

Under the NTMs Guidelines, AMSs must endeavour to implement the NTMs Guidelines by further strengthening their national institutions, including by considering the establishment of a national NTM focal point or a similar organisation that would be responsible to undertake: (i) *ex-ante* NTMs reviews; (ii) public consultations and private sector engagement; (iii) internal coordination on notification and publication of NTMs; (iv) the removal of NTBs or the barrier elements of NTMs; and (v) *ex-post* regulatory impact analyses. To ensure the efficiency and effectiveness of this process, AMSs are encouraged by the NTMs Guidelines to consider establishing a national NTMs Committee or dedicated Working group as part of their respective NTFCs or as a separate body and assigning it with a clear mandate and organisational structure with respect to NTMs.

This is an area where Lao PDR could benefit from tailor-made institutional support and capacity building, given the critical importance of a well-functioning and effective NTFC in order to pursue so many of the trade facilitation drivers that are fundamental to full implementation of the ATIGA.

2.1.2 Other drivers of regional economic integration

In addition to the three ASEAN legal instruments discussed above, there are two ASEAN initiatives for enhanced regional economic integration, which appear to have strong linkages to the ATIGA and to intra-ASEAN trade in goods and need to be referenced:

- ASEAN's emphasis and encouragement of *Private Sector Engagement* with ASEAN Institutions (*i.e.*, the relevant ASEAN Sectoral Bodies, the ASEAN Secretariat, and the individual ASEAN Member States); and
- recently-launched process of *General Review of the ATIGA*, which aims at stock-taking on the ATIGA vis-à-vis the new generation preferential trade agreements of relevance and the post-ATIGA ASEAN developments of significance to intra-ASEAN trade facilitation and trade in goods, which could lead within the next 2-3 years to the possible amendment of the ATIGA.

Again, the following sub-sections are largely based on the actual instruments, and, therefore, the language must be intended as mainly quoted *verbatim* from the respective legal texts, where relevant.

a) Private Sector Engagement

The role of the private sector in ASEAN integration is acknowledged as important in the AEC Blueprint 2025, given that it is a key stakeholder in the process. ASEAN officially recognises that greater involvement of the private sector and more structured participation will be beneficial to the achievement of a number of ASEAN goals, particularly with respect to trade facilitation, intra-ASEAN trade in goods and,

ultimately regional economic integration. The AEC Blueprint 2025 indicates that private sector inputs and partnerships are essential not only in designing regional strategies and initiatives, but also in identifying impediments to realising deeper regional economic integration. Efforts must be made to engage the business sector and community-based organisations more effectively, both for purposes of providing easier access to official information on implementation, and to obtain timely feedback on policies.

Currently, the ASEAN Business Advisory Council (ASEAN-BAC) is regarded as the apex private sector body organization of reference vis-à-vis ASEAN institutions, flanked by nine ASEAN+1 business councils, sometimes referred to as the Joint Business Councils (JBCs), and 66 ASEAN business entities interacting with the various ASEAN sectoral groups. The ASEAN-BAC is supposed to take the lead in coordinating inputs from established business councils and entities in their interactions with various ASEAN Sectoral Bodies. The AEC Blueprint 2025 sets out strategic measures to complement these efforts to harness the collective resources of the private sector and enable more effective participation in ASEAN activities and to assist ASEAN to achieve its goals.¹⁰ These are elaborated upon in Box 5.

While these drivers are not immediate areas of intervention and focus for the Government of Lao PDR, it is clear that the ability of Lao PDR's private sector to scale up its engagement with the Government of Lao PDR and the relevant ASEAN Sectoral Bodies is critical for it to be able to increasingly understand, shape and take advantage of the opportunities under the ATIGA and intra-ASEAN trade in goods and trade facilitation. The Government of Lao PDR must also be increasingly equipped and able to engage with private sector stakeholders, either through ABAC and the JBCs, or directly with individual companies or trade associations of other AMSs, so as to allow for their voices, requests and needs to be heard and addressed with a view to foster greater regional economic integration.

Box 5: Strategic Measures to facilitate private sector participation – as laid out in the AEC Blueprint 2025

- 1) Implement a more inclusive and consultative process involving the private sector:
 - a. Guidelines: formulate a set of guidelines to maximise benefits from engagement with the private sector. The guidelines may include criteria for the involvement of private sector entities (e.g., demonstration of value-add to ASEAN, leveraging on core competencies, mechanisms for involving MSMEs).
 - b. ASEAN Bodies: relevant ASEAN bodies to institutionalise within each body a consultative process with lead private sector entities (business associations and business councils) as well as ASEAN-BAC representatives to support the implementation of initiatives under the sectoral work plans.
 - c. Business Entities: private sector groups to initiate cluster groups to engage in specific issues; hold partnership events on key issues, such as trade facilitation, services, investment, connectivity, food and MSMEs to raise issues and provide key inputs on emerging trends and issues.
 - d. Online Networking Forum: with many different bodies and multiple issues, the private sector needs to develop its own platform for networking.
- 2) Enhance ASEAN-BAC's role:
 - a. Composition: membership to reflect strong linkages with business stakeholders.
 - b. Engagement: build-in a more structured engagement with business councils/business entities, establish own structure to monitor the progress of key initiatives or priority integration sectors of interest to the private sector so as to support the implementation and provide feedback.
 - c. Coordination between ASEAN-BAC and the ASEAN Secretariat: Enhance coordination with ASEAN-BAC by providing regular updates of the AEC; providing minutes of consultations with the private sector; and ensuring ASEAN-BAC recommendations feed into the consultative process with sectoral bodies.

ASEAN Economic Community Blueprint 2025, Section II.D.2 thereof, available on the ASEAN website at https://www.asean.org/storage/2016/03/AECBP_2025r_FINAL.pdf (accessed 21 September 2020).

The *e-Platform* seems to have struck a chord with the private sector and is seeing increased utilization and effectiveness.

Lao PDR (*i.e.*, both the Government of Lao PDR and the private sector of Lao PDR) must be able to make full use and properly engage under this new transparent tool of trade facilitation and private sector engagement, which incidentally stands to be a '*game-changer*' in light of the inability for physical ASEAN meetings to take place during the *Covid-19* pandemic. The *e-Platform* allows for continued private sector engagement from a distance and via electronic communications, thereby increasing the efficiency, speed and effectiveness of the consultations.

b) General Review of the ATIGA

The ATIGA came into force 10 years ago and, since then, there have been several developments in the areas covered by the ATIGA, *inter alia*, the progress in ASEAN's economic integration agenda, ASEAN's and AMSs' expanding FTA networks, as well as the conclusion of the *Regional Comprehensive Economic Partnership* (RCEP) in 2020 and other Free Trade Agreements (hereinafter, FTAs) that include some AMSs as Parties (*e.g.*, the *Comprehensive and Progressive Agreement for Trans-Pacific Partnership*, or CP-TPP).

The ATIGA is envisaged as a '*living*' document, which requires periodic review and updating, to ensure that it retains high-quality and ambitious nature, as well as being modern and responsive to the changing business and trade practices and the evolving regional economic architecture. In this context, a review of the ATIGA is being undertaken based on the following reasons:¹¹

- 1) **To enhance provisions of the ATIGA in view of bringing down the remaining barriers to intra-regional trade**, so as to further remove the impediments to increase trade and investment, contribute to deepening and broadening the trade and economic relationship between AMSs, support the ASEAN objectives of narrowing the development gap, and respond to the evolving regional and global economic architecture. The review **also seeks to ensure that the quality, relevance, and 'centrality' of the ATIGA is preserved in light of the review and upgrade of the ASEAN+1 FTAs and other relevant Preferential Trade Agreements (hereinafter, PTAs) entered into by individual AMSs.**
- 2) Article 5 of the ATIGA on Most Favoured Nation (MFN) Treatment establishes the basis for preserving the '*preferentiality*' of the agreements/arrangements for trade in goods under ASEAN, vis-à-vis other agreements/arrangements, including those that are entered with partners outside of ASEAN. In essence, **ASEAN would like to ensure that AMSs do not offer better terms to third countries than they have offered to other AMSs within ASEAN agreements.** The idea is on the table, within the process of the General Review of the ATIGA, to consider the adoption of an '*automatic MFN clause*' that would (automatically) extend to all ASEAN Member States any more preferential concession made to third (non-ASEAN) countries by any of the AMSs in their respective PTAs.
- 3) The ATIGA should be **upheld as the model agreement from which ASEAN's external engagements are to be based.** A number of ASEAN+1 FTAs have more progressive trade in goods provisions and commitments relative to the ATIGA.
- 4) The ATIGA should **provide for the most liberal and progressive Rules of Origin, which would encourage economic growth and development in the region.** A number of ASEAN+1 FTAs apply a broader range of origin criteria, namely the application of the rule of "*produced exclusively from originating materials*" and the adoption of more liberal *Product Specific Rules* (PSRs), which make it easier to meet originating status, as well as more flexible operational certification procedures that facilitate the claim and grant of tariff preferences.
- 5) **The regional and multilateral agenda on trade facilitation has advanced**, following the developments within the multilateral and regional *fora*. This includes the entry-into-force of the WTO Agreement on Trade Facilitation, and developments in ASEAN, such as the adoption of the ATFF in 2016, and the subsequent endorsement of its implementation plans (*i.e.*, the *ASEAN Trade*

¹¹ Drivers of the General Review of the ATIGA, as adopted by the AFTA Council (confidential document).

Facilitation Strategic Action Plan and the ASEAN Trade Facilitation Work Programme). Finally, NTMs-related actions are now being prioritized, following the ATIGA success in tariff liberalization. The recent development of the NTMs Guidelines seeks to ensure the effective use of the ATIGA in the work towards the full elimination of non-tariff barriers and in addressing the 'barrier effect' of NTMs, as well as in embedding good regulatory practices when designing and implementing trade regulations and measures, minimizing the compliance cost of these requirements.

The objectives of the process of General Review of the ATIGA, which has recently been launched among AMSs, are to enhance the provisions that: a) bring down the barriers that remain; b) further contribute to a greater free flow of goods in intra-regional trade; c) increase trade and investment; d) contribute to deepening and broadening the trade and economic relationship between the Parties; e) support the ASEAN objectives of narrowing the development gap; as well as f) respond to the evolving regional and global economic architecture.

The Government of Lao PDR must be actively involved in this process and ideally assisted by means of tailor-made technical assistance activities in order to fully engage with the ASEAN Secretariat, the relevant ASEAN Sectoral Bodies (i.e., CCA and SEOM), the other AMSs and the private sector to ensure that all critical elements of ATIGA implementation and the future possible reforms of the ATIGA adequately reflect Lao PDR's needs, objectives and role in the ongoing process of regional economic integration.

Undoubtedly, the purpose and outcome of the ATIGA Gap Assessment should provide the Government of Lao PDR with a number of suggestions to be reflected and factored-in the progress of General Review of the ATIGA.

2.3. Linkages between ATIGA and multilateral trading commitments

As tariffs are being lowered through multilateral negotiations and preferential trade agreements, **the harmonisation of non-tariff measures and the overall facilitation of trade is increasing in importance** and, in recent years, has become an important focus of trade policy.

The ATIGA already contains a dedicated Chapter on trade facilitation – Chapter 5 covering Articles 45 to 50. However, in simple terms, the ATIGA only provides for three key commitments of AMSs in relation to trade facilitation:

1. Establish a Work Programme on Trade Facilitation (Articles 45 and 46).
2. Be guided by certain principles as set out in Article 47, including transparency, non-discrimination, harmonisation, standardisation and recognition, and due process, among others.
3. Establish National Single Windows and the ASEAN Single Window (Article 49).

Articles 48 and 50 of the ATIGA concern the monitoring of progress and reporting obligations.

At the multilateral level, in 2013, WTO Members concluded negotiations of the *Trade Facilitation Agreement* (WTO TFA), which entered into force on 22 February 2017.¹² In summary, the WTO TFA contains provisions for expediting the movement, release and clearance of goods, including goods in transit and provides measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues, as well as provisions for technical assistance and capacity building in this area.¹³ On 29 September 2015, Lao PDR accepted the *Protocol of Amendment to insert the WTO Trade Facilitation Agreement into Annex 1A of the WTO Agreement*, and is, since then, bound by the commitments contained in the TFA.¹⁴

It should be noted that a number of the commitments contained in the TFA are already part of the ATIGA and notably reflected in Chapter 6 on Customs. This concerns, for instance, the issue of advance rulings on customs matters (Article 3 of the TFA and 62 of the ATIGA), as well as the issue of the availability of a review or appeal mechanisms for customs-related decisions (Article 4 of the TFA and Article 69 of the ATIGA). The respective level of compliance with these parallel commitments is detailed in the Commitments Matrix and Gap Assessment (Section VI).

¹² The TFA is available at https://www.wto.org/english/docs_e/legal_e/tfa-nov14_e.htm (accessed 21 September 2020).

¹³ WTO, Trade facilitation, available at https://www.wto.org/english/tratop_e/tradfa_e/tradfa_e.htm (accessed 21 September 2020).




¹⁴ See The Trade Facilitation Agreement Database, Lao PDR, available at <https://tfadatabase.org/members/lao-peoples-democratic-republic> (accessed 21 September 2020).

III. COMMITMENTS MATRIX AND GAP ASSESSMENT

The commitments matrix is structured based on the chapters, sections and articles of the ATIGA, while articles that do not require specific implementation by ASEAN Member States are left out. For rows containing Chapter headings or articles for which no questions were asked, for example because they concern definitions, the matrix notes “*not available*” (“N./A.”). The column containing the comments from the ITC’s experts are highlighted in light blue for ease of reference.

The key objective of this matrix is to support Lao PDR’s implementation of its commitments under the ATIGA, to review the current status and progress and to provide policy recommendations, as well as indications for future technical assistance needs.

For ease of reference, the ‘*Implementation Status*’ in the table below documents if specific commitments under the ATIGA:

- Have been ‘*Fully implemented*’ ;
- Are ‘*Under implementation*’ ; or
- Are ‘*Not yet implemented and not yet under implementation*’ .

3.1 Chapter 1 - General Provisions

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
CHAPTER 1 GENERAL PROVISIONS	Coordinating Committee on ATIGA (CCA) and as such the Ministry of Industry and Commerce (DFTP, DIMEX)	N.A.	N.A.	N.A.
Article 3 Classification of Goods For the purposes of this Agreement, the classification of goods in trade between and among Member States shall be in accordance with the ASEAN Harmonised Tariff Nomenclature (AHTN) as set out in the Protocol Governing the Implementation of the ASEAN Harmonised Tariff Nomenclature signed on 7 August 2003 and any amendments thereto.	CCA representative in Ministry of Industry and Commerce (DFTP)	<ol style="list-style-type: none"> 1. Which version of the AHTN is Lao PDR currently using? 2. What challenges, if any, have been encountered in using the AHTN? 3. Is the AHTN used for both intra- and extra-ASEAN trade? 4. Which processes are in place to implement changes to the AHTN (it is noted that the World Customs Organization's 2020 Edition of the HS was accepted in January 2020 and is due to be implemented by Jan 2022 by all WCO members including Lao PDR) 5. What about trade statistics? 	<p>Lao PDR, namely the Department of Foreign Trade Policies (DFTP) under the Ministry of Industry and Commerce (MOIC), confirmed that Lao PDR has been using the AHTN 2017 for both intra- and extra-ASEAN trade.</p> <p>Currently, Lao PDR, through the Coordinating Committee on Custom (CCC), which is headed by the Director General of the Department of Customs, is working on preparing the implementation of the AHTN 2022.</p> <p>With respect to trade statistics, the DFTP noted that the Department of Custom collects data and shares it with the Department of Import and Export (DIMEX). DIMEX provides the data upon request and makes them available on the Lao Trade Portal at http://www.laoftpd.com/en/trade-statistics/.</p> <p>Based on the available information, it appears that Lao PDR has implemented Article 3 of the ATIGA and that no gaps exist.</p> <p>Given that the AHTN undergoes regular review and amendment cycles, Lao PDR may require technical assistance to implement amendments/changes to the AHTN</p>	☑
Article 6 National Treatment on Internal Taxation and Regulation	CCA representative in Ministry of	<ol style="list-style-type: none"> 1. Is the national treatment principle applied by Government agencies? 	Lao PDR, namely DFTP under the MoIC, confirmed that all sectoral bodies apply the national treatment principle.	☑

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>Each Member State shall accord national treatment to the goods of the other Member States in accordance with Article III of GATT 1994. To this end, Article III of GATT 1994 is incorporated into and shall form part of this Agreement, mutatis mutandis.</p>	<p>Industry and Commerce (DFTP)</p>		<p>Based on the available information, it appears that Lao PDR has implemented Article 6 of the ATIGA and that no gaps exist.</p>	
<p>Article 7 Fees and Charges Connected with Importation and Exportation 1. Each Member State shall ensure, in accordance with Article VIII.1 of GATT 1994, that all fees and charges of whatever character (other than import or export duties, charges equivalent to an internal tax or other internal charge applied consistently with Article III.2 of GATT 1994, and anti-dumping and countervailing duties) imposed on or in connection with import or export are limited in amount to the approximate cost of services rendered and do not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes. 2. Each Member State shall promptly publish details of the fees and charges that it imposes in connection with importation or exportation, and shall make such</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX)</p>	<ol style="list-style-type: none"> 1. What fees or charges, if any, are still applied to intra-ASEAN a) imports and b) exports? 2. Is all related information published online? 3. What is the URL? 4. Does Lao PDR apply export duties for any types of goods or products? 5. How are these applied? 	<p>Lao PDR's Department of Import and Export (DIMEX) noted that Lao PDR applies fees and charges on the basis of <i>Presidential Edict No. 003</i> for imports and <i>Presidential Edict No. 002</i> for exports.¹⁵</p> <p>More specific information is available at: https://www.lao-tradeportal.com/index.php?r=site/display&id=242 https://www.lao-tradeportal.com/index.php?r=site/display&id=1039 https://laoofficialgazette.gov.la/</p> <p>Lao PDR's Department of Import and Export (DIMEX) further noted that, while the official fees and charges, as listed in the <i>Presidential Edicts No. 003 and 002</i> are available online, official service charges issued by agencies to serve their administrative purposes are not detailed online.</p> <p>With respect to its export duties, Lao PDR's DIMEX noted that Lao PDR applied export duties (based on the good's value) for some goods or products and that details were available on the Lao Trade Portal at https://www.lao-tradeportal.com/index.php?r=site/display&id=630.</p> <p>It appears that Lao PDR has largely implemented Article 7(2) of the ATIGA, but that an implementation gap still</p>	<p style="text-align: right;">→</p>

¹⁵ The edicts are available at Edict of the President of Lao PDR No. 003 on Fees and Service Charges https://www.lao-tradeportal.gov.la/kcfinder/upload/files/Le-gal_1571216200.pdf, and Edict of the President of Lao PDR on List of Goods and Export Duty Rates No.002/OP, <https://www.lao-tradeportal.gov.la/kcfinder/upload/files/002.pdf> (accessed 25 September 2020).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>information available on the internet.</p>			<p>exists with respect to the publication of all fees and charges for administrative purposes imposed on exports and imports. Compliance with Article 7(1) can only be assessed on a case-by-case basis. The recommendation is made that Lao PDR ensure that fees and charges do not represent an indirect protection to domestic goods or a taxation on imports or exports for fiscal purposes, and that a mechanism is in place to monitor related compliance.</p> <p>In order to ensure that information on administrative charges is made available as required and facilitate Lao PDR may require technical assistance.</p>	
<p>Article 11 Notification Procedures</p> <p>1. Unless otherwise provided in this Agreement, Member States shall notify any action or measure that they intend to take:</p> <p>(a) which may nullify or impair any benefit to other Member States, directly or indirectly under this Agreement; or</p> <p>(b) when the action or measure may impede the attainment of any objective of this Agreement.</p> <p>2. Without affecting the generality of the obligations of Member States under paragraph 1 of this Article, the notification procedures shall apply, but need not be limited, to changes in the measures as listed in Annex 1 and amendments thereto.</p> <p>3. A Member State shall make a notification to Senior Economic Officials Meeting (SEOM) and the</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP, DIMEX)</p>	<ol style="list-style-type: none"> 1. How does the current notification system work inside Lao PDR? 2. Which agencies are involved? 3. What arrangements are in place to gather inputs from the different agencies? 4. Is a list of notifications kept relative to ATIGA Annex 1? 5. Is Lao PDR satisfied with the regional arrangements and ASEC's capacity to co-ordinate and act as a central repository? 	<p>Lao PDR, namely DFTP under the MoIC, noted that the DFTP is the national focal point for notifications and that notifications are made available on the Lao Trade Portal's notification center at http://www.laoftpd.com/en/sp-sps-tbt-notification-unit/ (notionally acting as both WTO notification authority and ASEAN notifying body).</p> <p>The DFTP noted that Government agencies consult internally and submit notifications to the DFTP. The DFTP then completes the WTO/ASEAN notification form and submits the notification to the WTO and/or to ASEAN. The following Government agencies coordinate with the DFTP: DFTP (MoIC), DIMEX (MoIC), Ministry of Agriculture and Forestry, Department of Standardization and Metrology (Ministry of Science and Technology), Department of Food and Drug (Ministry of Health), Ministry of Energy and Mines.</p> <p>The DFTP further confirmed that it was satisfied with the regional arrangements and the ASEAN Secretariat's capacity to co-ordinate and act as a central repository.</p> <p>With respect to the notifications to ASEAN, DFTP noted that Lao PDR is very committed to provide information and that the DFTP is the main focal point in Lao PDR. In this context, DFTP noted that other Government agencies are</p>	<p>→</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>ASEAN Secretariat before effecting such action or measure referred to in paragraph 1 of this Article.</p> <p>Unless otherwise provided in this Agreement, notification shall be made at least sixty (60) days before such an action or measure is to take effect. A Member State proposing to apply an action or measure shall provide adequate opportunity for prior discussion with those Member States having an interest in the action or measure concerned.</p> <p>4. The notification of the intended action or measure submitted by a Member State shall include:</p> <p>(a) a description of the action or measure to be taken;</p> <p>(b) the reasons for undertaking the action or measure; and</p> <p>(c) the intended date of implementation and the duration of the action or measure.</p> <p>5. The contents of the notification and all information relating to it shall be treated with confidentiality.</p> <p>6. The ASEAN Secretariat shall act as the central registry of notifications, including written comments and results of discussions. The Member State concerned shall furnish the ASEAN Secretariat with a copy of the comments received. The ASEAN Secretariat shall draw the attention of individual Member States to notification requirements, such as</p>			<p>notifying their measures to the DFTP, but that the information and the measures are only available in the Lao language. It is, therefore, necessary for the DFTP to prepare English versions, which is time consuming and often complex due to the subject matter. In this context, the DFTP intends to discuss and improve the coordination of notifications with the other relevant line agencies.</p> <p>With respect to the advance notification of NTMs before such measures are adopted into law, DIMEX referred to Lao PDR's Law on Making Laws, which provides for a domestic Regulatory Impact Assessment and public consultations. However, it appears that no advance notification for the benefit of other ASEAN Member States and for purposes of commenting on the draft rules, as envisaged by Article 11(7) and (8) is currently integrated into Lao PDR's legislative process. With respect to consultations with ASEAN Member States, DIMEX noted its concerns that this would prolong the legislative process.</p> <p>Finally, officials from the Plant Quarantine Division under the Ministry of Agriculture noted that support is needed in relation to the SPS and TBT notification process.</p> <p>Based on the available information, it appears that Lao PDR has partly implemented Article 11 of the ATIGA. However, it appears that Lao PDR is merely submitting its WTO notifications also to ASEAN, rather than following the specific commitments and procedural requirements under the ATIGA. While the notification requirements are largely similar, they are not entirely identical. Notably, the notification requirement under the ATIGA is much broader in scope than the WTO notification requirements under the SPS and TBT Agreements and it concerns all non-tariff measures (NTMs). Additionally, it appears that Lao PDR does not yet fulfil its commitments under Article 11(7) and (8) by not allowing adequate opportunities for other ASEAN Member States to present their comments in writing and discuss these comments upon request.</p>	

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>those stipulated in paragraph 4 of this Article, which remain incomplete. The ASEAN Secretariat shall make available information regarding individual notifications on request to any Member State.</p> <p>7. The Member State concerned shall, without discrimination, allow adequate opportunities for other Member States to present their comments in writing and discuss these comments upon request. Discussions entered into by the Member State concerned with other Member States shall be for the purpose of seeking further clarification about the action or measure. The Member State may give due consideration to these written comments and the discussion in the implementation of the action or measure.</p> <p>8. Other Member States shall present their comments within fifteen (15) days of the notification. Failure of a Member State to provide comments within the stipulated time shall not affect its right to seek recourse under Article 88.</p>			<p>With respect to improving the notification obligations vis-à-vis ASEAN, including inter-agency cooperation between the DFTP and relevant line agencies, Lao PDR may require technical assistance. The latter could be enhanced by providing institutional strengthening support to Lao PDR's NTFC, as the natural forum and conduit for inter-ministerial coordination. This would not only be useful for purposes of trade-related regulatory transparency under the ATIGA, but also in line of the obligations under the ATFF, the ASEAN NTMs Guidelines, and the AEC Blueprint 2025.</p>	
<p>Article 12 Publication and Administration of Trade Regulations</p> <p>1. Article X of GATT 1994 shall be incorporated into and form an integral part of this Agreement, mutatis mutandis.</p> <p>2. To the extent possible, each</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP)</p>	<ol style="list-style-type: none"> Does Lao PDR make laws, regulations, judicial decisions and administrative rulings of general application available on the Internet? If yes, what is the URL? 	<p>The DFTP noted that Lao PDR makes its laws, regulations, judicial decisions and administrative rulings of general applications available on the internet in its Official Gazette (https://laoofficialgazette.gov.la/), as well as on the Lao Trade Portal (https://laoofficialgazette.gov.la/).</p>	<p>➔</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>Member State shall make laws, regulations, decisions and rulings of the kind referred to in Article X of GATT 1994 available on the internet.</p>			<p>Feedback from academia highlighted that not all legal instruments and only very few administrative rulings are being made available on the internet.</p> <p>Based on the available information, it appears that Lao PDR has partly implemented Article 12 of the ATIGA. However, it appears that the information provided on the internet is not yet entirely comprehensive and reflective of the obligations under the ATIGA.</p> <p>Lao PDR may require technical assistance with respect to improving compliance with publication obligations.</p>	
<p>Article 13 ASEAN Trade Repository 1. An ASEAN Trade Repository containing trade and customs laws and procedures of all Member States shall be established and made accessible to the public through the internet. 2. The ASEAN Trade Repository shall contain trade related information such as (i) tariff nomenclature; (ii) MFN tariffs, preferential tariffs offered under this Agreement and other Agreements of ASEAN with its Dialogue Partners; (iii) Rules of Origin; (iv) non-tariff measures; (v) national trade and customs laws and rules; (vi) procedures and documentary requirements; (vii) administrative rulings; (viii) best practices in trade facilitation applied by each</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX)</p>	<ol style="list-style-type: none"> 1. What mechanism does Lao PDR have in place to submit notifications to the ASEAN Secretariat that are of relevance to the ASEAN Trade Repository? 2. What is the status of the Lao Trade Portal? 	<p>Lao PDR's Department of Import and Export (DIMEX) noted that Lao PDR's Trade Portal was launched in 2012 and functions as Lao PDR's National Trade Repository.</p> <p>Notifications to the ASEAN Secretariat are mainly made through CCA meetings. Information for notifications is collected through an informal exchange of information, as well as formal consultation meetings between the agencies that are members of Lao PDR's Trade Facilitation Secretariat.¹⁶ Notifications are prepared by the Lao National Trade Repository team within DIMEX. The members of the <i>Trade Facilitation Secretariat</i> are expected to submit notifications to DIMEX when new relevant regulations are issued, as specified in <i>Decision No. 001/NTFC</i>. According to DIMEX, nearly all of members of the <i>Trade Facilitation Secretariat</i> notified their newly issued regulations through bilateral cooperation.</p> <p>DIMEX further noted that the Lao Trade Portal contains most trade-related information in the nine areas, except the list of authorised traders of ASEAN Member States, for</p>	<p>→</p>

¹⁶ The Members of the Trade Facilitation Secretariat are listed on the Lao Trade Portal, but the relevant webpage appears to be only available in Lao language. See <https://www.laotradeportal.com/index.php?r=site/display&id=1648> (accessed 12 May 2021).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>Member State; and (ix) list of authorised traders of Member States. 3. The ASEAN Secretariat shall maintain and update the ASEAN Trade Repository based on the notifications submitted by Member States as set out in Article 11.</p>			<p>which DIMEX is awaiting notification by the Lao Customs Department.</p> <p>With respect to the Lao Trade Portal and the ASEAN Trade Repository, DIMEX is the relevant focal point. DIMEX underlined that, at the time of the consultation, the Lao Trade Portal was being updated every day, as an official was being funded by the World Bank. However, the funding was expected to only continue until the end of 2020, and the officials were not sure how this work would continue in 2021, anticipating that progress for the Lao Trade Portal could come to a halt. In April 2021, DIMEX noted that the Lao Trade Portal was still very much up to date. DIMEX officials also noted that Lao PDR has no capacities to link the information on the Lao Trade Portal to the ATR on its own and that the progress being made is thanks to the support from ARISE Plus Regional. In this regard, DIMEX requested capacity building for Government officials to sustainably upload NTMs from the Lao Trade Portal onto the ASEAN Trade Repository.</p> <p>With respect to the ASEAN Trade Repository, Lao PDR can maintain and update information, but the task requires technical knowledge about specific information to be uploaded, which has made it difficult for Lao PDR to provide all information and constantly update it. DIMEX underlined that, currently, the Lao National Trade Portal team lacked the capacity to update information in the ATR.</p> <p>Based on the available information, it appears that Lao PDR has partly implemented Article 13 of the ATIGA. The Lao Trade Portal is a good and comprehensive source of information and has become a model for other ASEAN Member States, such as Myanmar. However, it appears that the information provided on the ASEAN Trade Repository does not reflect the information available on the Lao Trade Portal.</p>	

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
			<p>In order to strengthen linkages between the ASEAN Trade Repository and the Lao Trade Portal, and facilitate updated information to be made available on both the Lao Trade Portal and on the ASEAN Trade Repository, Lao PDR may require technical assistance. In order to guarantee the long-term sustainability of this important driver of trade facilitation and regional economic integration, the recommendation is made that support be provided to Lao PDR to continue fulfilling its ASEAN transparency obligations. This area of technical assistance could see natural synergies also between the ARISE Plus Lao PDR project and the ARISE Plus Regional project, focusing on the Lao Trade Portal and the ASEAN Trade Repository, respectively.</p>	
<p>Article 17 Capacity Building Capacity building shall be provided through effective implementation of programmes to strengthen individual Member States' domestic capacity, efficiency and competitiveness, such as the Work Programme under the Initiative for ASEAN Integration (IAI) and other capacity building initiatives.</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP)</p>	<ol style="list-style-type: none"> 1. Has sufficient capacity building been provided? 2. In which trade-related capacity building programmes has Lao PDR taken part in the past 10 years? 3. Where do you see the need for additional capacity building and technical assistance in more general? 	<p>Past capacity building activities specifically referred to were as follows:</p> <ul style="list-style-type: none"> • ERIA provided a training on tool kits to implement the WTO Trade Facilitation Agreement; and • GIZ provided a training on the implementation of Lao PDR's National Work Plan 2018-2020 and a training on AHTN transposition skills. <p>With respect to capacity building needs, Lao PDR's Government agencies indicated that, across the various relevant agencies, needs for further technical assistance and capacity building persist.</p> <p>The following specific needs were identified:</p> <ul style="list-style-type: none"> • Training on SPS/TBT notification process for the dedicated focal point. Arguably, this support could serve both Lao PDR's WTO and ASEAN notification requirements; 	<p>N.A.</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
			<ul style="list-style-type: none"> The DFTP noted that its staff needed capacity building regarding AHTN transposition, as well as on NTMs and NTBs identification, classification, notification, transparency provision, streamlining and impact assessment. In this context, the DFTP noted that exchanging experiences with other ASEAN Member States and a short-term internship at the ASEAN Secretariat could be helpful; The Department of Plantation noted that it needed capacity building on SPS, TBT and related trade facilitation matters; and The Department of Customs noted that it seeks an expert and budget to implement trainings at the central and provincial level in order to ensure the proper implementation of the ATIGA. The Department of Customs noted that there is a lack of awareness and understanding of the ATIGA both at the provincial and central level. This is attributed to the fact that the ATIGA has never been officially translated into Lao language, so that many Government officials do not fully understand the content of ATIGA and which negatively affects the dissemination. 	
<p>Article 18 Regional and Local Government and Non-Governmental Bodies 1. Each Member State shall take such reasonable measures as may be available to it to ensure observance of provisions of this Agreement by the regional and local government and authorities within its territories. 2. In fulfilling its obligations and commitments under this Agreement,</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP)</p>	<p>1. What measures has the Government of Lao PDR taken to ensure that regional and local governments and authorities are in compliance with the ATIGA and related legal instruments? Has there been any follow up with regional and local governments/authorities? Capacity building that also concerned those authorities?</p>	<p>The DFTP noted that the Government of Lao PDR had disseminated the ATIGA at local and central level with the involvement of the private sector. However, the DFTP noted that there had been no follow up with local or regional Government / authorities, as the DFTP only had a limited budget. In this context, it should also be noted that several Government agencies reported that there is limited awareness of ATIGA commitments at the provincial level, as the dissemination did not take place in Lao language.</p> <p>Based on the available information, it appears that Lao PDR has made efforts to implement Article 18 of the</p>	<p style="text-align: right;">➔</p>

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Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
each Member State shall endeavour to ensure their observance by non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities within its territory.			<p>ATIGA, but further dissemination and capacity building should take place at the sub-federal level.</p> <p>Accordingly, Lao PDR may require technical assistance to facilitate ATIGA related dissemination and training at the sub-federal level.</p>	

3.2 Chapter 2 - Tariff Liberalisation


Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>CHAPTER 2 TARIFF LIBERALISATION</p>	<p>Coordinating Committee on ATIGA (CCA) and as such the Ministry of Industry and Commerce</p>		<p>N.A.</p>	<p>N.A.</p>
<p>Article 19 Reduction or Elimination of Import Duties 1. Except as otherwise provided in this Agreement, Member States shall eliminate import duties on all products traded between the Member States by 2010 for ASEAN-6 and by 2015, with flexibility to 2018, for CLMV. 2. Each Member State shall reduce and/or eliminate import duties on originating goods of the other Member States in accordance with the following modalities: (a) Import duties on the products listed in Schedule A of each Member State's tariff liberalisation schedule shall be eliminated by 2010 for ASEAN-6 and 2015 for CLMV, in accordance with the schedule set out therein. Schedule A of each Member State shall ensure the following conditions are met:</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX) and the Department of Customs</p>	<ol style="list-style-type: none"> 1. Did Lao PDR eliminate import duties on all products traded between the ASEAN Member States by 2018? 2. If not, what is the current status of tariff elimination? 	<p>The Department of Customs noted that Lao PDR had eliminated import duties on all products traded between ASEAN Member States by 2018.</p> <p>With respect to duties, the Department of Customs noted that Lao PDR maintains the Inclusion List, the General Exception List, and 275 products on the Sensitive List, but no products on the Highly Sensitive List. Products listed on the General Exception List (GEL) are not subject to tariff reductions, which concerns products such as weapons and nuclear material. This is in compliance with ASEAN guidelines for the GEL. Overall, the Department of Customs noted that Lao PDR complies with Articles 19 and 22 of the ATIGA.</p> <p>Based on the available information, it appears that no gap exists with respect to the implementation of Article 19 of the ATIGA.</p>	<p>☑</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>(i) For ASEAN-6, by 1 January 2009:</p> <ul style="list-style-type: none"> - Import duties of at least eighty percent (80%) of tariff lines are eliminated; - Import duties on all Information and Communications Technology (ICT) products, as defined in the e-ASEAN Framework Agreement, are eliminated; - Import duties on all Priority Integration Sectors (PIS) products are at zero percent (0%), except those listed in the accompanying negative lists to the Protocols of the ASEAN Framework Agreement for the Integration of Priority Sectors and any amendments thereto; and - Import duties on all products are equal to or less than five percent (5%); <p>(ii) For Lao PDR, Myanmar and Viet Nam, import duties on all products are equal to or less than five percent (5%) by 1 January 2009;</p> <p>(iii) For Cambodia, import duties of at least eighty percent (80%) of tariff lines are equal to or less than five percent (5%) by 1 January 2009; and</p> <p>(iv) Import duties on some products of CLMV, not exceeding seven percent (7%) of tariff lines, shall be eliminated by 2018. The list of the products and</p>				

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>schedule of import duties reduction of these products shall be identified by CLMV no later than 1 January 2014;</p> <p>(b) Import duties on ICT products listed in Schedule B of each CLMV Member State shall be eliminated in three (3) tranches by 2008, 2009 and 2010 in accordance with the schedule set out therein;</p> <p>(c) Import duties on PIS products listed in Schedule C of each CLMV Member State shall be eliminated by 2012 in accordance with the schedule set out therein;</p> <p>(d) Import duties on unprocessed agricultural products listed in Schedule D of each Member State on its own accord shall be reduced or eliminated to zero to five percent (0-5%) by 2010 for ASEAN-6; 2013 for Viet Nam; 2015 for Lao PDR and Myanmar; and 2017 for Cambodia, in accordance with the schedule set out therein.</p> <p>Notwithstanding this, import duties on sugar products of Viet Nam shall be reduced to zero to five percent (0-5%) by 2010;</p> <p>(e) Unprocessed agricultural products placed in Schedule E of each Member State on its own</p>				

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>accord shall have their respective applied MFN import duties reduced in accordance with the schedule set out therein;</p> <p>(f) The products listed in Schedule F of Thailand and Viet Nam, respectively, shall have their out-quota tariff rates reduced in accordance with the tariff reduction schedules corresponding to their respective product classification;</p> <p>(g) Import duties on petroleum products listed in Schedule G of Cambodia and Viet Nam, respectively, shall be reduced in accordance with the schedule as mutually agreed by all Member States and set out therein;</p> <p>(h) The products placed in Schedule H of each Member State shall not be subject to import duties reduction or elimination for the reasons as provided in Article 8;</p> <p>(i) Reduction and elimination of import duties shall be implemented on 1 January of each year; and</p> <p>(j) The base rates from which import duties are to be reduced or eliminated shall be the Common Effective Preferential Tariffs (CEPT) rates at the time of entry into force of this Agreement.</p> <p>3. Except as otherwise provided in this Agreement, no Member</p>				

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>State shall nullify or impair any tariff concessions applied in accordance with the tariff schedules in Annex 2 referred to in paragraph 5 of this Article.</p> <p>4. Except as otherwise provided in this Agreement, no Member State may increase an existing duty specified in the schedules made pursuant to the provisions of paragraph 2 of this Article on imports of an originating good.</p> <p>5. Except as provided in paragraph 2(a)(iv) of this Article, the detailed tariff schedules to implement the modalities of reduction and/or elimination of import duties set out in paragraph 2 of this Article shall be finalised before the entry into force of this Agreement for ASEAN-6 and six (6) months after the entry into force of this Agreement for CLMV, and form an integral part of this Agreement as Annex 2.</p>				
<p>Article 20 Elimination of Tariff Rate Quotas</p> <p>1. Unless otherwise provided in this Agreement, each Member State undertakes not to introduce Tariff Rate Quotas (TRQs) on the importation of any goods originating in other Member States or on the exportation of any goods destined for the territory of the other Member States.</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX) and the Department of Customs</p>	<p>1. Does Lao PDR apply a Tariff Rate Quota (TRQ) on any goods originating in or destined for any other ASEAN Member State?</p>	<p>With respect to TRQs, the Department of Customs and DIMEX noted that Lao PDR did not maintain any TRQs. In view of conflicting initial responses, the issue was verified in various follow-up meetings.</p> <p>Based on the available information, it appears that no gap exists with respect to the obligation under Article 20 of the ATIGA to eliminate TRQs.</p>	<p style="text-align: center;">☑</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>Article 21 Issuance of Legal Enactments 1. (a) Each Member State shall, no later than ninety (90) days for ASEAN-6 and six (6) months for CLMV after the entry into force of this Agreement, issue a legal enactment in accordance with its laws and regulations to give effect to the implementation of the tariff liberalisation schedules committed under Article 19. (b) The legal enactments issued pursuant to paragraph 1(a) of this Article shall have retroactive implementation with effect from 1 January of the year of the entry into force of this Agreement. (c) In the case where a single legal enactment could not be issued, the legal enactments to give effect to the implementation of tariff reduction or elimination of each year shall be issued at least three (3) months before the date of its effective implementation. 2. Member States may decide to conduct reviews of the products in Schedules D and E with a view to improving the market access for these products. If a product subject to the review is agreed to</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX) and the Department of Customs</p>	<ol style="list-style-type: none"> 1. Has this legal enactment giving effecting to the implementation of the tariff liberalisation schedules committed under Article 19 been done? 2. Have any subsequent reviews taken place? 3. If so, which? 	<p>The Department of Customs noted that Lao PDR had implemented the tariff liberalisation schedules under Article 19 of the ATIGA. Information is available and searchable on the Lao Trade Portal at https://www.laotradeportal.gov.la/index.php?r=tradeInfo/index.</p> <p>The Decree on the issuance of the Tariff Nomenclature based on the ASEAN Harmonized Tariffs Nomenclature 2012 (AHTN 2012) No. 08/PM and the Notification on the Implementation of ASEAN Harmonized Tariff Nomenclature 2017 (AHTN 2017) No. 1434/MOF, dated 14 May 2018, are available on the Lao Trade Portal.¹⁷ It is, however, unclear, which specific legal document provides the applicable tariffs.</p> <p>The Department of Customs noted that <u>no reviews</u> had taken place, as suggested by Article 21(2) of the ATIGA. With respect to the reviews mandated by Article 21 of the ATIGA, the Department of Customs noted that they are not taking place due to the limited capacities and budgetary constraints.</p> <p>While Lao PDR appears to have implemented Article 21(1) of the ATIGA, Lao PDR has not conducted any reviews of the products in Schedules D and E with a view to improving the market access for these products. Even if not mandatory, such review and possible further reduction or elimination of tariffs would be conducive to further facilitating intra-ASEAN trade.</p> <p>Based on the available information, no gap appears to exist regarding the implementation of Article 21 of the</p>	<p style="text-align: right;"> <input checked="" type="checkbox"/>  </p>

¹⁷ Decree on the issuance of the Tariff Nomenclature based on the ASEAN Harmonized Tariffs Nomenclature 2012 (AHTN 2012) No. 08/PM, available at <https://www.laotradeportal.gov.la/index.php?r=site/display&id=379> (accessed 11 February 2021) and Notification on the Implementation of ASEAN Harmonized Tariff Nomenclature 2017 (AHTN 2017) No. 1434/MOF, dated 14 May 2018, available at <https://www.laotradeportal.gov.la/index.php?r=site/display&id=1462> (accessed 11 February 2021).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>be phased out of the said Schedules, it will be placed in Schedule A of the respective Member State(s) and be subjected to the import duty elimination of that Schedule.</p>			<p>ATIGA. However, it is recommended that Lao PDR undertake a review of the products in Schedules D and E, with a view to improving the market access for these products, as suggested by Article 21(2) of the ATIGA.</p> <p>Accordingly, Lao PDR may require technical assistance to support reviews suggested under Article 21(2) of the ATIGA. .</p>	
<p>Article 22 Enjoyment of Concessions 1. Products on which tariffs of the exporting Member State have reached or are at the rate of twenty percent (20%) or below, and satisfy the requirements on rules of origin as set out in Chapter 3 shall automatically enjoy the concessions offered by importing Member States as stated in accordance with the provisions of Article 19. 2. Products listed in Schedule H shall not be entitled for tariff concessions offered under this Agreement.</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX) and the Department of Customs</p>	<p>1. Does Lao PDR apply the concessions as stated in accordance with Article 19 to products from other ASEAN Member States that have reached or are at a rate of twenty percent or below and that satisfy the rules of origin requirements in Chapter 3?</p>	<p>The Department of Customs noted that Lao PDR complied with Article 22 of the ATIGA, but the relevant legal basis has remained unclear.</p> <p>It appears that no gap exists with respect to the implementation of Article 22 of the ATIGA.</p>	<p style="text-align: center;">☑</p>
<p>Article 23 Temporary Modification or Suspension of Concessions [if any] 1. In exceptional circumstances other than those covered under Article 10, Article 24 and Article 86 where a Member State faces unforeseen difficulties in implementing its tariff commitments, that</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX) and the Department of Customs</p>	<p>1. Has Lao PDR temporarily modified or suspended any tariff concessions due to unforeseen difficulties pursuant to Article 23 of the ATIGA?</p>	<p>The Department of Customs noted that Lao PDR had never requested any temporary modification or suspension of concessions due to unforeseen difficulties pursuant to Article 23 of the ATIGA.</p> <p>The recommendation is made that consideration be given to provide Lao PDR with support to seek, when required under the circumstances, the Temporary Modification or Suspension of Concessions in line with the ATIGA. These actions may become necessary if Lao</p>	<p style="text-align: center;">N.A.</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>Member State may temporarily modify or suspend a concession contained in its Schedules under Article 19.</p>			<p>PDR were to fully implement its obligations under Article 20 of the ATIGA and, as a consequence, be subject to increased competition from imported products and require mitigating actions.</p>	
<p>Article 24 Special Treatment on Rice and Sugar The Protocol to Provide Special Consideration for Rice and Sugar signed on 23 August 2007 shall form an integral part of this Agreement.</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP and DIMEX)</p>	<ol style="list-style-type: none"> Does Lao PDR apply the Protocol to Provide Special Consideration for Rice and Sugar, as amended in 2010?¹⁸ If so, which measures have been put in place? 	<p>The objective of the Protocol to Provide Special Consideration for Rice and Sugar is to allow ASEAN Member States to, under exceptional cases, request for a waiver from the obligations imposed under the ATIGA, with regard to rice and sugar.</p> <p>With respect to the Special Safeguards on Rice and Sugar, DFTP noted that Lao PDR is not applying the relevant Protocol, but that it is interested in learning more about the available options.</p> <p>DIMEX referred to the <i>Law on Protection of Manufacturers affected by Goods Importation 27</i> of 2017, but that, so far, no special safeguards were ever implemented by Lao PDR. The law is available on the Lao Trade Portal.</p> <p>Article 24 of the ATIGA and the Protocol to Provide Special Consideration for Rice and Sugar do not provide for direct implementation obligations, but rather provide additional safeguards to ASEAN Member States.</p> <p>Given the relevance of this matter in relation to ongoing actual cases among ASEAN Member States¹⁹ and, potentially, in light of the current process for the General Review of the ATIGA, the recommendation is made that support be provided to enable Lao PDR to either make</p>	<p>N.A.</p>

¹⁸ See Protocol to Provide Special Consideration for Rice and Sugar, available at <https://cil.nus.edu.sg/wp-content/uploads/formidable/18/2007-Protocol-to-Provide-Special-Consideration-for-Rice-and-Sugar.pdf> (accessed 11 February 2021) and the Protocol to Amend the Protocol to Provide Special Consideration for Rice and Sugar available at [https://investasean.asean.org/files/upload/00%20Protocol%20Amendment%20Protocol%20Rice%20and%20Sugar%20\(2010\)\(1\).pdf](https://investasean.asean.org/files/upload/00%20Protocol%20Amendment%20Protocol%20Rice%20and%20Sugar%20(2010)(1).pdf) (accessed 11 February 2021).


¹⁹ Matrix of actual cases on NTMs/trade barriers, as of 5 May 2020, available at <https://asean.org/storage/2012/05/Matrix-of-Actual-Cases-as-of-5-May-2020.pdf> (accessed 9 March 2021).

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Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
			use of Article 24 of the ATIGA or engage with AMSs having recourse to Article 24 of the ATIGA and affecting Lao PDR's rice or sugar exports.	

3.3 Chapter 3 - Rules of Origin

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>CHAPTER 3 RULES OF ORIGIN</p>	<p>Coordinating Committee on ATIGA (CCA) and as such the Ministry of Industry and Commerce (DIMEX) plus representatives of Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task Force (ROOTF) Ministry of Industry and Commerce (DIMEX)</p>	<ol style="list-style-type: none"> 1. Are the rules and information provided in Chapter 3 of ATIGA understood and applied? Are there any outstanding requirements / issues? 2. What is the current status with regard to self-certification? 	<p>DIMEX noted that Lao PDR has understood and implemented the rules and information provided in Chapter 3 of the ATIGA.</p> <p>DIMEX further noted that the Sub-Committee on Rules on Origin faced the issue that certain AMSs had taken controversial approaches to the implementation of this Chapter of the ATIGA and provided the example of coffee exports to Thailand, where NTBs, in the form of the arbitrary application of the ASEAN rules of origin, affect Lao PDR's products.</p> <p>With respect to self-certification, DIMEX noted that Lao PDR was in the process of implementing the ASEAN Wide Self-Certification, which would enter into force on 1 September 2020.</p> <p>With respect to this alleged NTB, Lao PDR may require technical assistance in order to better assess its rights and available avenues under the ATIGA or other ASEAN legal instruments (e.g., the Protocol on Enhanced Dispute Settlement Mechanism).</p>	<p>N.A.</p>
<p>Article 26 Origin Criteria For the purposes of this Agreement, a good imported into the territory of a Member State from another Member State shall be treated as an originating good if it conforms to the origin requirements under any one of the following conditions:</p>	<p>Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX)</p>	<ol style="list-style-type: none"> 1. Do Lao PDR's rules of origin regulations comply with Article 26 of the ATIGA? 	<p>DIMEX noted that Lao PDR's rules of origin regulations complied with Article 26 of the ATIGA and referred to <i>Instruction No. 2225 /MOIC.DIMEX</i> of 5 December 2014 and the <i>Decree on the origin of import and export goods No. 0228/MOIC.DIMEX</i>. In April 2021, DIMEX confirmed that Instruction No. 2225/MoIC.DIMEX had been replaced by the Instruction on verifying the origin of preferential goods No. 0118 / MOIC.DIMEX of 31 January 2020 and that, "overall, all effective regulations governing CO in Laos are enacted in compliance with relevant articles</p>	<p><input checked="" type="checkbox"/></p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>(a) a good which is wholly obtained or produced in the exporting Member State as set out and defined in Article 27; or (b) a good not wholly obtained or produced in the exporting Member State, provided that the said goods are eligible under Article 28 or Article 30.</p>			<p>of the ATIGA". The relevant documents are available on the Lao Trade Portal at www.laotradeportal.gov.la.²⁰</p> <p>Based on the available information, it appears that no gaps exist with respect to the implementation of Article 26 of the ATIGA.</p>	
<p>Article 28 [for information] Not Wholly Obtained or Produced Goods 1. (a) For the purposes of Article 26(b), goods shall be deemed to be originating in the Member State where working or processing of the goods has taken place: (i) if the goods have a regional value content (hereinafter referred to as "ASEAN Value Content" or the "Regional Value Content (RVC)") of not less than forty percent (40%) calculated using the formula set out in Article 29; or (ii) if all non-originating materials used in the production of the goods have undergone a change in tariff classification (hereinafter referred to as "CTC") at four-digit level (i.e. a</p>	<p>Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs</p>	<ol style="list-style-type: none"> 1. Do Lao PDR's rules of origin comply with Articles 28-37 of the ATIGA? 2. Is any external assistance required? 	<p>With respect to the implementation of the ATIGA's provision on rules of origin (Articles 28 to 37 of the ATIGA), the Department of Import and Export (DIMEX) noted that Lao PDR's rules complied with Lao PDR's obligations under the ATIGA. DIMEX referred to <i>Instruction No. 2225 /MOIC.DIMEX</i> of 5 December 2014 and the <i>Decree on the origin of import and export goods No. 0228/MOIC.DIMEX</i>. In April 2021, DIMEX noted that <i>Instruction No. 2225/MoIC.DIMEX</i> had been replaced by the <i>Instruction on verifying the origin of preferential goods No. 0118 / MOIC.DIMEX</i> of 31 January 2020. Both documents can be accessed on the Lao Trade Portal at www.laotradeportal.gov.la.²¹</p> <p>With respect to technical assistance needs, DIMEX referred to the following elements:</p> <ul style="list-style-type: none"> • Online tutorial both in Laos and English. Since DIMEX has been conducting several trainings on Rules of Origin under the ATIGA, DIMEX considers 	<p style="text-align: center;"> <input checked="" type="checkbox"/>  </p>

²⁰ Instruction No. 2225 /MOIC.DIMEX, dated 5 December 2014, available at http://www.laotradeportal.gov.la/kcfinder/upload/files/MoIC_2225.pdf (accessed 25 September 2020); Decree on the origin of import and export goods No. 0228/MOIC.DIMEX, available at https://www.wto.org/english/thewto_e/acc_e/lao_e/WTACCLAO18A1_LEG_2.pdf (accessed 25 September 2020).

²¹ Instruction No. 2225 /MOIC.DIMEX, dated 5 December 2014, available at http://www.laotradeportal.gov.la/kcfinder/upload/files/MoIC_2225.pdf (accessed 25 September 2020); Decree on the origin of import and export goods No. 0228/MOIC.DIMEX, available at https://www.wto.org/english/thewto_e/acc_e/lao_e/WTACCLAO18A1_LEG_2.pdf (accessed 25 September 2020).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>change in tariff heading) of the Harmonized System.</p> <p>(b) Each Member State shall permit the exporter of the good to decide whether to use paragraph 1(a)(i) or 1(a)(ii) of this Article when determining whether the goods qualify as originating goods of the Member State.</p>			<p>that it would be more efficient to have a short video clip of tutorial sessions on rules of origin and to post it online. This approach would allow everyone interested in rules of origin to learn with less face-to-face interaction required;</p> <ul style="list-style-type: none"> • Financial support to translate Chapter 3 of the ATIGA, and any amendment of the ATIGA, from English to Laos; and • Update of the existing Electronic Certificate of Origin (E-CO) system.²² The E-CO system was launched and managed for five years with the support of the Challenge Fund from the World Bank. However, as the project ended in 2018, this system has not been updated and Lao PDR requests financial assistance for the further development of the system. <p>Based on the available information, no implementation gaps appear to exist with respect to the implementation of the ATIGA's rules of origin.</p> <p>Still, Lao PDR may require technical assistance and capacity building with respect to disseminating information, the translation of the ATIGA (and amendments thereto) into Lao language, and the implementation of the electronic certificate of origin (E-CO).</p>	
<p>Article 29 Calculation of Regional Value Content</p>	<p>Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task</p>	<p>See under Article 28.</p>	<p>See under Article 28.</p>	<p>☑</p>

²² Electronic Certificate of Origin Issuing System, see <https://www.ecolao.gov.la/> (accessed 11 February 2021). The website provides a detailed manual for businesses, available at <https://www.ecolao.gov.la/kcfinder/upload/files/ECO%20Trader%20EN.pdf> (accessed 11 February 2021).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
	Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs			
Article 30 Accumulation	Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs	See under Article 28.	See under Article 28.	☑
Article 31 Minimal Operations and Processes	Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs	See under Article 28.	See under Article 28.	☑
Article 32 Direct Consignment	Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task	See under Article 28.	See under Article 28.	☑

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
	Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs			
Article 33 De Minimis	Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs	See under Article 28.	See under Article 28.	☑
Article 34 Treatment of Packages and Packing Materials	Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs	See under Article 28.	See under Article 28.	☑
Article 35 Accessories, Spare Parts and Tools	Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task	See under Article 28.	See under Article 28.	☑

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
	Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs			
Article 36 Neutral Elements	Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs	See under Article 28.	See under Article 28.	☑
Article 37 Identical and Interchangeable Materials	Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs	See under Article 28.	See under Article 28.	☑
Article 38	Sub-Committee on Rules on Origin (SCROO) and Rules of Origin Task	<ol style="list-style-type: none"> 1. What is the current status with regard to self-certification? 2. Is data collected on the use of Form D? 3. Is Lao PDR implementing the electronic Form D? 	With respect to rules of origin, the Department of Customs noted that the MoIC is the issuing authority for exporters and the Department of Customs is the receiving authority for imports. DIMEX referred to <i>Decree on the</i>	➔

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>Proof of Origin²³ A claim that a good shall be accepted as eligible for preferential tariff treatment shall be supported by a Proof of Origin in accordance with the Operational Certification Procedures as set out in Annex 8.</p>	<p>Force (ROOTF) representatives Ministry of Industry and Commerce (DIMEX) / Department of Customs</p>		<p><i>origin of import and export goods No. 0228/MOIC.DIMEX.</i></p> <p>This is an area in which ASEAN Member States are pursuing further trade facilitation by implementing self-certification and electronic certification. These tools are not part of the commitments under the ATIGA, but are linked to the proof of origin under Article 38.</p> <p>With respect to self-certification, DIMEX noted that Lao PDR was in the process of moving from the ASEAN Self-Certification Pilot II scheme to the implementation of the ASEAN Wide Self-Certification (AWSC) scheme, which was scheduled to enter into force on 1 September 2020. With respect to the question of whether the private sector is using the AWSC and the electronic form D, DIMEX noted that, since those new schemes are not mandatory, they are not yet being widely used. DIMEX also referred to the limited capacities of Lao PDR’s businesses, which hinder the use of the AWSC and the electronic Form D. Currently, eight companies have been registered in the AWSC database. DIMEX noted that it could be useful to organise outreach programmes.</p> <p>The Department of Customs added that the utilisation of self-certification remained low due to a lack of awareness among the private sector and few applications on self-certification. With respect to the AWSC, the scheme is being implemented since October 2020.</p> <p>With respect to the electronic form D, DIMEX noted that Lao PDR, since 21 December 2019, exchanges information electronically with other AMSs. The implementation of the electronic Form D works well for the issuing</p>	

²³ As amended by the First Protocol to Amend the ASEAN Trade in Goods Agreement, adopted on 22 January 2019 and available at <http://agreement.asean.org/media/download/20190214072108.pdf> (accessed 9 July 2020).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
			<p>authorities (in Lao PDR: DIMEX), but there are still problems encountered by the receiving authorities (in Lao PDR: the Department of Customs), as explained below. DIMEX added that, recently, Lao PDR had benefitted from technical assistance from NEDA (Thai Agency) regarding the development of the system. The Department of Customs noted that it expected that, by the end of 2020, the electronic Form D could be fully utilised.</p> <p>With respect to the electronic Form D and to the AWSC, the Department of Customs noted that their use is still very limited and that businesses still prefer the paper versions, also in fear of documents being rejected by the destination country’s authorities. The Department of Customs noted that technical assistance is needed for further outreach and education of the private sector on the available tools.</p> <p>Lao PDR appears to be implementing Article 38 of the ATIGA and to make progress with respect to self-certification and the use of the electronic Form D, but these trade-facilitative tools have not yet been embraced by trade, which, so far, largely prevents the intended effects.</p> <p>Therefore, technical assistance and capacity building needs appear to exist with respect to the implementation and dissemination of ASEAN-wide self-certification and the use of the electronic Form D. The specifics of the support needed should be defined by the Department of Customs and the private sector.</p>	

3.4 Chapter 4 - Non-Tariff Measures

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>CHAPTER 4 NON-TARIFF MEASURES</p>	<p>Coordinating Committee on ATIGA (CCA) and as such the Ministry of Trade</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Article 40 Application of Non-Tariff Measures 1. Each Member State shall not adopt or maintain any non-tariff measure on the importation of any good of any other Member State or on the exportation of any good destined for the territory of any other Member State, except in accordance with its WTO rights and obligations or in accordance with this Agreement. 2. Each Member State shall ensure the transparency of its non-tariff measures permitted in paragraph 1 of this Article in accordance with Article 12 and shall ensure that any such measures are not prepared, adopted or applied with the view to, or with the effect of, creating unnecessary obstacles in trade among the Member States. 3. Any new measure or modification to the existing measure shall be duly notified in accordance with Article 11.</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX)</p>	<ol style="list-style-type: none"> 1. Has Lao PDR developed a database of non-tariff measures? 2. Does Lao PDR have a list of non-tariff measures that it has notified in accordance with Article 11? 3. What is the status of the Lao Trade Portal? 	<p>With respect to the implementation of Article 40 of the ATIGA, DIMEX noted that Lao PDR had developed an NTM database as part of the Lao Trade Portal, which includes the National Trade Repository (NTR). DIMEX also noted that Lao PDR had already uploaded some NTMs in the areas of SPS and TBT on the ASEAN Trade Repository (ATR) by the LTP administrative team through the collaboration with ARISE Plus Regional.</p> <p>With respect to the notification obligation under Article 40(3) and 11 of the ATIGA, DIMEX noted that Lao PDR submitted its WTO notifications also to the ASEAN Secretariat (available at http://www.laoftpd.com/en/sps-tbt-notification-unit/).</p> <p>With respect to the status of the Lao Trade Portal, DIMEX noted that it was launched in 2012 and that information on some of its NTMs had been uploaded on the ATR, with the rest being progressively identified, classified, packaged, validated and uploaded with support from ARISE Plus Regional.</p> <p>However, with respect to the ASEAN Trade Repository, DIMEX noted that the further development of the data (both for NTMs and for other categories of ATR transparency) required technical and detailed knowledge, which Lao PDR was still lacking. Therefore, capacity building in relation to this obligation appears critical.</p>	<p style="text-align: right;">➔</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>4. The database on non-tariff measures applied in Member States shall be further developed and included in the ASEAN Trade Repository as referred in Article 13.</p>			<p>Technical assistance needs were clearly noted with respect to support regarding the update of Lao PDR's information on the ASEAN Trade Repository.</p> <p>Based on the available information, it appears that Lao PDR has partly implemented Article 40 of the ATIGA. However, it appears that Lao PDR is currently merely submitting its WTO notifications also to ASEAN Secretariat, rather than following the specific commitments under the ATIGA. While the WTO and ASEAN notification requirements are largely similar, they are not entirely identical. Notably, the notification requirement under the ATIGA is much broader in scope than the WTO notification requirements under SPS and TBT Agreements, since it concerns all non-tariff measures (NTMs). Additionally, the information on the ATR is still very limited.</p> <p>Lao PDR may require technical assistance to strengthen compliance with its notification obligations vis-à-vis ASEAN, as well as in terms of the information provided on the Lao Trade Portal and ATR. . As indicated, this is an area where important synergies between the ARISE Plus Regional Programme and the ARISE Plus Lao PDR Programme could be explored and achieved in terms of providing support to Lao PDR both nationally and regionally, while avoiding overlaps and duplication. Overall, a consistent structure and related procedures should be established among the various relevant Government agencies in order to ensure that all NTMs are properly captured, notified, reflected on the Lao Trade Portal, and continuously kept up to date.</p>	
<p>Article 41 General Elimination of Quantitative Restrictions Each Member State undertakes</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX)</p>	<p>1. Does Lao PDR maintain any prohibition or quantitative restriction on the importation or exportation of any good, whether or not in accordance with WTO and ATIGA rules?</p>	<p>With respect to quantitative restrictions, DIMEX noted that the laws referred to did not contain quantitative restrictions. DIMEX noted that Lao PDR was applying the <i>Notification on goods subject to automatic and non-automatic import or export licensing No.0076/MOIC.DIMEX</i></p>	<p>☑</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>not to adopt or maintain any prohibition or quantitative restriction on the importation of any goods of the other Member States or on the exportation of any goods destined for the territory of the other Member States, except in accordance with its WTO rights and obligations or other provisions in this Agreement.</p> <p>To this end, Article XI of GATT 1994, shall be incorporated into and form part of this Agreement, mutatis mutandis.</p>			<p>and <i>Notification No. 0973/MoIC. DIMEX of 25 May 2011 on Prohibited Goods for Import or Export</i> in accordance with WTO disciplines.</p> <p>Based on the available information, it appears that no gap exists with respect to Article 41 of the ATIGA.</p>	
<p>Article 42 Elimination of Other Non-Tariff Barriers</p> <p>1. Member States shall review the non-tariff measures in the database referred to in paragraph 4 of Article 40 with a view to identifying non-tariff barriers (NTBs) other than quantitative restrictions for elimination. The elimination of the identified NTBs shall be dealt with by the Co-ordinating Committee for the Implementation of the ATIGA (CCA), the ASEAN Consultative Committee on Standards and Quality (AC-CSQ), the ASEAN Committee on Sanitary and Phytosanitary (AC-</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX) plus representatives in ACCSQ, AC-SPS and CCC (for details see other Chapters below)</p>	<ol style="list-style-type: none"> 1. What mechanism is present in Lao PDR to review the non-tariff measures in the database referred to in paragraph 4 of Article 40 with a view to identifying non-tariff barriers other than quantitative restrictions? 2. Which, if any, non-tariff measures identified in the associated reviews have been eliminated? Are any still present? 3. How is the progress with respect to the Lao Trade Portal (NTR/ATR) contributing to the compliance with Article 42 of the ATIGA? 	<p>With respect to Article 42 of the ATIGA and the elimination of other non-tariff barriers, DIMEX noted that Lao PDR has established a Secretariat for the Trade Facilitation Committee, which is composed of more than 33 Government agencies and meets biannually (information on the Secretariat is available on the Lao Trade Portal at https://www.laotradeportal.com/index.php?r=site/display&id=1648).²⁴ The members of the <i>Trade Facilitation Secretariat</i> are expected to submit notifications to DIMEX when new relevant regulations are issued, as specified in <i>Decision No. 001/NTFC</i>. According to DIMEX, nearly all of members of the <i>Trade Facilitation Secretariat</i> notified their newly issued regulations through bilateral cooperation. DIMEX specifically referred to the removal of import licensing requirements, for example for spare parts.</p> <p>The task of the Secretariat is to review both internal and external NTMs and to identify NTMs to be uploaded in</p>	<p>→</p>

²⁴ The Members of the Trade Facilitation Secretariat are listed on the Lao Trade Portal, but the relevant webpage appears to be only available in Lao language. See <https://www.laotradeportal.com/index.php?r=site/display&id=1648> (accessed 12 May 2021).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>SPS), the working bodies under ASEAN Directors-General of Customs and other relevant ASEAN bodies, as appropriate, in accordance with the provisions of this Agreement, which shall submit their recommendations on the identified non-tariff barriers to the AFTA Council through SEOM.</p> <p>2. Unless otherwise agreed by the AFTA Council, the identified NTBs shall be eliminated in three (3) tranches as follows:</p> <p>(a) Brunei, Indonesia, Malaysia, Singapore and Thailand shall eliminate in three (3) tranches by 1 January of 2008, 2009 and 2010;</p> <p>(b) The Philippines shall eliminate in three (3) tranches by 1 January of 2010, 2011 and 2012;</p> <p>(c) Cambodia, Lao PDR, Myanmar and Viet Nam shall eliminate in three (3) tranches by 1 January of 2013, 2014 and 2015 with flexibilities up to 2018.</p> <p>3. The list of identified NTBs to be eliminated in each tranche shall be agreed upon by the AFTA Council meeting in the year before the effective elimination date of such NTBs.</p> <p>4. Notwithstanding paragraphs 1 to 3 of this Article, the CCA, in consultation with the relevant ASEAN bodies, shall review any nontariff measure notified or reported by</p>			<p>the Lao Trade Portal and to be raised at CCA meetings, if any relevant issues occur. In addition, Lao PDR has worked with the ARISE Plus Regional project in order to review its SPS and TBT measures prior to upload onto the ASEAN Trade Repository.</p> <p>With respect to the elimination of NTBs referred to in the context of Article 40(4) of the ATIGA, DIMEX noted that no NTMs had been deemed NTBs and thereby eliminated. However, Lao PDR referred to discussions entertained within the CCA and the AFTA Council on the issue of exports of coffee, corn, palm oil and sugar from Lao PDR to Thailand, which appear to be affected by alleged NTBs maintained by Thailand.</p> <p>Based on the available information, it appears that an implementation gap exists with respect to the obligation under Article 40 of the ATIGA to review existing NTBs with a view to eliminate them.</p> <p>With respect to a comprehensive review of Lao PDR's NTMs and NTBs, but also, and arguably more importantly, for purposes of Lao PDR's ability to take full advantage of the ATIGA and of ASEAN regional integration, with respect to Lao PDR's capacity to identify, analyse, discuss and challenge (if need be) the NTMs/NTBs of other ASEAN Member States, Lao PDR may require technical assistance. In that regard, a structured review mechanism could be developed on the basis of which regular reviews are undertaken.</p>	

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>any other Member State or by the private sector with a view to determining whether the measure constitutes as a NTB. If such review results in an identification of a NTB, the NTB shall be eliminated by the Member State applying such NTB in accordance with this Agreement.</p> <p>5. The CCA shall serve as a focal point for the notification and review referred to in paragraph 4 of this Article.</p> <p>6. Exceptions to this Article shall be allowed for the reasons provided in Article 8.</p> <p>7. Nothing in this Agreement shall be construed to prevent a Member State, which is a party to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal or other relevant international agreements, from adopting or enforcing any measure in relation to hazardous wastes or substances based on its laws and regulations, in accordance with such international agreements.</p>				
<p>Article 43 Foreign Exchange Restrictions Member States shall make exceptions to their foreign exchange restrictions relating to payments for the products under this Agreement, as well as</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX)</p>	<p>1. Does Lao PDR apply exceptions to foreign exchange restrictions applying to products under the ATIGA?</p>	<p>The Bank of Lao PDR indicated that Lao PDR does not maintain any foreign exchange restrictions applicable to any goods, which includes goods covered by the ATIGA.</p> <p>Based on the available information, it appears that Lao PDR has implemented Article 43 of the ATIGA.</p>	<p>☑</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>repatriation of such payments without prejudice to their rights under Article XVIII of GATT 1994 and relevant provisions of the Articles of Agreement of the International Monetary Fund (IMF).</p>				
<p>Article 44 Import Licensing Procedures 1. Each Member State shall ensure that all automatic and non-automatic import licensing procedures are implemented in a transparent and predictable manner, and applied in accordance with the Agreement on Import Licensing Procedures as contained in Annex 1A to the WTO Agreement. 2. Promptly after entry into force of this Agreement, each Member State shall notify the other Member States of any existing import licensing procedures. Thereafter, each Member State shall notify the other Member States of any new import licensing procedure and any modification to its existing import licensing procedures, to the extent possible sixty (60) days before it takes effect, but in any case no later than the effective date of the licensing requirement. A notification provided under</p>	<p>CCA representative in Ministry of Industry and Commerce (DIMEX)</p>	<ol style="list-style-type: none"> 1. Does Lao PDR apply any automatic or non-automatic import licensing procedures? 2. Has Lao PDR notified other ASEAN Member States of any import licensing procedures? 	<p>With respect to import licensing procedures, DIMEX referred to the Lao Trade Portal (https://www.laotradeportal.com/index.php?r=site/display&id=73). Import licensing procedures are currently regulated in the <i>Decree On Import Licensing Procedures</i>.²⁵ It appears that Lao PDR is currently working on a new Import Licensing Law, but which was not available for review.</p> <p>With respect to the notification obligation under Article 44(2) of the ATIGA, DIMEX noted that such notifications were made at CCA meetings and through the Lao Trade Portal.</p> <p>Based on the available information, it appears that Lao PDR has largely implemented Article 44 of the ATIGA. However, based on the available information, it does not appear that the mentioning of such measures at CCA meetings and the transparency provided on the Lao Trade Portal satisfies the notification requirements under Article 44 of the ATIGA.</p> <p>As noted with respect to Article 11 of the ATIGA, Lao PDR may require technical assistance with respect to the notification requirements to the ASEAN Secretariat and other ASEAN Member States. As noted above, a consistent structure and related procedures should be established among the various relevant Government agencies in order to ensure that all NTMs are properly</p>	<p style="text-align: right;">➔</p>

²⁵ Decree On Import Licensing Procedures, No: 180/PM, 7 July 2009, available at https://www.wto.org/english/thewto_e/acc_e/lao_e/WTACCLAO17A3_LEG_1.pdf (accessed 8 June 2021).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>this Article shall include the information specified in Article 5 of the Agreement on Import Licensing Procedures as contained in Annex 1A to the WTO Agreement.</p> <p>3. Each Member State shall answer within sixty (60) days all reasonable enquiries from another Member State with regard to the criteria employed by its respective licensing authorities in granting or denying import licences. The importing Member State shall also consider publication of such criteria.</p> <p>4. Elements in non-automatic import licensing procedures that are found to be impeding trade shall be identified, with a view to remove such barriers, and to the extent possible work towards automatic import licensing procedures.</p>			<p>captured, notified, reflected on the Lao Trade Portal, and continuously kept up to date.</p>	

3.5 Chapter 5 - Trade Facilitation

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>CHAPTER 5 TRADE FACILITATION</p>	<p>Coordinating Committee on ATIGA (CCA) and as such the Ministry of Industry and Commerce (DIMEX)</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Article 45 Work Programme on Trade Facilitation and its Objectives 1. Member States shall develop and implement a comprehensive ASEAN Trade Facilitation Work Programme, which sets out all concrete actions and measures with clear targets and timelines of implementation necessary for creating a consistent, transparent, and predictable environment for international trade transactions that increases trading opportunities and help businesses, including small and medium sized enterprises (SMEs), to save time and reduce costs. 2. The ASEAN Trade Facilitation Work Programme shall set out actions and measures to be implemented at both ASEAN and national levels.</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP and DIMEX)</p>	<ol style="list-style-type: none"> 1. How has Lao PDR implemented the ASEAN Trade Facilitation Work Programme? 2. What actions and measures under the 2007-2015 Programme were implemented? 3. How has Lao PDR been implementing the 2016 ASEAN Trade Facilitation Framework? 4. What processes are in place to implement further ASEAN initiatives on trade facilitation? 5. How has Lao PDR been implementing the WTO Trade Facilitation Agreement? 	<p>With respect to the Work Programme on Trade Facilitation, the DFTP noted that Lao PDR had informed all sectors of the work programme, that DIMEX followed up on the implementation by the sectors and that DIMEX conducted the annual assessment to prepare a report to the Chair of the National Trade Facilitation Committee.</p> <p>Under the 2007-2015 Trade Facilitation Work Programme, Lao PDR appears to have implemented the following actions:</p> <ul style="list-style-type: none"> • Time release study; • Reduction of import licencing requirements for cement, iron and steel; • Reduction of transaction procedures; • Reduction of time and cost of documentation; Self-Certification Pilot Project 2, Electronic form D Live operation via ASEAN Single Window; and • ASEAN wide self-certification. <p>With respect to the 2016 ASEAN Trade Facilitation Framework, DFTP referred to the Framework Agreement on Facilitation of Cross-border Paperless Trade under</p>	<p style="text-align: right;">➔</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
			<p>the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) and various agreements on trade and transport facilitation (see https://laotradeportal.gov.la/index.php?r=site/display&id=771).</p> <p>DIMEX noted that it applied the Roadmap on Trade Facilitation 2017 -2022 (https://www.laotradeportal.gov.la/index.php?r=site/display&id=1309). The introduction to the roadmap notes that: “<i>The Trade Facilitation Road Map of Lao PDR for 2017-2022 was preceded by a comprehensive review of the Lao PDR’s earlier Trade Facilitation Strategic Plan (TFSP) of 2011-2015, which provided important learnings from its achievements and challenges. This Road Map was the output of the intensive research and data/information contributions from relevant sectors including national and international experts through number of meetings, seminars, consultations and technical comments to ensure that the Road Map is consistent with the Government’s policy and other sectors’ strategies before the approval</i>”.²⁶</p> <p>With respect to further trade facilitation initiatives, DFTP referred to discussions on low value shipments. This appears to refer to the issue that certain aspects of the taxation regime require clarification, for example the application of a <i>de minimis</i> threshold for low-value goods shipments. In this context, a report by the World Bank formulated the following recommendation: “<i>Establish a transparent and consistently applied procedure for handling low-value cross-border shipments, in line with the World Trade Organization Trade Facilitation Agreement and World Customs Organization Immediate Release Guidelines. This should include a clear de minimis threshold,</i></p>	

²⁶ Available at https://www.laotradeportal.gov.la/kcfinder/upload/files/Pub_1533698826.pdf (accessed 11 February 2021).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
			<p><i>below which taxes and duties are not collected, along with simplified procedures for low-value shipments</i>".²⁷ DIMEX again referred to the roadmap on Trade Facilitation 2017-2022 (https://www.laotradeportal.gov.la/index.php?r=site/display&id=1309).</p> <p>Reference was made to the <i>Prime Minister No. 12/PM Order on Facilitation of Import and Export, Temporary Import, Trade in Transit and Domestic Movement of Goods in Lao PDR</i> of 16 October 2019, which provides detailed instructions to pursue trade facilitation with respect to the import, export, temporary import, transit, and the domestic movement of goods.²⁸</p> <p>With respect to the WTO Trade Facilitation Agreement, DFTP noted that Lao PDR had sent a notification to the WTO Committee on Trade Facilitation (Reference No. 0330/DFTP) on 28 July 2020 regarding categories A, B, and C (https://laotradeportal.gov.la/index.php?r=site/display&id=771).</p> <p>In this context, DIMEX noted that Lao PDR recognised that it needs to reduce the costs of trading in order to ensure the competitiveness of its exporters, as well as the overall economy. Efforts are being made to introduce automated information systems for customs clearance, along with more modern risk management techniques at the border to reduce clearance times and improve the efficiency of revenue collection. DIMEX also noted that Lao PDR notified Category A, B and C to the WTO (https://www.tfafacility.org/notifications).</p>	

²⁷ TAKING ADVANTAGE OF E-COMMERCE, Legal, Regulatory, and Trade Facilitation Priorities for Lao PDR, p. 2, available at <http://documents1.worldbank.org/curated/en/318431534860299926/pdf/Taking-Advantage-of-E-Commerce-Legal-Regulatory-and-Trade-Facilitation-Priorities-for-Lao-PDR.pdf> (accessed 11 February 2021).

²⁸ Available on the Lao Trade Portal, <https://www.laotradeportal.com/index.php?r=site/display&id=1803> (accessed 12 May 2021).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
			<p>The implementation of the ASEAN Trade Facilitation Work Programme and related programmes is a work in progress for all ASEAN Member States and efforts must be undertaken continuously.</p> <p>Therefore, technical assistance needs exist with respect to the implementation of further trade facilitative measures.</p>	
<p>Article 46 Scope of the ASEAN Trade Facilitation Work Programme The ASEAN Trade Facilitation Work Programme referred to in Article 45 shall cover the areas of customs procedures, trade regulations and procedures, standards and conformance, sanitary and Phytosanitary measures, ASEAN Single Window and other areas as identified by the AFTA Council.</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP and DIMEX)</p>	<p>1. In what ways has Lao PDR worked to facilitate trade in the areas of customs procedures, trade regulations and procedures, standards and conformance, sanitary and phytosanitary measures, and ASEAN Single Window?</p>	<p>With respect to trade facilitation measures, the DFTP noted that, in Lao PDR, each relevant Government agency has a person working towards the implementation of the ASEAN Trade Facilitation Work Programme and that annual meetings on the Work Programme are held.</p> <p>DIMEX noted that all the work related to the Trade Facilitation Work Programme relates to the simplification, harmonisation, standardisation and modernisation of trade procedures, and that Lao PDR was relying on the Lao Trade Facilitation Roadmap 2017-2022 as guidance.</p>	<p>N.A.</p>
<p>Article 47 Principles on Trade Facilitation Member States shall be guided by the following principles in relation to trade facilitation measures and initiatives at both ASEAN and national levels: (a) Transparency: Information on policies, laws, regulations, administrative rulings, licensing, certification, qualification and registration requirements, technical regulations, standards, guidelines, procedures and practices relating to trade in goods (hereinafter referred</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP and DIMEX) plus representatives in ACCSQ, AC-SPS, CCC and other relevant ASEAN sectoral bodies</p>	<p>1. In what ways has Lao PDR implemented the guiding principles of trade facilitation listed in Article 47?</p>	<p>With respect to the implementation of the principles of trade facilitation, DIMEX noted the following:</p> <ul style="list-style-type: none"> • Transparency: rules and procedures related to trade are regularly published on the www.laotradeportal.com for interested parties at no cost and in a timely manner. Lao PDR does provide already a lot of information on its Lao Trade Portal. The structure could become more intuitive and thematic, as it is not always easy to locate the relevant information. In this context, it must be ensured that the information provided is comprehensive and regularly updated; • Communications and Consultations: Business, related stakeholders and the trading community are 	<p><input checked="" type="checkbox"/> ➔</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>to as “rules and procedures relating to trade”) to be made available to all interested parties, consistently and in a timely manner at no cost or a reasonable cost;</p> <p>(b) Communications and Consultations: The authorities shall endeavour to facilitate and promote effective mechanisms for exchanges with the business and trading community, including opportunities for consultation when formulating, implementing and reviewing rules and procedures relating to trade;</p> <p>(c) Simplification, practicability and efficiency: Rules and procedures relating to trade to be simplified to ensure that they are no more burdensome or restrictive than necessary to achieve their legitimate objectives;</p> <p>(d) Non-discrimination: Rules and procedures relating to trade to be applied in a non-discriminatory manner and be based on market principles;</p> <p>(e) Consistency and predictability: Rules and procedures relating to trade to be applied in a consistent, predictable and uniform manner so as to minimise uncertainty to the trade and trade related parties. Rules and procedures relating to trade to provide clear and precise procedural guidance to the</p>			<p>regularly included when authorities formulate, implement and review rules and regulations relating to trade through the annual NTFC meeting and periodic related meetings. It was not possible to verify this with the private sector.</p> <ul style="list-style-type: none"> • Simplification, practicability and efficiency: This principle has been implemented through the regular review, classification and streamlining of NTMs. Lao PDR has established a working group. • Non-discrimination: DIMEX noted that it tries to ensure that no discrimination ever occurs, but there is no reference to any legal provision to that effect. • Consistency and predictability: DIMEX has started setting itself as an example to implement the service charter to ensure the domestic consistency and predictability of procedures relating to trade and is also collaborating with concerned parties to expand the service charter in their administration. • With respect to harmonisation, standardisation and recognition, as well as modernisation and use of new technology, DIMEX only referred to the work carried out by the ASEAN Consultative Committee on Standards and Quality (ACCSQ). <p>Based on the available information, it appears that Lao PDR has largely implemented the guiding ASEAN principles of trade facilitation.</p> <p>As the implementation of the guiding principles of trade facilitation remains ‘<i>work in progress</i>’ for all ASEAN Member States, efforts must be continuously undertaken to ensure the adherence to the guiding principles throughout Government administration.</p>	

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>appropriate authorities with standard policies and operating procedures and be applied in a non-discretionary manner;</p> <p>(f) Harmonisation, standardisation and recognition: While accepting the need of each Member State to regulate or set rules for legitimate objectives such as protection of health, safety or public morals and conservation of exhaustible natural resources, regulations, rules and procedures affecting the acceptance of goods between Member States to be harmonised as far as possible on the basis of international standards where appropriate. The development of mutual recognition arrangements for standards and conformity assessment results, and continuing cooperation on technical infrastructure development, are encouraged;</p> <p>(g) Modernisation and use of new technology: Rules and procedures relating to trade to be reviewed and updated if necessary, taking into account changed circumstances, including new information and new business practices, and based on the adoption, where appropriate, of modern techniques and new technology. Where new technology is used, relevant authorities shall make best</p>			<p>Therefore, with respect to the continuous implementation of the guiding principles of trade facilitation, Lao PDR may require technical assistance and further engagement with the relevant authorities of Lao PDR appears necessary to progressively tailor and adjust the support to Lao PDR’s actions and objectives.</p>	

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>efforts to spread the accompanying benefits to all parties through ensuring the openness of the information on the adopted technologies and extending co-operation to authorities of other economies and the private sector in establishing inter-operability and/or inter-connectivity of the technologies;</p> <p>(h) Due process: Access to adequate legal appeal procedures, adding greater certainty to trade transactions, in accordance with the applicable laws of Member States; and</p> <p>(i) Co-operation: Member States shall strive to work closely with private sector in the introduction of measures conducive to trade facilitation, including by open channels of communication and co-operation between both governments and business. Member States shall continue to work in partnership to focus on opportunities for increased co-operation including integrated technical assistance and capacity-building; exchanges of best practices critical to implementing trade facilitation initiatives and the co-ordination of positions concerning topics of common interest discussed in the framework of regional and international organisations.</p>				

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>Article 48 Progress Monitoring of Trade Facilitation 1. Member States, individually and collectively, shall undertake assessments once in every two (2) years, on implementation of the trade facilitation measures set out in this Agreement and in the ASEAN Trade Facilitation Work Programme to ensure effective implementation of trade facilitation measures. For this purpose, an ASEAN Trade Facilitation Framework shall be agreed by Member States within six (6) months after entry into force of this Agreement, to serve as a guideline to further enhance trade facilitation in ASEAN. 2. The ASEAN Work Programme on Trade Facilitation shall be reviewed based on the results of the regular assessment pursuant to paragraph 1 of this Article. The ASEAN Trade Facilitation Work Programme and the ASEAN Trade Facilitation Framework and any revisions thereto shall be administratively annexed to this Agreement and serve as an integral part of this Agreement.</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP and DIMEX) plus representatives in ACCSQ, AC-SPS, CCC and other relevant ASEAN sectoral bodies</p>	<ol style="list-style-type: none"> 1. Has Lao PDR undertaken assessments every 2 years on the implementation of trade facilitation measures? 2. If not, which measures are in place to ensure regular reviews? 	<p>With respect to Article 48 of the ATIGA on the Monitoring of Trade Facilitation, DIMEX noted that Lao PDR is not conducting the assessment every two years and that assessments only take place in relation to the WTO TFA. Therefore, DIMEX requested capacity building for relevant agencies to conduct self-assessment as set out in both the WTO TFA and the ATIGA.</p> <p>DIMEX noted that the assessments were not made public, and that the WTO provided assistance for the self-assessment with respect to the implementation of the WTO Trade Facilitation Agreement. The Customs Department and the Department of Standardization and Metrology (Ministry of Science and Technology) noted that they had been involved in the process.</p> <p>Other Government agencies indicated that they had not been involved in such assessments and some of the Government agencies even indicated a general lack of awareness of the ATIGA, including of provisions falling within their competence.</p> <p>The Department of Food and Drug (DFD) noted that it did not conduct the self-assessment because did not have the capacities to conduct such an assessment. DFD noted that it had made efforts to develop and improve legislation and regulations related to product management and that, to date, DFD introduced two laws and a number of sub-laws to facilitate management for entrepreneurs.</p> <p>The DFD noted that it would be helpful to establish a unit in DFD to be responsible for such work with financial and technical assistance from relevant parties.</p>	<p style="text-align: center;">➔</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
			<p>Similarly, the Department of Plantation under the Ministry of Agriculture and Forestry noted that it did not participate in the review and that it needed a budget and capacity building regarding the assessment of the implementation of trade facilitation measures.</p> <p>As noted above in the context of Article 47, the progress on trade facilitation is <i>'work in progress'</i> for all ASEAN Member States and efforts must be undertaken to continuously monitor and assess the progress on trade facilitation measures. It appears that Lao PDR is mainly assessing the implementation of the WTO TFA, while no comprehensive assessments of trade facilitation measures under the ATIGA and other ASEAN instruments are being conducted. The Trade Facilitation Road Map of Lao PDR for 2017-2022 only contains very few references to the ATIGA.²⁹ Given the overlap and shared objectives by the TFA and certain ATIGA provisions, it could be useful to identify the synergies and linkages between the WTO TFA and ASEAN trade facilitation commitments and set up a framework from which to streamline implementation of commitments. This could feed into Lao PDR's Trade Facilitation Roadmap from 2022.</p> <p>Therefore, technical assistance needs appear to exist with respect to the continuous implementation of trade facilitation measures under the ATIGA and other ASEAN instruments and the review thereof. In particular, it appears that certain Government agencies, such as the Department of Food and Drugs, are generally unaware of the ATIGA and of the provisions of relevance via-à-vis their competences. Therefore, technical assistance and capacity building would need to be provided to increase awareness of the ATIGA, the provisions of respective regulatory relevance, and the built-in mechanisms to continuously implement the ATIGA and ASEAN tools on trade facilitation linked to the ATIGA.</p>	

²⁹ See https://www.laotradeportal.gov.la/kcfinder/upload/files/Pub_1533698826.pdf (accessed 11 February 2021).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>Article 49 Establishment of the ASEAN Single Window Member States shall undertake necessary measures to establish and operate their respective National Single Windows and the ASEAN Single Window in accordance with the provisions of the Agreement to Establish and Implement the ASEAN Single Window and the Protocol to Establish and Implement the ASEAN Single Window.</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP and DIMEX) plus representatives in CCC and other relevant ASEAN sectoral bodies</p>	<p>1. What is the status of Lao PDR's National Single Window?</p>	<p>DIMEX noted that, with respect to the ASEAN Single Window, there was a pilot project for commercial vehicles and the Department of Customs noted that the system was only completed at certain levels.</p> <p>It appears that a gap still exists with respect to the implementation of the ASEAN Single Window in Lao PDR.</p> <p>Technical assistance needs appear to exist with respect to the implementation of the ASEAN Single Window and further discussions should be entertained with the relevant Ministries of Lao PDR in order to ensure that no duplication occur vis-à-vis other development partners' support.</p>	<p>→</p>
<p>Article 50 Implementation Arrangement 1. The progress in the implementation of the ASEAN Work Programme on Trade Facilitation and the outcomes of its assessment shall be reported to the AFTA Council. The SEOM, assisted by the CCA, shall be the main co-ordinator in monitoring the progress of the implementation of the ASEAN Work Programme on Trade Facilitation, in close co-ordination with the various ASEAN Committees in charge of the implementation of the measures under the Work Programme. 2. Each Member State shall establish a Trade Facilitation Coordinating Committee or relevant focal point at the national level.</p>	<p>CCA representative in Ministry of Industry and Commerce (DFTP and DIMEX) plus national SEOM Leader, representatives in ACCSQ, ACSPS, CCC and other relevant ASEAN sectoral bodies</p>	<p>1. Does Lao PDR report the implementation of trade facilitation measures to the AFTA Council? 2. Which organisations are represented on Lao PDR's Trade Facilitation Coordinating Committee and who is the relevant focal point?</p>	<p>With respect to the reporting on the implementation of the trade facilitation measures to the AFTA Council, DIMEX noted that Lao PDR reports to the ATF-JCC meeting and the CCA, as well as to the WTO Secretariat.</p> <p>With respect to the National Trade Facilitation Committee (NTFC), DFTP noted that it is composed of DIMEX, the Department of Transportation, DFTP itself, the Customs Department, and local authorities. It appears that some private sector organisations, such as the Lao National Chamber of Commerce and Industry (LNCCI) and the Lao International Freight Forwarders Association (LIFFA), are also members and attend the annual meeting of the NTFC. Reports of the meetings are not made publicly available.</p> <p>DIMEX noted that the MoIC is the representing organisation with the Department of Import and Export acting as the secretariat. DIMEX noted that the National Trade Facilitation Committee is composed of 17 agencies as members and that it was regulated by the <i>Decision on the Establishment of National Trade Facilitation Committee</i></p>	<p>☑ →</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
			<p>No. 48/PM, dated 26 July 2018, which is available on the Lao Trade Portal.³⁰</p> <p>Article 1 of the Decision provides for the establishment of the National Trade Facilitation Committee (NTFC) and its composition. It is currently chaired by Mr. <i>Sonexay Siphandone</i>, Deputy Prime Minister as Head of the Committee and further composed of the Minister of Industry and Commerce (Vice Head of the Committee and Standing Member), the Vice Minister of Planning and Investment (Vice Head of the Committee), the Vice Minister of Industry and Commerce (Vice Head of the Committee and Head of TF Secretariat), the Vice Minister of Finance (Member of the Committee), the Vice Minister of Public Work and Transportation (Member of the Committee), the Vice Minister of Agriculture and Forestry (Member of the Committee), the Vice Minister of Public Health (Member of the Committee), the Vice Minister of Science and Technology (Member of the Committee).</p> <p>Article 3 of the Decision establishes the Provincial / Capital Trade Facilitation Committees (PTFC) and addresses their composition.</p> <p>It appears that some private sector organisations, such as the Lao National Chamber of Commerce and Industry (LNCCI) and the Lao International Freight Forwarders Association (LIFFA), are also members and attend the annual meeting of the NTFC. Reports of the meetings are not made publicly available.</p> <p>Based on the available information, Lao PDR appears to have implemented Article 50 of the ATIGA. As noted above in the context of Articles 47 and 48, the progress</p>	

³⁰ Decision on the Establishment of National Trade Facilitation Committee No. 48/PM, dated 26 July 2018, available at https://www.laotradeportal.gov.la/kcfinder/upload/files/Le-gal_1577416412.pdf (accessed 25 September 2020).

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
			<p>on trade facilitation is a '<i>work in progress</i>' for all ASEAN Member States, efforts and reporting must be undertaken continuously. No details regarding the functioning of Lao PDR's National Trade Facilitation Committee were provided, but, given the relevance of this <i>forum</i> for advancing key trade facilitation projects and ensuring their effective implementation across the country, this could certainly be a key area of engagement and where synergies might be seized with the engagement of other development partners.</p> <p>With respect to the continuous reporting of trade facilitation measures and the working of the National Trade Facilitation Committee and its Secretariat, Lao PDR may require technical assistance. Such assistance could also review the possible synergies related to efforts on trade facilitation at the regional and multilateral level. As noted above, this could feed into the preparation of the Trade Facilitation Roadmap for the post-2022 period.</p>	

3.6 Chapter 6 - Customs

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>CHAPTER 6 CUSTOMS</p>	<p>Director General of Customs and representatives in ASEAN Coordinating Committee on Customs (CCC) and related Working Groups (CPTFWG, CCBWG, etc.)</p> <p>Department of Customs</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Article 54 Customs Procedures and Control 1. Each Member State shall ensure that its customs procedures and practices are predictable, consistent, transparent and trade facilitating, including through the expeditious clearance of goods. 2. Customs procedures of Member States shall, where possible and to the extent permitted by their respective customs law, conform to standards and recommended practices of the World Customs Organisation</p>	<p>Director General of Customs and representatives in ASEAN Coordinating Committee on Customs (CCC) and Customs Procedures and Trade Facilitation Working Group (CPTFWG)</p> <p>Department of Customs</p>	<ol style="list-style-type: none"> 1. Has Lao PDR completed a review of its customs procedures, with a view to their simplification to facilitate trade? 2. Does Lao PDR's Customs Law conform to standards and recommended practices of the WCO? 	<p>The Department of Customs noted that a review of its customs procedures had taken place and is reflected in the <i>Custom Law No. 81</i>, which was recently approved by Lao PDR's National Assembly and is expected to be implemented next year (2021). According to the Department of Customs, the new <i>Custom Law No. 81</i> is consistent with the standard of the Revised Kyoto Convention of the World Customs Organization and the World Trade Organization's Trade Facilitation Agreement.³¹</p> <p>Based on the available information, it appears that Lao PDR has taken steps to implement Article 54 of the ATIGA, namely under the new <i>Customs Law No. 81</i>.</p> <p>With respect to the future implementation of the new <i>Customs Law No. 81</i> Lao PDR may require technical assistance and further discussions should be entertained with</p>	<p>➔</p>

³¹ At the time of drafting of this report, the new Customs Law No. 81 was not yet available for review in an English language version.

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<p>and other international organizations as relevant to customs.</p> <p>3. The customs authorities of each Member State shall review its customs procedures with a view to their simplification to facilitate trade.</p> <p>4. Customs control shall be limited to that which is necessary to ensure compliance with customs laws of Member States.</p>			<p>the Department of Customs to define the exact scope and support of possible activities. .</p>	
<p>Article 55 Pre-arrival Documentation Member States shall endeavour to make provision for the lodging and registering or checking of the goods declaration and its supporting documents prior to the arrival of the goods.</p>	<p>Director General of Customs and representatives in CPTFWG</p> <p>Department of Customs</p>	<p>1. Do Lao PDR's customs rules allow for pre-arrival documentation?</p>	<p>Article 29 of the Customs Law provides that:</p> <p><i>“Pre-Arrival Customs Declaration</i> <i>To facilitate the import and export of goods, the declarant may declare details of goods before the arrival of goods at customs checkpoints and shall apply the following procedures:</i></p> <p>1. <i>The declarant is eligible to make pre-arrival clearance within seven (7) working days prior to the arrival of goods at the customs checkpoints and shall prepare sufficient documentation as defined in Article 23 of this Law;</i></p> <p>2. <i>The payment of customs duties and other obligations shall take place at the time the goods arrive at the customs checkpoint as defined in Article 25 of this Law”.</i></p> <p>Based on the available information, it appears that Lao PDR has implemented Article 55 of the ATIGA.</p>	<p>☑</p>
<p>Article 56 Risk Management Member States shall use risk management to determine control measures with the view to facilitate customs clearance</p>	<p>Director General of Customs and representatives in CPTFWG</p>	<p>1. What risk management procedures does Lao PDR implement to control the clearance and release of goods?</p>	<p>The Department of Customs noted that it had introduced a risk management regulation, which is based on the risk profile of a company, the type of products based on their HS codes, as well as on random checks. The Department of Customs did not provide a reference to the specific regulation or relevant legal instrument.</p>	<p>☑ ➔</p>

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<p>and release of goods.</p>	<p>Department of Customs</p>		<p>The Department of Customs further referred to Articles 49 and 50 of the Customs Law No. 81/NA of 19 June 2020.</p> <p>Article 49 on 'Tax risk' provides that: <i>"Tax risk is the potential violation of customs laws relating to the import-export, transit, movement, storage of goods, luggage, entry and exit of passengers and vehicles through border customs"</i>.</p> <p>Article 50 on 'Tax risk management' provides that: <i>"Tax risk management is the process and technical measures that the tax administration uses to identify, evaluate, and classify risks as a basis for effectively allocate resources to inspect, control, monitor and diversify other tax procedures. The tax administration must manage tax risks as follows:</i></p> <ol style="list-style-type: none"> <i>1. Apply risk management, decide to control, monitor, inspect goods, vehicles, and concentrated effort on all forms of tax evasion.</i> <i>2. Collect, analyse data, determine conditions, and evaluate the implementation of laws, classify risks, and put in place appropriate measures for tax control.</i> <i>3. There is an automated communication system to gather and assess data to serve risk management work. The Ministry of Finance issues detailed regulations on tax risk management"</i>. <p>The Department of Food and Drug (Ministry of Public Health) noted that it had implemented standardised procedures (SOPs) within specific authorities, but a risk-based management system had not yet been implemented.</p> <p>The Department of Plantation under the Ministry of Agriculture and Forestry referred to the permit and inspection</p>	

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			<p>procedure regulated in the <i>Law on Plant Protection and Quarantine No. 13/NA</i>.³²</p> <p>Based on the available information, it appears that Lao PDR has made efforts to implement risk management to determine control measures. Further implementation by certain Government agencies still appears to be necessary. In this context, reference is made to the comments from the Department of Food and Drug, which noted that risk-based management system had not yet been implemented.</p> <p>, Lao PDR may require technical assistance to support implementation of risk management by certain Government agencies. .</p>	
<p>Article 57 Customs Valuation 1. For the purposes of determining the customs value of goods traded between and among the Member States, provisions of Part I of Customs Valuation Agreement, shall apply mutatis mutandis. 2. Member States shall harmonise, to the extent possible, administrative procedures and practices in the assessment of value of goods for customs purposes.</p>	<p>Director General of Customs and representatives in CPTFWG</p> <p>Department of Customs</p>	<ol style="list-style-type: none"> 1. Is Lao PDR applying Part I of the Customs Valuation Agreement? 2. In what ways has Lao PDR attempted to harmonise its administrative procedures and practices with other AMSs? 	<p>The Department of Customs noted that Lao PDR is applying Part I of the Customs Valuation Agreement and that there is an annual meeting on Customs Procedures and Trade Facilitation among ASEAN Member States.</p> <p>Article 12 of the 2011 Customs Law³³ provides that “<i>the customs value of exported goods is the actual value of goods, including transportation costs delivered to the customs border checkpoint of export</i>”.³⁴</p> <p>Article 13 of the Customs Law provides that “<i>Customs value for import shall be the actual value of goods including transportation and/or insurance costs at the customs border checkpoint of import in accordance with 1994 WTO’s General Agreement on Customs and Trade, pertaining to Customs Valuation. The Ministry of Finance</i></p>	<p style="text-align: center;">☑</p>

³² Available at <http://extwprlegs1.fao.org/docs/pdf/lao178953.pdf> (accessed 25 September 2020).

³³ Available at [http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs%20Law%20\(2012-final\).pdf](http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs%20Law%20(2012-final).pdf) (accessed 12 February 2021).

³⁴ Customs Law, available at [http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs%20Law%20\(2012-final\).pdf](http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs%20Law%20(2012-final).pdf) (accessed 25 September 2020).

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			<p><i>shall issue detailed regulation on the principle of import customs valuation.</i>".</p> <p>Based on the available information, it appears that Lao PDR has implemented Article 57 of the ATIGA.</p>	
<p>Article 58 Application of Information Technology Member States, where applicable, shall apply information technology in customs operations based on internationally accepted standards for expeditious customs clearance and release of goods.</p>	<p>Director General of Customs and representatives in CPTFWG</p> <p>Department of Customs</p>	<ol style="list-style-type: none"> 1. In what ways does Lao PDR apply information technology to its customs operations? 2. What internationally accepted IT standards does Lao PDR use as a basis for its operations? 3. To what extent has the automation process for e-Customs been completed? 	<p>With respect to the use of information technology, the Department of Customs noted that Lao PDR was using information technology in the context of the Automated System for Customs Data (ASYCUDA), Scanner, E-payment, Smart-Tax.</p> <p>With respect to the automation process for e-Customs, the Department of Customs noted that this had been completed up to the payment of duty and tax.</p> <p>As the use of information technology is constant '<i>work in progress</i>' for all ASEAN Member States, and efforts must be continuously undertaken to keep up with technological changes and customers' needs. Lao PDR appear to have made good progress in this regard.</p> <p>Technical assistance needs might exist with respect to the continuous implementation of further use of information technology. Given the relevance of information technology for various trade facilitation measures, this appears to be a natural area of technical assistance, in particular given that efforts should be made at the '<i>federal</i>' and provincial (<i>i.e.</i>, '<i>sub-federal</i>') level.</p>	<p>→</p>
<p>Article 59 Authorised Economic Operators 1. Member States shall endeavour to establish the programme</p>	<p>Director General of Customs and representatives in CPTFWG</p>	<ol style="list-style-type: none"> 4. Has Lao PDR established an Authorised Economic Operators (AEO) programme? 5. If yes, please provide details? 	<p>The Department of Customs noted that Lao PDR had established an Authorised Economic Operators (AEO)³⁵ programme, but that the programme had only just started and is in its infancy.</p>	<p>→</p>

³⁵ In line with the definition of the World Customs Organization, an Authorised Economic Operators (AEO) is a party involved in the international movement of goods in whatever function that has been approved by or on behalf of a national Customs administration as complying with WCO or equivalent supply chain security standards.

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<p>of Authorised Economic Operators (AEO) to promote informed compliance and efficiency of customs control. 2. Member States shall endeavour to work towards mutual recognition of AEO.</p>	<p>Department of Customs</p>		<p>The Department of Customs noted that the AEO programme was still very recent in Lao PDR and that the relevant Ministerial Instruction had only come out in 2019. This appears to refer to Ministerial Instruction No. 1159, which details AEO criteria, requirements, benefits, and associated procedures for the management of the programme.</p> <p>The Department of Customs noted that Lao PDR has now completed the preparation of the terms and criteria for AEOs, but that further outreach to businesses is still necessary. In this context, the Department of Customs noted that Lao PDR has received technical assistance from Japan, but that this has paused this year due to the Covid-19 pandemic. No further information was provided on the technical assistance provided by Japan.</p> <p>The Government of Lao PDR intends to have four to five AEOs recognised by the end of the year, but the Department of Customs appeared more cautious, given that work on terms and criteria is still ongoing.</p> <p>Based on the available information, it appears that Lao PDR has begun implementing Article 59 of the ATIGA on Authorised Economic Operators (AEO), but that implementation is just beginning.</p> <p>Lao PDR may require technical assistance to support full implementation of the Authorized Economic Operators (AEO) programme and undertake further outreach to the private sector..</p>	
<p>Article 60 Repayment, Drawback and Security</p>	<p>Director General of Customs and representatives in CPTFWG</p>	<p>1. Are measures in place to deal with repayment, drawback and security?</p>	<p>The Department of Customs noted that security and drawback were included in the new <i>Custom Laws No. 81</i>. Article 102 of the <i>Custom Laws No. 81</i> concerns Repayment and Article 103 concerns Drawback. With respect</p>	<p>➔</p>

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<p>1. Decisions on claims for repayment shall be reached, and notified in writing to the persons concerned, without undue delay, and repayment of amounts overcharged shall be made as soon as possible after the verification of claims.</p> <p>2. Drawback shall be paid as soon as possible after the verification of claims.</p> <p>3. Where security has been furnished, it shall be discharged as soon as possible after the customs authorities are satisfied that the obligations under which the security was required have been duly fulfilled.</p>	<p>Department of Customs</p>		<p>to drawback, the Law notes that the Ministry of Finance is to issue regulations and mechanisms for drawback. It appears that key implementing rules still need to complement the new Customs Law. The commitments under the ATIGA also concern the implementation of the rules and, therefore, compliance will have to be assessed once the rules are implemented and the private sector can comment on the relevant practices by Lao PDR Customs authorities.</p> <p>It appears that Lao PDR has taken steps to implement Article 60 of the ATIGA, notably under the new <i>Customs Law No. 81</i>.</p> <p>Technical assistance needs might exist with respect to the future implementation of the new <i>Customs Law No. 81</i> and further discussions should be entertained with the Department of Customs to define the exact scope and support activities.</p>	
<p>Article 61 Post Clearance Audit Member States shall establish and operate Post Clearance Audit (PCA) for expeditious customs clearance and enhanced customs control.</p>	<p>Director General of Customs and representatives in CPTFWG Department of Customs</p>	<p>1. Has Lao PDR established a Post Clearance Audit system?</p>	<p>The Department of Customs noted that Lao PDR had established a Post Clearance Audit system in 2018, but no further specific information was provided.</p> <p>The Department of Customs referred to the new <i>Customs Law No. 81</i>.</p> <p>Article 105 on '<i>Collection of Tax Documents</i>' provides that: "The customs declaration must keep the original customs documents in details and relevant documents and other information within three years after being allowed to take the goods out of the warehouse or customs".</p> <p>Article 106 on '<i>Duration of the inspection the tax administration</i>' provides that:</p>	<p>☑</p>

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			<p><i>“The tax administration must conduct a detailed examination of the customs declaration or tax declaration documents and relevant documents and other information within three years”.</i></p> <p>Article 107 on ‘Place for the inspecting of customs declarations’ provides that:</p> <p><i>“Inspections of tax can be done at the tax office or the business’s office”.</i></p> <p>Article 108 on ‘Examination of Customs Declaration’ provides that:</p> <p><i>“The examination of the customs declaration shall be carried out as follows:</i></p> <ol style="list-style-type: none"> <i>1. Examine all information on customs declarations, including goods, goods that are still in the inventory of the business operator;</i> <i>2. Examine the references on the import-export of goods, such as declaration value, origin, inventory, payment, financial and accounting records, transactions and transactions;</i> <i>3. Temporarily retain or impose all or partial references of business during the conduct of inspections or investigations;</i> <i>4. The results of the inspection must be notified to the business within fifteen working days.</i> <p><i>The authorities and related parties must cooperate when there is a request from the tax authorities on the information of the business operator”.</i></p> <p>Based on the available information, it appears that Lao PDR has implemented Article 61 of the ATIGA.</p>	
<p>Article 62 Advance Rulings 1. Each Member State, through its customs authorities and/or</p>	<p>Director General of Customs and representatives in CPTFWG</p>	<p>1. Does Lao PDR provide advance rulings with respect to tariff classification, application of the Customs Valuation Agreement and/or origin of goods?</p>	<p>The Department of Customs noted that Lao PDR provides advance rulings with respect to tariff classification and the origin of goods. The cost of advance rulings</p>	<p>➔</p>

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<p>other relevant authorities, shall, to the extent permitted by its respective laws, regulations and administrative determinations, provide in writing advance rulings on the application of a person described in paragraph 2(a) of this Article, in respect of the tariff classification, questions arising from the application of the principles of Customs Valuation Agreement and/or origin of goods.</p> <p>2. Where available, each Member State shall adopt or maintain procedures for advance rulings, which shall:</p> <p>(a) provide that an importer in its territory or an exporter or producer in the territory of another Member State may apply for an advance ruling before the importation of goods in question;</p> <p>(b) require that an applicant for an advance ruling provide a detailed description of the goods and all relevant information needed to process an application for an advance ruling;</p> <p>(c) provide that its customs authorities may, at any time during the course of evaluation of an application for an advance ruling, request that the applicant provide additional information within a specified period;</p>	<p>Department of Customs</p>	<p>2. What are the relevant rules, procedures, costs, timeframes?</p> <p>3. Do Lao PDR's advance ruling procedures comply with Article 62 of the ATIGA?</p>	<p>amounts to 150,000 LAK per application and decisions are reportedly issued within 90 days of application.</p> <p>It appears that Article 28 of the current Customs law only provides for Advance Rulings on customs classification and the origin of goods, but not regarding questions on the Customs Valuation Agreement.</p> <p>The Department of Customs referred to Article 32 of the Customs Law on 'Advance accreditation', which provides that:</p> <p><i>“Advance accreditation is the issuance of a certificate of goods, equipment to be included in a detailed customs declaration, which is valid for the customs officer to inspect in accordance with customs regulations”.</i></p> <p>The Department of Customs noted that advance rulings are not yet available for customs valuation, but that the new Customs Law No. 81 would include rules for advance rulings on customs valuation. The Department of Customs confirmed that technical assistance to implement advance rulings for customs valuation would be beneficial, as knowledge about this issue remained rather limited. The Department of Customs also noted that application forms for advance rulings should be prepared, which would require businesses to provide detailed information on the products. Technical assistance could be considered in light of the new Customs Law No. 81 expanding the scope of advance rulings and related applications forms so that the private sector can fully benefit from those legal options.</p> <p>Based on the available information, it appears that Lao PDR has largely implemented Article 62 of the ATIGA, but it appears that advance rulings are currently not available for questions on the Customs Valuation Agreement.</p>	

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<p>(d) provide that any advance ruling be based on the facts and circumstances presented by the applicant, and any other relevant information in the possession of the decision-maker; and</p> <p>(e) provide that an advance ruling be issued to the applicant expeditiously, within the period specified in each Member State's respective laws, regulations or administrative determinations.</p> <p>3. A Member State may reject requests for an advance ruling where the additional information requested in accordance with paragraph 2(c) of this Article is not provided within a specified time.</p> <p>4. Subject to paragraphs 1 and 5 of this Article and where available, each Member State shall apply an advance ruling to all importations of goods described in that ruling imported into its territory for three (3) years from the date of that ruling, or such other period as specified in that Member State's respective laws, regulations or administrative determinations.</p> <p>5. A Member State may modify or revoke an advance ruling upon a determination that the ruling was based on an error of fact or law (including human error), the information provided is false or inaccurate, there is a change in its law</p>			<p>In light of the new <i>Customs Law No. 81</i>, which expands the scope of advance rulings and related application forms; Lao PDR may require technical assistance so that the private sector can fully benefit from those new legal options.</p>	

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<p>consistent with this Agreement, or there is a change in a material fact, or circumstances on which the ruling was based.</p> <p>6. Where an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the customs authorities may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which an advance ruling was based.</p>				
<p>Article 63 Temporary Admission Member States shall facilitate movement of goods under temporary admission to the greatest extent possible.</p>	<p>Director General of Customs and representatives in CPTFWG</p> <p>Department of Customs</p>	<p>1. To what extent does Lao PDR allow for the temporary admission of goods in transit?</p>	<p>The Department of Customs noted that Lao PDR applies the ASEAN Customs Transit System (ACTS), which was launched during the week of 19 October 2020.</p> <p>The Department of Customs referred to the following provisions of the Customs Law:</p> <p>Article 86 on 'General Temporary Imports' <i>"The general temporary import of goods is the import at a certain time after that, to be sent out according to the time set by the customs authorities, according to the number and the original conditions are as follows:</i></p> <ol style="list-style-type: none"> 1. Vehicles, machinery, equipment for specific purposes; 2. Transport vehicles, including tractors, trailers, containers, including goods; 3. Items for education, health, culture, performances, exhibitions and experiments. <p><i>The goods mentioned in clauses 1 to 3 of this article must be authorized or confirmed by the relevant authorities and will be exempted the taxes as stipulated in this law. The customs authorities set a time limit for the temporary importation on a case-by-case basis".</i></p>	<p style="text-align: right;">☑</p>

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			<p>Article 87 on ‘Temporary import of goods for the production, processing, assembly, modification, packaging, or repair’ “Temporary importation of materials, including containers and packaging materials to produce, assemble, modify, or repair, process into a finished product or partly finished product as authorized in accordance with the regulations of the relevant authorities are tax-exempt at the time of importation as follows: 1. There must be an import plan and / or production plan for the customs administration; 2. Must comply with the timing of the temporary import regulations, if not it must be reported to the tax administration; 3. Waste from the production, processing, assembly, modification or finished product, partly finished product that does not meet the export conditions has to pay tax. In case of non-use of waste or adverse effects on health and the environment, the committee shall be appointed”.</p> <p>Article 88 on ‘Import-Export in accordance with the Investment Promotion Policy’ “The state has a policy to promote investment for activities, projects that are a priority of the government, including special economic zones and other economic zones at the time of import-export will receive a tax policy in accordance with the law on investment promotion. For the temporary importation of mechanical vehicles, this law must be followed. The Ministry of Finance manages and implements the import plan (Master List) approved by the Ministry of Planning and Investment, the Investment Promotion and Management Committee and related departments as stipulated in the regulations. The Ministry of Finance</p>	

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			<p><i>manages and implements the Master List that has been approved by the relevant authorities”.</i></p> <p><i>Article 89 on ‘Exports of goods and temporary goods’ “The exportation of goods out of the country temporary as the reimport it must be the same quantity and condition. If any equipment is modified, supplemented or added, it shall be taxed in accordance with the law by taking the value of the modification, supplementation or addition of that equipment as the basis for calculation. The export of goods for exhibited, tested, researched, etc. must be declared in detail. For goods specified in the Presidential Decree on the list of goods and the tariff rate on exports must be guaranteed for export duties. For goods with temporary export permit will receive tax exemption”.</i></p> <p><i>Article 90 on ‘Measures of temporary import and export of goods’ “Temporary import and export of goods must comply with the following measures: 1. Make a guarantee agreement with the tax administration; 2. It is not allowed to transfer ownership, mortgage, mortgage or guarantee, exchange, trade and use out of the purpose. Violations will be prosecuted. In case there is a need for domestic consumption, the tax must be declared to customs authorities. 3. Re-import according to the original number and condition. In case of modification, addition or addition of any equipment subject to duty. 4. Imports of raw materials, minerals, materials and raw materials used for production to export will be exempted from tax. If not export, such goods are taxed”.</i></p>	

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			<p>Temporary Admission allows goods to be brought in temporarily with total or partial relief from import duty. Examples of where this procedure might be used would be in the case of goods imported for purposes such as exhibiting at a trade fair or taking part in a music show. The Department of Customs noted that this was provided for in the current Customs Law.</p> <p>Based on the available information, it appears that Lao PDR has implemented Article 63 of the ATIGA.</p>	
<p>Article 65 Transparency</p> <p>1. Member States will facilitate the timely publication, dissemination of statutory and regulatory information, decisions and rulings on customs matters.</p> <p>2. Each Member State shall publish on the internet and/or in print form all statutory and regulatory provisions and any customs administrative procedures applicable or enforceable by its customs administration, except law enforcement procedures and internal operational guidelines.</p>	<p>Director General of Customs and representatives in CPTFWG</p> <p>Department of Customs</p>	<ol style="list-style-type: none"> 1. Does Lao PDR make public information on statutes and regulations, as well as decisions and ruling on Customs matters? 2. Does it publish such information on the Internet? 	<p>With respect to the obligation on the timely publication, dissemination of statutory and regulatory information, decisions and rulings on customs matters and their publication on the internet, the Department of Customs noted that it planned to publish such information on the Customs Website, but that it was still under construction. The Department of Customs considers that it should maintain its own website in addition to the Lao Trade Portal. Still, all relevant legal instruments are also being submitted to the MoIC for inclusion on the Lao Trade Portal. The Lao Trade Portal provides comprehensive information on a product by product basis.</p> <p>Based on the available information, a gap appears to exist with respect to the implementation of Article 65 of the ATIGA, but it appears that the Department of Customs is working on the implementation. However, it should be noted that publication should occur on the Lao Trade Portal and on the ASEAN Trade Repository, in line with Article 13 of the ATIGA and not (only) on the Customs website.</p> <p>With respect to the issue of transparency and provision of customs related information on the Lao Trade Portal and on the website of the Department of Customs, Lao PDR may require technical assistance.</p>	<p style="text-align: right;">➔</p>

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<p>Article 66 Enquiry Points Each Member State shall designate one (1) or more enquiry points to address enquiries from interested persons concerning customs matters, and shall make available on the internet and/or in print form information concerning procedures for making such enquiries.</p>	<p>Director General of Customs and representatives in CCC Department of Customs</p>	<ol style="list-style-type: none"> 1. Who serves as LAO PDR's enquiry point on customs matters? 2. Is this information available on the Internet? 	<p>The Department of Customs noted that the Legal Division and Relation Division serves as Lao PDR's enquiry point on customs matters and that the Customs Department had designated a person who can receive calls on customs matters. Such information is not available on the internet.</p> <p>The Department of Customs referred to the National Single Window at https://www.laonsw.net/ and noted that, for other matters, the Department of Customs could be contacted via telephone (+856 21 213810-8) and that the Legal Division and the Relation Division would respond on a case-by-case basis.</p> <p>Based on the available information, it appears that Lao PDR has implemented Article 66 of the ATIGA.</p>	<p style="text-align: center;">☑</p>
<p>Article 69 Review and Appeal 1. Each Member State shall ensure that any person, in its territory, being aggrieved by any customs decision pertinent to this Agreement have access to administrative review within the customs authorities that issued the decision subject to review or, where applicable, by the higher authority supervising the administration and/or judicial review of the determination taken at the final level of administrative review, in accordance with the Member State's law.</p>	<p>Director General of Customs and representatives in CCC Department of Customs</p>	<ol style="list-style-type: none"> 1. What system of administrative review does Lao PDR currently apply to customs matters? 	<p>The Department of Customs noted that, with respect to administrative review, Lao PDR followed the rules laid down in the <i>Customs Law No. 57 of 2014</i>, but did not provide further information.³⁶ Articles 68 to 70 of the Customs Law provide for detailed review and appeal procedures. In particular, Article 70 provides for the procedures for settling appeals regarding Customs valuation, HS classification, and Rules of Origin.</p> <p>Based on the available information, it appears that Lao PDR has implemented Article 69 of the ATIGA.</p>	<p style="text-align: center;">☑</p>



³⁶ Customs Law No. 57 of 2014, available at http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs_Law_No.57.NA_E.pdf (accessed 25 September 2020) and the original Customs Law is available at [http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs%20Law%20\(2012-final\).pdf](http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs%20Law%20(2012-final).pdf) (accessed 25 September 2020).

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2. The decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing.				
<p>Article 70 Implementation and Institutional Arrangements The ASEAN Directors-General of Customs, supported by customs working bodies, shall be responsible to implement the provisions of this Chapter and any other provisions relevant to customs in this Agreement.</p>	<p>Director General of Customs and representatives in CCC and subordinate bodies</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>

3.7 Chapter 7 - Standards, Technical Regulations and Conformity Assessment Procedures

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>CHAPTER 7 STANDARDS, TECHNICAL REGULATIONS AND CONFORMITY ASSESSMENT PROCEDURES</p>	<p>ASEAN Consultative Committee for Standards and Quality (ACCSQ) and as such representative(s) of the national standards body, accreditation committee and metrology institute plus members of ASEAN sectoral working groups</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Article 73 General Provisions 1. Member States reaffirm and are committed to abide by the rights and obligations under the Agreement on Technical Barriers to Trade contained in Annex 1A to the WTO Agreement. 2. Member States shall take any of the following possible measures or their combinations to mitigate, if not totally eliminate, unnecessary technical barriers to trade: (a) harmonise national standards with relevant international</p>	<p>ACCSQ and sectoral working group representatives Department of Standardization and Metrology (DOSM)</p>	<ol style="list-style-type: none"> 1. In what ways has Lao PDR harmonised national standards with relevant international standards and practices? 2. Please provide a list of harmonised standards. 3. Does Lao PDR recognise conformity assessments results of any other AMSs? 4. Does Lao PDR have a National Accreditation Body and a National Metrology Institute? 5. Is a marking system in place for products covered under the ASEAN Harmonised Regulatory Regimes or Directives? 	<p>With respect to the harmonisation of national standards with relevant international standards, the Department of Standardization and Metrology (DOSM) under the Ministry of Science and Technology noted that it had developed a total of 493 national standards. More specifically, the technical committees developed 43 standards and adopted 122 ISO standards and 328 IEC standards. The list of standards is published on the DOSM website and on the Lao Trade Portal.³⁷</p> <p>With respect to conformity assessment, the DOSM referred to Electrical and Electronic Equipment (EEE) products (where 95 standards exist) and to rubber-based products (where 46 standards exist). With respect to the</p>	<p style="text-align: center;">➔</p>

³⁷ See <https://laotradeportal.gov.la/index.php?r=SearchMeasures/standard> (accessed 12 February 2021).

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<p>standards and practices; (b) promote mutual recognition of conformity assessment results among Member States; (c) develop and implement ASEAN Sectoral Mutual Recognition Arrangements and develop ASEAN Harmonised Regulatory Regimes in the regulated areas where applicable; and (d) encourage the co-operation among National Accreditation Bodies and National Metrology Institutes (NMIs) including relevant legal metrology authorities in ASEAN to facilitate the implementation of Mutual Recognition Arrangements in regulated and non-regulated sectors. 3. To facilitate the free movement of goods within ASEAN, Member States shall develop and implement a Marking Scheme, where appropriate, for products covered under the ASEAN Harmonised Regulatory Regimes or Directives.</p>			<p>EEE MRA, Lao PDR accepts the Certification of Conformity (CoC) from other ASEAN Member States.</p> <p>Under the DOSM, a National Accreditation Body was established in 2018 and a National Metrology Center was established in 2011.</p> <p>With respect to the marking system for products covered under the ASEAN Harmonised Regulatory Regimes or Directives, the DOSM noted that a Laos Standard Mark exists.</p> <p>Based on the available information, it appears that Lao PDR has made good progress in implementing Article 73 of the ATIGA.</p> <p>Lao PDR may require technical assistance to introduce further standards based on international standards and to further implement the ASEAN MRAs (regarding the MRAs, see Article 78).</p>	
<p>Article 74 Standards 1. Each Member State undertakes that its national standards authorities accept and follow the Code of Good Practice for the Preparation, Adoption and Application of Standards as provided for in Annex 3 of the Agreement on</p>	<p>ACCSQ and sectoral working group representatives</p> <p>Department of Standardization and Metrology (DOSM)</p>	<ol style="list-style-type: none"> 1. Do Lao PDR's national standards authorities follow the Code of Good Practice for the Preparation, Adoption and Application of Standards? If so, how is this ensured? 2. In what ways has Lao PDR's actively participated in the development of international standards? 3. Has Lao PDR based its harmonisation of national standards and adoption of interna- 	<p>With respect to the Code of Good Practice for the Preparation, Adoption and Application of Standards, the DOSM noted that it had implemented a National Standard procedure based on ISO Guide 59: Code of Good practices for the Preparation, Adoption Standards and in compliance with the WTO TBT Agreement's Annex 3.</p> <p>The DOSM noted that it had established 17 national technical committees for the drafting of standards (NTC level)</p>	<p> </p>

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<p>Technical Barriers to Trade as contained in Annex 1A to the WTO Agreement.</p> <p>2. In harmonising national standards, Member States shall, as the first and preferred option, adopt the relevant international standards when preparing new national standards or revising existing standards. Where international standards are not available, national standards shall be aligned among Member States.</p> <p>3. Member States are encouraged to actively participate in the development of international standards, particularly in those sectors that have trade potential for ASEAN.</p> <p>4. Harmonisation of the existing national standards and adoption of international standards into new national standards should be based on “Adoption of International Standards as Regional or National Standards”, as contained in the ISO/IEC Guide 21 or its latest edition.</p> <p>5. Whenever modifications of contents and structure of the relevant international standards are necessary, Member States shall ensure an easy comparison of the contents and structure of their national standards with the referenced international standards</p>		<p>tional standards on “<i>Adoption of International Standards as Regional or National Standards</i>”, as contained in the ISO/IEC Guide 21?</p>	<p>and a National Standards Council for the adoption of the standards (NSC Level), which are promulgated by the Minister of Science and Technology.</p> <p>With respect to the harmonisation of standards and regional MRAs, the DOSM referred to the 46 standards under the Rubber-Based Product Working Group and 95 standards under the Joint Sectoral Committee Electrical and Electronic Equipment. Additionally, there 8 standards for fuel and gas products and 16 standards for construction material products.</p> <p>With respect to Lao PDR’s participation in the development of international standards, the DOSM noted that Lao PDR was participating in 5 technical committees on the development of international standards, namely regarding:</p> <ul style="list-style-type: none"> • ISO/TC 17 Steel; • ISO/TC 89 Wood based panel; • ISO/TC 136 Furniture; • ISO/TC 176 Quality management and quality assurance; and • ISO/TC 207 Environmental management. <p>Finally, the DOSM confirmed that Lao PDR had implemented its national standard procedure on ISO/IEC Guide 21 parts 1 and 2, which concerns the <i>Adoption of International Standards</i> and the <i>Adoption of International Deliverables other than International Standards</i>.</p> <p>With respect to the development of standards and technical regulations, the DOSM officials referred to a lack of</p>	

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<p>and provide information to explain the reason(s) for such modifications.</p> <p>6. Member States shall ensure that:</p> <p>(a) the modifications of contents of international standards are not prepared and adopted with a view to, or with the effect of, creating unnecessary technical barriers to trade; and</p> <p>(b) the modifications of contents shall not be more restrictive than necessary.</p>			<p>technical expertise and technical capacity. In the process of establishing its own Lao PDR National Standards, Lao PDR is seeking guidance in third country's standards, notably within the ASEAN region. In this respect, the officials referred to language barriers, when standards are only available in the third country's local languages. The officials further noted that the technical standard developing committees lacked the specific expertise. The officials also referred to the high costs of standard development, as well as the related costs for the implementation (e.g., testing, sampling, laboratories).</p> <p>Based on the available information, it appears that Lao PDR is implementing Article 74 of the ATIGA.</p> <p>However, it appears that, with respect to technical expertise and technical capacity of officials and standards-developing committees involved in the development and implementation of Lao PDR's standards, Lao PDR may require technical assistance and capacity building.</p>	
<p>Article 75 Technical Regulations</p> <p>1. In adopting technical regulations, Member States shall ensure that:</p> <p>(a) these are not adopted with a view, to or with the effect of, creating technical barriers to trade;</p> <p>(b) these are based on international or national standards that are harmonised to international standards, except where legitimate reasons for deviations exist;</p> <p>(c) alternative means that are least</p>	<p>ACCSQ and sectoral working group representatives</p> <p>Department of Standardization and Metrology (DOSM)</p>	<ol style="list-style-type: none"> 1. Are Lao PDR's technical regulations based on international or national standards harmonised to international standards? 2. What proportion of national standards have been harmonised? 3. What is the current status with regard to ASEAN regional MRAs? 4. To how many such MRAs is Lao PDR currently party? 	<p>With respect to the obligation to base technical regulations on international or national standards, the Department of Standardization and Metrology (Ministry of Science and Technology) noted that Lao PDR was adhering to this rule, as stipulated in Article 2 of <i>Decree No. 234/GoL on the Implementation of the Law on Standardization</i>.³⁸</p> <p>With respect to the development of standards and technical regulations, DOSM officials referred to a lack of technical expertise and technical capacity. The officials also referred to the high costs of standards development, as well as to the related costs for implementation (e.g., testing, sampling, laboratories).</p>	<p>→</p>

³⁸ Available at <http://extwprlegs1.fao.org/docs/pdf/lao141221.pdf> (accessed 24 September 2020).

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<p>trade restrictive to achieve the desired objectives are considered before a decision is taken on the adoption of technical regulations;</p> <p>(d) the adoption of prescriptive standards is avoided to ensure that unnecessary obstacles to trade are not introduced, to enhance fair competition in the market or that it does not lead to a reduction of business flexibility; and</p> <p>(e) treatment accorded to products imported from Member States is no less favourable than that accorded to like products of national origin and to like products originating from any other Member State.</p> <p>2. Member States shall ensure that only those parts of a standard that represent minimum requirements to fulfil the desired objectives are referred to in the technical regulations.</p> <p>3. Member States shall also ensure that, wherever applicable, the preparation, adoption and application of technical regulations are to facilitate the implementation of the respective ASEAN Sectoral Mutual Recognition Arrangements.</p> <p>4. Whenever the need for technical regulations is urgent for overcoming problems that arise or threaten to arise within the territory of a Member State and the available</p>			<p>Based on the available information, Lao PDR appears to be implementing Article 75 of the ATIGA. However, basing domestic technical regulations on international or national standards is a continuous process and there may be sectors in which the development of dedicated technical regulations is still of relevance. Further discussions should be entertained with the Department of Standardization and Metrology in order to define the exact scope and potential support activities.</p> <p>Accordingly, technical assistance may be required to support future development of technical regulations in line with international and national standards, and their implementation. .</p>	

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<p>time does not allow such Member State to harmonise the relevant national standards, that Member State shall consider using the appropriate international standards or the relevant parts of them as the first alternative.</p> <p>5. Member States shall comply with the notification procedures as stipulated in Article 11. However, in the case of technical regulations under this Article, other Member States shall present their comments, if any, within sixty (60) days of the notification. Member States shall, upon request, provide to other Member States the draft of the technical regulation and other information regarding the deviations from the relevant international standards and the applicable pre-market conformity assessment procedure.</p> <p>6. Except in urgent circumstances, Member States shall allow at least six (6) months between the publication of technical regulations and their entry into force in order to provide sufficient time for producers in exporting Member States to adapt their products or methods of production to the requirements of importing Member States.</p>				
<p>Article 76 Conformity Assessment Procedures</p>	<p>ACCSQ and sectoral working</p>	<p>1. Are Lao PDR's conformity assessment procedures consistent with international standards and practices? Please provide details.</p>	<p>With respect to conformity assessment procedures, the DOSM noted that it complies with ISO/IEC 17011, ISO/IEC 17025, ISO/IEC 17065.</p>	<p style="text-align: right;">➔</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>1. Member States shall ensure that conformity assessment procedures are not prepared, adopted or applied with a view to, or with the effect of, creating unnecessary technical barriers to trade and that conformity assessment procedures that have to be complied with by suppliers of products originating in the territories of other Member States are not more stringent than those accorded to suppliers of like products of national origin.</p> <p>2. Member States shall adopt conformity assessment procedures that are consistent with international standards and practices and wherever such procedures cannot be achieved because of differences in legitimate objectives, the differences of conformity assessment procedures shall be minimised as far as possible.</p> <p>3. Member States shall develop and implement ASEAN Sectoral Mutual Recognition Arrangement in the regulated areas, where appropriate, in accordance with the provisions of the ASEAN Framework Agreement on Mutual Recognition Arrangements.</p> <p>4. Member States shall accept the results of conformity as-</p>	<p>group representatives</p> <p>Department of Standardization and Metrology (DOSM)</p>	<p>2. Which ASEAN Sectoral Mutual Recognition Arrangements, if any, has Lao PDR adopted?</p>	<p>The DOSM noted that it represents Lao PDR in the relevant ASEAN Working Groups:</p> <ul style="list-style-type: none"> • ASEAN Consultation Committee for Standards and Quality (Head delegate); • Working Group 1 Standards (Head delegate); • Working Group 2 Conformity Assessment (Head delegate); • Working Group 3 Metrology (Head delegate); • Joint Sectoral Committee Electrical and Electronic Equipment (JSCEEE) (EEE Products) (Head delegate); • Rubber-Based Products Working Group (RBPWG) (Head delegate); and • Wood-Based Products Working Group (WBPWG) (delegate). <p>With respect to laboratories, the officials noted that Lao PDR laboratories are accredited by third country accreditation bodies, such as from Viet Nam or Thailand, given that Lao PDR is still building up its capacities. In this regard, the officials also noted that the laboratory infrastructure is not sufficiently well developed, and that staff are not yet able to implement the relevant standards, in particular they are not yet certified under ISO 17025 on testing and calibration laboratories. Therefore, this condition does not enable laboratories to demonstrate that they operate competently and generate valid results.</p>	

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<p>essment produced by conformity assessment bodies designated by other Member States in accordance with the provisions of the ASEAN Framework Agreement on Mutual Recognition Arrangements and the provisions of the respective ASEAN Sectoral Mutual Recognition Arrangements in all regulated areas.</p> <p>5. Member States shall establish co-operation among National Accreditation Bodies and National Metrology Institutes (NMIs), including legal metrology in ASEAN to facilitate the implementation of MRAs in regulated and non-regulated sectors.</p>			<p>With respect to conformity assessment, the DOSM officials referred to the ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment; and the Agreement on the ASEAN Harmonized Electrical and Electronic Equipment (EEE) Regulatory Regime. For this MRA, Lao PDR accepts the conformity assessment results from laboratories based in other ASEAN Member States. However, Lao PDR laboratories are not yet capable to provide certification that can then be recognised by other ASEAN Member States' competent authorities.</p> <p>Based on the available information, Lao PDR appears to be implementing Article 76 of the ATIGA. Implementation gaps still appear to exist with respect to Lao PDR's participation in ASEAN Sectoral MRAs (see below at Article 78 of the ATIGA).</p> <p>In this context, Lao PDR may require technical assistance to improve laboratory infrastructure, which is key to enable businesses to obtain necessary test certificates, and thereby achieve greater trade facilitation for Lao PDR's exports; and related capacity building in this regard. .</p>	
<p>Article 77 Post Market Surveillance</p> <p>1. Member States shall establish post market surveillance systems to complement the implementation of the ASEAN Sectoral Mutual Recognition Arrangements and ASEAN Harmonised Regulatory Regimes and/or Directives.</p> <p>2. The relevant authority that undertakes the post market surveillance system of the Member</p>	<p>ACCSQ and sectoral working group representatives</p> <p>Department of Standardization and Metrology (DOSM)</p>	<p>1. Has Lao PDR established a post market surveillance system?</p>	<p>With respect to post market surveillance, the DOSM noted it has a Consumer Protection Division, which works with the Vientiane Capital City Division on market surveillance. Additionally, a call centre under the number 1513 was made available for complaints by consumers.</p> <p>The DOSM officials confirmed that an actual system of post market surveillance had not yet been implemented by Lao PDR, but that discussions were taking place with DIMEX.</p> <p>Based on the available information, Lao PDR has not yet implemented Article 77 of the ATIGA, and it is unclear,</p>	<p style="text-align: center;">↓</p>

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<p>States shall take the necessary actions to ensure compliance of products placed in the market with the applicable ASEAN Sectoral Mutual Recognition Arrangements and ASEAN Harmonised Regulatory Regimes and/or Directives.</p> <p>3. Member States should ensure that the necessary laws and technical infrastructure are in place to support post market surveillance systems.</p> <p>4. The effectiveness of the post market surveillance systems shall be further enhanced through the establishment of Alert Systems among Member States.</p>			<p>how any efforts on post market surveillance are linked to the ASEAN Sectoral Mutual Recognition Arrangements and ASEAN Harmonised Regulatory Regimes and/or Directives. Therefore, a gap appears to exist regarding the implementation of Article 77 of the ATIGA.</p> <p>With respect to the introduction of post market surveillance systems to complement the implementation of the ASEAN Sectoral Mutual Recognition Arrangements and ASEAN Harmonised Regulatory Regimes and/or Directives, Lao PDR may require technical assistance.</p>	
<p>Article 78 Implementation</p> <p>1. Member States shall take all necessary measures to ensure implementation of all the ASEAN Sectoral Mutual Recognition Arrangements, ASEAN Harmonised Regulatory Regimes and the relevant provisions of this Agreement within the time frame stipulated in the aforesaid agreements and to ensure compliance with aforesaid harmonised requirements.</p> <p>2. The following instruments, and any future instruments agreed by Member States to implement the provisions of this Agreement, shall form an integral part of this Agreement:</p>	<p>ACCSQ and sectoral working group representatives</p> <p>Department of Standardization and Metrology (DOSM)</p>	<ol style="list-style-type: none"> 1. Which ASEAN Sectoral Mutual Recognition Arrangements, if any, has Lao PDR adopted? 2. What is their implementation status? (see also the table at the end of this document) 	<p>With respect to the implementation of the ASEAN Sectoral Mutual Recognition Arrangements, the ASEAN Harmonised Regulatory Regimes, and the relevant ATIGA commitments, the DOSM noted that Lao PDR had adopted the ASEAN Framework Agreement on Mutual Recognition Arrangements; the ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment; and the Agreement on the ASEAN Harmonized Electrical and Electronic Equipment (EEE) Regulatory Regime.</p> <p>The Ministry of Energy and Mines further elaborated on the implementation on the MRA for Electrical and Electronic Equipment (EEE) and provided a number of technical details.</p> <p>With respect to the ASEAN MRA on Prepared Foodstuffs, the Department of Food and Drug under the Min-</p>	<p>→</p>

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<p>(a) ASEAN Framework Agreement on Mutual Recognition Arrangements;</p> <p>(b) ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment;</p> <p>(c) Agreement on the ASEAN Harmonized Electrical and Electronic Equipment (EEE) Regulatory Regime; and</p> <p>(d) Agreement on the ASEAN Harmonized Cosmetic Regulatory Scheme.</p> <p>3. The ASEAN Consultative Committee for Standards and Quality (ACCSQ) shall be responsible for:</p> <p>a) identifying and initiating sectoral MRAs;</p> <p>b) monitoring the effective implementation of the relevant provisions of this Agreement in respect of standards, technical regulations and conformity assessment procedures;</p> <p>c) providing support to the respective Joint Sectoral Committees when required; and</p> <p>d) collaborating with the ASEAN Secretariat to provide regular feedback on the implementation of this Agreement.</p>			<p>istry of Public Health noted that it was preparing the dissemination, but that there are budgetary problems. In this context, the Department of Food and Drug noted that it is essential to arrange dissemination workshops also at the provincial level and that it has proposed a budget to the Government to arrange three workshops in Northern, Central, and Southern Lao. However, the Department of Food and Drug noted that the Government has only a limited budget and has so far not been able to provide the funding. Therefore, the Department of Food and Drug proposes that such dissemination activities be supported by the ARISE Plus project.</p> <p>With respect to the ASEAN MRA on Bio-equivalence Study report, the Department of Food and Drug under the Ministry of Public Health noted that it was being implemented.</p> <p>With respect to the ASEAN Harmonised Technical Requirements for Traditional Medicines and Health Supplements (TMHS) and the ASEAN Regulatory Framework for Traditional Medicines and Health Supplements (TMHS), the Department of Food and Drug under the Ministry of Public Health noted that they had not yet been approved.</p> <p>With respect to the ASEAN Sectoral MRA on GMP Inspection of Manufacturers of Medical Product, the Department of Food and Drug noted that it had not yet been fully implemented.</p> <p>With respect to the ASEAN Harmonized Cosmetic Regulatory Scheme, the Department of Food and Drug noted that it was preparing the dissemination, but that it only had a limited budget.</p>	

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			<p>No information was provided by the Government of Lao PDR regarding the <i>Harmonisation of technical standards for Priority Integration Sectors</i>, the <i>ASEAN MRA for Building and Construction</i>, the <i>ASEAN MRA on Type Approval of Automotive products</i>, and the <i>Harmonised technical requirements for the automotive based on 19 United Nations Economic Commission for Europe (UNECE) regulation</i>.</p> <p>Based on the available information, a gap appears to exist regarding Lao PDR’s participation, implementation, and dissemination regarding further ASEAN Sectoral Mutual Recognition Arrangements and ASEAN Harmonised Regulatory Regimes and, thereby, the implementation of Article 78 of the ATIGA.</p> <p>Lao PDR may require technical assistance to support participation in in ASEAN Sectoral Mutual Recognition Arrangements and ASEAN Harmonised Regulatory Regimes and/or Directives.</p>	

3.8 Chapter 8 – Sanitary and Phytosanitary Measures

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CHAPTER 8 SANITARY AND PHYTOSANI- TARY MEASURES	ASEAN Commit- tee on Sanitary and Phytosani- tary Measures (AC-SPS) repre- sentative(s) and as such the Min- istry of Public Health	N.A.	N.A.	N.A.
Article 81 General Provisions and Obligations [...] 4. In the implementation of their sanitary or phytosanitary measures, Member States agree to be guided, where applicable, by relevant international standards, guidelines and recommendations developed by international organisations such as, the Codex Alimentarius Commission (Codex), the World Organisation for Animal Health (OIE), the International Plant Protection Convention (IPPC) and ASEAN. 5. Member States hereby agree that the laws, regulations, and procedures for application of SPS measures in their respective territories shall be listed in	AC-SPS representative Ministry of Public Health	1. Are Lao PDR's laws, regulations and procedures for the application of SPS measures listed in Annex 9 of the ATIGA?	With respect to the general obligations under the Chapter on SPS measures, the Department of Food and Drug (DFD) noted that <i>Ministerial Regulation No. 518 / MOH on the Basic Principles for the Application of Sanitary and Phytosanitary Measures and Techniques for Food Safety Control</i> of 18 June 2009 had implemented relevant commitments under the ATIGA. ³⁹ The Ministerial Regulation contains a transparency provision (Article 7), a provision on non-discrimination (Article 8) and a provision on the recognition of foreign standards (Article 12). Generally, officials from the Department of Food and Drug noted that the <i>Law No. 33 and Food Export-Import and Transit Regulation No. 1166</i> needed updates and improvements, without referring to any specific issues. At the same time, they noted that there is a lack of implementation and of understanding of <i>Decision 116</i> at the provincial level. In 2020, improvements and implementation were difficult, as most of the budget was allocated to the response to the Covid-19 pandemic. The officials fur-	➔

³⁹ Available at <http://extwprlegs1.fao.org/docs/pdf/lao139030.pdf> (accessed 12 February 2021).

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<p>Annex 9, which form an integral part of this Agreement. Member States hereby agree to ensure that their respective national sanitary and phytosanitary laws, regulations and procedures as listed in Annex 9 are readily available and accessible to any interested Member States.</p> <p>6. Any change to national sanitary and phytosanitary laws, regulations and procedures shall be subject to Article 11.</p>			<p>ther noted that they intended to implement an online system for the submission of applications for export and import permits.</p> <p>With respect to the implementation of Chapter 8 of the ATIGA, the Department of Plantation under the Ministry of Agriculture and Forestry referred to the <i>Law of Plant Protection and Quarantine</i>.⁴⁰ However, with respect to imports, Article 29 of the <i>Law of Plant Protection and Quarantine</i> provides that “<i>The Ministry of Agriculture and Forestry shall establish requirements for the import of plants, plant products and regulated articles based on pest risk analysis or international standards</i>”.</p> <p>Based on the available information, it appears that Lao PDR is implementing the general obligations referred to in Article 81 of the ATIGA, which is a continuous process.</p> <p>With respect to the implementation of the general obligations referred to in Article 81 of the ATIGA. Lao PDR may require technical assistance. For instance, reference was made by the Government of Lao PDR to the need for (unspecified) updates and improvements of <i>Law No. 33 and Food Import-Export and Transit Regulation No. 1166</i>, as well as a lack of implementation and of understanding of Decision 116 at the provincial level.</p>	
<p>Article 82 Implementation and Institutional Arrangements</p> <p>1. For effective implementation of this Chapter, an ASEAN Committee on Sanitary and Phytosanitary Measures (AC-SPS) shall</p>	<p>AC-SPS representative Ministry of Public Health</p>	<ol style="list-style-type: none"> 1. Who serves as Lao PDR’s point of contact for SPS concerns? 2. Who serves as Lao PDR’s SPS Enquiry Point for the WTO? 3. Is the information in Annex 10 currently up to date? 	<p>With respect to Lao PDR’s point of contact for SPS concerns, the Department of Food and Drug (DFD) under the Ministry of Public Health stated that:</p> <ul style="list-style-type: none"> - for plant protection, it is the Department of Agriculture, - for animal health it is the Department of Animal Husbandry under the Ministry of Agriculture and Forestry, and 	<p style="text-align: center;">➔</p>

⁴⁰ Available at <http://extwprlegs1.fao.org/docs/pdf/lao178953.pdf> (accessed 12 February 2021).

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<p>be established to conduct committee meetings at least once a year among Member States.</p> <p>2. The functions of the AC-SPS shall be to:</p> <p>(a) facilitate exchange of information on such matters as occurrences of sanitary or phytosanitary incidents in the Member States and non-Member States, and change or introduction of sanitary and phytosanitary-related regulations and standards of the Member States, which may, directly or indirectly, affect trade between and among Member States;</p> <p>(b) facilitate co-operation in the area of sanitary or phytosanitary measures including capacity building, technical assistance and exchange of experts, subject to the availability of appropriated funds and the applicable laws and regulations of each Member State;</p> <p>(c) endeavour to resolve sanitary and phytosanitary matters with a view to facilitate trade between and among Member States. The AC-SPS may establish ad hoc task force to undertake science-based consultations to identify and address specific issues that may arise from the application of sanitary or phytosanitary measures; and</p>			<p>- for food safety (human health), it is the Department of Food and Drug under the Ministry of Health.</p> <p>The Department of Planning and Cooperation, under the Ministry of Agriculture and Forestry, serves as Lao PDR's SPS Enquiry Point at the WTO.</p> <p>The Department of Plantation, under the Ministry of Agriculture and Forestry, noted that the information provided in Annex 10 to the ATIGA is outdated and needs to be updated.</p> <p>With respect to the AC-SPS, the Department of Food and Drug under the Ministry of Public Health noted that the DFD has never attended the AC-SPS meetings, emphasizing that there are many yearly ASEAN meetings and that the Government of Lao PDR only has a limited budget. Therefore, the meetings of the AC-SPS and related SPS meetings were only attended so far by the Ministry of Agriculture.</p> <p>Based on the available information, it appears that Lao PDR has generally implemented Article 82 of the ATIGA, but that a gap exists with respect to the implementation of Article 82(4) of the ATIGA, as the information provided in Annex 10 to the ATIGA is outdated. It also appears that there is a lack of coordination regarding the attendance of the AC-SPS (and potentially other ASEAN meetings) among the relevant Government agencies, which appears to leave out certain key departments regarding the implementation of the ATIGA.</p> <p>With respect to improving inter-agency cooperation and coordination regarding ATIGA implementation and the attendance of ASEAN meetings, Lao PDR may require technical assistance.</p>	

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>(d) submit regular reports of developments and recommendations in the implementation of this Chapter to the AFTA Council, through SEOM for further action.</p> <p>3. Each Member State shall establish a contact point for effective communication and co-operation. The list of respective designated contact points appears in Annex 10.</p> <p>4. Each Member State shall ensure the information in Annex 10 is updated.</p>				
<p>Article 83 Notification under Emergency Situation</p> <p>1. Each Member State acknowledges the value of exchanging information, particularly in an emergency situation on food safety crisis, interception, control of pests and/or disease outbreaks and its sanitary or phytosanitary measures.</p> <p>2. Member States shall immediately notify all contact points and the ASEAN Secretariat should the following situations occur:</p> <p>(a) in case of food safety crisis, pest or disease outbreaks; and</p> <p>(b) provisional sanitary or phytosanitary measures against or affecting the exports of the other Member States are considered</p>	<p>AC-SPS representative Ministry of Public Health</p>	<ol style="list-style-type: none"> 1. Has Lao PDR notified other ASEAN Member States' contact points regarding any SPS issues or measures described in Article 83(2) since the entry into force of the ATIGA? 2. Has Lao PDR been notified by any neighbouring ASEAN Member States? 	<p>The Department of Food and Drug under the Ministry of Public Health noted that, to date, Lao PDR had not yet reported an emergency situation on food safety crisis, interception, control of pests and/or disease outbreaks and its sanitary or phytosanitary measures, and that it had been notified by ASEAN Member States, as well as the EU, about measures affecting products exported from Lao PDR.</p> <p>With respect to emergency notifications under Article 83 of the ATIGA, officials from the Department of Food and Drug noted that notifications from Lao PDR are still very limited and that only animal diseases are being notified to the World Organization for Animal Health (OIE). The lack of notifications is attributed to the lack of an import surveillance program, a lack of testing capacity at border checkpoints, and budgetary constraints</p> <p>The Department of Plantation under the Ministry of Agriculture and Forestry noted that Lao PDR has already notified such measures and that it had received such notifi-</p>	<p style="text-align: center;">➔</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>necessary to protect the human, animal or plant life or health of the importing Member State.</p> <p>3. The exporting Member State should, to the extent possible, endeavour to provide information to the importing Member State if the exporting Member State identifies that an export consignment which may be associated with a significant sanitary or phytosanitary risk has been exported.</p>			<p>cations from Thailand, Viet Nam, Cambodia, and Myanmar. With respect to emergency notifications, the officials referred to the work of the ASEAN Technical Working Groups on Crops, noting that information on outbreaks is already being shared among ASEAN Member States.</p> <p>Based on the available information, it appears that Lao PDR is making efforts to implement Article 83 of the ATIGA. However, there still appears to be a gap concerning the implementation of notifications requirements under the ATIGA, including the notification of emergency situations. This combines with a lack of a clear understanding of the commitments, indicated by the somewhat conflicting responses to the questions on the implementation of Article 83.</p> <p>Lao PDR may require technical assistance to strengthen its TBT and SPS notifications framework, including in terms of notification of emergency situations under Article 83 of the ATIGA.</p>	
<p>Article 84 Equivalence</p> <p>1. Each Member State shall initiate and further strengthen cooperation on equivalence in accordance with the SPS Agreement and relevant international standards, guidelines and recommendations, in order to facilitate trade between and among the Member States.</p> <p>2. To facilitate trade, Member States may develop equivalence arrangements and recommend equivalence decisions, in particular in accordance with Article 4</p>	<p>AC-SPS representative Ministry of Public Health</p>	<p>1. In what ways has Lao PDR initiated and further strengthened cooperation on equivalence in accordance with the SPS Agreement?</p>	<p>With respect to cooperation on equivalence, the Department of Food and Drug referred to several bilateral cooperation meetings to exchange lessons with neighbouring countries.</p> <p>The Department of Plantation under the Ministry of Agriculture and Forestry referred to an increased exchange of information especially within the SPS working group on the implementation of SPS and vis-à-vis the sharing of experience among ASEAN Member States.</p> <p>With respect to Article 84 of the ATIGA on Equivalence, the Food and Drugs Department noted that the issues of recognition and cooperation were the main objective of bilateral cooperation with Viet Nam, Thailand, and China funded by an ADB project. The aim of this project was to</p>	<p>N.A.</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>of the SPS Agreement and with the guidance provided by the relevant international and regional standard setting bodies namely Codex, OIE, IPPC and ASEAN and by the Committee on Sanitary and Phytosanitary Measures established in accordance with Article 12 of the SPS Agreement.</p> <p>3. Each Member State shall, upon request, enter into consultations with the aim of achieving bilateral and/or regional recognition arrangements of the equivalence of specified sanitary or phytosanitary measures.</p>			<p>recognise the rules, regulations, and procedures for food safety control, on the basis of information sharing and visits. The Food and Drugs Department noted that, as a result of bilateral cooperation, Lao PDR accepts and recognises the certification and approval from those countries. The Food and Drugs Department further noted that cooperation with Thailand is based on an annual action plan.</p>	
<p>Article 85 Co-operation</p> <p>1. Each Member State shall explore opportunities for further cooperation, technical assistance, collaboration and information exchange with other Member States on sanitary and phytosanitary matters of mutual interest consistent with the objectives of this Chapter and the commitments set forth in the ASEAN Economic Community Blueprint.</p> <p>2. Member States shall further strengthen co-operation for the control and eradication of pests and disease outbreaks, and other emergency cases related to sanitary or phytosanitary measures as</p>	<p>AC-SPS representative Ministry of Public Health</p>	<p>1. What opportunities has Lao PDR explored with respect to further cooperation, technical assistance, collaboration and information exchange with other AMSs?</p>	<p>With respect to the opportunities that Lao PDR had explored with respect to further cooperation, technical assistance, collaboration and information exchange with other ASEAN Member States, the Department of Food and Drug only referred to regional events, such as the ASEAN Summit, ADB Project Training, as having provided opportunities for cooperation and collaboration.</p> <p>The Department of Food and Drug noted that the issues of recognition and cooperation are the main objectives of bilateral cooperation with Viet Nam, Thailand, and China, funded by an ADB project. The aim of this project was to recognise the rules, regulations, and procedures for food safety control, on the basis of information sharing and visits. The Department of Food and Drug noted that, as a result of the bilateral cooperation, Lao PDR accepts and recognises the certification and approval from those countries. As indicated above, the Department of Food and Drug further noted that cooperation with Thailand is based on an annual action plan.</p>	<p>N.A.</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>well as to assist other Member States to comply with SPS requirements.</p> <p>3. In implementing the provisions of paragraph 1 of this Article, Member States shall co-ordinate their undertakings with the activities conducted in the regional and multilateral context, with the objectives of avoiding unnecessary duplication and maximising efficiency of efforts of the Member States in this field.</p> <p>4. Any two (2) Member States may, by mutual agreement, cooperate on adaptation to regional conditions including the concept of pests and disease free areas and areas of low pests or disease prevalence, in accordance with the SPS Agreement and relevant international standards, guidelines and recommendations, in order to facilitate trade between the Member States.</p>			<p>The Department of Plantation under the Ministry of Agriculture and Forestry noted that it had exchanged and shared information in the SPS Working Group but did not provide further information.</p>	

3.9 Chapter 9 - Trade Remedy Measures

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>CHAPTER 9 TRADE REMEDY MEASURES</p>	<p>Coordinating Committee on ATIGA (CCA) and as such the Ministry of Trade</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Article 86 Safeguard Measures Each Member State which is a WTO member retains its rights and obligations under Article XIX of GATT 1994, and the Agreement on Safeguards or Article 5 of the Agreement on Agriculture.</p>	<p>CCA representative in Ministry of Trade</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Article 87 Anti-dumping and Countervailing Duties 1. Member States affirm their rights and obligations with respect to each other relating to the application of anti-dumping under Article VI of GATT 1994 and the Agreement on Implementation of Article VI of General Agreement on Tariffs and Trade 1994 as contained in Annex 1A to the WTO Agreement. 2. Member States affirm their rights and obligations with respect to each other relating to subsidies and countervailing measures under Article XVI of GATT 1994 and the Agreement on</p>	<p>CCA representative in Ministry of Trade</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>

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Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
Subsidies and Countervailing Measures as contained in Annex 1A to the WTO Agreement.				

3.10 Chapter 10 - Institutional Provisions

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>CHAPTER 10 INSTITUTIONAL PROVISIONS</p>	<p>Coordinating Committee on ATIGA (CCA) and as such the Ministry of Trade</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Article 90 Institutional Arrangements 1. The ASEAN Economic Ministers (AEM) shall, for the purposes of this Agreement, establish an ASEAN Free Trade Area (AFTA) Council comprising one (1) ministerial-level nominee from each Member State and the Secretary-General of ASEAN. In the performance of its functions, the AFTA Council shall also be supported by the Senior Economic Officials' Meeting (SEOM). In the fulfilment of its functions, the SEOM may establish bodies, as appropriate, to assist them such as the Coordinating Committee on the implementation of ATIGA (CCA). The SEOM, assisted by the CCA, shall ensure the effective implementation of this Agreement and, shall coordinate and be supported by technical bodies and committees under this Agreement. 2. Each Member State shall establish a National AFTA Unit,</p>	<p>CCA representative in Ministry of Trade</p>	<p>1. Who is the main focal point for the ATIGA within Lao PDR's National AFTA Unit? 2. Who represents Lao PDR within:</p> <ul style="list-style-type: none"> • The ASEAN Economic Ministers Meeting; • The AFTA Council; • The Senior Economic Officials' Meeting (SEOM); • The CCA; and • The ATF-JCC. 	<p>With respect to the main focal point for the ATIGA within Lao PDR, DFTP noted that it represents Lao PDR in the CCA.</p> <p>Representation of Lao PDR in ASEAN bodies:</p> <ul style="list-style-type: none"> • The ASEAN Economic Ministers Meeting: DFTP; • The AFTA Council: DFTP; • The Senior Economic Officials' Meeting (SEOM): DFTP; • The CCA: DFTP, DIMEX, Customs; and • The ATF-JCC: DFTP, DIMEX, Customs. 	<p>N.A.</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>which shall serve a national focal point for the coordination of the implementation of this Agreement.</p>				
<p>CHAPTER 11 FINAL PROVISIONS</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Article 91 Relation to Other Agreements 1. Subject to paragraph 2 of this Article, all ASEAN economic agreements that exist before the entry into force of ATIGA shall continue to be valid. 2. Member States shall agree on the list of agreements to be superseded within six (6) months from the date of entry into force and such list shall be administratively annexed to this Agreement and serve as an integral part of this Agreement. 3. In case of inconsistency between this Agreement and any ASEAN economic agreements that are not superseded under paragraph 2 of this Article, this Agreement shall prevail.</p>	<p>CCA representative in Ministry of Trade</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>
<p>Article 95 Review The AFTA Council or their designated representatives shall meet within one (1) year of the date of entry into force of this Agreement and then every two (2) years or otherwise as appropriate to review this Agreement</p>	<p>AFTA Council, SEOM and CCA representative(s) in Ministry of Trade</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>

Provision	Relevant Agencies	Comments and Questions	Responses, Assessment, and Commentary	Status
<p>for the purpose of fulfilling the objective of this Agreement.</p>				
<p>Article 96 Entry into Force 1. This Agreement shall be signed by the ASEAN Economic Ministers. 2. This Agreement shall enter into force, after all Member States have notified or, where necessary, deposited instruments of ratifications with the Secretary-General of ASEAN upon completion of their internal procedures, which shall not take more than one hundred and eighty (180) days after the signing of this Agreement.</p>	<p>AFTA Council, SEOM and CCA representative(s) in Ministry of Trade</p>	<p>N.A.</p>	<p>N.A.</p>	<p>N.A.</p>

IV. CONCLUSIONS AND RECOMMENDATIONS

This section presents a synthesis of the assessment undertaken on Lao PDR implementation of the ATIGA (on an overall and sector specific basis), based on which recommendations have been developed setting out the steps that must be taken by Lao PDR to strengthen compliance with the ATIGA and better leverage the benefits of the regional trading agreement.

4.1 Conclusions

4.1.1. Overall Assessment

Overall, it appears that Lao PDR has already taken important steps towards full implementation of the ATIGA. However, in order to fully take advantage of the trade preferences and trade facilitating tools and mechanisms provided under the ATIGA and within the ASEAN Economic Community, further implementation steps need to be undertaken.

For instance, **key transparency and notification requirements**, related to the ASEAN Trade Repository, **still lack full implementation**, primarily due to a lack of sustained and sustainable capacity. Similarly, the implementation of the ASEAN Sectoral Mutual Recognition Arrangements, the ASEAN Harmonised Regulatory Regimes, and the relevant ATIGA commitments, is far from complete. In this regard, it appears that implementation and dissemination efforts are hindered by a lack of available financial resources and budgetary constraints.

A key shortcoming appears to be that the ATIGA has never been officially translated into Lao language and that only an unofficial translation exists. Furthermore, it appears that the ATIGA and information thereon has not been sufficiently disseminated throughout Lao PDR. In this context, the Department of Customs noted that there is a **lack of awareness and understanding of the ATIGA both at the provincial (i.e., 'sub-federal') and central (i.e., 'federal') level**. This is attributed to the fact that the ATIGA has never been officially translated into Lao language, which has negatively affected the dissemination.

There appears to be a clear need for an **increased dissemination and explanation of key trade facilitative tools** to the public, notably to the **benefit of the business community and particularly so at the provincial level**. In this context, there also appears to be a **lack of trust in using new tools** in view of concerns that, for instance, electronic forms would not be recognised by certain public authorities in Lao PDR and destinations countries (i.e., in the export markets). At the same time, Lao PDR Government officials referred to a lack of capacity of businesses to take advantage of certain trade facilitative instruments, as well as a lack of understanding of key rights and opportunities under the ATIGA. Overall need of awareness creation and capacity building on the ATIGA are evident and critical both within the Government of Lao PDR and its business community.

Additionally, while cooperation between Government agencies appears to be largely functioning, there do appear to be some **opportunities to improve inter-agency cooperation**. For instance, in the area of sanitary and phytosanitary measures, the Department of Food and Drug under the Ministry of Public Health noted that it had never attended the AC-SPS meetings, noting that there are simply too many ASEAN meetings in any given year and that the Government of Lao PDR only has a limited budget, which is why the meetings of the AC-SPS and related SPS meetings were only attended by the Ministry of Agriculture. If relevant agencies are not able to attend key meetings, or to coordinate closely and systematically with those that do, it must at least be ensured that information is shared in a structured manner and that mechanisms are in place to ensure that the positions of all relevant line agencies can be conveyed at the meetings.

Further, it appears that **certain commitments under the ATIGA are not yet reflected in Lao PDR's legislation or regulatory instruments**. There appears to be no easily accessible online repository of legal instruments. While a lot of laws and legal instruments are available on the Lao Trade Portal, the presentation and organisation could be improved to make it easier for traders to determine the relevant applicable rules. Certain legislative provisions still need to be updated to reflect commitments under the

ATIGA, while other relevant legislation empowers Government agencies to adopt implementing rules, but which do not appear to be available yet.

Finally, trade barriers faced in other ASEAN Member States which, in turn, affect Lao PDR's exports and market access opportunities, appear to have reduced confidence on the benefits and potential of the ATIGA, and limitations in the capacity to utilise the mechanisms provided in the ATIGA and other relevant legal instruments to address alleged barriers prevent Lao stakeholders from effectively moving past these barriers. Accordingly, strengthening capacity to fully and skilfully utilise trade facilitation instruments in the ATIGA and other relevant legal instruments to address such barriers could also contribute to increasing intra-ASEAN trade.

4.1.2. Trade Facilitation

With respect to trade facilitation measures, the DFTP noted that, in Lao PDR, each sectoral body had an official working towards the implementation of the *ASEAN Trade Facilitation Work Programme* and that annual meetings on the Work Programme are held.

Information for *notifications* of notifiable measures is collected through an informal exchange of information, as well as formal consultation meetings between the agencies that are members of Lao PDR's Secretariat of the Trade Facilitation Committee.⁴¹ Notifications are prepared by the Lao National Trade Repository team, which is in charge of the Lao Trade Portal.

DIMEX noted that Lao PDR had established a *National Trade Facilitation Committee* (NTFC), which is composed of more than 33 Government agencies and meets biannually.⁴² The NTFC is supported by a Secretariat.⁴³ The members of the *NTFC* are expected to submit notifications to DIMEX when new relevant regulations are issued, as specified in *Decision No. 001/NTFC*. According to DIMEX, nearly all of members of the *Trade Facilitation Secretariat* notified their newly issued regulations through bilateral cooperation. On the basis of the information reviewed and discussed, the process does not yet appear to be very well established and further improvements may also be helpful to ensure greater transparency and greater accuracy of the information provided on the Lao Trade Portal and reflected on the ASEAN Trade Repository.

With respect to the *National Trade Facilitation Committee*, DFTP noted that it is composed of DIMEX, the Department of Transportation, DFTP itself, the Customs Department, and local authorities. The *National Trade Facilitation Committee* is regulated by the *Decision on the Establishment of National Trade Facilitation Committee No. 48/PM*, dated 26 July 2018. It appears that some private sector organisations, such as the Lao National Chamber of Commerce and Industry (LNCCI) and the Lao International Freight Forwarders Association (LIFFA), are also members and attend the annual meeting of the National Trade Facilitation Committee. Reports of the meetings are not made publicly available. The NTFC is the key entity to steer and monitor further progress with respect to trade facilitation and its broad composition should be able to ensure coherence across Government agencies. The NTFC could also play an important role in further monitoring the implementation of the ATIGA.

The '*Trade Facilitation Road Map of Lao PDR for 2017-2022*' was published by the Trade Facilitation Secretariat under the MoIC. This roadmap largely focuses on the WTO TFA and not on the ATIGA or other ASEAN initiatives on trade facilitation. Given that the roadmap only covers the period until 2022, the discussions on the next iteration of the roadmap could be broader and could include objectives related to ASEAN initiatives on trade facilitation.

Reference was made to the *Prime Minister No. 12/PM Order on Facilitation of Import and Export, Temporary Import, Trade in Transit and Domestic Movement of Goods in Lao PDR* of 16 October 2019,

⁴¹ The Members of the Trade Facilitation Secretariat are listed on the Lao Trade Portal, but the relevant webpage appears to be only available in Lao language. See <https://www.laotradeportal.com/index.php?r=site/display&id=1648> (accessed 12 May 2021).

⁴² Lao PDR's National Trade Facilitation Committee (NTFC) was established according to the Prime Minister's Order No. 48/PM of 26 July 2018.

⁴³ Information on the Secretariat is available on the Lao Trade Portal at <https://www.laotradeportal.com/index.php?r=site/display&id=1648> (accessed 8 June 2021). The Secretariat was established according to the Decision of the Head of LCTFC No.001/LCTFC of 26 December 2018.

which provides detailed instructions to pursue trade facilitation with respect to the import, export, temporary import, transit, and the domestic movement of goods.⁴⁴ With respect to the ‘*Issuance of Licenses and Certificates for Import and Export, Temporary Import and Trade in Transit*’, the Order, *inter alia*, calls on relevant agencies:

- “Continue conduct the regulatory and procedural review on the issuance of licenses and certificates for import and export of goods under their own responsibilities in simpler and speedier manner aiming to reduce time at least 50 percent, costs and documents at least 30 percent by 2022 as stipulated in the Trade Facilitation Road Map for 2017-2022”;
- “Review and streamline the Non-Tariff Measures (NTMs) for import and export of goods in tightly manner aiming to protect life and health of human and animal, to ensure the safety to consumer, the national security and environment protection, namely Sanitary and Phytosanitary (SPS), Technical Barrier to Trade (TBT) and other measures in consistence with agreements and treaties in which Lao PDR is a party”;
- “Reform the regulations concerned with the temporary import and trade in transit of goods to address issues which are not harmonized on procedures, supporting documents and business unit managements as well as the validity date of such licenses and certificates”; and
- “Improve the procedures and documents in simpler manner on the actual export inspection of goods of relevant sectors such as wooden and minerals products”.

Further instructions concern the ‘*Border Checkpoint Operation*’ and ‘*Domestic Movement of Goods*’. With respect to implementation, the Order states that “*The Industry and Commerce sector as the secretariat office of the Central and Provincial Trade Facilitation Committee is assigned to take initiative in collaboration with all relevant sectors to encourage and implement this Order the good result. If there is any difficulty, the Central Trade Facilitation Committee is assigned to conclude and report the government for consideration and solution in timely manner*”. It was not possible to determine to what extent the Order has already been implemented and what actions have been taken.

While annual meetings take place on the issue of trade facilitation, there also appears to be a need for more continuous progress monitoring in order to determine the progress made and the implementation achieved.

As noted above, there are a number of overlapping commitments in the WTO TFA, as well as in the ATIGA and other related ASEAN initiatives. As many elements of implementation still need to be undertaken or further developed, synergies could and should be used to accelerate progress.

Based on the information received and discussions entertained, it appears that many of the recently introduced trade facilitation tools and digital innovations (e.g., Electronic Form D, self-certification) have not been embraced by businesses and traders for various reasons. While this may partly be due to a lack of access to, for instance, information technology, there also appears to be a lack of awareness with respect to the new tools and the associated benefits. This implies the need for additional dissemination and awareness raising activities.

4.1.3. Customs

With respect to Customs, clear focus should be placed on the modernisation of Customs-related procedures, notably through the use of information technology and electronic forms. With particular respect to rules of origin, DIMEX noted that Lao PDR has been implementing the Electronic Form D since 23 December 2019. DIMEX added that, recently, Lao PDR had benefitted from technical assistance from the Thai Agency NEDA regarding the development of the system. At the time of the consultations, the Department of Customs noted that it expected electronic Form D to be fully utilised by the end of 2020.

As noted above for trade facilitation, it appears that many of the recently introduced tools and innovations (e.g., self-certification, electronic Form D) have not been embraced by businesses and traders for

⁴⁴ Available on the Lao Trade Portal, <https://www.laotradeportal.com/index.php?r=site/display&id=1803> (accessed 12 May 2021).

various reasons. While this may partly be due to a lack of access to, for instance, information technology, there also appears to be a lack of awareness with respect to the new tools and the associated benefits. This implies the need for additional dissemination and awareness raising activities.

4.1.4. Standards, Technical Regulations and Conformity Assessment

It appears that Lao PDR has made good progress establishing the relevant institutions (*i.e.*, National Metrology Center) and institutional frameworks. More specifically, the DOSM noted that it has established 17 national technical committees for the drafting of standards and a National Standards Council for the adoption of standards, which are promulgated by the Minister of Science and Technology.

With respect to the development of standards and technical regulations, DOSM officials referred to a lack of technical expertise and technical capacity. In the process of establishing its own Lao PDR National Standards, Lao PDR is seeking guidance in third country's standards, notably within the ASEAN region. In this respect, the officials referred to language barriers, when standards are only available in the third country's local languages. The officials further noted that the technical standards developing committees lacked specific expertise. The officials also referred to the high costs of standards development, as well as the related costs for their implementation (*e.g.*, testing, sampling, laboratories).

With respect to laboratories, the officials noted that Lao PDR's laboratories are accredited by third country accreditation bodies, such as from Viet Nam or Thailand, given that Lao PDR is still building up its capacities. In this regard, the officials also noted that the laboratory infrastructure is not sufficiently well developed, and that staff are not yet able to implement the relevant standards, in that they are not yet certified under the ISO standard 17025 on testing and calibration laboratories. This shortcoming does not enable laboratories to demonstrate that they operate competently and generate valid results.

However, the implementation of the ASEAN Sectoral Mutual Recognition Arrangements, the ASEAN Harmonised Regulatory Regimes, and the relevant ATIGA commitments, is far from complete. In this regard, it appears that implementation and dissemination efforts are hindered by a lack of available financial resources and budgetary constraints.

4.1.5. Sanitary and Phytosanitary Measures

With respect to sanitary and phytosanitary measures, Lao PDR appears to have implemented important ATIGA provisions.

Officials from the Department of Food and Drug noted that the *Law No. 33 and Food Export-Import and Transit Regulation No. 1166* needed to be updated and improved, without providing any further specific information. At the same time, they noted that there is a lack of implementation and of understanding of Decision 116 at the provincial level. It also appears that some of the laws, such as the Law on Plant Protection and Quarantine, provides for the introduction of implementing regulations, which do not appear to be available yet.

With respect to the AC-SPS, the Department of Food and Drug under the Ministry of Public Health noted that it has never attended the AC-SPS meetings, noting that there are too many ASEAN meetings a year and that the Government of Lao PDR only has a limited budget. Therefore, the meetings of the AC-SPS and related SPS meetings were so far only attended by the Ministry of Agriculture. While such organisational decisions may be necessary in view of budgetary constraints, it must be ensured that all relevant Government agencies are aware of the issues discussed at ASEAN level, must be able to contribute and must be informed of the developments affecting their area of competence.

4.2 Recommendations

4.2.1. Enhance inter-agency coordination, transparency, and sharing of trade related information

- (a) ***Enhance the scope of the Lao Trade Portal to support the publication and transparency obligations and ensure the sufficiency, accuracy, reliability and usefulness of information in the Portal***

Undertake an assessment to ascertain information made available already on Lao Trade Portal and ascertain gaps in terms of the information that are required to be published under the ATIGA. Where information is published on other websites, support could be provided to also reflect or link this to the Lao Trade Portal and where such information is not available online support could be provided to facilitate the provision of such information online. Information that was not available based on the assessment include:

- Publication of fees and charges for administrative purposes on exports and imports from all agencies, in addition to DIMEX – Article 7
- Publication of administrative rulings - laws, regulations, judicial decisions – Article 12

Where information has to be gathered from different agencies, a central agency should be appointed to coordinate between the various agencies and gather this information, while the other agencies should also understand the requirements under the ATIGA and organize accordingly to make such information available.

- (b) ***Build linkages between the Lao Trade Portal and the ASEAN Trade Repository***

Key transparency and notification requirements related to the ASEAN Trade Repository still lack full implementation. In this regard, it is proposed to build the capacity of the ATR focal point in relation to the Lao Trade Portal and the requirements of the ATIGA in relation to trade-related regulatory transparency. In particular, support could be given to the ATR focal point to coordinate the collection of information required for the Lao Trade Portal and the ATR. This support could first focus on enabling the early notification of NTMs ahead of their adoption (under Article 11 of the ATIGA and the NTMs Guidelines) and, secondly, on the identification, classification, and packaging of all relevant trade-related regulatory information, notably adopted NTMs, for upload on the Lao Trade Portal and the ATR (under Article 13 of the ATIGA). This area of support should be coordinated with the technical assistance provided by the ARISE Plus Regional project vis-à-vis the operationalisation of the ATR and could benefit of important synergies also vis-à-vis other trade facilitation initiatives of ASEAN, such as ASSIST (ASEAN Solutions for Services, Investment and Trade).

- (c) ***Improve Lao PDR's notifications framework as required under the ATIGA, particularly with respect to non-tariff measures, thus enabling Lao PDR to meet transparency obligations under ASEAN, as a WTO Member, and in the context of current and future Preferential Trading Arrangements***

To do so, it is necessary to (i) establish a single focal point, in coordination with line agencies, to ensure transparency, prompt notifications and response to enquiries for matters related to trade measures; (ii) provide capacity building/training material for all relevant agencies on the notifications required under the ATIGA (and the WTO), where synergies can be found and where there are differences in the notification, frequency of the notification reporting process, etc.; (iii) develop Standard Operating Procedure and relevant formalities for such focal point entity; and (iv) set up a mechanism for the notification preparation and reporting between the focal point and line agencies.

- (d) ***Facilitate the participation of relevant departments and agencies in relevant regional level meetings.***

For instance, in the area of sanitary and phytosanitary measures, the Department of Food and Drug (DFD) under the Ministry of Public health noted that it had never attend the AC-SPS

meetings, and only the Ministry of Agriculture attended these meetings. All relevant agencies should be able to attend key meetings or coordinate closely and systematically with those that do. Budgetary constraints do restrict the ability of departments/agencies to attend the various ASEAN meetings. In this context, there should at least be a framework in place to ensure that information is shared in a structured manner and that mechanisms are in place to ensure that positions of all relevant line agencies can be conveyed at the meetings. Such coordination and information exchange could once again be the 'by-product' of enhanced inter-ministerial cooperation, which could naturally occur, as for regulatory transparency and the ATR, within the National Trade Facilitation Committee (NTFC).

4.2.2. Strengthen the legislative framework in place for the implementation of ATIGA commitments

(a) *Ascertain gaps in Lao PDR's regulatory framework and provide technical expert/support to undertake revisions.*

In order to ensure there is a clear basis and framework for further implementation of the ATIGA commitments in Lao PDR, it is important to ensure that Lao PDR has in place the relevant legal instruments. In the assessment, information received indicated that commitments have been complied with, although the relevant legislative instrument providing the basis for the implementation of the commitments was not clear or not readily available. Similarly, the assessment makes reference to other legislative instruments and ATIGA provisions for which such reviews and updates may be needed. Accordingly, it appears to be relevant to undertake a detailed legislative mapping to review the extent to which the commitments have been covered effectively in the instruments and help facilitate the objectives of the ATIGA.

For instance:

- Advance notifications of NTMs before measures are adopted into law is a requirement under Article 11(7) and (8) of the ATIGA and is necessary to ensure transparency and predictability of the trading environment in Lao PDR. Technical expertise may be required to carefully review the existing framework, particularly the Lao PDR Law on Making Laws, and understand how best to integrate the requirements of Article 11(7) and (8) of the ATIGA into the legislative framework without resulting in further undue delays to the process.
- Ascertain legal basis in Lao PDR for implementation of provisions under Article 22 of the ATIGA on concessions to be granted upon meeting requirements for rules of origin.
- Review *Law No. 33* and *Food Export-Import and Transit Regulation No. 1166*, and ascertain compliance with Article 81 of the ATIGA.
- Review the new *Customs Law No. 81* – to assess its compliance with WTO and ATIGA requirements, including in terms of:
 - Repayment, Drawback and Security Measures as under Article 60
 - Post-clearance audit framework as under Article 61 (This is reflected in the existing Customs Law, although it may be relevant to understand how it is reflected in the new Customs Law as well);
 - Advance Rulings – as under Article 62 – currently advance rulings are still not available for customs valuation, and accordingly should be expanded to account for same.
 - Temporary admission – under Article 63 (is reflected in the existing customs law, to ensure that it is covered in the new law as well)
- Review of legislation applicable/governing trade facilitation, including *Prime Minister No. 12/PM Order on Facilitation of Import and Export, Temporary Import, Trade in Transit and Domestic Movement of Goods in Lao PDR* of 16 October 2019 – to ensure that it is in line with the principles on trade facilitation outlined in Article 47, and supports implementation of the ASEAN Trade Facilitation Work Programme.

(b) *Provide technical expertise/support to develop implementing regulations.*

In some instances, while the relevant legislation is in place, the implementing regulations/rules may still not be developed effectively constraining implementation of the commitments. In this respect, steps should be taken to develop the implementing rules/regulations and build up capacity of implementing agencies and private sector on application of such rules.

- i. Implementing regulations for the *Import Licensing Law* (which was not available for review at the time of the assessment) – in line with requirements under Article 42 and 44.
- ii. Implementing regulations for *Law on Plantation Protection and Quarantine* –which do not appear to be available yet.
- iii. The new *Customs Law No. 81* may also require additional implementing acts.

These relevant legislative instruments should be made available on the Lao Trade Portal.

4.2.3. Strengthen capacity of agencies on a central and provincial level in the public and private sectors, and generate trust in the regional integration framework

(a) Strengthen capacity of agencies/departments at the central and provincial level to understand ATIGA commitments and how they fit into the process of implementation of the ATIGA

It is important to ensure that all agencies contributing to the trade framework in the country are aware of the ATIGA and effectively contribute to/support the implementation process. The ATIGA should not be viewed as under the purview of one or few individual departments – but rather requires effort from departments/agencies across the board. Initiatives in this regard should be to make available the ATIGA in Lao language; development of manuals in English and Lao languages on exporting under the ATIGA; and dedicated sessions for agencies based on their mandate – covering central (i.e. 'federal' level) and provincial (i.e., 'sub-federal' level) agencies. For instance, the assessment revealed a lack of understanding among officials to identify, analyse, discuss and challenge (as needed) NTMs and NTBs (Article 40 and 42); and to undertake reviews of and revise the tariff liberalisation schedules in line with Article 21(2).

The Commitments Matrix already maps out the relevant agencies based on the corresponding provisions in the ATIGA. Based on this matrix, targeted session and manuals can be developed corresponding to the role and mandate of the key agencies. Targeted capacity building initiatives should also be delivered to provincial agencies in order to ensure that the scope and benefits of the ATIGA, are clearly understood across the country.

It may also be relevant to build upon the abovementioned commitments matrix to undertake a needs assessment for each of the key agencies and formulate the capacity building strategy on this basis with the objective to sustain and disseminate knowledge across the country. The capacity building strategy should also make reference to relevant regional meetings/events that specific departments/agencies should actively participate in, or be aware of/obtain information on, in order to better perform its role in implementation of the ATIGA. (For instance, the Department of Food and Drug was not attending AC-SPS meetings due to budgetary constraints, in which case there should be a mechanism in place to enable the Department to receive the relevant meeting information, convey its inputs to the agency that does attend, and obtain updated information on the outcomes of this meeting. Refer Article 82 and 85).

(b) Undertake targeted sessions for private sector (as well as public sector officials) on the trade opportunities and the mechanisms available to support trade, under the ATIGA.

Intra-ASEAN trade is extremely low, even though ASEAN Member States should be natural trading partners, given their geographic proximity and regional integration. Accordingly, increasing awareness of private sector on the opportunities available under the ATIGA, and how to meet regulatory/compliance requirements under the ATIGA, is important to build up knowledge and trust in the regional trading arrangements.

Additionally, it will also be necessary to sensitize the private sector the mechanisms/tools available under the ATIGA and ASEAN frameworks to improve the environment for private sector to engage in trade (such as the ASEAN Self-Certification Scheme, the Authorized Economic Operator (AEO) programmes), protect the domestic market (safeguards), and avenues to seek clarifications/redress as necessary (such as the advance customs rulings framework, Protocol on Enhanced Dispute Settlement Mechanism, ASEAN Solutions for Investments, Services and Trade (ASSIST), and State-to-State dispute settlement). A precondition for the ATIGA and related tools to have any greater impact is sufficient knowledge about them and their implications.

(c) *Develop mechanisms/frameworks to enable private sector to raise concerns/challenges faced with respect to trading under the ATIGA, including in relation to NTMs and NTBs.*

While the tools under the ATIGA and within ASEAN are important for addressing concerns/challenges of businesses and traders, the first step for a business or trade is to alert the public authorities on the trade concern, based on which the public authorities should be able to guide the private sector on the solutions available or raise these concerns/take action on a regional level – in order to work in a constructive manner towards resolving constraints/challenges. The lack of such a mechanism may result in the business or trader being unable to resolve the issue at hand, and thereby lose trust in the regional trading platform. In this context, the EU has recently launched an online complaint form for market access complaints, as well as complaints regarding the commitments on trade and sustainable development. Similarly, a simple, one-stop complaints mechanism for exporters and traders could facilitate the process for Lao PDR businesses. To complement these efforts, it is important that a focal agency be appointed to manage the complaints mechanism, and the officials are trained to handle/advise on the matters raised.

(d) *Improve the collection and analysis of trade data and statistics*

The DFTP underlined the importance of an accurate trade data collection system and the strengthening of related analytical capabilities. It appears that, in this area, technical assistance is already provided by ARISE Plus Regional and the ITC ARISE Plus Lao PDR project. Given the importance attributed to this issue, the support could be reviewed and, if necessary, better aligned with the needs of Lao PDR.

4.2.4. Strengthening trade facilitation and institutional capacity for ATIGA implementation

(a) *Review institutional structures, legislative basis and functioning of the NTFC and the Secretariat of the NTFC, and coordination between and among relevant government agencies, as well as between government stakeholders, the private sector, and development partners.*

It is proposed to undertake a comprehensive review of the institutional structure, covering the NTFC, relevant government agencies and trade associations, and other market players in the key trade sectors; clearly outline the mandate of the NTFC to support implementation of the ASEAN Trade Facilitation Work Programme and ensure that the Trade Facilitation Roadmap of Lao PDR is well aligned with the ASEAN Trade Facilitation Work Programme and the WTO Trade Facilitation Agreement. Currently, the Roadmap, which is applied for the period up to 2022, largely focuses on the WTO TFA and not on the ATIGA or other ASEAN initiatives on trade facilitation.

(b) *Set up a monitoring framework for the WTO TFA and the commitments under the ATIGA*

While annual meetings take place on trade facilitation issues, there is still a need for more continuous monitoring. Further, the *Prime Minister No. 12/PM Order on Facilitation of Import and Export, Temporary Import, Trade in Transit and Domestic Movement of Goods in Lao PDR* of 16 October 2019 provides detailed instructions on pursuing trade facilitation with respect to the

import, export, temporary import, transit, and domestic movement of goods, but it remains unclear as to what extent the Order has been implemented and what actions have been taken. In this context, the NTFC may be best placed to function as the focal agency, explore synergies between the WTO TFA and ATIGA trade facilitation and other related commitments, and develop and implement a monitoring framework in this regard.

(c) *Dissemination and information on new trade facilitative tools for the private sector.*

Building upon the recommendation under section 4.3.2.(b), targeted sessions for the private sector should also cover specific trade facilitative tools and innovations (e.g., self-certification, electronic Form D). These tools have not yet been embraced by businesses and traders for various reasons. While this may partly be due to a lack of access to, for instance, information technology, there also appears to be a lack of awareness with respect to the new tools and the associated benefits. A precondition for the new trade facilitative tools to be used is sufficient knowledge about them and their implications and benefits. The various tools should be detailed and supporting material should explain their purpose benefit in simple language.

4.2.5. Increase the effectiveness of Customs controls

(a) *Increase digitalization and automation in customs operations.*

Implementation of key trade-facilitation instruments, notably those allowing electronic and/or digital Customs processes, should be continued and improved, including (i) electronic certificate of origin; (ii) ASEAN Wide Self-Certification scheme; (iii) electronic form D, and (iv) e-Customs (which has been completed up to the payment of duty and tax).

(b) *Set-up risk management systems for relevant agencies.*

It is proposed to review the legal and implementation status of the risk management frameworks set up by the relevant border agencies (including the Customs Department, Department of Food and Drug, Department of Plantation, Department of Import and Export, etc.) and undertake diagnostic studies to identify bottlenecks in risk management operations and establish an integrated risk management system.

(c) *Continue the implementation of the Authorised Economic Operators (AEO) programme toward increasing efficiency of Customs control.*

Lao PDR has commenced the implementation of the AEO Programme, although it is still in an early stage, and the private sector is still slow to take up this programme. It may be helpful to roll out the programme on a phased basis, commencing with a certain group of traders, and then, using the lessons learned from the first phase, to benefit other traders including manufacturers, warehouse operators, customs brokers, freight forwarders, and other relevant entities. It will be necessary to understand how the current programme is being rolled out in Lao PDR, draw from lessons of other jurisdictions, and develop a phased implementation plan accordingly.

(d) *Adopt and implement procedures for advance rulings in Customs valuation.*

Technical assistance can be provided to enhance understanding of the commitment for advance rulings in Customs valuation, and develop of procedures and application forms in this regard.

(e) *Support the implementation of the AHTN 2022*

Currently, Lao PDR, through the Coordinating Committee on Custom (CCC), which is headed by the Director General of the Department of Customs, is working on preparing the implementation of the ASEAN Harmonized Tariff Nomenclature (AHTN) 2022. Support could be provided regarding the proper implementation of the ASEAN Harmonized Tariff Nomenclature (AHTN) 2022, notably reflecting and disseminating the changes vis-à-vis the current AHTN.

4.2.6. Strengthen sanitary and phytosanitary measures and mitigate technical barriers to trade

- (a) Develop and update SPS laws, technical regulations and procedures, and, if necessary, SPS action plans, in compliance and harmonization with relevant international and regional standards and developing action plans as necessary.**

It is advisable to undertake a scoping study of the existing laws, regulations and procedures and update SPS regulations and procedures, as appropriate and necessary. Further, the development of an online system for applications for permits, can facilitate and strengthen the SPS framework in Lao PDR.

- (b) Support the enhancement of capacity for laboratories and agencies to ensure that SPS requirements by Lao PDR's trading partners are met, and that Lao PDR is able to meet the requirements to trade with ASEAN Member States.**

In this respect, it is advisable to (a) undertake a needs assessment for relevant laboratories; (b) ensure laboratory officials are equipped with sufficient technical knowledge for post-market surveillance; and (c) ensure that all relevant officials in DOSM are equipped with technical knowledge to meeting notification requirements under the ATIGA, such as notifications including under emergency situations as under Article 83; and ASEAN Sectoral MRAs and ASEAN Harmonised Regulatory Regimes/Directives.

- (c) Updating standards and technical regulations and implementing the ASEAN Sectoral MRAs and Harmonised Regulatory Regimes.**

Progress is being made by the relevant institutions to set up technical committees and develop standards and technical regulations. At the same time, it would be necessary to also ensure that the ongoing development of (i) Lao PDR's National Standards are in line with international standards, and support may be needed to assist Lao PDR in this process by drawing upon lesson from other jurisdictions, particularly in the ASEAN region; and the (ii) domestic technical regulations are based on international and national standards and where possible, facilitate implementation of the respective ASEAN Sectoral MRAs. In this respect, it is advisable to (a) undertake a scoping study and needs assessment to understand the technical regulations and standards that have been developed and which have yet to be developed; (b) ensure that officials are equipped with sufficient technical knowledge on development of such regulations and standards, including experiences and standards/regulations developed by other jurisdictions, particularly in the ASEAN region.

4.2.7. Strengthen capacity to utilise instruments available to address trade barriers faced by Lao traders in other ASEAN Member States

- (a) Increase awareness and support private sector to utilize the ASEAN Solutions for Investments, Services and Trade (ASSIST) tool**

The ASEAN Solutions for Investments, Services and Trade (ASSIST) mechanism notionally (i.e. not expressly) based on Article 88 of the ATIGA, was established to implement, and eventually replace the ASEAN Consultations to solve Trade and Investment Issues (ACT). ASSIST is available to ASEAN enterprises to address intra-ASEAN trade problems for issues of trade in goods (and trade in services). The ASSIST tool should be the first step taken by businesses to address trade problems and engage with the Government of the ASEAN Member State where products are being exported – in order to find a solution in a non-confrontational and non-adjudicative manner. Accordingly, it may be relevant to (i) increase awareness and utilization, by Lao exporters and traders, of this online platform – so as to systematically elevate their problems to ASEAN trade issues, and thereby also assist the Government of Lao PDR to understand trade problems faced by its business sector and select unresolved cases to be dealt with at a Government-to-Government level within ASEAN; and (ii) examine potential for

establishing an ASSIST Help Desk to support Lao PDR's traders, exporters or relevant trade associations to use ASSIST and contribute to the development of well-researched, legally sound and evidence based ASSIST cases.

(b) Strengthen negotiating capacity of public sector to engage in inter-governmental discussions to address perceived or alleged trade barriers

Articles 42(4) and 88 of the ATIGA enable the Government of Lao PDR to address perceived or alleged trade barriers of other ASEAN Member States by bringing these issues up in inter-governmental discussions within the *Coordinating Committee on the Implementation of the ATIGA* (CCA), or by elevating the issues to the *ASEAN Trade Facilitation Joint Consultative Committee* (ATF – JCC) when dealing with non-tariff barriers. The Government may also raise these issues at the *Senior Economic Officials Meeting* (SEOM) or trigger the *ASEAN Compliance Monitoring Body* (ACB).

The ACB is rarely used and appears to be quite ineffective, as it requires consensus. In contrast, the CCA is more widely used although it has a questionable track-record in effectively settling issues and removing trade barriers that have been inserted on the Matrix of Actual Cases (MAC), many of which have been outstanding for decades and are referred to as Long-Standing Issues. The inter-governmental consultations, be it through the CCA or the ATF-JCC, the SEOM or the ACB – arguably should be more legal in nature, and the Government of Lao PDR should prepare detailed and well-evidenced/well-argued briefs to be filed at the outset of each CCA consultation.

In addition to the above mechanisms, ASEAN Member States are also entitled to make use of the 'Enhanced Dispute Settlement Mechanism' (EDSM) to challenge measures under ASEAN law, as deemed necessary. The EDSM has been available for several years and has undergone many rounds of improvement in order to entice AMSs to actually trigger it – but has not been utilised. It is argued that the rule-based and procedurally intense mechanisms of the EDSM may not necessarily fit with the ASEAN means of avoiding conflict and trying to reach consensus. It is for the ASEAN Member States to determine whether the EDSM can be used as an effective platform to resolve economic disputes within the ASEAN using a system largely based on the WTO dispute settlement system.

Accordingly, it would be relevant to (i) strengthen knowledge and awareness of relevant officials in Lao PDR to understand the various inter-governmental structures and modes of engagement with such structures, particularly through the CCA, SEOM and ATF-JCC, and their operation, including the upcoming facility agreed upon by the ASEAN Economic Ministers in September 2021 and known as the 'Panel of Experts on NTMs/NTBs' which will likely see a Rapporteur analyse the alleged NTBs and suggest solutions in line with ASEAN (ATIGA) and WTO law; and (ii) develop capacity of officials to prepare well-evidenced and well-drafted legal briefs clearly presenting the necessary factual and legal elements to allow for a good understanding of the alleged trade barrier, and thereby make it easier to engage in discussions, identify possible solutions, and prevent other ASEAN Member States from frustrating the process by causing undue delays and drip-feeding information on their legal measures for application on the ground.

V. STRATEGIC EXECUTABLE ROADMAP AND MONITORING FRAMEWORK

This section presents the Roadmap for implementation of the recommendations. The Roadmap identifies the responsible agency, and indicates a priority level, which can support to strategize further support/technical assistance accordingly.

After validation of the Roadmap, another column will be added to it, indicating the support that is currently being received/ongoing, and support/technical assistance that will be agreed upon/implemented by ITC under the ARISE Plus Lao PDR project with respect to the recommendations, and/or other development partners.

At the end of the Roadmap, a monitoring framework for implementation of these recommendations is also proposed. This framework will be further defined and built upon following validation of the Roadmap.

This section of the study is a 'live section' in the sense that it will be continuously updated and refined based on the development of the monitoring framework and progress made in implementation of the ATIGA.

5.1. Strategic Executable Roadmap for Implementation of the ATIGA

No.	Policy Priorities/Technical Assistance	Implementation Period	Responsible Agency	Priority Level (High/Medium/Low)
A. Enhance inter-agency coordination, transparency, and sharing of trade related information				
A.1	Enhance scope of Lao Trade Portal to support publication/transparency obligations, and ensure sufficiency, accuracy, reliability, and usefulness of information in the Portal	For all of these activities, from now onwards until sustainability is achieved and the inter-agency coordination works.	DFTP / DIMEX	High
A.2	Build linkages between Lao Trade Portal and ASEAN Trade Repository		DFTP / DIMEX	High
A.3	Improve Lao PDR's notifications framework as required under the ATIGA, particularly with respect to non-tariff measures, thus enabling Lao PDR to meet transparency obligations under ASEAN, as a WTO Member, and in the context of current and future Preferential Trading Arrangements		DFTP / DIMEX	High
A.4	Facilitate the participation of relevant departments and agencies in relevant regional level meetings		DFTP / DIMEX	Medium
B. Strengthen the legislative framework in place for the implementation of ATIGA commitments				
B.1	Ascertain gaps in regulatory framework and provide technical expert/support to undertake revisions	Continuous or on demand	DFTP / DIMEX	High
B.2	Provide technical expertise/support to develop implementing regulations		DFTP / DIMEX	High
C. Strengthen capacity of agencies on a central and provincial level in the public and private sectors, and generate trust in the regional integration framework				
C.1	Strengthen capacity of agencies/departments at the central and provincial level to understand ATIGA commitments and how they fit into the process of implementation of the ATIGA	Continuous	DFTP / DIMEX	Medium
C.2	Undertake targeted sessions for private sector (as well as public sector officials) on opportunities for trade, and mechanisms available to support trade under the ATIGA and ASEAN frameworks	Continuous	DFTP / DIMEX	Medium

No.	Policy Priorities/Technical Assistance	Implementation Period	Responsible Agency	Priority Level (High/Medium/Low)
C.3	Develop mechanisms/frameworks to enable private sector to raise concerns/challenges faced with respect to trading under the ATIGA, including in relation to NTMs and NTBs	Continuous	DFTP / DIMEX	High
C.4	Improve the collection and analysis of trade data and statistics	Continuous	DFTP/DIMEX	
D. Strengthening trade facilitation and institutional capacity for ATIGA implementation				
D.1	Review institutional structures, legislative basis, TF Roadmap, and functioning of the NTFC and the Secretariat of the NTFC, and coordination between and among relevant government agencies, as well as between government stakeholders, the private sector, and development partners; and	As soon as possible and until sustainability is achieved	DFTP / DIMEX	High
D.2	Set up a monitoring framework for the WTO TFA and the trade facilitation commitments under the ATIGA	Continuous	DFTP / DIMEX	Medium
D.3	Dissemination and information on new trade facilitative tools for the private sector (e.g., electronic Form D, self-certification)	As soon as possible and until sustainability is achieved	DFTP / DIMEX	Medium / High
E. Increase the effectiveness of Customs controls				
E.1	Increase digitalization and automation in customs operations (e.g., electronic Form D, self-certification for rules of origin)	TBD in consultation with Customs Department	Department of Customs	Medium / High
E.2	Set-up risk management systems for relevant agencies		Department of Customs	Low / Medium
E.3	Continue implementation of the Authorised Economic Operators (AEO) programme toward increasing efficiency of customs control		Department of Customs	Medium
E.4	Adopt and implement procedures for advance rulings in customs valuation		Department of Customs	Medium
E.5	Support the implementation of the new Customs Law		Department of Customs	Medium / High
E.6	Support the implementation of the AHTN 2022		Department of Customs	High

No.	Policy Priorities/Technical Assistance	Implementation Period	Responsible Agency	Priority Level (High/Medium/Low)
F. Strengthen sanitary and phytosanitary measures and mitigate technical barriers to trade				
F.1	Develop and update SPS laws, technical regulations and procedures, and, if necessary, SPS action plans, in compliance and harmonization with relevant international and regional standards and developing action plans as necessary	As soon as possible and until sustainability is achieved	Department of Standardization and Metrology (DOSM), Ministry of Agriculture and Department of Food and Drug (DFD)	High
F.2	Support the enhancement of capacity for laboratories and agencies to ensure that SPS requirements by Lao PDR's trading partners are met, and that Lao PDR is able to meet the requirements to trade with ASEAN Member States	As soon as possible and until sustainability is achieved	Department of Standardization and Metrology (DOSM), Ministry of Agriculture and Department of Food and Drug (DFD)	High
F.3	Updating standards and technical regulations and implementing the ASEAN Sectoral MRAs and Harmonised Regulatory Regimes	As soon as possible and until sustainability is achieved	Department of Standardization and Metrology (DOSM), Ministry of Agriculture and Department of Food and Drug (DFD)	High
G. Strengthen capacity to utilise instruments available to address trade barriers faced by Lao traders in other ASEAN Member States				
G. 1	Increase awareness and support private sector to utilize the ASEAN Solutions for Investments, Services and Trade (ASSIST) tool	TBD in consultation with responsible agencies	Department of Foreign Trade Policy (DFTP)	Medium/High
G.2	Strengthen negotiating capacity of public sector to engage in inter-governmental discussions to address perceived or alleged trade barriers		Department of Foreign Trade Policy (DFTP)	Medium/High

5.2. Proposed Monitoring Framework

The ATIGA Gap Assessment demonstrates the relevance of continuously monitoring the implementation status of commitments under international trade agreements. Only on such basis can shortcomings then be addressed and greater compliance be achieved. As under the ATIGA Gap Assessment, such monitoring should include all relevant government agencies and take place continuously or at regular intervals. The monitoring framework should be framed as a tool to assist with and guide further technical assistance by development partners. This recommendation is in line with the recommendations under the Lao PDR Foreign Trade Negotiations Roadmap.

It should be noted that ASEAN Member States have been historically hesitant at agreeing to and complying with monitoring tool that can be seen as ‘scorecards’ of their ASEAN implementation. As such, the recommendation is made that the monitoring framework be used to take stock of progress made in the implementation of the commitments and the strategic roadmap be used as the tool to foster implementation of the commitments, as well as assisting with and guiding further technical assistance by development partners.

On that basis, a tentative framework is proposed below, which will be further refined and developed, based on the validation event and follow-up support:

Basis for monitoring commitments	
Commitments Matrix	<ul style="list-style-type: none"> - The Commitments Matrix can be used as the tool to monitor progress on the implementation of the ATIGA in Lao PDR. - An additional column can be introduced to the Matrix to outline ongoing work in terms of facilitating implementation, and measures adopted to fill gaps. - Based on the information, the ‘implementation status’ for the corresponding commitments can be updated on a biannual/annual basis.
Strategic Roadmap	<ul style="list-style-type: none"> - The Strategic Roadmap shall provide the framework to foster implementation of the commitments under the ATIGA. - An additional column can be introduced in the Roadmap for use by the respective competent authorities within the Lao PDR Government and/or the relevant development partners in order to reference, on a rolling basis, the various initiatives taken to support ATIGA implementation.
<i>This approach would make the Commitments Matrix and Strategic Roadmap of the ATIGA Gap Assessment a ‘living organism’ that could be progressively updated and used as a monitoring tool.</i>	
Focal points for implementation	
Coordinating Body for the Commitments Matrix	<ul style="list-style-type: none"> - As noted in Article 90 of the ATIGA, each ASEAN Member State shall establish a National AFTA Unit (NAU), which shall serve as a national focal point for the coordination for implementation of the ATIGA; and Article 50 of the ATIGA requires each Member State to establish an NTFC or relevant focal point at the national level to monitor progress in implementation of the ASEAN Work Programme on Trade Facilitation. - DTFP, DIMEX and the Customs Department represent Lao PDR at the Coordinating Committee for ATIGA, and the ASEAN Trade Facilitation – Joint Consultative Committee. In addition, DFTP

	<p>represents Lao PDR at the ASEAN Economic Ministers Meeting, the AFTA Council and the Senior Economic Officials Meeting.</p> <ul style="list-style-type: none"> - The NTFC supported by its Secretariat would be the natural forum and conduit for inter-ministerial coordination related to trade and trade facilitation, and to monitor ATIGA implementation. - The NTFC comprises of 32 members including the Government Departments relevant for implementation of the ATIGA (inclusive of DTFP, DIMEX and Customs which are responsible for representing Lao PDR at relevant ASEAN level meetings), and the Lao National Chamber of Commerce and Industry (LNCCI).
Updating the Roadmap	<ul style="list-style-type: none"> - A relevant agency from within the NTFC should be appointed to update the Roadmap with details of initiatives being undertaken to support ATIGA implementation (including potential collaboration with the National Implementation Unit of the MOIC)⁴⁵ – and the progress of these initiatives is to be used as the basis to update the Commitments Matrix.
Operational Framework	
Mode and Frequency	<ul style="list-style-type: none"> - Updates of the Commitments Matrix can be undertaken on a bi-annual basis through a process of public-private dialogue (PPD) coordinated and organised by the NTFC. - Methodologically, ahead of each PPD, the NTFC should verify the state of implementation of the ATIGA, as referenced in the latest version of the Commitments Matrix, and engage with the respective Government Agencies and competent authorities in order to assess any improvement that may have taken place since the previous PPD; and take stock of ATIGA implementation, challenges and concerns. - The first PPD could be held in March/April 2022. At that event, the monitoring framework could be put in place, responsibilities assigned, and the meeting structure and workplan for the following year validated.
Reporting Documents	<ul style="list-style-type: none"> - Commitments Matrix – the colour-coded level of implementation to be updated at the bi-annual PPD – to be circulated after the meeting to all participants. - Strategic Roadmap – updated prior to the bi-annual PPDs based on stakeholder consultations and reviews undertaken by the NTFC – to be circulated prior to the bi-annual meetings to all participants. - Following each PPD, a Progress Report based on the implementation of the recommendations in the Strategic Roadmap, summarising the amendments and updates to the Commitments Matrix, and the status of commitments under the ATIGA should be produced. This Progress Report should be a summary highlighting the implementation developments vis-à-vis the previous report.

⁴⁵ The National Implementation Unit (NIU), based in the Department of Planning and Cooperation of the Ministry of Industry and Commerce is responsible for coordinating trade-related assistance to the country. The NIU has been supporting implementation of projects in the context of facilitating the National Socio-Economic Development Plan (NSDEP) of Lao PDR. Accordingly, the NIU is best placed to coordinate initiatives implemented by development partners, and advice the NTFC Secretariat on the ongoing engagements.

VI. ANNEXES

- Annex 1: Questionnaire (Attached separately)
- Annex 2: List of involved entities (Attached separately)
- Annex 3: Overview of relevant legal instruments (Included)
- Annex 4: Presentation delivered at the introductory workshop (Attached separately)
- Annex 5: List of consultations undertaken (Included)
- Annex 6: Summary Notes from Meetings (Included)
- Annex 7: Technical assistance needs identified (Included)

Annex 1: Questionnaire

****Attached Separately****

Annex 2: List of Involved Entities

** Attached separately**

Annex 3: Overview of Relevant Legal Instruments

- Customs Law
[http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs%20Law%20\(2012-final\).pdf](http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs%20Law%20(2012-final).pdf)
- Customs Law No. 57 of 2014
http://www.laotradeportal.gov.la/kcfinder/upload/files/Customs_Law_No.57.NA_E.pdf
- Customs Law No. 81
(Not yet available, currently under review by the National Assembly)
- Decision on Food Testing No. 297/MOH, 24 February 2012
<http://www.laotradeportal.gov.la/kcfinder/upload/files/Decision%20on%20Food%20Inspection%20No.%20297%20-%20Eng.pdf>
- Decision on the Establishment of National Trade Facilitation Committee No. 48/PM, dated 26 July 2018
https://www.laotradeportal.gov.la/kcfinder/upload/files/Legal_1577416412.pdf
- Decision No. 518 / MOH on the Basic Principles for the Application of Sanitary and Phytosanitary Measures and Techniques for Food Safety Control of 18 June 2009
<http://extwprlegs1.fao.org/docs/pdf/lao139030.pdf>
- Decree No. 234/GoL on the Implementation of the Law on Standardization
<http://extwprlegs1.fao.org/docs/pdf/lao141221.pdf>
- Decree on the origin of import and export goods No. 0228/MOIC.DIMEX
https://www.wto.org/english/thewto_e/acc_e/lao_e/WTACCLAO18A1_LEG_2.pdf
- Instruction No. 2225 /MOIC.DIMEX, dated 5 December 2014
http://www.laotradeportal.gov.la/kcfinder/upload/files/MoIC_2225.pdf
- Law on Food No.33/NA, 24 July 2013
<http://extwprlegs1.fao.org/docs/pdf/lao141203.pdf>
https://www.wto.org/english/thewto_e/acc_e/lao_e/WTACCLAO17A1_LEG_2.pdf
- Law on Plant Protection and Quarantine No. 13/NA
<http://extwprlegs1.fao.org/docs/pdf/lao178953.pdf>
- Standard Laws
<http://extwprlegs1.fao.org/docs/pdf/lao141224.pdf>
- Presidential Edict No. 003 on Fees and Service Charges
https://www.laotradeportal.gov.la/kcfinder/upload/files/Legal_1571216200.pdf
- Edict of the President of Lao PDR on List of Goods and Export Duty Rates No.002/OP
<https://www.laotradeportal.gov.la/kcfinder/upload/files/002.pdf>
- Prime Minister No. 12/PM, Order on Facilitation of Import and Export, Temporary Import, Trade in Transit and Domestic Movement of Goods in Lao PDR
<https://www.laotradeportal.com/index.php?r=site/display&id=1803>

Annex 4: Follow-up Consultations Undertaken

Department/Organisation	Official(s)	Date
Food and Drugs Department – Ministry of Health	Ms. Vilanya Kanyady, and other technical officers from the Department, notably from the Food Control Division	2 Nov 2020
	Dr. Viengxay Vansilalom	Responded by email
Department of Customs – Ministry of Finance	Mrs. Bounthueng Soukhavath, Deputy Head of Legislative Division	3 Nov 2020
Department of Foreign Trade Policy – Ministry of Industry and Commerce	Mr. Sayana Sayakone, Director General of DFTP	3 Nov 2020
	Mr. Inthilith Yungnouvong, Head of Trade in Goods Division	
Department of Import and Export – Ministry of Industry and Commerce	Ms. Saovalack Vilailath, Officer	4 Nov 2020
	Mr. Vilavong, Officer	
Department of Standardization and Metrology – Ministry of Science and Technology	Mr. Bounhom Phanouvong, Head of Lao PDR's Accreditation Centre	5 Nov 2020
	Mr. Kadingthong, Head of Lao PDR's Metrology Centre	
Ministry of Agriculture	Ms. Thatsanaly, Plant Quarantine Division	9 Nov 2020
	Mr. Salongxay, Plant Quarantine Division	
Bank of Lao PDR	Mr. Bouthavong Chandalasan, Department of International Cooperation	Responded by email

Annex 5: Summary Notes from Consultations

a) Food and Drugs Department

On 2 November 2020, a meeting was held with the Food and Drugs Department under the Ministry of Health, from the Food and Drugs Department, notably from the Food Control Division. With respect to food imports, the officials referred to Law No. 33 and Decision 116 on the Import, Export, and Transit of Food (available only in Lao language).

The officials noted that the Law No. 33 and Food Export-Import and Transit Regulation No. 1166 needs to be improved. At the same time, they noted that there is a lack of implementation and of understanding of Decision 116 at the provincial level. This year, improvements and implementation were difficult, as most of the budget was allocated to the response to the Covid-19 pandemic. The officials further noted that they intended to implement an online system for the submission of applications for export and import permits.

Further information sought from the Food and Drugs Department revealed that, with respect to self-assessment of the progress on trade facilitation under Article 48 of the ATIGA, the Food and Drugs Department was not aware of the relevant commitments and of the ATIGA in more general. It was also noted that if the ATIGA were to be of relevance for the Food and Drugs Department, it would require capacity building and technical assistance for relevant officials.

With respect to Article 78 of the ATIGA and the commitments related to the relevant ASEAN Mutual Recognition Agreements (MRAs), it was noted that the Food and Drugs Department participated in the MRA for prepared foodstuffs under the PFPWG, which was signed in 2018, and has been preparing the food safety regulatory framework agreement for domestic clearance. It was also noted that the Food and Drugs Department needed technical assistance in order to achieve full implementation.

With respect to emergency notifications under Article 83 of the ATIGA, it was noted that notifications from Lao PDR are still very limited and that only animal diseases were being notified to the World Organization for Animal Health (OIE). The lack of notifications is attributed to a lack of an import surveillance program, a lack of testing capacity at border checkpoints and budgetary constraints. With respect to Article 84 of the ATIGA on Equivalence, it was noted that the issues of recognition and cooperation were the main objective of bilateral cooperation with Viet Nam, Thailand, and China funded by an ADB project. The aim of this project was to recognise the rules, regulations, and procedures for food safety control, on the basis of information sharing and visits. It was also noted that, as a result of the bilateral cooperation, Lao PDR accepts and recognises the certification and approval from those countries. It was further noted that cooperation with Thailand was based on an annual action plan.

With respect to the Food and Drugs Department's lack of attendance of the meetings of the ASEAN ATIGA Committee on Sanitary and Phytosanitary (AC-SPS), it was noted that there are many yearly ASEAN meetings and the Government of Lao PDR only has a limited budget. Therefore, the meetings of the AC-SPS and related SPS meetings were only attended by the Ministry of Agriculture.

b) Department of Customs

On 3 November 2020, a meeting was held with the Department of Customs under the Ministry of Finance.

With respect to duties, the Department of Customs noted that Lao PDR maintained the ASEAN Inclusion List, the Exception List, and 275 products on the Sensitive List, but no products on the

Highly Sensitive List. Products listed on the General Exception List were not subject to tariff reductions, which concerns products such as weapons and nuclear material. This was in compliance with ASEAN guidelines for the General Exception List (GEL). Overall, the Department of Customs noted that Lao PDR complied with Articles 19 and 22 of the ATIGA. With respect to TRQs (Article 20 of the ATIGA), the Department of Customs noted that Lao PDR does not maintain any TRQ.

With respect to the reviews mandated by Article 21 of the ATIGA, the Department of Customs noted that they were not taking place due to the limited capacities and budgetary constraints of Lao PDR. The Department of Customs noted that it maintains good cooperation with the MOIC, but that interests were sometimes not aligned and that the position of the Customs Department needed to be taken into account, with the MOIC more open to trade facilitation.

With respect to rules of origin, the Department of Customs noted that the MOIC is the issuing authority for exporters and that the Department of Customs is the receiving authority for imports. For both, Ministerial Decrees regulate the applicable rules. With respect to the ASEAN Wide system of Self-Certification (AWSC), the scheme is being implemented since October 2020. With respect to the electronic Form D and to the AWSC, the Department of Customs noted that their use is still very limited and that businesses still prefer the paper version, also in fear of documents being rejected by the destination country's authorities. The Department of Customs noted that technical assistance is needed for further outreach and education of the private sector on the available ASEAN tools.

With respect to trade facilitation, the Department of Customs noted that biannual meetings of the National Trade Facilitation Committee are held and that there is also a joint meeting with the business community, the Lao Business Forum. At those meetings, the Government receives feedback from the business sector and then tries to find solutions. MOIC is the focal point for private sector engagement and trade facilitation.

With respect to the new Customs Law, the Department of Customs noted that it contains 200 articles and is currently only available in the Lao language. The Department of Customs noted that the law could not yet be shared with the ITC's Consultants.

With respect to Article 59 of the ATIGA on the AEO programme, the Department of Customs noted that this is still a pretty recent development in Lao PDR and that the relevant Ministerial Instruction had only come out at the end of 2019. Lao PDR has now completed the preparation of the terms and criteria for AEOs, but further outreach to businesses is still necessary. In this context, the Department of Customs noted that Lao PDR had received technical assistance from Japan, but that this had paused this year due to the Covid-19 pandemic. The Department of Customs noted that it had received multiple offers for technical assistance in this area, as it had been pushed for by international organisations. The Government of Lao PDR intends to have 4 to 5 AEOs by the end of the year, but the Department of Customs appeared more cautious, given that work on the applicable terms and criteria is still ongoing.

With respect to a post clearance audit system (Article 61 of the ATIGA), the Department of Customs noted that this was established in 2008.

With respect to advance rulings (Article 62 of the ATIGA), the Department of Customs noted that such rulings are not yet available for customs valuation, but that the new Customs Law No. 81 would include rules for advance rulings on customs valuation. The Department of Customs confirmed that technical assistance to implement advance rulings for customs valuation would be beneficial, as knowledge about this issue remains rather limited. The Department of Customs also noted that application forms for advance rulings should be prepared, which would require businesses to provide detailed information on the products. Technical assistance could be considered in light of the new Customs Law No. 81 expanding the scope of advance rulings and related applications forms, so that the private sector can fully benefit from those legal options.

With respect to temporary admission (Article 63 of the ATIGA), the Department of Customs noted that this is already provided for in the current Customs Law.

With respect to transparency (Article 65 and 66 of the ATIGA), the Department of Customs recalled that its website is still under construction and that it believed it should maintain its own website in addition to the Lao Trade Portal. Still, the Department of Customs maintained that all relevant legal instruments are also submitted to the MOIC for inclusion on the Lao Trade Portal.

With respect to technical assistance needs, the Department of Customs referred to additional outreach activities and trainings, such as on rules of origin. The Department of Customs also noted that Customs officers did not have sufficient understanding of the ATIGA or other preferential trade agreements, and that trainings were often in English, while English skills were very limited. With respect to the training of Customs officials, the Department of Customs noted that the Customs Training Center had been set up, but that it still lacked training manuals and educated trainers. The development of training manuals and a Customs Handbook in the Lao language were underlined as particularly attractive propositions. Trainers funded by other development partners (e.g., Japan, Viet Nam) had facilitated seminars, but it is important that Lao PRD's officials be regularly trained and that materials be developed in the Lao language. The Ministry of Finance has set up a division to manage its training center.

c) Department of Foreign Trade Policy (DFTP)

On 3 November 2020, a meeting was held with the Department of Foreign Trade Policy (DFTP) under the Ministry of Industry and Commerce (MOIC).

DFTP noted that the ATIGA is a very good tool to achieve the free flow of good in the ASEAN region. However, he noted that the implementation remains a challenge, especially for smaller and less developed ASEAN Member States such as Lao PDR. Additionally, it remains difficult to educate the business community on the available tools. In fact, the private sector continues to have a very limited knowledge of the important ASEAN trade facilitation tools. DFTP had organised awareness raising seminars and workshops, but the utilisation of certain tools remains rather limited.

The DFTP indicated that the remaining challenges are, *inter alia*: 1) Too burdensome for businesses to benefit from preferential tariffs; 2) Remaining trade barriers (NTMs, NTBs) affecting trade; 3) Lao PDR's limitations in terms of production and export capacity, namely supply side constraints; 4) Technical problems, notably for MSMEs, such as the difficulties to benefit from tariffs preferences due to the rules of origin and in light of the complex value addition requirements; 5) Compliance costs (e.g., costs for certificates, licenses) and bureaucratic formalities; and 6) Problems related to trade data / data collection / trade statistics that deliver diverging market realities and sometimes lead to misinterpretations (it appears that the ARISE Plus Lao PDR is already working on this issue and providing dedicated statistical support).

With respect to the outreach programmes, it was noted that activities had already taken place and that the ATIGA had been only informally and unofficially translated into Lao language. A challenge appears to have been that events were not organised in all provinces due to budgetary constraints.

With respect to self-certification and the AWSC, DFTP confirmed that this is being implemented, but that further dissemination throughout the country is needed.

With respect to the Special Safeguards on Rice and Sugar, DFTP noted that Lao PDR was not applying the relevant ASEAN Protocol, but that it is interested in learning more about the available options.

With respect to the notifications to ASEAN, DFTP noted that Lao PDR is very committed to provide information and that the DFTP is the main focal point in Lao PDR. In this context, it was noted that other Government agencies are notifying DFTP, but that the information and the measures are only in the Lao language. It is, therefore, necessary for DFTP to prepare English versions, which

is time consuming and often complex due to the subject matter. In this context, the DFTP noted that it intended to organize a meeting on 20 November 2020 with representatives from the WTO and from ASEAN to discuss the issue of notifications with the other relevant line agencies.

d) Department of Import and Export (DIMEX)

On 4 November 2020, a meeting was held with the Department of Import and Export (DIMEX) under the Ministry of Industry and Commerce (MOIC).

With respect to transparency and the provision of information (Article 7 of the ATIGA), the officials noted that all relevant information is being made available on the Lao Trade Portal. With respect to fees and charges, all applicable charges are listed in Presidential Edict No. 003 (Presidential Edict No. 002 only concerns export tariffs).

With respect to the Lao Trade Portal and the ATR, DIMEX is the relevant focal point. DIMEX underlined that, currently, the Lao Trade Portal is being updated every day, as an official is still funded by the World Bank. However, this would only continue until the end of this year (2020) and the officials were not sure how this work could continue in 2021, anticipating that progress for the Lao Trade Portal could come to halt. In April 2021, DIMEX noted that the Lao Trade Portal was still very much up to date. DIMEX officials also noted that Lao PDR had no capacities to link the information on the Lao Trade Portal to the ATR on its own and that any progress was due to the ongoing support from the ARISE Plus Regional Project. In this regard, DIMEX requested capacity building for Government officials to sustainably upload NTMs from the Lao Trade Portal onto the ATR.

With respect to the duty reduction commitments (Articles 19 and 22 of the ATIGA), DIMEX referred to the Department of Customs. With respect to TRQs (Article 20), DIMEX noted and confirmed that Lao PDR does not maintain any TRQ.

With respect to the Article 24 and the special safeguards on trade in rice and sugar, DIMEX referred to the *Law on Protection of Manufacturers affected by Goods Importation 27 of 2017*, but that, so far, no special safeguards were ever implemented by Lao PDR. The law is available on the Lao Trade Portal.

With respect to rules of origin, DIMEX noted that Lao PDR is now implementing the AWSC scheme, which was launched on 20 October 2020, but that a transitional period applies until 20 December 2020. Lao PDR is still working on the related implementing rules, currently amending Regulation 0042, which would soon be notified and circulated to the relevant authorities.

With respect to the question if the private sector is using the AWSC and the electronic form D, DIMEX noted that, since those new schemes are not mandatory, they are not yet being widely used. DIMEX also referred to the limited capacities of Lao PDR's businesses, which hindered the use of the AWSC and the electronic Form D. Currently, 8 companies are registered in the AWSC database. DIMEX noted that it could be useful to organise outreach programmes. With respect to the Electronic Form D, DIMEX noted that Lao PDR, since 21 December 2019, exchanged information electronically with other ASEAN Member States. The implementation of the electronic Form D works well for the issuing authorities (in Lao PDR: DIMEX), but that there are still problems encountered by the receiving authorities (in Lao PDR: Department of Customs).

With respect to rules of origin, DIMEX referred to the Decree 228 and the Instruction on Preferential Rules of Origin 0118, which are available on the Lao Trade Portal.

With respect to the advance notification of NTMs, before the measures are adopted, DIMEX referred to Lao PDR's Law on Making Laws, which provides for a domestic Regulatory Impact Assessment and public consultations. With respect to consultations with ASEAN Member States, DIMEX noted its concerns that this would prolong the legislative process.

With respect to quantitative restrictions, DIMEX noted that the laws referred to do not contain quantitative restrictions. DIMEX noted that Lao PDR's was applying the *Notification on goods subject to automatic and non-automatic import or export licensing No.0076/MOIC.DIMEX and Notification No. 0973/MoIC. DIMEX of 25 May 2011 on Prohibited Goods for Import or Export* in accordance with WTO disciplines.

With respect to the review of NTBs (Article 42 of the ATIGA), DIMEX referred to the bi-annual meetings of the National Trade Facilitation Committee, which reviews measures and the implementation of the Trade Facilitation Work Plan. DIMEX specifically referred to the removal of import licensing requirements, for example for spare parts, as an example of its trade facilitation agenda.

With respect to Article 48 of the ATIGA on the Monitoring of Trade Facilitation, DIMEX noted that Lao PDR is not conducting the assessment every two years and that assessments only take place in relation to the WTO TFA. Therefore, DIMEX requested capacity building for relevant agencies to conduct self-assessment as set out in both WTO and the ATIGA.

With respect to the ASEAN Single Window, DIMEX only referred to the issuance of import licenses for vehicles as a pilot project and the fact that the Transport Department had joined the Single Window System. This is being implemented at one border checkpoint, but is supposed to be extended to the other 23 border checkpoints. DIMEX noted that it is in the process of revising the rules on import licensing, which would be notified to ASEAN.

Technical assistance would, *inter alia*, be beneficial with respect to the continuation of the work on the Lao Trade Portal, outreach to the private sector in view of the use of ASEAN trade facilitation tools, and the monitoring of trade facilitation.

e) Department of Standardization and Metrology (DOSM)

On 5 November 2020, a meeting was held with officials from the Department of Standardization and Metrology (DOSM) under the Ministry of Science and Technology, which was attended by the Head of Lao PDR's Accreditation Centre and the Head of Lao PDR's Metrology Centre, as well as related staff.

A multitude of issues related to standards, technical regulations, conformity assessment, and mutual recognition were discussed to complement the ATIGA Gap Assessment.

With respect to the development of standards and technical regulations, the officials referred to the lack of technical expertise and technical capacity. In the process of establishing its own Lao PDR National Standards, Lao PDR is seeking guidance in third country's standards, notably within the ASEAN region. In this respect, the officials referred to language barriers, when standards are only available in the third country's local languages. The officials further noted that the technical standards developing committees lacked specific expertise. The officials also referred to the high costs of standards development, as well as related costs for the implementation (e.g., testing, sampling, laboratories).

With respect to laboratories, the officials noted that Lao PDR's laboratories are accredited by third country accreditation bodies, such as from Viet Nam or Thailand, given that Lao PDR is still building up its capacities. In this regard, the officials also noted that the laboratory infrastructure is not sufficiently well developed and that staff are not yet able to implement relevant standards, namely that they are not yet certified under ISO 17025 on testing and calibration laboratories, which enables laboratories to demonstrate that they operate competently and generate valid results.

With respect to conformity assessment, the officials only referred to the ASEAN Sectoral Mutual Recognition Arrangement for Electrical and Electronic Equipment and the Agreement on the ASEAN Harmonized Electrical and Electronic Equipment (EEE) Regulatory Regime. For this MRA, Lao PDR accepts conformity assessment results from laboratories based in other ASEAN Member

States. However, Lao PDR laboratories are not yet capable to provide certification that can then be recognised by other ASEAN Member States' competent authorities.

With respect to trade facilitation, the officials noted that the Ministry of Science and Technology (MOST) is a member of the National Trade Facilitation Committee.

With respect to post market surveillance, the officials only referred to the possibility of consumer complaints, on the basis of which public authorities would then act. The officials confirmed that an actual system of post market entry surveillance has not yet been implemented by Lao PDR, but that discussions were taking place with DIMEX.

The officials underlined that Lao PDR is working on further developing the related capacities, but that it required technical assistance to: 1) Gather technical support and expertise for the development of standards and technical regulations; 2) Improve laboratory infrastructure and achieve ISO 17025 certification for testing and calibration laboratories; 3) Train officials and assessors; and 4) Establish a system of post market entry surveillance.

f) Ministry of Agriculture

On 9 November 2020, a follow up meeting was held with the relevant divisions from Lao PDR's Ministry of Agriculture, namely from the Plant Quarantine Division.

The officials from the Plant Quarantine Division noted that support is needed in relation to the SPS and TBT notification process. In this regard, information on measures is provided to the MOIC, which then files the relevant notifications. With respect to the ATIGA, the officials noted that the main competence is held by Lao PDR's MOIC and that other relevant Ministries, such as the Ministry of Agriculture, still need to better understand the ATIGA and the commitments thereunder. More generally, the officials noted that staff needs additional training on ASEAN legal instruments and the ATIGA.

The officials further noted that there is also a need to inform public and private stakeholders about recent developments and relevant tools related to SPS and TBT within ASEAN.

With respect to trade, the officials underlined that it is important for Lao PDR exporters to know and understand the export requirements of destinations countries and be able to comply with the relevant regulations, such as those on maximum residue levels (MRLs) of certain substances. Such information is not always available in English or in the Lao language.

With respect to emergency notifications, the officials referred to the work of the ASEAN Technical Working Groups on Crops, noting that information on outbreaks is shared among ASEAN Member States.

Annex 6: Technical Assistance Needs – Identified from Assessment

This section details the technical assistance needs identified through consultations with the government agencies and the analysis.

a) Department of Foreign Trade Policy (DFTP)

DFTP stated that ATIGA implementation remains a challenge, especially for smaller and less developed ASEAN Member States such as Lao PDR. Additionally, it remains difficult to educate the business community on the available tools. The private sector continues to have very limited knowledge of the most important ASEAN trade facilitation tools. DFTP has organised in the past awareness raising seminars and workshops, but the utilisation of certain tools remains rather limited.

The DFTP referred to the following main challenges: 1) Too burdensome for businesses to benefit from preferential tariffs; 2) Remaining trade barriers (NTMs, NTBs) affecting trade; 3) Lao PDR's limitations in terms of production and export capacity, namely supply side constraints; 4) Technical problems, notably for MSMEs, for example: difficulties to benefit from tariffs preferences due to the rules of origin and in light of the value addition requirements; 5) Compliance costs (e.g., costs for certificates, licenses) and bureaucratic formalities; and 6) Problems related to trade data / data collection / trade statistics that deliver diverging market data and sometimes lead to misinterpretations (it appears that ARISE Plus Lao PDR is already providing support in this sector).

With respect to the outreach programmes, DFTP noted that certain activities have already taken place and that the ATIGA has been informally and unofficially translated into Lao language. The main challenge appears to have been that events were not organised in all provinces, due to budgetary constraints.

DFTP provided detailed input with respect to technical assistance needs:

- Improving Market Access: DFTP noted that support is needed for Lao PDR to understand how to enter markets in the ASEAN region and how to strengthen market access, notably in light of the NTMs and NTBs imposed by other countries.
- DFTP further referred to the issue of transparency and the Lao Trade Portal, notably the importance to continuously improve and update it. DFTP noted that it was important to have capable people to manage the Lao Trade Portal.
- DFTP further noted that there is a need to better understand and use the tools and instruments provided under the ATIGA to protect domestic industries, such as safeguards, while complying with ATIGA provisions.
- DFTP the referred to the importance of disseminating information to the private sector and integrating the private sector into the processes to ensure that private sector stakeholders are aware of and understand what has been negotiated and is being implemented and so that businesses can take advantage of the preferential market access and the trade facilitative tools.
 - DFTP referred to a limited involvement/understanding of the private sector, notably for businesses outside the central areas, regarding: 1) The relevance of ASEAN and the ATIGA for trade; 2) How to make use of the ATIGA provisions to trade with other ASEAN Member States; and 3) Available trade opportunities.
 - DFTP also referred to a limited understanding of the various tools available within ASEAN, some of which may be outside the scope of the ATIGA, but are connected to

strengthening this framework, such as ASSIST and the Dispute Settlement Mechanism under the ATIGA.

- Statistics and trade data collection: DFTP underlined the importance of an accurate trade data collection system or tool and strengthening analytical capabilities. DG Saysana considered this to be of particular relevance, also to avoid misunderstandings and misinterpretation.
- DFTP underlined the need for staff and human resources development, especially in the provinces. DG Saysana referred to an overall gap of knowledge regarding what is happening in terms of ASEAN economic integration. DFTP noted that knowledge and capacity should be built up throughout the country, for instance via trainings of trainers in provinces and remote areas.

b) Department of Import and Export (DIMEX)

DIMEX underlined that technical assistance would, *inter alia*, be beneficial with respect to the continuation of the work on the Lao Trade Portal, outreach to the private sector in view of the use of ASEAN trade facilitation tools, and the monitoring of Lao PDR's trade facilitation initiatives and implementation.

c) Department of Customs

With respect to the technical assistance needs, the Department of Customs referred to additional outreach activities and trainings, such as on rules of origin. The Department of Customs also noted that Customs officers do not have sufficient understanding of the ATIGA or other preferential trade agreements, and that training is often provided only in English, while the English skills of most officials are very limited. With respect to the training of Customs officials, the Department of Customs noted that the Customs Training Center has been set up, but that it still lacks training manuals and educated trainers. The development of training manuals and of a Customs Handbook in the Lao language were underlined as key priorities. Trainers funded by other development partners (e.g., Japan, Viet Nam) have facilitated seminars, but it is important that Lao PDR's officials be properly trained and that materials be developed in the Lao language. It should be noted that the Ministry of Finance has set up a dedicated division to manage the training center.

d) Department of Standardization and Metrology (DOSM)

The officials underlined that Lao PDR is working on further developing the related capacities, but that it requires technical assistance, particularly to: 1) Acquire the expertise for the development of standards and technical regulations; 2) Improve laboratory infrastructure and achieve ISO 17025 certification for testing and calibration laboratories; 3) Train officials and assessors; and 4) Establish a system for post market entry surveillance.

e) Ministry of Agriculture

The officials from the Plant Quarantine Division noted that support is needed in relation to the SPS and TBT notification processes. In this regard, information on measures is provided to the MOIC, which then files the relevant notifications.

With respect to the ATIGA, the officials noted that the main competence was held by the MOIC and that other relevant Ministries, such as the Ministry of Agriculture, still needed to better understand the ATIGA and the commitments thereunder. More generally, the officials noted that its staff needs additional training on ASEAN legal instruments and the ATIGA. The officials further noted that there is also a need to further inform public and private stakeholders about recent developments and the relevant ASEAN tools related to SPS and TBT.

With respect to trade, the officials underlined that it is important for Lao PDR exporters to know and understand the export requirements of destinations countries and to be able to comply with

the relevant regulations, such as those of maximum residue levels (MRLs) of certain substances. Such information is not always available in English or in the Lao language.