Laos Legislative Drafting Programme

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CHECKS

Comments on Bill - and how addresses causes of
behaviors of 4 PCs we have identified.

1. Language = too complicated for Lao business people (?); since
   one cause of failure to deposit many use checks = ignorance
   of law, must write laws in simple form - or alternative
   summary in simple form & publicize &

2. Art 6 - c : sum payable = definite, thus check states will
   be rep'd in another currency
   How does this relate to valuation of kip?
   Obvious cut = problem for Lao government paying
   sum to foreign investors (?)?

3. Given Arts 6 & 6a = too complicated for ordinary judge
   to fully understand ??
   "Solutions"
   [Note: all these = responses in other countries to
   causes of peoples' failure to use checks;
   two have not occurred in Lao PDR, will
   likely do so some time?]

4. See #1 above: do bank employees fully understand
   all conditions of Art 6f - or is their lack of
   knowledge likely to cause delay in passage?
   (If so - should law require
   ?? banks to educate employees? or that at
   least one pass an examination that shows can
   deal with all issues raised ??)
(5) Issues which (both bank employees and judges) must be able to decide—quickly and efficiently—include:

Article 24 affirms the rights of holder and protected holder.

They will have the opportunity to judge, but do they have the capacity? What process exists to help them? How prove capacity? Process?

If you look at law as guide to judge in deciding dispute, does ongoing criminal court judge have capacity to decide it? (as written=hard to read, very complex)

Note: many conditions (Art 26-4Art55) as to grounds on which may protest non-payment of check—go thru articles to see how "clear" conditions are

Sec 3

Article 56: holder may hold, responsible "liable" for check + interest; it varies, poss. ways permits can be met (partially or in full) in specified currency on check.

(6) Article 65 - Does Lao banks now require crossing checks (in US, y, do not; it grew up in Lao for historical reasons - a bank crossed can only be deposited in account of person to whom it is addressed; but in US, just say "Ok for cash, can draw cash otherwise put in acct")
Nothing in Bill discusses how it will be implemented — so still will go thru criminal law courts = 4 mo to a year, given low circumstances, and discuss how will ensure enforcement.

* Eg: protests on non-payment go to special commercial law court — a special tribunal where judges trained can quickly assess violation; set limits on time of case in ct (wth appeal)

* Eg: to prevent bank employees entering, require all es to take a short course (3 hr day) to understand law/must cases. So in every bank take more extended course so can handle complex cases quickly