Laos Legislative Drafting Programme

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Dear Yvonne,

Here's the 2+ page evaluation of the workshop, basically indicating what seem to us important next steps. Please let us know if we should do more. And we'd appreciate it if you'd send it with our best regards to Mrs. Valloph and Minimone.

It was great seeing you again—sorry you were so busy. We look forward to hearing how everything goes.

And wish you all the best with #2.

Ann & Bob

PLEASE CALL 617.353.8957 IF TRANSMISSION IS NOT RECEIVED TO SPECIFICATIONS.
REFLECTIONS ON THE LEGISLATIVE DRAFTING WORKSHOP
Lao P.D.R., April, 1997

This memorandum assesses the April workshop, and the immediate tasks ahead. The workshop seemed the most successful yet. First, it reflected the additional resources available. The Project Office's more effectively-organized structure reflects the persistent, thoughtful work of Mr. Valloph and Ms. Nordtveit, as well as the Ministry of Justice's consistent attention and support. The intake of a number of younger lawyers, once trained, will dramatically increase ministerial drafting capacity. Working to complete the four bills for September should contribute significantly to their training.

Second, the four Lao officials, who attended the 1996 BU Program for Legislative Drafting for Democratic Social Change, did an excellent job in conducting the workshop. The major weakness lay in the absence of sufficient reading materials for the participants. We urge the Ministry to assign one or two people full-time to complete the Handbook as soon as possible.

Third, that the MOJ obtained the line ministries' consent to assign senior officials to participate in the workshop and in the on-going four month process constituted a vital contribution to the drafting teams' work. Only line-ministry personnel have access to and knowledge of past research and daily experience in dealing with the social problems the priority bills aim to resolve. We understand the Project will recommend that MOJ make efforts to ensure that the continue their association with the drafting groups, especially, that the line ministries formally assign the officials to the drafting teams.

Fourth, perhaps most important, unlike past workshops, everyone working on the bills understood that completing the bills served not merely as a training exercise, but part of their official duties. We urge that in future the Project invariably train drafters who have the real responsibility for completing the priority bills and research reports.

The workshop provided convincing evidence of the MOJ's progress in institutionalizing an effective learning process built around producing effectively implementable priority legislation. At the same time, the workshop experience illustrated some on-going problems. First, to increase future workshops' efficiency requires increased advance notice of the bills the workshop will consider.

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1 As required by the contract, this paper will be only slightly more than two pages long -- a major feat for these CTAs. Unfortunately, we saw nothing at all of Ms. Boumkham and very little of Mr. Thanou, so we cannot meaningfully evaluate their work. Properly to evaluate the legislative drafting curriculum Mr. Thanou has introduced in the Vientiane Law would require two or three days to review the teaching materials, visit some classes, and interview some of the participating students.
together with some preliminary analysis by the drafting groups. (1) The resolution of complex social problems often requires inputs from several ministries. Drafting an effective Factory Licensing Act, for example, requires inputs not only from MIH, but also MoH, MoFnand MCPTC. It would have helped to have officials from these ministries present. (2) What at first glance appears a single bill upon analysis may consist of several bills -- essentially a legislative program -- involving quite different ministries. An 'agricultural law' to increase farm productivity, for example, requires not one but at least four separate bills relating to agricultural extension education; credit to small farmers; marketing crops; and maintenance of a steady market price. Three of these bills fall under the aegis not of MAF, but MoF and MoC. Advance consideration perhaps would have fastened on another priority than that of agricultural extension, the only one in MAF's portfolio. (3) To avoid waste and duplication of past studies, the MOJ drafters and line-ministry officials assigned to each drafting team should collect all relevant available documents, studies, reports, and existing draft bills before the workshop. Over time, the Project should build up a documentation center for these materials as a basis for drafting the additional bills and decrees required to implement the entire related legislative programs.

Second, the workshop experience underscores the importance of reaching a high level agreement (perhaps a Cabinet regulation) on clearly stated steps that the MOJ and line-ministries should take to prepare research reports, bills and implementation decrees for presentation to the MOJ for assessment and revision before presentation to Cabinet: (1) formulation of legislative programs, and identification of specific priority bills; (2) formal assignment of relevant line ministry officials and MOJ drafters² to the drafting team responsible for each bill; (3) specify the steps (with a timetable) for completing the work, including the provision of inputs from stakeholders, and the conduct of critique groups on the bill; and (4) a technical check by the most senior MOJ drafters before submitting the work.

Third, scarce time and drafting resources underscore the importance of computerization of three aspects of the drafting process: (1) to speed up the drafting and re-drafting of reports, bills and implementation decrees at every stage; (2) to codify existing laws, decrees and regulations so drafting teams can quickly identify and take into account those relevant to their proposed reports and bills; and (3) as soon as possible to give drafters access to the Internet as a valuable source of other countries' relevant laws and experiences, not to copy, but to learn -- mainly from their mistakes.

² This requires sensitizing participating senior line ministry personnel to the essential role of MOJ drafters (despite their relative youth) in using theory to structure the available information into research reports that show the proposed bills and implementing decrees will likely work as anticipated.
Fourth, enactment of laws comprises only a first step in building an effective legal framework. On-going evaluation research concerning the implementation and social consequences of the laws remains essential to lay a basis for continual revision and strengthening of that framework to meet the changing requirements of Lao PDR's New Economic Mechanism. We recommend that the MOJ and the National Advisory Committee, perhaps in cooperation with the National Assembly's standing Legal Committee, begin now to plan to institutionalize that kind of on-going evaluation process.